in 1948; to the Committee on Ways and Means.

By Mr. POOL:

H.J. Res. 1159. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. COHELAN:

H. Con. Res. 673. Concurrent resolution establishing a Joint Committee on National Service and the Draft; to the Committee on Rules.

By Mr. EDWARDS of California:

H. Con. Res. 674. Concurrent resolution establishing a Joint Committee on National Service and the Draft; to the Committee on Rules.

By Mr. FINO:

H. Con. Res. 675. Concurrent resolution expressing the sense of the Congress with respect to the sending of draftees to serve on the Indochina Peninsula; to the Committee on Armed Services.

## MEMORIALS

Under clause 4 of rule XXII,

486. The SPEAKER presented a memorial of the Legislative of the State of California, relative to completion of the Los Angeles-Long Beach Harbors Review of Reports, which was referred to the Committee on Appropriations.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 15482. A bill for the relief of Lee Wai Kan; to the Committee on the Judiciary.

H.R. 15483. A bill for the relief of Carlo Schiliro; to the Committee on the Judiciary.

By Mr. BRADEMAS:

H.R. 15484. A bill for the relief of Dimitrios Dimitropoulos; to the Committee on the Judiciary.

By Mr. EVANS of Colorado:

H.R. 15485. A bill to authorize the exchange of certain fluorspar and ferromanganese held in the national supplemental stockpiles; to the Committee on Armed Services.

By Mr. FULTON of Tennessee:

H.R. 15486. A bill for the relief of Dr. Thomas V. Thomas; to the Committee on the Judiciary.

By Mr. HAWKINS:

H.R. 15487. A bill for the relief of Nam Sook Park and Mee Soo Kim Park; to the Committee on the Judiciary.

By Mr. MOORE:

H.R. 15488. A bill for the relief of Dr. Ali Haji-Morad; to the Committee on the Judiciary.

By Mr. O'HARA of Illinois:

H.R. 15489. A bill for the relief of Asim Musovi; to the Committee on the Judiciary.

By Mr. PERKINS:

H.R. 15490. A bill for the relief of James D. Stephens; to the Committee on the Judiciary.

By Mr. POWELL:

H.R. 15491. A bill for the relief of Gerard Verly; to the Committee on the Judiciary.

H.R. 15492. A bill for the relief of Monique Turnier Verly; to the Committee on the Judiciary.

By Mr. RYAN:

H.R. 15493. A bill for the relief of Adolphus Charles; to the Committee on the Judiciary.

By Mr. SCHISLER:

H.R. 15494. A bill for the relief of Mrs. E. Juanita Collinson; to the Committee on the Judiciary.

By Mr. STEPHENS:

H.R. 15495. A bill for the relief of Dr. Hermes Q. Cuervo; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

395. The SPEAKER presented a petition of Henry Stoner, Portland, Oreg., relative to the conduct of extended research on English profanity, which was referred to the Committee on Education and Labor.

# SENATE

## MONDAY, JUNE 6, 1966

The Senate met at 12 o'clock meridian, and was called to order by Hon. STEPHEN M. YOUNG, a Senator from the State of Ohio.

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

Almighty God, turning to this altar of Thy grace from the divisive forces about us which tear, and separate, and push apart, help us to go to our different and often difficult work hoping all things and enduring all things.

Save us from giving to the task that awaits us anything less than our truest and best.

In the vision splendor of divine fatherhood, and of human brotherhood, may we dream our dreams, fashion our lives, enact our laws, build our Nation, and plan our world until this shadowed earth rolls out of the darkness into the light and it is daybreak everywhere.

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

## DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The legislative clerk read the following letter:

U. S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., June 6, 1966.*

*To the Senate:*

Being temporarily absent from the Senate, I appoint Hon. STEPHEN M. YOUNG, a Senator from the State of Ohio, to perform the duties of the Chair during my absence.

CARL HAYDEN,
*President pro tempore.*

Mr. YOUNG of Ohio thereupon took the chair as Acting President pro tempore.

## THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, June 2, 1966, was dispensed with.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Jones, one of his secretaries.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the following concurrent resolutions of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. Con. Res. 77. Concurrent resolution authorizing the printing of additional copies of hearings on supplemental foreign assistance for Vietnam for fiscal 1966; and

S. Con. Res. 90. Concurrent resolution to authorize printing of additional copies of hearings.

The message also announced that the House had passed a bill (H.R. 14050) to extend and amend the Library Services and Construction Act, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 52. Concurrent resolution authorizing the printing of additional copies of a Veterans' Benefits Calculator;

H. Con. Res. 373. Concurrent resolution relating to the second inaugural of Abraham Lincoln—anniversary;

H. Con. Res. 532. Concurrent resolution authorizing the printing of additional copies of House Report No. 565 and House Report No. 952 (89th Cong., 1st sess.);

H. Con. Res. 579. Concurrent resolution authorizing the printing of additional copies of House Report No. 973 on River and Harbor, Beach Erosion, Flood Control Projects, and Water Supply, of the Committee on Public Works;

H. Con. Res. 580. Concurrent resolution authorizing the printing of additional copies of hearings on H.R. 6991, the Public Works and Economic Development Act of 1965;

H. Con. Res. 598. Concurrent resolution authorizing the printing for the use of the Joint Economic Committee of additional copies of parts 1 and 2 of its hearings entitled "Recent Federal Reserve Actions and Economic Policy Coordination";

H. Con. Res. 599. Concurrent resolution to authorize the printing of the Constitution as a House document;

H. Con. Res. 600. Concurrent resolution to authorize the printing as a House document the pamphlet entitled "Our Flag";

H. Con. Res. 619. Concurrent resolution authorizing the printing of additional copies of part 2 of the committee print entitled "Conflicts Between the Federal Research Programs and the Nation's Goals for Higher Education";

H. Con. Res. 630. Concurrent resolution to authorize the printing of additional copies of House Document No. 190 of the 89th Congress; and

H. Con. Res. 634. Concurrent resolution authorizing certain printing for the Committee on Veterans' Affairs.

## ENROLLED BILLS SIGNED

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

S. 944. An act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes; and



AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

S. 1761. An act to authorize the Secretary of the Interior to construct, operate, and maintain a third powerplant at the Grand Coulee Dam, Columbia Basin project, Washington, and for other purposes.

## HOUSE BILL REFERRED

The bill (H.R. 14050) to extend and amend the Library Services and Construction Act was read twice by its title and referred to the Committee on Labor and Public Welfare.

## HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were referred to the Committee on Rules and Administration:

H. Con. Res. 52. Concurrent resolution authorizing the printing of additional copies of a Veterans' Benefits Calculator;

H. Con. Res. 373. Concurrent resolution relating to the second inaugural of Abraham Lincoln—anniversary;

H. Con. Res. 532. Concurrent resolution authorizing the printing of additional copies of House Report No. 565 and House Report No. 952 (89th Cong., 1st sess.);

H. Con. Res. 579. Concurrent resolution authorizing the printing of additional copies of House Report No. 973 on River and Harbor, Beach Erosion, Flood Control Projects, and Water Supply, of the Committee on Public Works;

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H. Con. Res. 634. Concurrent resolution authorizing certain printing for the Committee on Veterans' Affairs.

## COMMITTEE MEETINGS DURING SENATE SESSIONS ON JUNE 17 AND JUNE 20, OUTSIDE THE CITY OF WASHINGTON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary be permitted to meet on June 17, 1966, at San Francisco, Calif., and on June 20, 1966, at Los Angeles, Calif., during the Senate sessions on those dates.

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

## COMMITTEE MEETING DURING SENATE SESSION TODAY

On request of Mr. MANSFIELD, and by unanimous consent, the Subcommittee on Constitutional Rights and the Subcommittee on Antitrust and Monopoly Legislation of the Committee on the Judiciary were authorized to meet during the session of the Senate today.

## ORDER DISPENSING WITH THE CALL OF THE LEGISLATIVE CALENDAR UNDER RULE VIII

On request of Mr. MANSFIELD, and by unanimous consent, the call of the Legislative Calendar under rule VIII was dispensed with.

## EXECUTIVE COMMUNICATIONS, ETC.

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

AMENDMENT OF TITLE 10, UNITED STATES CODE, RELATING TO GRADE IN WHICH CERTAIN MEMBERS OF THE ARMED FORCES ARE DISCHARGED OR RETIRED

A letter from the Deputy Secretary of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, with respect to the grade in which certain members of the Armed Forces are discharged or retired (with an accompanying paper); to the Committee on Armed Services.

REPORT ON EXPORT CONTROL

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on Export Control, for the first quarter of 1966 (with an accompanying report); to the Committee on Banking and Currency.

REPORT OF FEDERAL DEPOSIT INSURANCE CORPORATION

A letter from the Chairman, Federal Deposit Insurance Corporation, Washington, D.C., transmitting, pursuant to law, a report of that Corporation, for the calendar year 1965 (with an accompanying report); to the Committee on Banking and Currency.

COLLECTION AND SALE OF STANDARD REFERENCE DATA

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to provide for the collection, compilation, critical evaluation, publication, and sale of standard reference data (with accompanying papers); to the Committee on Commerce.

AMENDMENT OF TITLE XIX OF SOCIAL SECURITY ACT

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend title XIX of the Social Security Act so as to provide 75 percent Federal financial participation for any public agency's professional medical personnel engaged in the administration of an approved State plan for medical assistance (with an accompanying paper); to the Committee on Finance.

REPLY TO REPORT OF COMPTROLLER GENERAL

A letter from the Director, Congressional Liaison, Agency for International Development, Department of State, Washington, D.C., transmitting a copy of that Department's reply to the report of the Comptroller General of the United States, transmitted to the Senate on March 11, 1966, on audit of loan program financial statements for fiscal years 1962, 1963, and 1964 (with an accompanying paper); to the Committee on Government Operations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a confidential report on review of air defense equipment furnished to and procured for the Republic of China under the military assistance program (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on management of the procurement of major equipment and related spare parts by the U.S. Marine Corps, Department of the Navy, dated June, 1966 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on potential savings by consolidation of field organizations and facilities for recruiting military personnel, Department of Defense, dated June 1966 (with an accompanying report); to the Committee on Government Operations.

REPORT OF NATIONAL RIVERS AND HARBORS CONGRESS

A letter from the President, National Rivers and Harbors Congress, Washington, D.C., reporting, pursuant to law, for the year ended May 30, 1966; to the Committee on Interior and Insular Affairs.

REPORT ON ADJUSTMENT OF STATUS OF A CERTAIN ALIEN

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on the adjustment of status of Abdul Huda Taji Farouki (with an accompanying paper); to the Committee on the Judiciary.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

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

ADMISSION INTO THE UNITED STATES OF CERTAIN DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting admission into the United States of certain defector aliens (with accompanying papers); to the Committee on the Judiciary.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting temporary admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

## PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of California; to the Committee on Commerce:

"ASSEMBLY JOINT RESOLUTION NO. 19—RELATING TO RUSSIAN FISHING OFF CALIFORNIA

"Whereas, The economic value of California's rich and varied marine sport and

commercial fishery resources exceeds $300 million annually, thereby providing food, jobs, and recreation for California's citizens; and

"Whereas, There is an ever increasing possibility that Russian vessels may soon be fishing the stocks of fish that historically support our fisheries, thereby depleting them beyond their capacity for replenishment as witness current Russian activities off the coasts of Alaska, Washington, and Oregon; and

"Whereas, The existence of the Russian fleet, or any foreign fleet, in the waters adjacent to our coast constitutes a real and serious threat to the interests of all Americans and the fishery resource; and

"Whereas, The unrestricted harvest of these resources could create severe and prolonged hardships to an important segment of California's economy; and

"Whereas, The latent marine resources off our coast are a valuable asset for the future which our citizens are fully capable of developing and utilizing; now, therefore, be it

*"Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States, the United States State Department, and the United States Department of the Interior to take cognizance of these recent developments, and to take the necessary action to ensure adequate protection to the marine resources which are of such great significance to California, and to step up the program to monitor the activities of Soviet vessels off the Pacific Coast, and to keep this state fully informed of such activities; and be it further

*"Resolved,* That the Chief Clerk of the Assembly is hereby directed to transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of State of the United States, and to the Secretary of the Interior of the United States."

A concurrent resolution of the Legislature of the State of Louisiana; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 1

"A concurrent resolution to urge the Congress of the United States to restore the Word of God to our public schools and institutions

"Whereas, the recent discontent and acts of violence that have occurred throughout the world as well as within the United States have caused the people of our country to turn to God for comfort and understanding; and

"Whereas, many of us believe that our country was founded on and is dependent upon the belief in God and the inalienable rights that come only from His hands; and

"Whereas, this belief has been in the mainstream of our entire history, as manifested by the fact that we proudly refer to ourselves as "One Nation Under God" and declare on our coins that "In God We Trust"; and

"Whereas, the Supreme Court of the United States has ignored our history and our beliefs in removing the Holy Word of God from the classrooms of our nation's schools; and

"Whereas, court actions have been instituted by godless forces to remove reference to God from the Pledge of Allegiance to the United States, to remove the Holy Bible from the courts, and to erase "In God We Trust" from our coins: Therefore, be it

*"Resolved by the House of Representatives of the Louisiana Legislature, the Senate thereof concurring herein,* That the Congress of the United States is hereby urged to restore the Word of God to the public institutions of this nation by passing the proposed Constitutional amendment now before it, by which the right to voluntarily participate in the reading and listening to prayers or biblical scriptures in our public schools and the right to make reference to a belief in or an invocation of the aid of God or a Supreme Being in any governmental or public document, proceeding, activity, ceremony or place or upon any coinage, currency or obligation of the United States shall be guaranteed; be it further

*"Resolved,* That the Secretary of the Senate is hereby directed to transmit a copy of this Resolution to the Speaker of the House of Representatives of the Congress of the United States, the President of the Senate and all members of the Louisiana Delegation in the Congress.

"VAIL M. DELONY,
*"Speaker of the House of Representatives.*

"C. C. AYCOCK,
*"Lieutenant Governor and President of the Senate."*

A joint resolution of the Legislature of the State of Maryland; to the Committee on Appropriations:

"HOUSE JOINT RESOLUTION No. 22—
BY DELEGATE MCDONOUGH

"House Joint Resolution requesting the Congress of the United States of America to appropriate funds necessary for the construction of a water impounding dam on the North Fork of the Potomac River on the Maryland-West Virginia Border at Bloomington, and indicating the willingness and ability of the State of Maryland to provide by appropriate legislation for this States' share of the non-Federally financed portion of the construction cost in the event the Federal appropriation requires such participation

"Whereas, a substantial portion of the area and population of the State of Maryland is encompassed within the Potomac River Basin and looks to, and depends upon, the Potomac River and its tributaries for water supply, low flow augmentation, recreation, and similar benefits, while at the same time, needing flood control protection in various locations, and

"Whereas, The State of Maryland as a whole is vitally interested in the maintenance of, and improvements to, the Potomac River Basin in order to assure benefits to present and future residents of the State; and

"Whereas, by Public Law 87-874, 87th Congress, H.R. 13272, October 23, 1962, the Congress of the United States authorized the United States Army Corps of Engineers to undertake the design of an impoundment project in the Potomac River Basin in the Bloomington area, generally known as the Bloomington Dam Project, for multi-use purposes, such as flood control, low flow augmentation, water supply and recreation; and

"Whereas, The Congress of the United States is to consider the appropriation of funds for the construction of the project at an early date; and

"Whereas, the State of Maryland understands that the Federal legislation for the Bloomington Dam Project may require that a portion of the construction costs be allocated to the beneficiaries of the increased water supply which is expected to be made available thereby, such beneficiaries, including the State of Maryland, the State of West Virginia, the Commonwealth of Virginia, and the District of Columbia; and

"Whereas, The General Assembly of Maryland believes that the Bloomington Dam's expected and contemplated benefits are of sufficient importance that assurances should be made of the State's interest in the project and of its willingness to appropriate funds if necessary to advance on behalf of its political subdivisions and agency beneficiaries their respective shares of non-Federally financed portion of the construction costs; and

"Whereas, The General Assembly of Maryland understands that the Governors of the State of West Virginia and the Commonwealth of Virginia and the Commissioners of the District of Columbia are similarly considering measures to indicate their respective States' and jurisdictions' interest in the Bloomington Dam Project and an ability on the part of their respective political subdivisions and agencies to pay their respective shares of the non-Federally financed portion of the construction costs; now therefore, be it

*"Resolved by the General Assembly of Maryland,* That the Congress of the United States be requested and urged to appropriate as expeditiously as possible funds necessary to proceed with the early construction of the Bloomington Dam Project; and be it further,

*"Resolved,* That in the event the Federal Legislation appropriating money for the construction and operation of the Bloomington Dam Project requires financial participation in a portion of such costs by the states and jurisdictions abutting the River, the State of Maryland will by appropriate legislation provide for this State's fair share of such non-Federally financed portion; and be it further

*"Resolved,* That the State of Maryland recommends and suggests that the State of West Virginia, the Commonwealth of Virginia and the District of Columbia similarly indicate their willingness to pay their respective fair shares of the non-Federally financed portion of the Bloomington Dam Project, if the Federal legislation does not provide for the total construction cost; and be it further

*"Resolved,* That copies of this joint resolution be sent to the President of the United States Senate, The Speaker of the House of Representatives, each member of the Maryland Delegation to the United States Congress, to the Chief of the Corps of Engineers, to the Secretary of the Interior, and to the Potomac River Basin Advisory Committee, all under the Great Seal of the State of Maryland."

A joint resolution of the Legislature of the State of Maryland; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION No. 5—BY THE PRESIDENT (LEGISLATIVE COUNCIL)

"Joint Resolution ratifying a proposed amendment to the Constitution of the United States relating to succession to the Presidency and Vice Presidency and to cases where the President is unable to discharge the powers and duties of his office

"Whereas, The 89th Congress of the United States has passed a Joint resolution proposing an amendment to the Constitution of the United States relating to the succession to the Presidency and Vice Presidency and to the case of the inability of the President to discharge his powers and duties of office; and

"Whereas, This Joint Resolution passed the Senate of the United States on June 30, 1965, passed the House of Representatives of the United States on July 6, 1965, and now has been submitted to a vote of the States; and

"Whereas, The State of Maryland wishes to ratify this proposed amendment to the Constitution of the United States which, when ratified by the legislatures of three-fourths of the several states, shall be valid to all intents and purposes as part of the Constitution of the United States, viz:

" 'ARTICLE ——

" 'Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

" 'Sec. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall

take office upon confirmation by a majority vote of both Houses of Congress.

" 'Sec. 3. Whenever the President transmits to the President pro-tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

" 'Sec. 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

" 'Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of this office.' Now, therefore be it.

*"Resolved by the General Assembly of Maryland,* That the foregoing proposed amendment to the Constitution of the United States is ratified by the State of Maryland to all intents and purposes as a part of the Constitution of the United States; and be it further

*"Resolved,* That the Governor of the State of Maryland is requested to forward authentic copies of this Resolution, under the Great Seal of the State of Maryland, to the Secretary of State of the United States, to the presiding officer of the Senate of the United States, to the Speaker of the House of Representatives of the United States, and to the Administrator of General Services of the United States."

Two resolutions of the Senate of the State of Maryland; to the Committee on the Judiciary:

"SENATE RESOLUTION No. 3

"Senate Resolution memorializing the Congress of the United States to propose an amendment to the First Amendment to the Constitution of the United States in order to reverse recent decisions of the Supreme Court concerning freedom of religion and to restore the First Amendment to the Constitution to the intent and purpose of its draftsmen

"Whereas,

"The First Amendment to the Constitution of the United States adopted in the late eighteenth century as part of the Bill of Rights provided in its terms that the Congress 'shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .'

"Abundant and detailed documentary evidence may be cited from the several State Constitutions in the late eighteenth century, the writings of contemporary political theorists, and the historical background of the period to demonstrate beyond reasonable doubt that in the proposal of this amendment by the Congress and in the adoption of this amendment by the people, all that was intended was that the Congress should in no manner attempt to establish a state church in the sense in which the Church of England then was the established religion in the Brtish Isles.

"All these sources from the eighteenth century, as well as generations of writers on the meaning and intent of the Constitution, made it abundantly clear that the First Amendment was not intended ever to apply to the states of this Union and that it was never intended as a bar to the free exercise of religion by the people.

"During recent years, there has been a series of opinions by the Supreme Court of the United States which have completely distorted and misapplied the original intent and meaning of the First Amendment. These opinions are well known. One of them provided that a simple non-sectarian prayer could not be drafted and applied by school officials in the State of New York for use in the schools there. A later opinion negated the requirements that the Bible be read and the Lord's Prayer be recited in classrooms.

"Still another and very recent Supreme Court opinion had the effect of outlawing the simple and universally known:

" 'God is great, God is good
And we thank Him for our food.'

"There have been other rulings in the field of religion which vastly disturb our people. One of them, for example, declared invalid the conviction in a homicide case on the ground that the prospective jurors had been required to attest to their belief in a Supreme Being.

"These and other comparable decisions of the Supreme Court are well known. The intent and purpose of our people in adopting the First Amendment are well known. What is less easily understood is the intent and design of the Supreme Court of the United States in turning its back upon the clear purpose of our people and in effect re-writing the provisions of the First Amendment of the Constitution of the United States.

"The point need not be labored. The Supreme Court in our system of government was never intended thus to re-write the Constitution.

"Nevertheless, we are a law-abiding people and we wisely have counseled our children and our children's children to obey the Constitution as interpreted by the Supreme Court.

"Accordingly, and no matter how much we may disagree with the interpretation by the Supreme Court in this instance, there is no point in answering usurpation with further usurpation. The General Assembly of Maryland therefor is requesting that the Congress of the United States propose to the several states an amendment to the First Amendment to the Constitution which will have the effect of recalling the recent series of unfortunate decisions by the Supreme Court and of restoring the meanings of the First Amendment to that of the draftsmen who framed it and of the sovereign people who adopted it; now therefore, be it

*"Resolved by the Senate of Maryland,* That this body respectfully memorializes the Congress of the United States to formulate and adopt a proposal for the amendment of the First Amendment to the Constitution of the United States to restore the meaning and effect of the First Amendment to the purpose intended by our people when it was framed and adopted in the late eighteenth century; and be it further

*"Resolved,* That the Secretary of the Senate is directed to send copies of this Resolution to the Vice President of the United States as presiding officer in the Senate of the United States, the Speaker of the House of Representatives in the Congress of the United States, each member of the Maryland Delegation in the two Houses of the Congress of the United States, and to the Secretary of State in each of the several states of this Union.

"By the Senate, April 4, 1966.

"Read and adopted.

"By order, J. Waters Parrish, Secretary.

"WM. S. JAMES,
*"President of the Senate.*
"J. WATERS PARRISH,
*"Secretary of the Senate."*

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"SENATE RESOLUTION No. 4

"Senate Resolution of the General Assembly of Maryland memorializing the Supreme Court of the United States to interpret and apply the First Amendment to the Constitution of the United States in the manner intended by those who framed that amendment and by the sovereign people who adopted it

"Whereas, The General Assembly of the State of Maryland, representing one of the thirteen original colonies, speaking as the voice of a legislative tradition which extends without a break back to the year 1635, and voicing the concern of millions upon millions of citizens of the United States, respectfully memorializes the Supreme Court of the United States, to construe and apply the religious precept contained in the First Amendment to the Constitution of the United States in the manner intended by those who framed the language of that amendment and understood at the time by the people who adopted it.

"A series of basic decisions within recent years has completely changed the meaning and the application of this portion of the First Amendment to the Federal Constitution. Whether or not one agrees with the precepts now adopted and applied by the Supreme Court of the United States in the interpretation of the First Amendment, the people of this country should make no mistake in recognizing that in adopting these current interpretations of the First Amendments, the Supreme Court in actual effect has amended the Constitution of the United States.

"The people of this great nation also should make no mistake in recognizing that in our system of self-government, the Supreme Court of the United States was not meant to exercise a power of amending the Constitution and that any such exercise of power is a serious derogation of our principles of government.

"The series of cases concerning the exercise of religion and purporting to construe the First Amendment to the Constitution of the United States began a number of years ago when the Supreme Court held that public school children in the State of New York could not be allowed to recite a simple and non-sectarian prayer which did nothing more than recognize the existence of a Supreme States.

"That first decision was handed down in the year 1962. A year later, the Supreme Court overthrew rules requiring Bible reading and the recitation of the Lord's Prayer in classrooms.

"Very recently, on December 13, 1965, the Supreme Court extended its ban on prayers in schools to include a voluntary recitation of a prayer by kindergarten children. This decision came in an indirect ruling involving a refusal to review such a ruling made by a lower court.

"In this latter case, there was involved a prayer recited by kindergarten children before they were served milk and cookies during school hours. This prayer was the simple and universally known:

" 'God is great, God is good
And we thank Him for our food.'

"School officials had refused to permit the continued recitation of this simple affirmation to the existence of Deity, and a group of parents in New York City brought suit in an effort to require that their children might continue to recite this prayer. The parents who sought to have these simple religious exercises continued included Protestants, Roman Catholics, Jews, Greek Orthodox, and Armenian Apostolics. They said that the principal of the kindergarten school had barred the free exercise of religion, but the court ruling, subsequently affirmed by a refusal to review, held that the school authorities acted legally in banning classroom prayers as a violation of the First Amendment.

"This series of rulings by the Supreme Court has gone hand-in-hand with other rulings involving a reference to Deity in our public affairs. A case which went to the Supreme Court from the State of Maryland held that a belief in God could not be required of a notary public.

"Very recently, and following decisions of the Supreme Court, the Court of Appeals of Maryland invalidated a conviction in the Criminal Court of Cecil County because all prospective jurors were required to attest to a belief in God. The person convicted, a Buddhist, complained on appeal that his conviction thereby was unlawful, and the Court of Appeals upheld the contention.

"In early January 1966, the Circuit Court for Baltimore County granted a motion for a new trial for a man who three times previously had been sentenced to life imprisonment for the slaying of a woman in the month of June 1962. The victim of this convicted murderer was slain in a Pulaski Highway motel. Three days later, the man convicted surrendered to Baltimore City police and told police where the body of the victim could be found.

"This convicted murderer now has noted a further appeal on the ground that jurors who participated in his conviction had been required to express a belief in God as a condition for their becoming jurors.

"The reasoning in these and other similar cases stems back to a complete misintepretation and misapplication of the provisions of the First Amendment to the Constitution of the United States.

"The First Amendment was included in the group of the first ten amendments, ever since known and referred to as the Bill of Rights. The Bill of Rights was not in the original Constitution as adopted by the Philadelphia Convention and as ratified by the states before the United States of America could begin its formal operations under that Constitution. The Bill of Rights was meant to allay the fears of those persons who desired safeguards for private rights against the possible oppression and tyranny of the new national government.

"It was in accordance with the historical origin of the principles contained in the Bill of Rights, with the obvious language of the Bill of Rights, and with the completely clear intention of the people of this country that all Articles in the Bill of Rights were meant to limit the Federal Government and not in any way to apply to the states. They were meant to limit the legislative power of the Congress but not of the state legislatures. It is true, of course, that there are many examples of similar provisions in the several states' constitutions, but the principle is very clear that the Bill of Rights appended to the Federal Constitution was not meant to apply to the states.

"The First Amendment was specifically drafted and adopted in reference to the historical fact that Eighteenth Century England had officially adopted the Church of England as a national church. It was for this reason that the First Amendment provided that the Congress 'shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .'

"A significant number of state constitutions in the late Eighteenth Century already had essentially similar provisions.

"For example, the Constitution of the State of New York adopted in 1777 abrogated all laws which 'may be construed to establish or maintain any particular denomination of Christians or their ministers.'

"The New Jersey Constitution of 1776 declared that 'there shall be no establishment of any one religious sect . . . in preference to another.'

"The Delaware Constitution of 1776 forbade the 'establishment of one religious sect in this state in preference to another.'

"The Pennsylvania Constitution of 1776 prohibited compulsory attendance at or support of churches.

"The Maryland Constitution of 1776 forbade compulsory church attendance or support.

"Other examples could be cited. It is crystal-clear, and so far as this General Assembly knows never contested, that the First Amendment to the Constitution of the United States, insofar as it applies to the establishment of religion and the free exercise of religion, was drafted and adopted against this well-known Eighteenth Century background.

"It is interesting to note that at the Constitutional Convention in 1787, James Madison proposed that the Bill of Rights should be drafted so as to apply to the states as well as to the federal government. This proposition was specifically discussed and specifically rejected.

"Following the obvious intention of the sovereign people in adopting the First Amendment and other portions of the Bill of Rights, the Supreme Court for many years held that no part of the Bill of Rights imposed any restraint upon the states. In the case of Barron vs. Baltimore in 1833, Chief Justice Marshall pointed out that the amendments in the Bill of Rights 'contained no expression indicating an intention to apply them to the state governments, This court cannot so apply them . . .'

"This decision was followed in 1845 in the case of Permoli vs. First Municipality of New Orleans in which the Supreme Court held that 'the Constitution makes no provision for protecting the citizens of the respective states in their religious liberties; this is left to the state constitutions and laws; nor is there any inhibition imposed by the Constitution of the United States in this respect on the states.'

"In the late 1860's, the Fourteenth Amendment was added to the Constitution of the United States. It provided in part that 'no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.'

"Beginning during the 1920's, the Supreme Court began a series of judicial holdings to the general effect that by a combination of the Fourteenth Amendment and of the first ten amendments, provisions in the Bill of Rights are applicable to the states as well as to the federal government. This doctrine has been successively extended during a series of cases involving one or another of the provisions in the Bill of Rights.

"Obviously, when the Bill of Rights was adopted in the early 1790's, the people of this country had no remote idea that there would ever be a Fourteenth Amendment as adopted in the late 1860's.

"Just as obviously, as one may determine from the debate on the Fourteenth Amendment prior to its adoption in the late 1860's, the people at that latter time had no intention of thus construing together the newly-adopted Fourteenth Amendment and the earlier Bill of Rights.

"It remained for the Supreme Court in its wisdom beginning in the 1920's thus to amend the Constitution of the United States.

"This General Assembly repeats with respect to the series of cases which in effect deny any official cognizance in our public proceedings of the existence of Deity, that the issue is *not* whether there is a Supreme Being. The issue is *not* whether reference to a Supreme Being will improve our sense of religion. The issue is *not* whether prayers in a public school will benefit children. The issue is *not* whether a juror who attests to his belief in God is a better juror than one who does not make this attestation.

"The simple issue is that in adopting the First Amendment to the Constitution of the United States the people meant only that the Congress of the United States should not adopt any law respecting an establishment of religion or prohibiting the free exercise of religion.

"As a corollary to this issue, there is the further issue that the sovereign people in adopting their Constitution provided a means whereby it may be amended. They did not provide that amendments be made by the Supreme Court of the United States, and it is a debasement and defilement of the rights of a democratic people under a republic form of government that we should thus be ruled by judicial fiat through an oligarchic group not responsible to the electorate.

"The infringement upon the rights and processes of democracy made in this series of cases involving the First Amendment has been accompanied by cases in other areas of the law, and in totality, these decisions of the Supreme Court have troubled millions of our people.

"The concern of the American people for these recent trends in the Supreme Court has nowhere been expressed better than by the Committee on Federal-State Relationships of the Conference of Chief Justices. The membership of this Committee included the Chief Justice in the highest court in the States of Georgia, Maryland, Massachusetts, Michigan, Minnesota, New York, Oregon, South Carolina, Texas, Wisconsin.

"Surely, no group of person could approach these decisions of the Supreme Court with more learning and erudition. Residents of the State of Maryland have taken particular pride in the fact that the Honorable Frederick W. Brune, now retired as Chief Judge of the Court of Appeals of Maryland, served as Chairman of this group.

"Portions of the report of this Committee are worth the sober consideration of the people of the entire country:

" 'It is a part of our obligation to seek to uphold respect for law. We do not believe that this goes so far as to impose upon us an obligation of silence when we find ourselves unable to agree with pronouncements of the Supreme Court (even though we are bound by them), or when we see trends in decisions of that Court which we think will lead to unfortunate results. We hope that the expression of our views may have some value. They pertain to matters which directly affect the work of our state courts. In this report we urge the desirability of self-restraint on the part of the Supreme Court in the exercise of the vast powers committed to it. We endeavor not to be guilty ourselves of a lack of due restraint in expressing our concern and, at times, our criticisms in making the comments and observations which follow.

" 'The outstanding development in federal-state relations since the adoption of the national Constitution has been the expansion of the power of the national government and the consequent contraction of the powers of the state governments. To a large extent this is wholly unavoidable and indeed is a necessity, primarily because of improved transportation and communication of all kinds and because of mass production. On the other hand, our Constitution does envision federalism. The very name of our nation indicates that it is to be composed of states. The Supreme Court of a bygone day said in Texas v. White, 7 Wall. 700, 721 (1868): "The Constitution, in all its provisions, looks to an indestructible Union of indestructible States."

" 'Second only to the increasing dominance of the national government has been the development of the immense power of the Supreme Court in both state and national affairs. It is not merely the final arbiter of the law; it is the maker of policy in many major social and economic fields. It is not subject to the restraints to which a legislative body is subject. There are points at which it is difficult to delineate precisely the line which should circumscribe the judicial function and separate it from that of policy-making. Thus, usually within narrow limits, a court may be called upon in the ordinary course of its duties to make what is actually a policy decision by choosing between two rules, either of which might be deemed applicable to the situation presented in a pending case.

" 'But if and when a court in construing and applying a constitutional provision or a statute becomes a policy maker, it may leave construction behind and exercise functions which are essentially legislative in character, whether they serve in practical effect as a constitutional amendment or as an amendment of a statute. It is here that we feel the greatest concern, and it is here that we think the greatest restraint is called for. There is nothing new in urging judicial self-restraint, though there may be, and we think there is, new need to urge it . . .'

"Following a long review of specific areas in which the Committee of Chief Justices felt the Supreme Court of the United States had infringed upon traditional Federal-state relationships, the Committee concluded as follows:

" 'We are now concerned specifically with the effect of judicial decisions upon the relations between the federal government and the state governments. Here we think that the overall tendency of decisions of the Supreme Court over the last 25 years or more has been to press the extension of federal power and to press it rapidly. There have been, of course, and still are, very considerable differences within the Court on these matters, and there has been quite recently a growing recognition of the fact that our government is still a federal government and that the historic line which experience seems to justify between matters primarily of national concern and matters primarily of local concern should not be hastily or lightly obliterated. A number of justices have repeatedly demonstrated their awareness of problems of federalism and their recognition that federalism is still a living part of our system of government.

" 'The extent to which the Supreme Court assumes the function of policy-maker is also of concern to us in the conduct of our judicial business. We realize that in the course of American history the Supreme Court has frequently—one might, indeed, say customarily—exercised policy-making powers going far beyond those involved, say, in making a selection between competing rules of law.

" 'We believe that in the fields with which we are concerned, and as to which we feel entitled to speak, the Supreme Court too often has tended to adopt the role of policy-maker without proper judicial restraint. We feel this is particularly the case in both of the great fields we have discussed—namely, the extent and extension of the federal power, and the supervision of state action by the Supreme Court by virtue of the Fourteenth Amendment. In the light of the immense power of the Supreme Court and its practical non-reviewability in most instances no more important obligation rests upon it, in our view, than that of careful moderation in the exercise of its policy-making role.

" 'We are not alone in our view that the Court, in many cases arising under the Fourteenth Amendment, has assumed what seem to us primarily legislative powers. (See Judge Learned Hand on the Bill of Rights.) We do not believe that either the framers of the original Constitution or the possibly somewhat less gifted draftsmen of the Fourteenth Amendment ever contemplated that the Supreme Court would, or should, have the almost unlimited policy-making powers which it now exercises. It is strange, indeed, to reflect that under a constitution which provides for a system of checks and balances and of distribution of power between national and state governments one branch of one government—the Supreme Court—should attain the immense, and in many respects, dominant, power which it now wields.

" 'We believe that the great principle of distribution of powers among the various branches of government and between levels of government has vitality today and is the crucial base of our democracy. We further believe that in construing and applying the Constitution and laws made in pursuance thereof, this principle of the division of power based upon whether a matter is primarily of national or of local concern should not be lost sight of or ignored, especially in fields which bears upon the meaning of a constitutional or statutory provision, or the validity of state action presented for review. For, with due allowance for the changed conditions under which it may or must operate, the principle is as worthy of our consideration today as it was of the consideration of the great men who met in 1787 to establish our nation as a nation.

" 'It has long been an American boast that we have a government of laws and not of men. We believe that any study of recent decisions of the Supreme Court will raise at least considerable doubt as to the validity of that boast. We find first that in constitutional cases unanimous decisions are comparative rarities and that multiple opinions, concurring or dissenting, are common occurrences. We find next that divisions in result on a 5 to 4 basis are quite frequent. We find further that on some occasions a majority of the Court cannot be mustered in support of any one opinion and that the result of a given case may come from the divergent views of individual Justices who happen to unite on one outcome or the other of the case before the Court.

" 'We further find that the Court does not accord finality to its own determinations of constitutional questions, or for that matter of others. We concede that a slavish adherence to *stare decisis* could at times have unfortunate consequences: but it seems strange that under a constitutional doctrine which requires all others to recognize the Supreme Court's rulings on constitutional questions as binding adjudications of the meaning and application of the Constitution, the Court itself has so frequently overturned its own decisions thereon, after the lapse of periods varying from one year to seventy-five, or even ninety-five years. (See the tables appended to Mr. Justice Douglas' address on *Stare Decisis*, 49 Columbia Law Review 735, 756–758.) The Constitution expressly sets up its own procedures for amendment, slow or cumbersome though they may be.

" 'These frequent differences and occasional overrulings of prior decisions in constitutional cases cause us grave concern as to whether individual views of the members of the court as from time to time constituted, or of a majority thereof, as to what is wise or desirable do not unconsciously override a more dispassionate consideration of what is or is not constitutionally warranted. We believe that the latter is the correct approach, and we have no doubt that every member of the Supreme Court intends to adhere to that approach, and believes that he does so. It is our earnest hope which we respectfully express, that that great Court exercise to the full its power of judicial self-restraint by adhering firmly to its tremendous, strictly judicial powers and by eschewing, so far as possible, the exercise of essentially legislative powers when it is called upon to decide questions involving the validity of state action, whether it deems such action wise or unwise. The value of our system of federalism, and of local self-government in local matters which it embodies, should be kept firmly in mind, as we believe it was by those who framed our Constitution.

" 'At times the Supreme Court manifests, or seems to manifest, an impatience with the slow workings of our federal system. That impatience may extend to an unwillingness to wait for Congress to make clear its intention to exercise the powers conferred upon it under the Constitution, or the extent to which it undertakes to exercise them. and it may extend to the slow processes of amending the Constitution which that instrument provides. The words of Elihu Root on the opposite side of the problem, asserted at a time when demands were current for recall of judges and judicial decisions, bear repeating: "If the people of our country yield to impatience which would destroy the system that alone makes effective these great impersonal rules and preserves our constitutional government, rather than endure the temporary inconvenience of pursuing regulated methods of changing the law, we shall not be reforming. We shall not be making progress, but shall be exhibiting that lack of self-control which enables great bodies of men to abide the slow process of orderly government rather than to break down the barriers of order when they are struck by the impulse of the moment." (Quoted in 31 *Boston University Law Review* 43.)

" 'We believe that what Mr. Root said is sound doctrine to be followed towards the Constitution, the Supreme Court and its interpretation of the Constitution. Surely, it is no less incumbent upon the Supreme Court, on its part, to be equally restrained and to be as sure as is humanly possible that it is adhering to the fundamentals of the Constitution with regard to the distribution of powers and the separation of powers, and with regard to the limitations of judicial power which are implicit in such separation and distribution, and that it is not merely giving effect to what it may deem desirable. . . .'

"Members of the General Assembly of Maryland report these facts and these recent trends to the people of the country and to the Supreme Court of the United States. They urge upon the Supreme Court as so well phrased by the Conference of Chief Justices that the Court exercise self-restraint in its interpretation and application of the basic principles contained in the Constitution of the United States; now therefore, be it

"*Resolved by the Senate of Maryland*, That this body memorializes the Supreme Court of the United States to modify its decisions so as to be in conformity with the original intent of the framers of the Constitution and

to cease its incursions into the domain of amending statutory and constitutional law to the end that the Court may remain as it was intended, namely, a judicial body; to urge that the Supreme Court in the field of decisions involving the First Amendment and perhaps also in other fields of law, cease its usurpation of legislative power and end once and for all its attempts to deny the powers even of the sovereign people; and be it further

*"Resolved,* That the Secretary of Senate of Maryland is directed to send copies of this Resolution to each of the nine justices on the Supreme Court of the United States, the Council of State Governments, the President of the United States, the Vice President of the United States as Presiding Officer in the Senate of the United States, the Speaker of the House of Representatives in the Congress of the United States and to each member of the Maryland Delegation in the Senate and House of Representatives in the Congress of the United States.

"By the Senate, April 4, 1966.

"Read and adopted.

"By order, J. Waters Parrish, Secretary.

WILLIAM S. JAMES,
*President of the Senate.*
J. WATERS PARRISH,
*Secretary of the Senate."*

A concurrent resolution of the Legislature of the State of Michigan; to the Committee on Public Works:

"HOUSE CONCURRENT RESOLUTION No. 262

"A concurrent resolution stating the policy position of the State of Michigan relative to tolls on the St. Lawrence Seaway and memorializing the Congress of the United States relative to action to be taken thereon

"Whereas, Under the joint sponsorship of the United States of America and the Dominion of Canada, the St. Lawrence Seaway, a dream of these two great countries for many years, has become a reality and, as a product of this reality, a great international area has been opened to the commerce and industry of the world and as a consequence thereof, the international commerce of both the Dominion of Canada and the United States of America, especially the Midwestern Provinces and States, has greatly expanded; and

"Whereas, Certain tolls were placed upon the waterway traffic of the world using the St. Lawrence Seaway although this was in opposition to the freedom of world traffic; and

"Whereas, Increasing tolls or fees on the St. Lawrence Seaway would be of great detriment to the shipping of the world and to the expanding economy of the Dominion of Canada and the United States of America; and

"Whereas, In the face of persistent statements that have emerged from various knowledgeable sources in the shipping and commerce industry of the world that tolls might be increased on the St. Lawrence Seaway, the State of Michigan wishes to state its position most emphatically regarding any increases in tolls on the St. Lawrence Seaway; now therefore be it *"Resolved by the House of Representatives (the Senate concurring),* That the members of the Michigan Legislature wish to state the position of the State of Michigan regarding the tolls and charges on the St. Lawrence Seaway: (1) That the State of Michigan most emphatically opposes any increase to such tolls and fees; (2) That the State of Michigan is very much in favor of a reduction in present tolls and fees and to provide eventual elimination of all tolls and fees on the St. Lawrence Seaway; and be it further

*"Resolved,* That the State of Michigan urgently requests that the Congress of the United States reexamine its present reciprocal legislation regarding tolls and charges on the St. Lawrence Seaway with the eventual goal of supporting the position of the State of Michigan relative to reducing and eventually eliminating such tolls and charges; and be it further

*"Resolved,* That the Michigan Legislature urgently requests the Michigan delegation to the United States Congress to deem this a high priority necessity and that the members do everything within their powers to prevent any attempt to increase tolls or charges upon the St. Lawrence Seaway; and be it further

*"Resolved,* That the members of the Michigan delegation to the Congress of the United States work closely with the United States Department of Commerce in order to make known the position of the State of Michigan and other Midwestern States relative to their position regarding tolls and fees on the St. Lawrence Seaway; and be it further

*"Resolved,* That a copy of this resolution be transmitted to the President of the United States, Prime Minister of Canada, to the presiding officer of the United States Senate, to the presiding officer of the United States House of Representatives, to the presiding officer of the Canadian Parliament, to each member of the Michigan delegation to the United States Congress, to the St. Lawrence Seaway Development Corporation, to the St. Lawrence Seaway Authority, to the United States Department of Commerce, and to the Governors of the following States of the United States: Kentucky, Illinois, Indiana, Iowa, Minnesota, New York, Ohio, Pennsylvania, West Virginia, Wisconsin.

"Adopted by the House April 7, 1966.

"Adopted by the Senate April 12, 1966.

"T. THOS. THATCHER,
*"Clerk of the House of Representatives.*
"EUGENE B. FARNUM,
*"Secretary of the Senate."*

A letter in the nature of a petition from H, Inc., of Gainesville, Fla., signed by Norwood W. Hope, president, relating to the national economy, and especially in the Gainesville area; to the Committee on Banking and Currency.

A resolution adopted by the City Council of the City of Baltimore, Md., relating to the feasibility of constructing a rapid transit facility in the Baltimore-Washington area; to the Committee on Commerce.

A resolution adopted by the American Association for Automotive Medicine, in Rochester, Minn., favoring the enactment of Senate bill 1251, to prescribe certain safety features for all motor vehicles manufactured for, sold, or shipped in interstate commerce; to the Committee on Commerce.

A resolution adopted by the Council for Christian Social Action of the United Church of Christ, New York, N.Y., favoring the administration's request for 5-year authorization of foreign assistance funds; to the Committee on Foreign Relations.

Resolutions adopted by the New Jersey State Federation of Women's Clubs, Newton, N.J., relating to the display of the American flag, and so forth; to the Committee on Labor and Public Welfare.

A resolution adopted by the Greater Lewiston Chamber of Commerce, of Lewiston, Idaho, protesting against the enactment of House bill 13037, the Manpower Services Act of 1966; to the Committee on Labor and Public Welfare.

A petition signed by Sharon Epperson, and sundry other citizens of the State of Kentucky, favoring the enactment of the Clark-Cleveland and Clark-Magnuson-Resnick bills, for protection against cruelty of animals in research and to stop thievery of pets; to the Committee on Labor and Public Welfare.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. Con. Res. 39. Concurrent resolution requesting the President to create the Roanoke Island Memorial (Rept. No. 1207).

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

S. J. Res. 116. Joint resolution to provide for the administration and development of Pennsylvania Avenue as a national historic site (Rept. No. 1205).

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

H.R. 6646. An act to amend the Recreation and Public Purposes Act pertaining to the leasing of public lands to States and their political subdivisions (Rept. No. 1206).

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

H.R. 3957. An act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes (Rept. No. 1208).

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

H.R. 6515. An act to supplement the Act of October 6, 1964, establishing the Lewis and Clark Trail Commission, and for other purposes (Rept. No. 1209).

By Mr. GRUENING, from the Committee on Interior and Insular Affairs, with amendments:

S. 2366. A bill to reform the method by which the University of Alaska may acquire land for its support (Rept. No. 1204).

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

S. 562. A bill to amend section 601 of title 38, United States Code, with respect to the definition of the term "Veterans' Administration facilities" (Rept. No. 1210).

## ADDITIONAL FUNDS FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS—REPORT OF A COMMITTEE

Mr. JACKSON, from the Committee on Interior and Insular Affairs, reported the following original resolution (S. Res. 271); which was referred to the Committee on Rules and Administration:

*Resolved,* That the Committee on Interior and Insular Affairs is hereby authorized to expend from the contingent fund of the Senate, during the Eighty-ninth Congress, $10,000 in addition to the amount, and for the same purpose, specified in section 134 (a) of the Legislative Reorganization Act approved August 2, 1946.

## BILLS INTRODUCED

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

By Mr. KUCHEL:

S. 3451. A bill to assist in the provision of adequate housing in areas in which there is a shortage of housing credit as a result of the occurrence of riots and other civil disorders; to the Committee on Banking and Currency.

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

By Mr. JAVITS:

S. 3452. A bill to amend the National Labor Relations Act so as to revise, improve, and expedite its operation, and for other purposes;

S. 3453. A bill to amend the National Labor Relations Act so as to authorize the National Labor Relations Board to delegate unfair labor practice jurisdiction to trial examiners, and for other purposes;

S. 3454. A bill to amend the National Labor Relations Act to provide for the holding of expedited prehearing elections in representation cases involving no substantial issues of fact or law, and for other purposes;

S. 3455. A bill to amend the National Labor Relations Act to provide for the issuance of temporary injunctions whenever there is reasonable cause to believe that an unfair labor practice has been committed while a representation election is pending, and for other purposes; and

S. 3456. A bill to amend the National Labor Relations Act so as to provide for the holding of expedited representation elections upon petition of employers where labor organizations seek recognition on the basis of employees' authorizations or similar evidence, and for other purposes; to the Committee on Labor and Public Welfare.

S. 3457. A bill to authorize the presentation of a Navy Cross to Anthony Casamento; to the Committee on Armed Services.

(See the remarks of Mr. JAVITS when he introduced the first five above-mentioned bills, which appear under a separate heading.)

By Mr. ROBERTSON:

S. 3458. A bill to provide that expenditures made in connection with the proposed city hall and certain public facilities in the city of Hampton, Va., may be counted as local grants-in-aid for purposes of title I of the Housing Act of 1949; to the Committee on Banking and Currency.

By Mr. ANDERSON:

S. 3459. A bill to amend the act of June 13, 1962 (76 Stat. 96), with respect to the Navajo Indian irrigation project; to the Commitee on Interior and Insular Affairs.

By Mr. JACKSON (by request):

S. 3460. A bill to authorize the Secretary of the Interior to enter into contracts for scientific and technological research, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MONRONEY (for himself and Mr. HARRIS):

S. 3461. A bill to provide that expenditures made in connection with certain proposed public facilities in Oklahoma City, Okla., may be counted as local grants-in-aid for purposes of title I of the Housing Act of 1949; to the Committee on Banking and Currency.

By Mr. TALMADGE:

S. 3462. A bill for the relief of Dr. Juan Humberto Rodriguez; to the Commitee on the Judiciary.

By Mr. BURDICK:

S. 3463. A bill to amend the Bankruptcy Act to authorize courts of bankruptcy to determine the dischargeability or nondischargeability of provable debts; to the Committee on the Judiciary.

By Mr. YOUNG of North Dakota:

S. 3464. A bill for the relief of Dr. Rammurti S. Mishra; to the Committee on the Judiciary.

By Mr. HILL:

S. 3465. A bill to amend the National Science Foundation Act of 1950 to make changes and improvements in the organization and operation of the Foundation, and for other purposes; to the Committee on Labor and Public Welfare.

By Mr. YOUNG of North Dakota:

S. 3466. A bill to change the name of the Rolla Jewel Bearing Plant at Rolla, N. Dak., to the William Langer Jewel Bearing Plant; to the Committee on Government Operations.

By Mr. ELLENDER (by request):

S. 3467. A bill to amend the National School Lunch Act, as amended, to strengthen and expand food service programs for children; to the Committee on Agriculture and Forestry.

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

By Mr. ERVIN:

S. 3468. A bill to amend title II of the Social Security Act to establish a procedure whereby attorneys representing successful claimants for benefits thereunder may be paid reasonable fees for their services out of the past-due benefits to which such claimants are entitled; to the Committee on Finance.

By Mr. MORSE (by request):

S. 3469. A bill to enable the District of Columbia to participate in the health and medical assistance benefits made available by the Social Security Amendments of 1965, and for other purposes; to the Committee on the District of Columbia.

By Mr. NELSON:

S. 3470. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to provide a special educational training and physical rehabilitation program for persons who are not qualified for enlistment or induction in the Armed Forces because of educational or physical deficiencies; to the Committee on Armed Services.

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

By Mr. McINTYRE:

S. 3471. A bill to make certain expenditures by the city of Portsmouth, N.H., eligible as local grants-in-aid for purposes of title I of the Housing Act of 1949; to the Committee on Banking and Currency.

## CONCURRENT RESOLUTION

### TO PRINT AS A SENATE DOCUMENT A PUBLICATION RELATING TO THE RULES OF PROCEDURE OF THE SENATE

Mr. TOWER submitted a concurrent resolution (S. Con. Res. 96) to provide for the printing as a Senate document of a publication with respect to the history, activities, and rules of procedure of the U.S. Senate, which, under the rule, was referred to the Committee on Rules and Administration.

(See the above concurrent resolution printed in full when submitted by Mr. TOWER, which appears under a separate heading.)

## RESOLUTION

### ADDITIONAL FUNDS FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. JACKSON, from the Committee on Interior and Insular Affairs, reported an original resolution (S. Res. 271) to provide additional funds for the Committee on Interior and Insular Affairs, which was referred to the Committee on Rules and Administration.

(See the above resolution printed in full when reported by Mr. JACKSON, which appears under the heading "Reports of Committees.")

### 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.

### JAPAN EXTENDS CONGRATULATIONS ON SOFT LANDING OF SURVEYOR I

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a message from Yuzo Shigemune, President of the House of Councillors of Japan, addressed to Hon. HUBERT H. HUMPHREY, President of the Senate. It reads as follows:

Please accept my sincere congratulations on the successful lunar soft landing by your spacecraft Surveyor I.

YUZO SHIGEMUNE,
*President of House of Councillors.*

### A BILL TO INSURE ADEQUATE HOUSING IN AREAS THREATENED BY CIVIL DISORDERS

Mr. KUCHEL. Mr. President, this country, within the last few years, has taken significant steps toward the fulfillment of our historic American concept of equality for all men. These steps are intended to help America set her own house in order and achieve domestic tranquility among our people. But the true significance of our efforts can be diminished, if not destroyed, by a few acts of useless violence or death in the streets of our cities.

I was greatly distressed, therefore, at recent reports of violence in the suburbs of Los Angeles and in the once quiet streets of Bakersfield. Nonviolence tends to serve its objectives, but violence only emphasizes brutality. In Watts, between the 17th and 20th of May, windows over a two-block area were smashed; a small store was sacked and looted and bottles thrown at the helpless clerk; two reporters were clubbed with timbers; snipers were reported in the streets; and fires were set throughout the area. A tragic eruption occurred in Bakersfield on May 23, when a school bus, carrying high school students, was attacked by a group hurling rocks and bottles at the windows of the vehicle injuring the driver and many of the youngsters. In both of these areas, hundreds of innocent victims suffered the inevitable damages which result from such lawless episodes.

These are events which no man, regardless of his sympathies, can cite with pride. They taint the achievements we have made in the past and they hinder our efforts for the future. They strike at the very goal to which, along with many of my distinguished colleagues, I have so long been devoted: equal justice and equal opportunity under the law.

There can be little question but that the law, only a few short years ago, was recognized as unequal. It sanctioned segregation despite the mandates of our Constitution.

Within this context, the advocates of equal civil rights for all our citizens could

justly question the injustice of that law. The legal activities of civil rights groups across our land helped to make it clear that America had been dignifying discrimination and encouraging intolerance. The decisions of the Supreme Court and the efforts of Congress are bringing equality back into the law. The Civil Rights Act of 1964 and the Voting Rights Act of 1965 have initiated forceful strides toward a fulfillment of the words of our Declaration of Independence and our Constitution. Lincoln is being vindicated. America is approaching a period when the law and its enforcement will not be influenced by the color of a man's skin or by his creed, and equal justice will be a reality rather than a sham.

But to be effective in an orderly society, this equality must be accompanied by responsibility and a respect for the law. Leading exponents of the struggle for civil rights have claimed three major goals in Negro life: communal self-improvement, the struggle for legal equality, and race pride. These goals are by no means inconsistent with an orderly society. Their very fulfillment is dependent on achieving better laws; laws that require the reliance and respect of all Americans. To cast order aside for the sake of violence can only mock the system within which orderly and valid dissent may make itself effectively heard.

Useless acts of mob violence and crime do not emphasize injustices in our society. They encourage injustice despite the law. The riots and strife of Los Angeles and Bakersfield can only deter the progress of civil rights by fanning the flames of prejudice, creating fears and anxieties, breaking down communications, and distrupting the flow of needed investment into those areas of most critical need. And the innocent majority of those who dwell in such areas must bear the consequences of the irresponsible few.

With the heat of another summer approaching and with it, the threat of greater racial violence in the streets of our cities, action must be taken to prevent such upheavals or to contain them, to resolve the problems which create racial tension, to further Federal programs of economic rehabilitation, to do, in a word, all that may be done to eliminate the causes of such disorders, strictly enforce the law, and assist law abiding citizens in the affected areas.

First, I call upon civil rights groups to exert every influence to stem these outbreaks of violence. They must seek to restore necessary communication between the peoples of differing views and between all people and their government. They must seek objective determinations of causes and conflicts and make clear that the only just settlements are peaceful ones.

Second, civil leaders must take action against the true causes of racial agitation: discrimination, poverty, inadequate housing, unemployment, and the general economic and emotional depression that persists in these areas. No local leader should confuse these fundamental evils with left or right wing extremism. Nor should anyone allow himself to believe that these actions stem from any base instinct of the groups affected. Rather, we must recognize clearly that these actions result from an unpardonable reluctance to come to grips with the true causes of unrest. Municipal action must seek positive solutions. Society's need is to seek to calm agitation, not incite greater fear and anxiety into an already tense atmosphere.

Third, I ask the administration to give financial priority to areas threatened with potential violence. It must cast aside restrictive financial practices that hinder the flow of necessary funds. As a consequence of the passage of proposition 14 in California, the Federal Government delayed important funds required for urban renewal development under California law. These funds could even now be contributing to the peaceful development of municipal living and suburban life.

The administration's restrictive credit policies, aimed at the laudable goal of curbing inflation, have had inequitable effects on the West in general and the culturally disadvantaged in particular. In California, shortages of credit for home purchases and small investment are acute. Such shortages, as always in the past, are felt first by those with the least resources at their command.

Lastly, I introduce for appropriate reference a bill to amend the National Housing Act which will give innocent victims in areas threatened by riots a greater opportunity to obtain loans and to purchase their own homes. Today, it is practically impossible in areas of racial strife to obtain loans at any rate of interest for the purchase of homes. Present financial restrictions are part of the cause, but the threat of future riots is the primary reason for the lack of funds. The bill I offer does not require new appropriations. It would allow FHA to insure mortgages in areas threatened by disorders if the properties concerned are an acceptable risk giving due consideration to the need for providing adequate housing for families of low and moderate income in such area.

It is by such action as I have outlined that America can continue to move forward in the area of civil rights for all our citizens, and fullfill its quest for equality and responsibility under the law.

Mr. President, I ask unanimous consent that the bill may lie on the desk until Friday, June 10. During this period, I invite my distinguished colleagues to join with me as cosponsors in this effort to assist disadvantaged Americans.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be held at the desk, as requested by the Senator from California.

The bill (S. 3451) to assist in the provision of adequate housing in areas in which there is a shortage of housing credit as a result of the occurrence of riots and other civil disorders, introduced by Mr. KUCHEL, was received, read twice by its title, and referred to the Committee on Banking and Currency.

Mr. KUCHEL. Mr. President, I ask unanimous consent that the bill may be printed in the RECORD.

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

S. 3451

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 203 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(1) The Secretary of Housing and Urban Development is authorized to insure under this section any mortgage meeting the requirements of this section, other than the requirement in subsection (c) relating to economic soundness, if he determines that (1) the dwelling covered by the mortgage is situated in an area in which rioting or other civil disorders have occurred or are threatened, (2) as a result of such actual or threatened rioting or other disorders the property with respect to which the mortgage is executed cannot meet the normal requirements with respect to economic soundness, and (3) such property is an acceptable risk giving due consideration to the need for providing adequate housing for families of low and moderate income in such area."

SEC. 2. Section 305 of the National Housing Act is amended by adding at the end thereof a new subsection as follows:

"(1) Notwithstanding any other provision of this Act, the Association is authorized to enter into advance commitment contracts and purchase transactions which do not exceed $200,000,000 outstanding at any one time, if such commitments or transactions relate to mortgages with respect to which the Secretary of Housing and Urban Development has made the determinations provided for in section 203(1) of this Act."

## PROPOSED LEGISLATION TO SPEED DECISION IN NLRB CASES

Mr. JAVITS. Mr. President, I introduce, for appropriate reference, a bill to amend the National Labor Relations Act so as to revise, improve, and expedite its operation, to insure that the rights guaranteed by the act will be a reality in fact, as well as in theory, and to prevent inordinate delay in enforcement, which has often in the past tended to nullify the act's effectiveness.

The bill would amend the National Labor Relations Act:

First, to permit the Board to delegate its unfair labor practice jurisdiction to trial examiners, subject to discretionary review by the NLRB;

Second, to provide for expedited elections without a prior formal hearing in those cases which raise no substantial issue of law or fact;

Third, to provide for the issuance of temporary injunctions to restrain unlawful conduct by an employer or a union while an election is pending. This would permit the election to be held immediately without having to wait, as is often now the case, for months or years while the Board and then the courts finally dispose of an unfair labor practice case on the merits; and

Fourth, to avoid protracted cases involving so-called "card checks" as a basis for union recognition and permit the employer, when faced with prima facie proof of a union's majority status, to obtain an expedited election.

What is at stake in an NLRB case is not at all the same thing as what is at stake in an ordinary lawsuit. NLRB

cases involve rights which have meaning only if they are vindicated quickly. In an election case, if the union is forced to wait months and months before an election can be held, the real wishes of the employees may never be expressed. Using the political analogy, every candidate for political office knows that a campaign should not begin too soon but should try to bring the issues sharply into focus at a time reasonably soon before the election date, so that the voters will be able to exercise their franchise in an intelligent and informed manner.

Likewise, in unfair labor practice cases, if employees can be intimidated, discharged and so forth, or if a union can engage in unlawful conduct, and if no relief can be granted for 2 or 3 years, there is a premium placed upon delay, and the wrongdoer may reap the advantages of misconduct without having any penalty imposed until long after it will make any real difference.

This bill seeks to insure that in both election cases and unfair labor practice cases—and particularly in situations involving both at once—the NLRB will be able to run a fair election, expeditiously, and will be able to restrain any unlawful interference with a pending election so that the whole case will be disposed of without protracted proceedings and yet with maximum protection for the rights of the parties.

THE TIMETABLE FOR A CONTESTED NLRB CASE UNDER EXISTING LAW

During 1965, the median time for processing contested unfair labor practice cases which required a decision by the NLRB itself with approximately as follows:

| | Days |
|---|---|
| From filing of charge to issuance of complaint | 59 |
| From issuance of complaint to close of hearing before a trial examiner | 73 |
| From close of trial examiner's hearing to issuance of trial examiner's decision | 114 |
| From trial examiner's decision to NLRB decision | 105 |
| From time from filing of charge to issuance of final decision by NLRB | 351 |

In 1,761 representation cases—excluding those that were handled by various types of consent elections—the median 1965 timetable was as follows:

| | Days |
|---|---|
| From filing of election petition to issuance of notice of hearing | 9 |
| From issuance of notice of hearing to close of hearing | 13 |
| From close of hearing to Regional Director's decision | 20 |
| From issuance of Regional Director's decision to date of election | 30 |
| From date of election to issuance of certification | 7 |
| Total time from filing of petition to issuance of certification | 79 |

And this timetable for election cases assumes that the Regional Director decided the case pursuant to delegation from the NLRB authorized in 1959 and that the case was not referred to the Board for decision; and it assumes that no objections were filed after the date of the election; and if either of those circumstances occurred, the case would be even more protracted than it already is. For example, the 88 cases referred to the Board for decision last year took a median time of 168 days from start to finish.

So what we have here, excluding consent elections, is an average election case which takes 79 days from start to finish, and an average contested unfair labor practice case which takes 351 days, and which may take a year or two more if reviewed in the courts.

This bill would reduce the average timetable for contested election cases by at least 33 days—that is, by almost half—and probably more. And in contested unfair labor practice cases, the bill would reduce the timetable by about 100 days.

The timetable for processing NLRB cases under existing law is long indeed. It is too long, in my view, and we ought to take steps to shorten the time, by speeding up those processes of the Board which can be speeded up without sacrificing the substantive rights of the parties.

DELEGATION OF UNFAIR LABOR PRACTICE JURISDICTION

Section 2 of the bill rewrites section 3(b) of the NLRA to allow the Board to delegate its unfair labor practice jurisdiction to trial examiners. This proposal is substantially the same as President Kennedy's proposed reorganization plan No. 5 of 1961, which, in my view, deserves our consideration now.

The effect of this aspect of the bill would be to eliminate the long delay at the Board level—about 100 days—from the timetable for a large proportion of contested unfair labor practice cases, while at the same time retaining discretionary review by the NLRB to insure that, where a trial examiner's decision clearly goes astray, the Board can bring it back in line with established precedent. And judicial review would be retained in any event.

EXPEDITED PREHEARING ELECTIONS

Section 3(b) of this bill amends section 9(c) of the National Labor Relations Act to dispense with the requirement of a formal hearing in election cases raising no substantial issue of law or fact, and also provides for expedited elections in certain "card check" cases discussed at greater length below.

As to prehearing elections, this section of the bill adds a new paragraph (7) to section 9(c) of the act, providing that if, after an informal conference with the parties, the Board's agent does not find any substantial question of law or fact, an immediate election can be ordered, subject, however, to the right of either party to file a motion with the Board seeking a hearing in the case. This procedure, in my estimation, would reduce the average timetable for election cases by at least 33 days.

The substance of this proposal has had support, over the years, from leaders of both parties. In January 1959, President Eisenhower's message to the Congress on proposed labor-management legislation—Senate Document No. 10, 86th Congress, 1st session—proposed "to permit the Board, under proper safeguards, to conduct representation elections without holding a prior hearing where no substantial objection to an election is made." In April 1959, the Senate Labor Committee reported a bill, S. 1555, of which I was a cosponsor, which contained, in section 605, the substance of this provision, and which had the unanimous support of the members of the committee—Senate Report No. 187, 86th Congress, 1st session, 29, 1959. I believe that this provision, which was needed then, is even more necessary now.

EXPEDITED ELECTIONS IN LIEU OF "CARD CHECKS"

Last year I introduced a bill, S. 2395, to restrain the use of card checks and to provide for expedited elections instead. The substance of that measure is incorporated in section 3 (a) and (b) of this bill. Basically, these provisions would give the employer the right to insist upon an election even if he is presented with signed cards purporting to show that a majority of his employees wish to be represented by a union—provided the employer files a petition for an expedited prehearing election. If the employer files such a petition, no unfair labor practice proceeding based solely on refusal to recognize the card check will be processed unless the employer dissipates the union's majority by other unfair labor practices. Of course, if the employer engages in a course of conduct unlawful under the act and having the effect of destroying the union's majority, the Board would still have the power to compel recognition, and the bill specifies this.

Under existing law, if a union presents an employer with cards signed by 51 percent or more of the employees, the employer is obligated to recognize and bargain with the union, unless the employer has a "good faith doubt" as to the authenticity of the union's showing of a majority. Under this rule, an employer can be effectively deprived of his right to present his arguments about unionization and then have the employees decide. The employees can be deprived of the right to a secret ballot. And a racket posing as a union has a much better chance to get in.

The use of the card check technique, moreover, has a delaying effect if the employer chooses to litigate the issue, for the timetable for unfair labor practice cases—which are used in card check situations—runs in excess of a year. Once again, this provision is designed to protect the rights of the parties, while at the same time speeding up the vindication of those rights.

PREELECTION INJUNCTIONS

Finally, section 4 of the bill amends section 10 of the act to provide for mandatory preelection injunctions against unfair labor practices. Under section 10 as now written, the Board has the option to seek temporary injunctions against any unfair labor practice, pending final determination by the Board, but the only time the Board is ever required to seek such injunctions is when a union violates section 8(b)(4) or 8(b)(7)—basically, when there is a secondary boycott or unlawful recognition or organizational picketing.

But there is one other category of unfair labor practices in which temporary injunctive relief is of truly paramount importance, and that is when an election is pending.

Under existing law, if an election is pending and an unfair labor practice charge is filed, the representation case is often suspended until the unfair labor practice case is finally disposed of—which may be years later. The charge is considered a "blocking charge"—it blocks the election unless the charging party files a "request to proceed" which has the effect of removing the alleged unlawful conduct as a bar to the election.

Under my proposal, however, the Board would be required to petition a district court immediately for a preliminary injunction. If the court granted the injunction, the election could proceed forthwith, with the unlawful conduct restrained. If the court denied the injunction, the election likewise could proceed immediately, and the conduct complained of would be considered irrelevant to the outcome of the election. If the illegal conduct took place within the context of a majority card-check situation, however, the Board will still have the right to process a refusal-to-bargain charge if the conduct dissipated the union's majority before the injunction could be issued.

A COORDINATED APPROACH TO EXPEDITION

The provisions of this bill are designed to provide a coordinated approach to expedited Board procedure. Elections are speeded up; delays caused by unnecessary hearings where there is no substantial legal or factual question, or caused by "blocking charges" or protracted card check hearings are eliminated, while at the same time insuring that those who would attempt to delay by committing unfair labor practices and bogging down the case in protracted litigation will be temporarily enjoined so that pending questions of representation can be quickly disposed of.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD, and that the bill be held at the desk for one week for cosponsors.

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

The bill (S. 3452) to amend the National Labor Relations Act so as to revise, improve, and expedite its operation, and for other purposes, introduced by Mr. JAVITS, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3452

*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 National Labor Relations Act Amendments of 1966.

SEC. 2. Section 3(b) of the National Labor Relations Act, as amended (29 U.S.C. 153(b)), is amended to read as follows:

"(b) (1) The Board is authorized to delegate to any group of three or more members any or all of the powers which it may itself exercise.

"(2) The Board is also authorized to delegate any of its powers under section 10(c) to a hearing examiner. With respect to the delegation of any of its functions as provided herein, the Board, upon its own initiative or upon petition of a party to or an intervenor in such action, may in its discretion, and shall upon request of two or more members of the Board, review the action of any such hearing examiner within such time and in such manner as the Board shall by rule prescribe. Should the Board decline to review the action of any such hearing examiner, or should no such review be sought within the time stated in the rules promulgated by the Board, then such action shall for all purposes, including appeal or review thereof, be deemed to be the action of the Board. Nothing herein contained shall be deemed to supersede the provisions of section 7(a) of the Administrative Procedure Act, as amended (5 U.S.C. 1009(a)). The Board shall promulgate such rules and regulations as it may deem appropriate to insure that any powers delegated to a hearing examiner under this paragraph will be exercised in a fair, impartial, and efficient manner.

"(3) The Board is also authorized to delegate to its regional directors its powers under section 9 to determine the unit appropriate for the purposes of collective bargaining, to investigate and provide for hearings, and determine whether a question of representation exists, and to direct an election or take a secret ballot under subsection (c) or (e) of section 9 and certify the results thereof, except that upon the filing of a request therefor with the Board by any interested person, the Board may review any action of a regional director delegated to him under this paragraph, but such review shall not operate as a stay of any action taken by the regional director unless specifically ordered by the Board.

"(4) A vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board, and three members shall, at all times, constitute a quorum of the Board, except that two members shall constitute a quorum of any group designated pursuant to paragraph (1) of this subsection. The Board shall have a seal which shall be judicially noticed."

SEC. 3. (a) Section 8 of such Act is amended by adding the following new subsection:

"(g) It shall be an unfair labor practice under subsection (a)(5) of this section for any employer to refuse to recognize a labor organization as the representative of his employees if such employer—

"(1) has been presented with valid cards or other unimpeached evidence purporting to show that a majority of employees in an appropriate bargaining unit desires to be represented by such labor organization; and

"(2) has failed within a reasonable time to file a petition pursuant to paragraph (1)(B) of section 9(c), containing the allegations referred to in paragraph (6) of such section."

(b) Section 9(c) of such Act is amended by adding the following new paragraphs:

"(6) In any case in which it is alleged in a petition filed by an employer pursuant to paragraph (1)(B) that a labor organization seeking recognition as the representative of the employees of such employer has presented valid cards or other unimpeached evidence purporting to show that a majority of employees in an appropriate bargaining unit desires to be represented by such labor organization, it shall be the duty of the Board, if it determines that in all other respects a question of representation affecting commerce exists, to forthwith, without regard to the provisions of paragraph (1) direct the holding of such an election in such unit as the Board finds to be appropriate and to certify the results thereof. The consideration of the petition and the holding of the election, in any such case shall not be delayed by reason of the pendency of an unfair labor practice charge based upon the refusal of the employer to bargain collectively with the labor organization, and no such unfair labor practice charge based upon a refusal to bargain prior to the election shall thereafter be considered unless the Board determines that the labor organization had once been authorized to represent a majority of the employees in the bargaining unit, but that as a result of a course of conduct by the employer in violation of section 8(a) (other than unfair labor practices under section 8(a)(5)), such labor organization is no longer authorized to represent such majority.

"(7) Notwithstanding the provisions of paragraph (1) of this subsection, the Board through its designated representative, if there is reasonable cause to believe that a question of representation affecting commerce exists, may call an informal conference of the parties upon due notice. If at such conference no agreement is reached for a consent election, and there are no substantial issues of fact or law which should be resolved by a preelection hearing, the Board, through its designated representative, may conduct an election in an appropriate unit. Any party aggrieved by such proceeding may file a motion for hearing with the Board, but such motion shall not, unless specifically ordered by the Board, operate as a stay of the election."

SEC. 4. Section 10 of such Act is amended by adding the following new subsection:

"(n) Whenever it is charged that any person has engaged in any unfair labor practice of any kind in relation to any collective bargaining unit as to which there is pending a petition for an election under section 9(a) or section 8(b)(7), and the officer or regional attorney to whom the matter may be referred has reasonable cause to believe that such charge is true and that a complaint should issue, such officer or regional attorney shall, on behalf of the Board, petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where the unfair labor practice in question is alleged to have occurred, or wherein such person resides or transacts business, for appropriate injunctive relief pending the final adjudication of the Board with respect to such matter. Upon the filing of such petition for injunctive relief, the Board shall suspend further proceedings with respect to the petition for an election until the district court shall have entered an order granting or denying the relief sought and (i) any appeal therefrom shall have been decided or (ii) the time for taking an appeal (including any further appeal) shall have expired and such appeal shall not have been taken. In any case in which a petition for injunctive relief under this subsection shall have been disposed of on the merits, the conduct forming the basis for the unfair labor practice charge or enjoined or sought to be enjoined (except conduct occurring subsequent to and in violation of an order granting injunctive relief pursuant to a petition therefor filed under this subsection) shall not be grounds for setting aside an election thereafter held in such case. The provisions of subsection (1) relating to the jurisdiction and procedure of the court with respect to petitions for injunctive relief shall be applicable in the case of such petitions filed under this subsection."

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## BILL TO PERMIT THE NLRB TO DELEGATE UNFAIR LABOR PRACTICE JURISDICTION TO TRIAL EXAMINERS

Mr. JAVITS. Mr. President, because some of my colleagues may wish to cosponsor portions of the measure I have just introduced, I am also sending to

the desk individual bills, each embodying single provisions of that measure.

I, therefore, send to the desk, for appropriate reference, a bill to permit the NLRB to delegate unfair labor practice jurisdiction to trial examiners, and I ask that the text of this bill be printed in the RECORD, and that the bill be held at the desk for 1 week for cosponsors.

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

The bill (S. 3453) to amend the National Labor Relations Act so as to authorize the National Labor Relations Board to delegate unfair labor practice jurisdiction to trial examiners, and for other purposes, introduced by Mr. JAVITS, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3453

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 3(b) of the National Labor Relations Act, as amended (29 U.S.C. 153(b)), is amended to read as follows:

"(b)(1) The Board is authorized to delegate to any group of three or more members any or all of the power which it may itself exercise.

"(2) The Board is also authorized to delegate any of its powers under section 10(c) to a hearing examiner. With respect to the delegation of any of its functions as provided herein, the Board, upon its own initiative or upon petition of a party to or an intervenor in such action, may in its discretion, and shall upon request of two or more members of the Board, review the action of any such hearing examiner within such time and in such manner as the Board shall by rule prescribe. Should the Board decline to review the action of any such hearing examiner, or should no such review be sought within the time stated in the rules promulgated by the Board, then such action shall for all purposes, including appeal or review thereof, be deemed to be the action of the Board. Nothing herein contained shall be deemed to supersede the provisions of section 7(a) of the Administrative Procedure Act, as amended (5 U.S.C. 1009(a)). The Board shall promulgate such rules and regulations as it may deem appropriate to insure that any powers delegated to a hearing examiner under this paragraph will be exercised in a fair, impartial, and efficient manner.

"(3) The Board is also authorized to delegate to its regional directors its powers under section 9 to determine the unit appropriate for the purposes of collective bargaining, to investigate and provide for hearings, and determine whether a question of representation exists, and to direct an election or take a secret ballot under subsection (c) or (e) of section 9 and certify the results thereof, except that upon the filing of a request therefor with the Board by any interested person, the Board may review any action of a regional director delegated to him under this paragraph, but such review shall not operate as a stay of any action taken by the regional director unless specifically ordered by the Board.

"(4) A vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board, and three members shall, at all times, constitute a quorum of the Board, except that two members shall constitute a quorum of any group designated pursuant to paragraph (1) of this subsection. The Board shall have a seal which shall be judicially noticed."

## BILL TO PROVIDE FOR THE HOLDING OF EXPEDITED PREHEARING ELECTIONS IN NLRB REPRESENTATION CASES INVOLVING NO SUBSTANTIAL ISSUES OF FACT OR LAW

Mr. JAVITS. Mr. President, I also send to the desk a bill to provide for the holding of expedited prehearing elections where the NLRB finds that the case involves no substantial issue of law or fact. I ask that this measure also be held at the desk for 1 week, and that its text be printed in the RECORD at this point.

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

The bill (S. 3454) to amend the National Labor Relations Act to provide for the holding of expedited prehearing elections in representation cases involving no substantial issues of fact or law, and for other purposes, introduced by Mr. JAVITS, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 9(c) of the National Labor Relations Act, as amended, is amended by adding the following new paragraph:

"(6) Notwithstanding the provisions of paragraph (1) of this subsection, the Board through its designated representative, if there is reasonable cause to believe that a question of representation affecting commerce exists, may call an informal conference of the parties upon due notice. If at such conference no agreement is reached for a consent election, and there are no substantial issues of fact or law which should be resolved by a preelection hearing, the Board, through its designated representative, may conduct an election in an appropriate unit. Any party aggrieved by such proceeding may file a motion for hearing with the Board, but such motion shall not, unless specifically ordered by the Board, operate as a stay of the election."

## BILL TO PROVIDE FOR ISSUANCE OF TEMPORARY INJUNCTIONS WHENEVER THE NLRB FINDS REASONABLE CAUSE TO BELIEVE THAT AN UNFAIR LABOR PRACTICE HAS BEEN COMMITTED WHILE A REPRESENTATION ELECTION IS PENDING

Mr. JAVITS. Next, Mr. President, I send to the desk a bill to provide for the issuance of temporary injunctions whenever there is reasonable cause to believe that unfair labor practices have been committed while an NLRB representation election is pending, and I ask that this bill, also, be held at the desk for 1 week for cosponsors, and that its text be printed in the RECORD.

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

The bill (S. 3455) to amend the National Labor Relations Act to provide for the issuance of temporary injunctions whenever there is reasonable cause to believe that an unfair labor practice has been committed while a representation election is pending, and for other purposes, introduced by Mr. JAVITS, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 10 of the National Labor Relations Act, as amended, is amended by adding the following new subsection:

"(n) Whenever it is charged that any person has engaged in any unfair labor practice of any kind in relation to any collective bargaining unit as to which there is pending a petition for an election under section 9(a) or section 8(b)(7), and the officer or regional attorney to whom the matter may be referred has reasonable cause to believe that such charge is true and that a complaint should issue, such officer or regional attorney shall, on behalf of the Board, petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where the unfair labor practice in question is alleged to have occurred, or wherein such person resides or transacts business, for appropriate injunctive relief pending the final adjudication of the Board with respect to such matter. Upon the filing of such petition for injunctive relief, the Board shall suspend further proceedings with respect to the petition for an election until the district court shall have entered an order granting or denying the relief sought and (i) any appeal therefrom shall have been decided or (ii) the time for taking an appeal (including any further appeal) shall have expired and such appeal shall not have been taken. In any case in which a petition for injunctive relief under this subsection shall have been disposed of on the merits, the conduct forming the basis for the unfair labor practice charge or enjoined or sought to be enjoined (except conduct occurring subsequent to and in violation of an order granting injunctive relief pursuant to a petition therefor filed under this subsection) shall not be grounds for setting aside an election thereafter held in such case. The provisions of subsection (1) relating to the jurisdiction and procedure of the court with respect to petitions for injunctive relief shall be applicable in the case of such petitions filed under this subsection."

## BILL TO PROVIDE FOR THE HOLDING OF EXPEDITED NLRB ELECTIONS IN LIEU OF RECOGNITION ON THE BASIS OF "CARD CHECKS"

Mr. JAVITS. Finally, Mr. President, I submit, for appropriate reference, a bill to provide for the holding of expedited representation elections by the NLRB where labor organizations seek recognition on the basis of employees' authorizations or similar evidence. I ask unanimous consent that this bill also be held at the desk for 1 week for cosponsors, and that its text be printed in the RECORD at this point.

The ACTING PRESIDENT pro tempore. The bill will be received and ap-

propriately referred; and, without objection, the bill will be printed in the RECORD, and will lie on the desk, as requested by the Senator from New York.

The bill (S. 3456) to amend the National Labor Relations Act so as to provide for the holding of expedited representation elections upon petition of employers where labor organizations seek recognition on the basis of employees' authorizations or similar evidence, and for other purposes, introduced by Mr. JAVITS, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 8 of the National Labor Relations Act, as amended, is amended by adding the following new subsection:

"(g) It shall be an unfair labor practice under subsection (a)(5) of this section for any employer to refuse to recognize a labor organization as the representative of his employee if such employer—

"(1) has been presented with valid cards or other unimpeached evidence purporting to show that a majority of employees in an appropriate bargaining unit desires to be represented by such labor organization; and

"(2) has failed within a reasonable time to file a petition pursuant to paragraph (1)(B) of section 9(c), containing the allegations referred to in paragraph (6) of such section."

SEC. 2. Section 9(c) of such Act as amended by adding the following new paragraph:

"(6) In any case in which it is alleged in a petition filed by an employer pursuant to paragraph (1)(B) that a labor organization seeking recognition as the representative of the employees of such employer has presented valid cards or other unimpeached evidence purporting to show that a majority of employees in an appropriate bargaining unit desires to be represented by such labor organization, it shall be the duty of the Board, if it determines that in all other respects a question of representation affecting commerce exists, to forthwith, without regard to the provisions of paragraph (1), direct the holding of such an election in such unit as the Board finds to be appropriate and to certify the results thereof. The consideration of the petition and the holding of the election, in any such case, shall not be delayed by reason of the pendency of an unfair labor practice charge based upon the refusal of the employer to bargain collectively with the labor organization, and no such unfair labor practice charge based upon a refusal to bargain prior to the election shall thereafter be considered unless the Board determines that the labor organization had once been authorized to represent a majority of the employees in the bargaining unit, but that as a result of a course of conduct by the employer in violation of section 8(a) (other than unfair labor practices under section 8(a)(5)), such labor organization is no longer authorized to represent such majority."

## AMENDMENT OF NATIONAL SCHOOL LUNCH ACT, AS AMENDED, TO STRENGTHEN AND EXPAND FOOD SERVICE PROGRAMS FOR CHILDREN

Mr. ELLENDER. Mr. President, I introduce, by request, a bill to amend the National School Lunch Act, as amended, to strengthen and expand food service programs for children. While the material contained in this bill was requested by the administration, I have made some changes in it and have omitted some parts of the legislation requested.

I ask unanimous consent that there may be printed at this point in the RECORD a short explanation of the bill, as introduced, together with a section-by-section explanation of it.

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

The bill (S. 3467) to amend the National School Lunch Act, as amended, to strengthen and expand food service programs for children, introduced by Mr. ELLENDER, by request, was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

The explanation and section-by-section analysis presented by Mr. ELLENDER are as follows:

EXPLANATION OF BILL

The bill would amend the National School Lunch Act by adding provisions for—

(1) A special milk program for fiscal years 1967, 1968, 1969, and 1970;

(2) A pilot breakfast program for needy children in schools drawing attendance from poor economic areas and in schools to which the children must travel long distances for fiscal years 1967, 1968, and 1969;

(3) A permanent program for nonfood assistance to schools drawing attendance from areas in which poor economic conditions exist; and

(4) General administration (sections 16 through 24), including provision for—

(A) use of up to 1½ percent of the funds appropriated for the various programs for program administrative expenses of State educational agencies;

(B) coordination with, and preference to, programs carried on under the Elementary and Secondary Education Act of 1965 and the Economic Opportunity Act of 1964;

(C) requiring the food and milk service programs to be conducted in a nonprofit basis;

(D) in the case of the milk program, prohibiting imposition of requirements dealing with teaching;

(E) providing that assistance under the Act not be deemed income and that State expenditures for child food programs not be reduced;

(F) authorizing the Secretary to extend school feeding programs under the Act to include pre-school programs operated as part of the school system.

SECTION-BY-SECTION EXPLANATION

Section 1 (A) keeps the appropriation authorization for the national school lunch program separate from those for the new programs.

Section 1 (B) excludes funds appropriated for the new programs from section 6 of the National School Lunch Act, which provides that part of the funds may be used for Department administrative expenses and part may be used for direct food purchases.

Section 1 (C) defines "nonprofit institution" as an institution, other than a school, which provides for the care and training of children and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1 (D) adds new sections 13 through 24 to the National School Lunch Act which provide as follows:

Section 13—Special Milk
Section 14—School Breakfast
Section 15—Nonfood Assistance
Sections 16 through 24—General Provisions

New section 13, which provides for the special milk program is identical to section 2 of the Act of July 1, 1958, the current authority for the special milk program, except that the current authority runs only through June 30, 1967, while the new authority runs through fiscal 1969, and appropriations would be limited to not more than $100 million per year. However, since the new authority would be part of the National School Lunch Act, the general provisions of that Act would be applicable.

Section 14 provides for a pilot school breakfast program for fiscal years 1967, 1968, and 1969.

Subsection (a) authorizes appropriations for such program in schools serving children from low-income areas and in schools drawing attendance from children who have to travel long distances.

Subsections (b) and (c) provide for apportionment to states. Three percent would be apportioned to Guam, the Virgin Islands, Puerto Rico, and America Samoa, on the basis of the number of children aged 5 through 17. From the balance the other States would each receive first, a basic grant of $50,000 and, second, additional funds on the basis of need as indicated by the number of children in the State, ages 5 through 17, in families with income of less than $2,000 plus children, ages 5 through 17, in families receiving assistance under the program for Aid to Families with Dependent Children.

Subsection (d) requires States to disburse funds to schools found eligible by the State educational agency at rates per meal that will be established by the Secretary. These funds are to be spent only for food for needy children. To the extent practicable, first consideration will be given to schools in areas of economic need.

Subsection (e) provides that in instances of severe need, the Secretary may authorize assistance up to 90 percent of the operating cost of a breakfast program, including the cost of obtaining, preparing and serving food.

Subsection (f) requires meals served under this section to meet nutritional requirements prescribed by the Secretary on the basis of tested nutritional research and to be served free or at reduced cost to those children found, by local school authorities, to be unable to pay the full cost. This is similar to the requirement contained in the existing National School Lunch Act.

Subsection (g) provides that the Department of Agriculture will administer the program in nonprofit private schools in those States whose educational agency is forbidden, by law, to disburse funds to other than public schools. This is similar to the method followed under the National School Lunch Act.

Section 5 provides for a permanent nonfood assistance program in schools drawing attendance from poor economic areas.

Subsection (a) authorizes appropriations to assist States in helping such schools acquire facilities, other than land and buildings, for the storage, preparation, transportation and serving of food.

Subsection (b) provides that funds shall be apportioned among the States on the same basis as school lunch funds under section 4. Payments to States are made on condition that one-fourth of the cost of any facilities financed shall be borne by State or local funds.

Subsection (c) permits the State educational agency to disburse funds to eligible schools by advance or by reimbursement only on request from the school, accompanied by a detailed description of the facilities to be acquired and plans for their use to improve the nutritional needs of the children in the school.

Subsection (d) requires the Department of Agriculture to administer the program in nonprofit private schools in those States where the State educational agency is not permitted, by law, to disburse funds to other than public schools.

Section 16 provides that the Secretary shall certify to the Secretary of Treasury payments to be made to any State under the new provisions and the Secretary of Treasury shall make the payment. This is the same procedure currently used under the national school lunch program.

Section 17 authorizes the Secretary to use up to 1½ percent of the total funds appropriated under the National School Lunch Act for advances to State educational agencies for administrative purposes. However, no such agency would receive more than 1 percent of the funds apportioned to it under the Act or $7,500, whichever is greater.

Section 18 provides that in the selection of schools and nonprofit institutions to receive Federal assistance under the special milk and other programs being added to the National School Lunch Act, the State agency shall adopt methods and procedures necessary to assure coordination with programs carried on under the Elementary and Secondary Education Act of 1965 and the Economic Opportunity Act of 1964 in such schools or institutions and, in cases of comparable need, give preference to these schools or institutions. The Elementary and Secondary Education Act of 1965 provides among other things for financial assistance to local educational agencies for the education of children of low-income areas. The purpose of the Economic Opportunity Act of 1964 is to eliminate poverty. Sections 611 and 612 of the latter Act now require other agencies, in the administration of related programs, to cooperate and assist in carrying out the purpose of the latter Act and to give preference to applications made in connection with community action programs under the latter Act.

Section 19 requires schools and nonprofit institutions participating in the breakfast program to use to the extent practicable foods designated by the Secretary as being in abundance, and to receive foods donated by the Department of Agriculture.

Section 20 requires all food and milk service programs receiving assistance under the Act to be operated on a nonprofit basis. This is similar to the requirement under the National School Lunch Act.

Section 21 provides that information on numbers of children, ages 5 through 17, and on per capita income shall be made available by the Secretary of Commerce and, unless otherwise specified, shall be the latest available.

Section 22 authorizes regulations.

Section 23 prohibits—

(a) the Secretary and the States from imposing any requirements with respect to teaching personnel, curriculum, or materials of instruction in carrying out the special milk or other programs added to the National School Lunch Act. A similar provision now applies to the national school lunch program.

(b) the value of assistance to children under the National School Lunch Act from being considered as income or resources for purposes of other programs.

(c) State and local expenditures for food programs for children from being reduced as a result of funds received under the National School Lunch Act.

Section 24 authorizes the Secretary to extend the benefits of school feeding programs under the Act to pre-school programs operated as part of the school system.

## SPECIAL TRAINING ENLISTMENT PROGRAM

Mr. NELSON. Mr. President, I send to the desk for proper referral a bill to activate the special training enlistment program—STEP—to help volunteers with minor educational and physical problems qualify for Army service and thus reduce reliance on the draft.

I ask unanimous consent that the text of the bill be printed at the close of my remarks.

The strength of our Armed Forces has risen from its 1965 level of 2.66 million men to 2.97 on March 31, 1966. The number of men serving in the Army has grown in that time from 969,000 to 1,140,000. To fill the requirements set by the Defense Department, induction rates have increased from between 500,000 to 600,000 in fiscal 1965 to over 900,000 in fiscal 1966. Draft calls have tripled from between 100,000 and 120,000 to 330,000.

At a time when military requirements have forced a tripling in draft calls, when married men are being taken, when unfair and destructive means are being used to reclassify those with student deferments, it is only sensible to enable those who wish to volunteer every opportunity to serve.

The STEP program was designed to fulfill that need, to provide a short period of concentrated training to upgrade volunteers who fall just short of Army standards in health and education.

The STEP program was proposed by the Defense Department last year, but the $15 million requested to begin the program was denied by the Congress.

Until last November the Army required a volunteer to score 10 points higher on the Armed Forces Qualification Test—AFQT—than a draftee. Some 42,000 men who wished to enlist in 1964, and who scored high enough to have qualified for the draft were rejected under these standards.

AFQT test scores have now been lowered for both draftees and volunteers and made nearly identical. But the Defense Department estimates that between 11,000 and 15,000 young rejected volunteers a year could be aided by the short term, concentrated training that a STEP program could provide.

I introduced an amendment on the Senate floor last August to restore the $15 million requested for the STEP program but was defeated.

The bill I am introducing today answers the most important criticism of the program as it was proposed last year. Instead of tying up Army training cadre and using space at already overcrowded military training installations, the STEP program could be carried out by other Government agencies under contract to the Defense Department.

In fact, a kind of pilot for this sort of program has been carried out under Labor Department sponsorship over the last year with some 1,000 rejected volunteers from the Baltimore-Washington area.

Let us examine the recent changes in military standards and methods of evaluating who are qualified for service. Before November 1965, potential enlistees in the Army had to score in the 31st percentile on the Armed Forces Qualifying Test. Draftees had to score only in the 21st percentile. The present standards have been lowered to the 16th percentile for both enlistees and draftees who are to serve in the Army. Boys scoring between the 16th and 21st percentiles on the AFQT must either possess a high school diploma or pass a careful 2-hour battery of aptitude and qualification exams. Under this revision of standards the Defense Department estimates that they have gained 30,000 enlistees per year who would have been rejected under the old qualification standards.

The STEP program would be geared toward those men with the basic capacity to serve, who score between the 10th and 16th percentiles and are therefore being rejected at this time. These boys want to join the Army. They would as volunteers serve 3 years and many would remain in the service after their first hitch. It makes sense for the Army to enlist such personnel who will not leave the service after 2 years and waste the training invested in them.

In the pilot STEP project sponsored by the Labor Department during the last year nearly 70 percent of these men had been out of school and unemployed prior to the program. Of 728 men, 82.3 percent are now either gainfully occupied, on jobs, in schools, or in the Armed Forces.

It is estimated that the costs for training and coverage of administrative needs for the STEP program will be between $300 and $500 per man.

We have available a pool of men willing and basically with the capacity to serve who are rejected for minor educational defects. It is commonsense to attempt to qualify these boys rather than draft men who will leave the service as soon as their time is up. Even those trainees who decide to leave the service will have become more useful citizens, better able to cope with life and secure a decent job as civilians.

Public concern over inequities in the draft system has risen in recent weeks. Various alternatives have been suggested to correct the injustices caused by the draft. Here is a program that can be enacted within the framework of the present system. We need not wait for a revamping of the Selective Service System to undertake this effort to qualify additional thousands of men each year for military service.

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

The bill (S. 3470) to amend title 10, United States Code, to authorize the Secretary of Defense to provide a special educational training and physical rehabilitation program for persons who are not qualified for enlistment or induction in the Armed Forces because of educational or physical deficiencies introduced

by Mr. NELSON, was received, read twice by its title, referred to the Committee on Armed Services, and ordered to be printed in the RECORD, as follows:

S. 3470

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That chapter 101 of title 10, United States Code, is amended as follows:

(1) By adding the following new section:

"2003. PERSONS NOT QUALIFIED FOR ENLISTMENT OR INDUCTION: SPECIAL EDUCATIONAL TRAINING OR PHYSICAL REHABILITATION

"(a) The Secretary of Defense may provide a special educational training and physical rehabilitation program for persons who are not qualified for enlistment or induction in the Armed Forces because of educational or physical deficiencies but who, with educational training and physical rehabilitation, can serve usefully in the Armed Forces.

"(b) Notwithstanding any other provision of law, upon agreement by the Secretary of Defense and the head of any other department or agency of the United States, facilities, supplies, and services of that department or agency may be used with or without reimbursement to carry out the purposes of this section."

(2) By adding the following item in the analysis:

"2003. PERSONS NOT QUALIFIED FOR ENLISTMENT OR INDUCTION: SPECIAL EDUCATIONAL TRAINING OR PHYSICAL REHABILITATION"

Mr. NELSON. Mr. President, I ask unanimous consent that the remarks made by the Senator from New Jersey [Mr. CASE] on Memorial Day ceremonies in Garfield, N.J., respecting the draft be inserted in the RECORD.

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

The remarks of the Senator from New Jersey [Mr. CASE], presented by Mr. NELSON, are as follows:

Within the next 13 months, Congress must decide whether to extend the current Selective Service law or to replace it with some new program.

We have heard many suggestions recently for changing the present law. These represent many different approaches but one of the most interesting aspects of these suggestions is that they all recognize the many inequities in the current law. Many of us have been aware of the inequities—and trying to do something about them—for many years.

Two weeks ago we read about the recognition of these inequities by a top administration official, Secretary of Defense Robert S. McNamara.

This recognition by the administration, however, is late in arriving.

A little over two years ago the administration frustrated the creation of a Presidential Commission to investigate the draft by refusing to support legislation to establish the commission.

The legislation—which I joined in sponsoring—called for establishment of a commission which would have included educators and other specially qualified civilians as well as military and Defense Department personnel. The commission would have been charged with studying the whole matter of the way we utilize our manpower, including the relationship of the reserves to the draft.

Instead of supporting this legislation, President Johnson ordered the Defense Department to conduct a study and to report back within a year. That was in April, 1964, over two years ago. During the past year, I have been in frequent contact with the Defense Department in an effort to determine what has happened to the study. A few weeks ago, I was informed that a report would be made public in June.

As recently as February of this year Secretary McNamara told a Senate Appropriations subcommittee that the existing system of deferments is basically sound from the viewpoint of the national interest. He made no suggestion then of any inequities.

In listing the tentative findings of the Department's study at that time, the Secretary said it was found that there should be ways to decrease reliance on the draft by increasing the number of volunteers that increases in military pay alone would not accomplish this objective.

And, in summing up all the findings, he said we could not look forward to ending the draft in the coming decade unless changing world conditions permitted a reduction of our regular forces substantially below the levels necessary since the Korean War.

The whole subject of the draft is extremely complex, extremely controversial and extremely important. It will need thorough Congressional study. And Congress will need the fullest possible information and the most competent advice it can get in tackling this difficult task.

It is urgent, I believe, that the fullest attention be given to a program that has accumulated inequities through the more than 18 years since it was last examined closely by Congress.

Let us get on with the job.

## TO PRINT AS A SENATE DOCUMENT A PUBLICATION RELATING TO THE RULES OF PROCEDURE OF THE SENATE

Mr. TOWER. Mr. President, I submit a concurrent resolution to provide for the compilation of the history of the Senate and the personages who have made it one of the greatest deliberative bodies in the history of the world.

I believe that such an undertaking would be of great value to those students of government who like to know just what the Senate is all about. The traditions that have been built up over the years play a great role in the workings of the Senate from day to day. No one can truly understand the workings of this body without knowing the story behind it and no one is more capable of supervising such a study than the Senate itself.

Mr. President, a working knowledge of how the Senate works and why it is of great importance in this modern world. Daily we here must make decisions that will affect the lives of millions of people, not only in this country but throughout the world. Students of our system of government must have all the facts available when judging for themselves whether or not this is the type of government which they want to choose. It is therefore our duty to provide them with an official history of the Senate of the United States.

It is of paramount concern that a comprehensive discussion and explanation of the rules which govern the Senate be included in such a study. Without a thorough knowledge and understanding of these rules, it would be very difficult to grasp the methods in which the Senate works.

Mr. President, I urge the Senate to swiftly consider and give this resolution its overwhelming approval. It would certainly be another step forward in our process of the conservation of history. It is certainly my hope that this work will become a standard in the field of analyzing deliberative bodies.

The ACTING PRESIDENT pro tempore. The concurrent resolution will be received and appropriately referred.

The concurrent resolution (S. Con. Res. 96) was referred to the Committee on Rules and Administration, as follows:

*Resolved by the Senate (the House of Representatives concurring)*, That the Librarian of Congress is authorized and directed to prepare, under the supervision of the Senate Committee on Rules and Administration, an appropriate publication depicting the history of the United States Senate and setting forth a discussion and explanation of the course of business in and rules of procedure of the United States Senate, which publication shall be printed with illustrations as a Senate document.

SEC. 2. There shall be printed thirteen thousand additional copies of such document, of which ten thousand three hundred shall be for the use of the Senate and two thousand seven hundred shall be for the use of the Senate Committee on Rules and Administration.

## CIVIL RIGHTS ACT OF 1966—AMENDMENTS

AMENDMENTS NOS. 578 THROUGH 582

Mr. JAVITS. Mr. President, I send to the desk five amendments to S. 3296, the pending civil rights bill which is before the Subcommittee on Constitutional Rights, of which I am a member. I ask unanimous consent that the extent of the amendments may be printed in the RECORD.

I also ask unanimous consent that the amendments may lie on the desk until the end of the week; namely, Friday, June 10, for additional cosponsors.

The ACTING PRESIDENT pro tempore. The amendments will be received, printed, and appropriately referred; and, without objection, will be printed in the RECORD and lie at the desk as requested by the Senator from New York.

The amendments were referred to the Committee on the Judiciary, as follows:

AMENDMENT NO. 578

On page 28, begining with line 8, strike out all through line 2 on page 30, and insert in lieu thereof the following new sections:

"EQUAL HOUSING OPPORTUNITY COMMISSION

"SEC. 406. (a) There is hereby created a Commission to be known as the Equal Housing Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from the date of enactment of this title, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member

to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

"(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

"(c) The Commission shall have an official seal which shall be judicially noticed.

"(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

"(e) Section 303 of the Federal Executive Salary Act of 1964 (5 U.S.C. 2211) is amended by—

"(1) adding to subsection (d) thereof the following clause:

"'(70) Chairman, Equal Housing Opportunity Commission.'; and

"(2) adding to subsection (e) thereof the following clause:

"'(101) Members, Equal Housing Opportunity Commission (4).'.

"(f) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place. The Commission may establish such regional or State offices as it deems necessary to accomplish the purpose of this title.

"(g) The Commission shall have power—

"(1) to cooperate with and, with their consent, utilize regional, State, local, and other agencies, both public and private, and individuals;

"(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

"(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;

"(4) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to the public;

"(5) to refer matters to the Attorney General with recommendations for the institution of a civil action by the Attorney General under section 407, and to advise, consult, and assist the Attorney General on such matters;

"(6) to receive money and other property donated, bequeathed, or devised, without condition other than that it be used in furtherance of the purposes of this title; and to use, sell, or otherwise dispose of such property for the purpose of carrying out the provisions of this title; and

"(7) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by law (5 U.S.C. 736–2) for persons in the Government service employed without compensation.

"(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

"(i) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

"(j) All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act), notwithstanding any exemption contained in such section.

"ENFORCEMENT BY THE ATTORNEY GENERAL

"SEC. 407. Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title he may bring a civil action in any appropriate United States court by filing with it a complaint setting forth the facts pertaining to such pattern or practice and requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights granted by this title.

"PREVENTION OF DISCRIMINATORY HOUSING PRACTICES

"SEC. 408. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any discriminatory housing practice or violation of section 405.

"(b) Whenever a written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to this title has engaged in any discriminatory housing practice or violation of section 405, the Commission shall notify the person charged with the commission of such discriminatory housing practice or violation of section 405 (hereinafter referred to as the "respondent"), of such charge and shall investigate such charge. If the Commission shall determine that there is not probable cause for crediting such charge it shall state its determination and notify any person claiming to have been aggrieved and the respondent of such determination. Each such determination shall be deemed to be a final order of the Commission. If the Commission shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such endeavors may be used as evidence in any subsequent proceeding.

"(c)(1) If within a period of thirty days after a charge is filed with the Commission, the Commission fails to secure an agreement between the parties for the elimination of such discriminatory housing practice or violation of section 405 on mutually satisfactory terms, approved by the Commission, the Commission shall issue and cause to be served upon the respondent a complaint stating the charges in that respect, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such complaint. Whenever the Commission is required to endeavor to secure voluntary compliance with this title and it determines that circumstances warrant an early hearing, the Commission may issue a complaint, in the same manner as provided in the preceding sentence, prior to the expiration of such thirty-day period. No complaint shall issue based upon any discriminatory housing practice or violation of section 405 occurring more than one year prior to the filing of the charge with the Commission unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the period of military service shall not be included in computing the one-year period.

"(2) The respondent shall have the right to file a verified answer to such complaint and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

"(d)(1) The Commission or a member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend its answer.

"(2) All testimony shall be taken under oath.

"(3) The member of the Commission who filed a charge shall not participate in a hearing thereon, except as a witness.

"(e)(1) At the conclusion of a hearing before a member or designated agent of the Commission, such member or agent shall transfer the entire record thereof to the Commission, together with his recommended decision and copies thereof shall be served upon the parties. The Commission, or a panel of three qualified members designated by it to sit and act as the Commission in such case, shall afford the parties an opportunity to be heard on such record at a time and place to be specified upon reasonable notice. In its discretion, the Commission upon notice may take further testimony.

"(2) With the approval of the member or designated agent conducting the hearing, a case may be ended at any time prior to the transfer of the record thereof to the Commission by agreement between the parties for the elimination of the alleged discriminatory housing practice or violation of section 405 on mutually satisfactory terms.

"(f) If, upon the preponderance of the evidence, including all the testimony taken, the Commission shall find that the respondent engaged in any discriminatory housing practice or violation of section 405, the Commission shall state its findings of fact and shall issue and cause to be served on such respondent and other parties an order requiring such respondent to cease and desist from such discriminatory housing practice or violation of section 405 and to take such affirmative action as will effectuate the policies of this title, including, but not limited to, making reports from time to time showing the extent to which it has complied with such order. If the Commission shall find that the respondent has not engaged in any discriminatory housing practice or violation of section 405 the Commission shall state its findings of fact and shall issue and cause to be served on such respondent and other parties an order dismissing the complaint.

"(g) From the time a hearing is held before the Commission, or in the case of a hearing before a member or designated agent of the Commission, from the time of the transfer of the record thereof to the Commission, until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the case may at any time be ended by agreement between the parties approved by the Commission, for the elimination of the alleged discriminatory housing practice or violation of section 405 on mutually satisfactory terms, and the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

"(h) The proceedings held pursuant to the preceding subsections of this section shall be conducted in public sessions and in conformity with the standards and limitations of sections 5, 6, 7, 8, and 11 of the Administrative Procedure Act.

"(i) For the purposes of this section the Commission is authorized to utilize the available services of the Department of Housing and Urban Development and the

employees thereof, with the consent of the Secretary of Housing and Urban Development, in (1) conducting a preliminary investigation with respect to any charge filed with the Commission, (2) endeavoring to secure voluntary compliance with this title, and (3) conducting a hearing resulting from the issuance of a complaint by the Commission. Within the limitation of funds appropriated to the Commission, it may make agreements, with the Secretary of Housing and Urban Development, establish such procedures, and make such payments, either in advance or by way of reimbursement, to the Department of Housing and Urban Development or the employees thereof, as the Commission deems necessary to carry out the provisions of this paragraph. For the purposes of this paragraph, the Secretary of Housing and Urban Development is authorized to cooperate with the Commission and to provide such services as the Commission may request. Nothing contained herein shall be construed to authorize the Commission to delegate any of its authority to make determinations with respect to charges filed with it, to issue complaints, or to make final orders and findings of fact.

"(j) (1) Whenever the Commission makes a finding that any respondent has engaged in any discriminatory housing practice or violation of section 405 and issues an order requiring such respondent to cease and desist from such practice or violation or whenever the Commission has probable cause for belief that any respondent is not in compliance with the terms of any voluntary agreement for the elimination of a discriminatory housing practice or violation of section 405 entered into pursuant to subsection (b), (e), or (g) of this section, the Commission shall have power to petition any United States court of appeals or, if the court of appeals to which application might be made is in vacation, any district court within any circuit or district, respectively, wherein the discriminatory housing practice or violation of section 405 in question occurred, or wherein the respondent resides or transacts business, for the enforcement of such order or voluntary agreement and for appropriate temporary relief or an appropriate restraining order and for the entry of an order directing the respondent to forfeit and pay to the United States a civil penalty of not more than $5,000 for any violation of such order of the Commission, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission or a true copy of such voluntary agreement.

"(2) Upon such filing the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power (A) to grant such relief as it deems appropriate, including a permanent or temporary injunction, restraining order, or other order, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, the order of the Commission or the voluntary agreement between the parties as certified and filed in the court, and (B) to direct the respondent to forfeit and pay to the United States a civil penalty of not more than $5,000 for any violation of such order of the Commission, which penalty shall accrue to the United States For the purposes of this subsection, each separate violation of a final order of the Commission shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense.

"(3) No objection that has not been urged before the Commission, its member, or agent, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

"(4) The findings of the Commission with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

"(5) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commission, its member, or agent, and to be made a part of the transcript.

"(6) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order.

"(7) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

"(k) Whenever a written charge has been filed pursuant to subsection (b) alleging that any respondent has engaged in any discriminatory housing practice or violation of section 405 and, after preliminary investigation, the Commission has determined that probable cause exists for crediting such written charge, the Commission may petition any United States court of appeals or, if the court of appeals to which application might be made is in vacation, any district court within any circuit or district, respectively, wherein the discriminatory housing practice or violation of section 405 in question is alleged to have occurred, or wherein the respondent resides or transacts business, for appropriate injunctive relief pending the final adjudication of the Commission, or the securing of voluntary agreement between the parties under subsection (b), (e), or (g) of this section, with respect to the matter in question. Upon the filing of any such petition the court shall cause notice thereof to be served upon the respondent and thereupon shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper. Such respondent shall be given an opportunity to appear by counsel and present any relevant testimony. Notwithstanding any other provision of this subsection, a temporary restraining order may be issued without notice if a petition alleges that substantial and irreparable injury to the alleged aggrieved party will be unavoidable and any such temporary restraining order shall be effective for no longer than five days and will become void at the expiration of such period.

"(l) Any person or party aggrieved by a final order of the Commission may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the discriminatory housing practice or violation of section 405 in question was alleged to have been engaged in or wherein such person or party resides or transacts business or the Court of Appeals for the District of Columbia, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commission. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (j), and shall have the same exclusive jurisdiction to grant to the petitioners or to the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified or setting aside in whole or in part the order of the Commission.

"(m) The commencement of proceedings under this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(n) When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part an order of the Commission, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by the Act entitled 'An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes', approved March 23, 1932 (29 U.S.C. 101-115).

"(o) Petitions filed under this title shall be heard expeditiously.

"INVESTIGATIONS, INSPECTIONS, RECORDS, STATE AGENCIES

"SEC. 409. (a) In connection with any investigation of a charge filed under section 406, the Commission or its designated representative shall at all reasonable times have access to (for the purposes of examination), and the right to copy, any evidence of any person being investigated or proceeded against that relates to discriminatory housing practices or violations of rights covered by this title and is relevant to the charge under investigation. The provisions of the preceding sentence shall not be applicable to any individual with respect to any private dwelling owned by such individual and actually occupied by such individual as his residence.

"(b) The Commission may cooperate with State and local agencies charged with the administration of State nondiscriminatory housing practices laws and, with the consent of such agencies, may for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

"(c) Except as provided in subsection (d), every person subject to this title shall (1) make and keep such records relevant to the determinations of whether discriminating housing practices or violations of section 405 have been or are being committed, (2) preserve such records for such periods, and (3)

make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. Any person who believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, or bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the person in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

"(d) The provisions of subsection (c) shall not apply to (1) any individual with respect to any private dwelling owned by such individual and actually occupied by such individual as his residence, or (2) any person with respect to matters occurring in any State or political subdivision thereof which has a nondiscriminatory housing practice law during any period in which such person is subject to such law, except that the Commission may require such notations on records which such person keeps or is required to keep as are necessary because of differences in coverage or methods of enforcement between the State or local law and the provisions of this title.

"(e) It shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section prior to the institution of any proceeding under this title involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subjection shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than one year.

"INVESTIGATORY POWERS

"SEC. 410. (a) For the purposes of any investigation provided for in this title, the provisions of sections 9 and 10 of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Commission, except that the attendance of a witness may not be required outside of the State where he is found, resides, or transacts business, and the production of evidence may not be required outside the State where such evidence is kept.

"(b) The several departments and agencies of the Government, when directed by the President, shall furnish the Commission, upon its request, all records, papers, and information in their possession relating to any matter before the Commission.

"NOTICES TO BE POSTED

"SEC. 411. (a) Every person subject to this title shall post and keep posted, in conspicuous places upon its premises where notices to persons applying to purchase, rent, or lease any dwelling or applying for any mortgage or loan covered by this title are customarily posted, a notice to be prepared or approved by the Commission setting forth excerpts from or summaries of the pertinent provisions of this title and information pertinent to the filing of a charge. The provisions of the preceding sentence shall not be applicable to any individual with respect to any private dwelling owned by such individual and actually occupied by such individual as his residence.

"(b) A willful violation of this section shall be punishable by a fine of not more than $100 for each separate offense.

"RULES AND REGULATIONS

"SEC. 412. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

"(b) In any action or proceeding based on any alleged discriminatory housing practice or violation of section 405, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of a discriminatory housing practice or violation of section 405 if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this title if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this title regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this title.

"FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

"SEC. 413. The provisions of section 111, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties."

On page 30, line 5, strike out "SEC. 408." and insert "SEC. 414.".

On page 31, line 2, strike out "SEC. 409." and insert "SEC. 415.".

On page 31, line 11, strike out "SEC. 410." and insert "SEC. 416.".

On page 31, line 15, strike out "SEC. 411." and insert "SEC. 417.".

Amend the title to read as follows: "A bill to assure nondiscrimination in Federal and State jury selection and service, to facilitate the desegregation of public education and other public facilities, to establish the Equal Housing Opportunity Commission, to prescribe penalties for certain acts of violence or intimidation, and for other purposes."

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AMENDMENT NO. 579

On page 15, beginning with line 3, strike out all through line 25 on page 22 and insert in lieu thereof the following:

"TITLE II—RECORDS OF STATE COURTS

"SEC. 201 (a) Each State or local court shall keep records of the names of all persons on the jury list for such court, names of those persons placed in the jury box, wheel or similar device, or on any questionnaires, applications, or documents of any sort used in the selection of jurors, the names and race of the persons drawn from the jury box, wheel or similar device or otherwise called for availability for jury service, the names of those performing jury service and the dates thereof, and such additional appropriate records as the judge or judges of such court may direct. Such records shall be retained for a period of not less than four years. For purposes of this subsection, such records shall be kept by any officer of such records who, under State or local law, selects the names of persons to be considered in the selection of persons who are called for service as grand or petit jurors in such court, or such other officer who is directed, under State or local law, to keep such records in accordance with this subsection.

"(b) The provisions of sections 302, 303, 304, and 305 of the Civil Rights Act of 1960 (42 U.S.C. 1974a–1974d) shall insofar as consistent with this title, be applicable with respect to jury records required to be maintained under this title.

"(c) Any person who willfully fails to comply with the recordkeeping requirements of this title shall be fined not more than $1,000 or imprisoned not more than one year, or both.

*"Jury discrimination*

"SEC. 202. (a) Any citizen residing within the area of any State or local court, or any litigant in any civil action or criminal proceeding in any State or local court, or the Attorney General of the United States may institute a civil action against the State or political subdivision of a State in which such State or local court is located alleging that persons have been systematically excluded from grand or petit juries on grounds of race or color in such State or local court at any time during the two years preceding the filing of the action authorized herein, or alleging that the recordkeeping requirements of section 201 are not being fully implemented, and praying that the Director of the Administrative Office of the United States Courts should assume responsibility for the selection and administration of juries in such State or local court as provided in subsection (b). Any such action shall be instituted in the United States District Court for any Federal judicial district in which such State or local court is located.

"(b) In any action instituted pursuant to subsection (a) in which the court is satisfied by a clear preponderance of the evidence that the allegations of the complainant are true, the court shall enter an order directing the Director of the Administrative Office of the United States Courts, personally or through subordinate officials, to assume responsibility for the selection and administration of juries in such State or local court. Such order of the district court shall include the granting of an injunction, restraining order, or such other order against a State or political subdivision thereof, or any official of such State or political subdivision as is necessary to effectuate the court's judgment, and shall direct that all judges and court officials of such State or local court shall apply the procedures, standards, and qualifications prescribed by the Director under this subsection. In any such case, the Director shall act without regard to any State and local laws and regulations applicable to jury selection and service in such State or local court which he finds has the purpose or effect of excluding any person from grand or petit juries on grounds of race or color and insofar as appropriate, shall prescribe procedures, standards, and qualifications which shall be applicable with respect to the selection and administration of juries in such State or local court and would, if applied in selecting persons for service as jurors in United States district courts, meet the requirements of chapter 121 of title 28, United States Code. In carrying out his functions under this section, the Director may (1) if practical, use any Federal list or part thereof of jurors for the area in which such State or local court is located, (2) in accordance with the civil service laws, appoint and fix the compensation of such officers, attorneys and employees, and make such expenditures as may be necessary, and (3) call upon the Director of the Bureau of the Census for advice and assistance.

"(c) In any action instituted pursuant to subsection (a) in which the district court finds that any final judgment of any Federal or State court has been entered within two years prior to the filing of the application in the district court (whether prior to or after

the effective date of this title) determining that there has been systematic exclusion from jury service on grounds of race or color in any State or local court the district court shall make a finding that such exclusion is established unless the State or political subdivision, or the State or local court through its clerk or other appropriate official, satisfies the district court by clear and convincing evidence on the record as a whole that such exclusion no longer exists.

"(d) In any action instituted pursuant to subsection (a), whenever it is shown by a clear preponderance of the evidence that over a period of two years prior to the filing of such action the ratio which the number of persons of any race or color residing within the area of any State or local court bears to the total population of that area exceeds by one-half or more the ratio which the number of persons of that race or color placed on grand and petit jury panels by such State or local court bears to the total number of persons placed on such jury panels, this shall be deemed to establish systematic exclusion on grounds of race or color in such State or local court; except that in case all or part of such two-year period antedates the effective date of this title, the State or political subdivision or State or local court through its clerk or other appropriate official, shall be given the opportunity to demonstrate by clear and convincing evidence on the record as a whole that such exclusion no longer exists. This subsection shall not be applicable in any area of a State or local court unless a racial or color minority constitutes at least 10 per centum of the total population of such area.

"Reinstatement

"SEC. 203. Any State or political subdivision may make application for the reinstatement of State procedures for the selection and administration of juries to the United States District Court for the District of Columbia which may approve the reinstatement of such procedures if it finds that there is no longer reasonable cause to believe that persons will be excluded from jury service in the State or local court concerned by reason of race or color, or that there will be continued failure to keep records in accordance with section 201.

"Action by Attorney General

"SEC. 204. Whenever the Attorney General has reasonable cause to believe that any change in the qualifications, standards, or limitations on the right to a jury trial, operation of the jury system, or the selection of, or challenges to, individual jury members or panel, for any case or class of cases in any State or local court different from those in force and effect on January 1, 1966, will have the purpose or effect of circumventing this title, he may bring an action in the United States District Court for any Federal judicial district in which such State or local court is located to enjoin such change in qualifications, standards, limitations, operation, selection, or challenge and the district court may grant such temporary or final relief as may be necessary to prevent such circumvention of this title.

"Effective date

"SEC. 205. This title shall become effective ninety days after the date of its enactment."

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AMENDMENT NO. 580

On page 35, between lines 16 and 17, insert the following new title:

"TITLE VI—INDEMNIFICATION BOARD

"SEC. 601. (a) There is hereby established within the United States Commission on Civil Rights an Indemnification Board, hereafter referred to as the Board. The Board shall be composed of three members, appointed by the President with the advice and consent of the Senate. The President shall designate one member as Chairman. No more than two members of the Board may be of the same political party.

"(b) The term of office of each member of the Board shall be five years, beginning with the effective date of this Act, except of those members first appointed, one shall serve for five years, one for three years, and one for one year. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(c) The members shall be compensated at the rate of $100 a day.

"(d) Two members shall constitute a quorum for the transaction of business.

*"Employees*

"SEC. 602. The Board may, in accordance with civil service laws, appoint and fix the compensation of such officers, attorneys and employees, and make such expenditures, as may be necessary to carry out its functions.

*"Rules*

"SEC. 603. The Board shall make such rules and regulations as shall be necessary and proper to carry out its functions.

*"Complaints*

"SEC. 604. The Commission on Civil Rights shall have the authority and duty to receive and investigate or have investigated written complaints from or on behalf of any person injured in his person or property or deprived of his life (1) because of race or color, while lawfully exercising, attempting to exercise, or advocating, or assisting another in the exercise of, any right, privilege or immunity granted, secured, or protected by the Constitution or laws of the United States, or for having so exercised, attempted, advocated or assisted or (2) by any act, the purpose or design of which is to intimidate him or any other person from seeking or advocating equality of persons or opportunity free from discrimination based on race or color.

*"Investigative reports*

"SEC. 605. (a) The Commission on Civil Rights may request and the Department of Justice shall make available any investigative reports that the Department of Justice has that are relevant to the complaint and investigation.

"(b) The Commission may request and the Attorney General is authorized to direct that additional investigation of matters relevant to the complaint be conducted by the Federal Bureau of Investigation.

"(c) The Commission shall supply copies of all of its investigative reports to the Attorney General.

*"Finding of Commission*

"SEC. 606. If, after such investigation, the Commission shall determine that probable cause exists for crediting the complaint, it shall direct the Board to conduct a hearing thereon as provided in section 607. If, after such investigation the Commission shall determine that probable cause does not exist or that no substantial damage has occurred, it shall dismiss the complaint.

*"Hearing by Board*

"SEC. 607. (a) Any hearing may be conducted by the Board or any member of the Board designated by the Chairman.

"(b) In the event the Board determines that because of the number of complaints or for other valid reasons it is not in the interest of justice for it or a member to conduct a hearing, it may designate an agent or employee of the Board or a person not associated with the Board to conduct the hearing provided any such agent, employee or other person so designated shall be a member of the bar of the highest court of one of the States of the United States.

"(c) Any person not an agent or employee of the Board shall be reimbursed for services rendered in connection with such hearing as determined by the Board, subject to approval of the Civil Service Commission.

"(d) The Board or any member or hearing officer may administer oaths or affirmations.

"(e) Insofar as consistent with the purposes of this title, the Board shall have powers of investigation and subpoena similar to those granted the National Labor Relations Board under paragraphs (1) and (2) of section 11 of the National Labor Relations Act (29 U.S.C. 161 (1) and (2)).

"(f) A full record shall be made and kept of all hearings conducted.

*"Award of indemnification*

"SEC. 608. (a) After hearing, the Board member or hearing officer conducting the hearing shall make findings of fact based upon the record.

"(b) After a hearing conducted by the Board, it shall, if it finds that any complainant has suffered injury as referred to in section 604, make a monetary award of indemnification to compensate such complainant for such injury.

"(c) After a hearing conducted by a member of the Board or hearing officer, he shall, if he finds that any complainant has suffered injury referred to in section 604, make a recommendation of an award of indemnification. All such recommendations shall be reviewed by the Board. Upon review, the Board shall review the findings of fact and shall affirm, reject, or modify findings and such recommendations and enter or deny an award.

"(d) All awards made hereunder shall include reasonable attorney's fees.

*"Intervention in hearing*

"SEC. 609. (a) In the event that the investigation of the complaint or the hearing thereon indicates the person or persons responsible for the injury for which an award is sought, such person or persons shall be notified and shall have a reasonable opportunity to intervene in the hearing and to be fully heard.

"(b) In the event that such investigation or hearing indicates that the injury resulted in whole or in part from action taken under color of law, the political subdivision or the State, or both, under whose authority such action was taken shall be notified and shall have a reasonable opportunity to intervene in the hearing and to be fully heard.

"(c) Notice under this section may be by personal service or by registered mail.

"(d) Notice to a State or political subdivision may be given to the chief executive or principal legal officer of such State or political subdivision.

"(e) The Board shall, if necessary to secure a full hearing for any intervenor, continue the hearing from time to time.

*"United States*

"SEC. 610. The United States may, on the motion of the Attorney General, intervene at any state of the hearing or appeal.

*"Judicial review*

"SEC. 611. (a) The complainant or any intervenor may obtain a review of the final decision of the Board in the United States Court of Appeals for the District of Columbia or the court of appeals for the judicial circuit in which the injury occurred or the person seeking review resides, by filing in such court a written petition praying that the final decision be modified or set aside. A copy of such petition shall be forthwith served upon the Board and thereupon the petitioner shall file in the court a transcript of the entire record in the proceeding certified by the Board.

"(b) Upon such filing, the court shall have jurisdiction of the proceeding and shall have power to make and enter upon the pleadings and proceedings a decree in support of the decision of the Board, modifying such decision, or setting aside such decision. The

proceeding shall be conducted on the basis of the record before the Board, and the findings of the Board with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

*"Recovery by United States*

"SEC. 612. (a) In any instance in which the injury or death for which an award is made results in whole or in part from action taken under color of law, or from action whether or not taken under color of law which in any way impedes or infringes upon the exercise or advocacy of any right, privilege, or immunity granted, secured, or protected by the Constitution or laws of the United States, the United States shall have a cause of action for recovery of the amount of such award against the person or persons responsible for the injury for which the award is made.

"(b) If the injury for which an award is made resulted in whole or in part from action taken under color of law, the political subdivision or the State, or both, under whose authority such action was taken shall be jointly and severally liable with the person or persons responsible for such injury.

"(c) In any case brought under this section against anyone notified under section 609, the findings of fact are made, modified, or approved, by the Board pursuant to sections 608 and 611 shall be admissible and shall constitute prima facie evidence of the facts determined by the findings, and the and shall constitute prima facie evidence of award of indemnification shall be admissible the damages suffered by the complainant.

"(d) The district courts of the United States shall have jurisdiction to hear cases brought under this section.

*"Successor in interest*

"SEC. 613. (a) In the event the person injured dies, a complaint may be filed by any representative of his estate, or by his or her spouse, child, or dependent and the Board shall determine to whom any award shall be made.

"(b) In the event of the inability or incapacity of the person injured to file a complaint, it may be filed by his or her spouse, child, dependent, or counsel.

*"Period for filing complaints*

"SEC. 614. All complaints must be filed within six months of the injury for which an award is sought, except that where the injury results in death, the complaint may be filed within twelve months of death.

*"Other actions and remedies*

"SEC. 615. Nothing herein shall deny to any person the right to pursue any action or remedy granted him under any other law of the United States or any State, provided that in the event that any person receives in any other action an award of damages for which an award of indemnification has been made under this title, the United States shall have a lien against such award in the amount of the award of indemnification. In the event such other award is made prior to the award of indemnification, the amount of such other award shall be considered by the Board in determining whether to make an award and, if so, the amount of the award.

"SEC. 616. (a) There is hereby established in the Treasury of the United States a fund to be known as the 'Civil Rights Indemnification Fund' to be used by the Board to make awards pursuant to the authority contained in this title.

"(b) There is hereby authorized to be appropriated to the Civil Rights Indemnification Fund, out of any money in the Treasury not otherwise appropriated, $10,000,000 for use by the Board in making indemnification awards under this title. Amounts appropriated under the authority of this subsection shall remain available until expended.

"(c)(1) The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer from the general fund of the Treasury to the Civil Rights Indemnification Fund an amount equal to the aggregate amount of any awards of indemnification recovered by the United States pursuant to sections 612(a) and 615 of this title.

"(2) All amounts transferred to the Civil Rights Indemnification Fund in accordance with paragraph (1) shall be available for use by the Board in making indemnification awards under this title. Such amounts shall remain available until expended.

*"Civil Rights Commission*

"SEC. 617. (a) Section 104(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975c) is amended to read as follows:

" '(b) The Commission shall submit reports to the President and to the Congress with respect to its activities, findings, and recommendations at such times as the Commission, the Congress, or the President shall deem desirable.'

"(b) Section 104(c) of such Act is repealed."

On page 35, line 17, strike out:

"TITLE VI—MISCELLANEOUS"

and insert:

"TITLE VII—MISCELLANEOUS"

On page 35, line 19, strike out "SEC. 601." and insert "SEC. 701.".

On page 35, line 21, before the period insert a semicolon and "except that in the case of title VI only such sums may be appropriated as are authorized under section 616".

On page 36, line 2, strike out "SEC. 602." and insert "SEC. 702.".

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AMENDMENT NO. 581

On page 8, line 22, after "defendant" insert "or the United States attorney".

On page 8, line 23, strike out "against him" and insert "in such cases".

On page 8, line 25, after "defendant" insert "or the United States attorney, as the case may be,".

On page 9, line 10, after "title" insert a comma and "whichever may be appropriate".

The amendments, submitted by Mr. JAVITS, were received, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 582

On page 35, between lines 16 and 17, insert the following:

"TITLE VI—REMOVAL OF CAUSES IN CIVIL RIGHTS CASES

"SEC. 601. (a) Section 1443 of title 28 of the United States Code is amended by substituting a semicolon for the period at the end of clause (2) and by adding at the end thereof the following new clauses:

"(3) Against any person for any exercise, or attempted exercise, of any right granted, secured, or protected by the Civil Rights Act of 1964, or of any other right granted, secured, or protected by the Constitution or laws of the United States against the denial or deprivation of equal protection of the laws on account of race, color, religion, or national origin; or

" '(4) Against any person for any exercise, or attempted exercise, of the right to freedom of speech or of the press or of the people to peaceably assemble as secured or protected by the Constitution or laws of the United States, when committed in furtherance of any right referred to in clause (3) of this section.'

"(b) Subsection (d) of section 1447 of title 28 of the United States Code is amended to read as follows:

" '(d) An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1443 of this title shall be appealable as a final decision under section 1291 and an order denying remand of a case removed pursuant to section 1443 shall be appealable as an injunction of proceedings in the State court under paragraph (1) of subsection (a) of section 1292.'

*"Injunction of State proceedings*

"SEC. 602. Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended by inserting '(a)' immediately after 'Sec. 1979.' and by adding at the end thereof the following new subsections:

" '(b) In any case instituted by any person under the provisions of subsection (a), the court shall grant an order for a permanent or temporary injunction, or a restraining order, to stay a proceeding in any court of a State or political subdivision thereof—

" '(1)(A) if such proceeding was instituted for any exercise, or attempted exercise, of any right granted, secured, or protected by the Civil Rights Act of 1964, or of any other right granted, secured, or protected by the Constitution or laws of the United States against the denial or deprivation of equal protection of the laws on account of race, color, religion, or national origin; or

" '(B) if such proceeding was instituted for any exercise, or attempted exercise, of the right to freedom of speech or of the press or of the people to peaceably assemble as secured or protected by the Constitution or laws of the United States, when committed in furtherance of any right referred to in clause (A) of this paragraph; and

" '(2)(A) if any issue of fact or law applicable to and determinative of the proceeding in favor of the party seeking the injunction has been decided in favor of his allegations in a final decision in any other proceeding in any court of the United States or of a State or political subdivision thereof arising out of a like factual situation; or

" '(B) if the statute, ordinance, administrative regulation, or other authority for the proceeding has been determined pursuant to a final judgment of any court of the United States or a State or political subdivision thereof to violate the Constitution of the United States; or

" '(C) if the statute, ordinance, administrative regulation, or other authority for the proceeding is invalid, on its face, for having the purpose or effect of abridging the right to freedom of speech or of the press or of the people to peaceably assemble, as secured or protected by the Constitution of the United States; or

" '(D) if the proceeding was instituted for the purpose of discouraging or preventing such person or another from exercising the right of freedom of speech or of the press or of the people to peaceably assemble, as secured or protected by the Constitution of the United States.

" '(c) In any action seeking an injunction under subsection (b), the court shall not deny or defer relief on the ground that a defense or remedy in the State courts is available.' "

On page 35, line 17, strike out:

"TITLE VI—MISCELLANEOUS

and insert:

"TITLE VII—MISCELLANEOUS"

On page 35, line 19, strike out "SEC. 601." and insert "SEC. 701.".

On page 36, line 2, strike out "SEC. 602." and insert "SEC. 702.".

Mr. JAVITS. Mr. President, one of the amendments establishes an equal opportunity housing commission to implement the housing sections of the bill by administrative action rather than individual court suits. My amendment is

patterned after New York's fair housing law.

Another amendment provides for the transfer of certain civil rights cases from States to Federal courts.

The third amendment creates a civil rights indemnification board with a trust fund of $10 million to pay claims of those injured because of civil rights activities.

The fourth amendment provides an automatic trigger which will enable Federal courts to act promptly in State jury discrimination situations.

The fifth amendment gives the prosecutor in a Federal criminal case the right to challenge the method of selection of juries when such method violates the provisions of this act.

## AMENDMENT OF BANK HOLDING COMPANY ACT OF 1956—AMENDMENTS

AMENDMENT NO. 583

Mr. LONG of Louisiana submitted an amendment, intended to be proposed by him, to the bill (H.R. 7371) to amend the Bank Holding Company Act of 1956, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 584

Mr. HART submitted an amendment, intended to be proposed by him, to House bill 7371, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 585

Mr. LAUSCHE proposed an amendment, to House bill 7371, supra, which was ordered to be printed.

(See reference to the above amendment, when proposed by Mr. LAUSCHE, which appears under a separate heading.)

## ADDITIONAL COSPONSORS OF BILLS AND RESOLUTION

Mr. MONRONEY. Mr. President, I ask unanimous consent that, at the next printing of the bill (S. 3434) to amend the Federal Aviation Act of 1958 in order to limit the liability of trip insurance sold within the confines of an airport, the name of the Senator from Maryland [Mr. BREWSTER] be added as a cosponsor.

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

Mr. NELSON. Mr. President, I ask unanimous consent that the name of the senior Senator from Indiana [Mr. HARTKE] be added as a cosponsor of the bill (S. 3169) to amend chapter 55 of title 10, United States Code, to authorize a special program for the mentally retarded, mentally ill, and physically handicapped spouses and children of members of the uniformed services, and for other purposes, at its next printing.

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

Mr. NELSON. Mr. President, I ask unanimous consent that, at the next printing of the resolution (S. Res. 268) relative to appointment of a commission to study the Selective Service System and make recommendations thereon, the names of the Senator from New Jersey [Mr. CASE], and the Senator from Maryland [Mr. TYDINGS] be added.

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

Mr. DOUGLAS. Mr. President, I ask unanimous consent that at its next printing the name of the Senator from New York [Mr. JAVITS] be added as a cosponsor of S. 3381, to amend the War Claims Act of 1948, as amended, to provide compensation for certain additional losses. The Senator from New York [Mr. JAVITS] and I have sponsored this bill for years. I regret that the bill was printed without bearing his name.

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

## ADDITIONAL COSPONSORS OF BILLS, JOINT RESOLUTION, AND CONCURRENT RESOLUTION

Under authority of the orders of the Senate, as indicated below, the following names have been added as additional cosponsors for the following bills, joint resolution, and concurrent resolution:

Authority of May 19, 1966:

S.J. Res. 163. Joint resolution to amend the Constitution to provide for the direct election of the President and the Vice President of the United States: Mr. BIBLE, Mr. BYRD of West Virginia, Mr. CLARK, Mr. DOUGLAS, Mr. MAGNUSON, Mr. MUSKIE, and Mr. NELSON.

Authority of May 25, 1966:

S. 3398. A bill to provide for the installation of an eternal flame at the site of the Tomb of the Unknowns in Arlington National Cemetery: Mr. BARTLETT, Mr. BENNETT, Mr. BIBLE, Mr. BYRD of West Virginia, Mr. CURTIS, Mr. DODD, Mr. DOMINICK, Mr. DOUGLAS, Mr. FANNIN, Mr. GRUENING, Mr. HRUSKA, Mr. JORDAN, of North Carolina, Mr. JORDAN of Idaho, Mr. KUCHEL, Mr. LAUSCHE, Mr. LONG of Missouri, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MILLER, Mr. MORTON, Mr. MUNDT, Mr. PEARSON, Mr. ROBERTSON, Mr. SCOTT, Mr. SIMPSON, Mr. SYMINGTON, Mr. THURMOND, and Mr. YOUNG of North Dakota.

S. Con. Res. 95. Concurrent resolution establishing a Joint Committee on National Service and the Draft: Mr. BARTLETT, Mr. MUSKIE, and Mr. YARBOROUGH.

Authority of May 26, 1966:

S. 3419. A bill to amend the Tennessee Valley Authority Act of 1933, as amended, to increase the limitation on the authority to issue bonds to finance its power program: Mr. COOPER, Mr. EASTLAND, Mr. METCALF, Mr. MORTON, and Mr. STENNIS.

## HEARINGS ON NATO WITH SECRETARY RUSK AND SECRETARY McNAMARA

Mr. JACKSON. Mr. President, I wish to announce hearings with Secretary of State Dean Rusk and Secretary of Defense Robert McNamara in the current inquiry on the Atlantic Alliance by our Subcommittee on National Security and International Operations.

Secretary of State Dean Rusk will testify before the subcommittee on Thursday, June 16, following his return from the NATO Ministers meeting in Brussels.

Secretary of Defense Robert McNamara will testify before the subcommittee on Tuesday, June 21.

Both hearings will be at 10 a.m. in the Appropriations Committee hearing room—room 1202, New Senate Office Building.

Authorized by resolution of the Senate, our subcommittee has been reviewing the conduct of national security policy, with special reference to NATO. Our approach is nonpartisan and professional. In February this year, the subcommittee issued a study, entitled "The Atlantic Alliance: Basic Issues," which examines the central questions before the subcommittee. Previous witnesses in the current series of hearings have been Dean Acheson, Christian A. Herter, Gen. Lauris Norstad, Prof. Thomas C. Schelling, Dr. Malcolm W. Hoag, and John J. McCloy.

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 6, 1966, he presented to the President of the United States the following enrolled bills:

S. 944. An act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Sciences, Engineering and Resources, and for other purposes; and

S. 1761. An act to authorize the Secretary of the Interior to construct, operate, and maintain a third powerplant at the Grand Coulee Dam, Columbia Basin project, Washington, and for other purposes.

## NOTICE OF HEARINGS

Mr. MUSKIE. Mr. President, I would like to announce for the information of the Senate and other interested persons that the Senate Subcommittee on Intergovernmental Relations has scheduled hearings on S. 3000, a bill to permit States or other duly constituted tax authorities to subject persons to liability for payment of property taxes on their property located in Federal areas within such States under specified conditions. The hearings will be held on July 12 and 13 in room 3302 New Senate Office Building, starting at 10 a.m.

Any Senator or other person wishing to testify should notify the subcommittee, room 357 Senate Office Building, extension 4718, in order that he might be scheduled as a witness.

## MESSAGE FROM THE HOUSE

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

S. 2421. An act to authorize the adjustment of the legislative jurisdiction exercised by the United States over lands within the Columbia River at the mouth project in the States of Washington and Oregon; and

S. 2469. An act amending sections 2 and 4 of the act approved September 22, 1964 (78 Stat. 990), providing for an investigation and study to determine a site for the construction of a new sea-level canal connecting the Atlantic and Pacific Oceans.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 70) authorizing the

placing of a bust of Constantino Brumidi in the Capitol.

## ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. DOUGLAS:

Statement by him regarding the Jagiellonian University at Krakow.

## EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to consider executive business, for action on nominations.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to the consideration of executive business.

## EXECUTIVE MESSAGES REFERRED

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

The ACTING PRESIDENT pro tempore. If there be no reports of committees, the clerk will state the nominations on the executive calendar.

## DEPARTMENT OF LABOR

The legislative clerk read the nomination of Stanley H. Ruttenberg, of Maryland, to be an Assistant Secretary of Labor.

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

## OFFICE OF ECONOMIC OPPORTUNITY

The legislative clerk read the nomination of Bertrand M. Harding, of Virginia, to be Deputy Director of the Office of Economic Opportunity.

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

## NOMINATIONS PLACED ON THE SECRETARY'S DESK—PUBLIC HEALTH SERVICE

The legislative clerk proceeded to state sundry nominations in the Public Health Service, which had been placed on the Secretary's desk.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

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

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

## LEGISLATIVE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, the Senate resumed the consideration of legislative business.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## THE QUEST FOR PEACE

Mr. MANSFIELD. Mr. President, on yesterday, the distinguished Ambassador of the United States at the United Nations, Arthur J. Goldberg, delivered the commencement address at Catholic University. In his statement to the graduates, Mr. Goldberg stated that the sum and substance of present U.S. policy with respect to Vietnam can be expressed in two basic points: First, "A mutual cessation of all types of hostilities"; and second, a new Geneva conference to reaffirm the Geneva Agreements of 1954 and 1962.

Ambassador Goldberg has expressed the bedrock of the matter. He could not have described current policy in a more succinct fashion. He could not have stated the American objective more effectively.

It would be my hope that his words will be carefully studied, Mr. President, by all the members of the United Nations. Specifically, I would hope that Mr. Goldberg's remarks will be heard where it is most important that they be heard—at the command post of the National Liberation Front in South Vietnam, and in Hanoi and Peking.

Mr. President, I ask unanimous consent that the text of Ambassador Goldberg's remarks be printed at this point in the RECORD.

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

THE QUEST FOR PEACE

(Commencement Address by Ambassador Arthur J. Goldberg, U.S. Representative to the United Nations, in accepting an honorary degree of doctor of laws from the Catholic University of America, Washington, D.C., Sunday, June 5, 1966)

I am deeply honored to be recognized by this great and influential Catholic center of learning, and to have the opportunity to address you.

A commencement speaker sometimes finds considerable difficulty in choosing a subject. If he is a public official, he may be tempted to discuss some question which to him is of national importance but is of no particular interest to the graduating class. If he considers what subjects interest them, he may find these are subjects on which he is no longer qualified to speak.

But I have no such difficulty today. The one subject of overriding concern to all Americans—students and faculty, clergy and laity, the man in the shop and the man in the executive suite—is also the foremost issue in the minds of those in public office, and in my own mind as the representative of this country at the United Nations. That subject is the peace of the world.

Peace today is not an abstract question for Americans. The war in Vietnam with its daily tragedy and its threatening dangers makes peace a deep, practical, immediate, burning question to us all. So it has not been necessary to choose a subject for this address; it is virtually dictated by the circumstances of the time. It is: The quest for peace.

A great and respected soldier once said: "In war, there is no substitute for victory." Whatever relevancy that statement may have had in a non-nuclear age, it clearly has little relevancy to an age of nuclear war. Nor, in my view, does it have much relevancy to any war, however limited in frightful weaponry. For me, a more apt statement is that of an ancient Greek who said that the purpose of war is not to annihilate the enemy but to get him to mend his ways.

The fact is that the military victory that ended the First World War in 1918 did not achieve even this limited object. It did not get Germany to mend her ways. It did not assure peace, but instead led to the insanity of Nazism.

This failure, in turn, led to the even greater holocaust of World War II, ending once again in decisive military victory. But surely the heroic sacrifices and sufferings of that great conflict were justified not by the glory of victory on the battlefield, but by the fact that it so mended the ways of mankind that, we hope and pray, the great madness of Nazism and Fascism can never recur. This goal, in turn, as Franklin D. Roosevelt recognized in proposing the formation of the United Nations, required the building of a peace in which victor and vanquished would be reconciled and in whose benefits they would share together.

Truly, if we have learned anything from the wars of this century, it is that the only real victories for mankind are the victories of peace. The saying about victory in war is not good enough for our century—if it ever was for any century. We must live by a new saying: *There is no substitute for peace.*

This overriding fact was in the mind of His Holiness, Pope Paul VI, when he made his historic visit to the United Nations last fall and delivered his impassioned plea to the delegates of 117 nations—reminding them "that the blood of millions of men, that countless and unheard-of sufferings, that useless massacres and fearful ruins have sealed the pact uniting you, with a vow which must change the future history of the world: *Never again war, war never again!*"

Yet, even though in the face of these facts and all these warnings the world recoils from total war, peace still eludes us. War is once again a fact—in Vietnam and in the life of the American people. Therefore, our quest for peace takes on new urgency—manifested not only in debates and demonstrations on our college campuses, and editorials in our newspapers, but also in the assignment to it of the highest priority by the leaders of the Government.

The quest for peace is, in Lincoln's phrase, "piled high with difficulty". Common sense, I think, should make us see that if the road to peace were simple and easy the world would have made the journey long ago.

Two of the most frequently held views on this subject, although they are at opposite poles, and are put forward with the highest motives, do not provide the answer.

The first I have already mentioned: the view that military victory solves all prob-

lems and is therefore a sufficient goal in itself. It is a satisfying view to many people because they associate it with the virtue of national pride and patriotism. But, for the reasons I have already stated, it cannot be relied upon as a sufficient guide.

Then there is a second view which, though widely held, does not bring us any closer to the answer. That is the view of the pacifist, who holds that all resistance to violence and aggression is wrong. This view is being applied to what is going on in Vietnam today. But suppose we had applied it to the far greater conflict, in both Europe and Asia, just a generation ago. It would have left unchecked the aggression of Hitler and his accomplices and buried human rights in every continent—including our own—perhaps for centuries to come. Applied to the situation in Asia in our time, its results could be no less tragic.

Our quest for peace, then, must begin with this sober knowledge: neither militarism nor pacifism alone can show us the way. We cannot attain peace by annihilating the aggressor—nor can we attain it by abandoning the field to the aggressor. For neither of these solutions touches the heart of the problem—which is the achievement of justice and the rule of law both within and among nations.

Some people say that the search for universal justice, and for world peace through law, is itself an illusion. They hold that nations and cultures differ so greatly that universal standards are impossible to attain. I have never shared this view. It is my conviction, based on many years of dealing with all sorts and conditions of men, in and out of government, at home and abroad, that the basic needs and aspirations of humanity transcend cultural differences and are everywhere the same—and that they can be met not by conquest, nor yet by surrender, but by the application of just law to conflicts and disputes.

But there are still others who say that law cannot be expected to rule in the affairs of nations, especially in this revolutionary age where revolution itself breeds a spirit of defiance of law. In this situation, these critics say, it is not law but sheer power that rules in the international realm.

This, too, is fallacious, for power and law are not opposites or mutually exclusive. Law is the higher principle, but power must be available to serve law and give it effect. Law not served by power is an illustion; but power not ruled by law is a menace which our nuclear age cannot afford.

These two truths—that mankind is a single family, subject to universal principles of justice, and that in this family not power alone but law must rule—have been learned the hard way in the tragedy of war. And they are embodied in the institution which most nearly fulfills man's universal yearning for peace: the United Nations.

The basic law of the United Nations is that each nation abjures the use of armed force as an instrument of national policy—and agrees to submit its international disputes to peaceful settlement under the rule of law. This is the central doctrine of the United Nations Charter. But its framers were severely realistic people. They knew that there would still be lawbreakers in international as in domestic society, and they provided machinery whereby the United Nations could act as international policeman to bring the lawbreaker under control before he could engulf the world in war. For this purpose, the power of member states was to be put at the service of the international community.

The United Nations has had many successes in the cause of peace and in the protection of weak nations against aggression by their stronger neighbors. But it has had its failures too. There are situations which the United Nations cannot reach—not because the United Nations is imperfect but because its members are imperfect. Vietnam, up to now, has been one such situation. In this circumstance, there must come into play the last resort against aggression: the "inherent right of individual or collective self-defense against armed attack" which is explicitly safeguarded by the Charter. That is the law which we have rightly invoked in coming to the aid of South Vietnam. If you ask me whether ideally America is the most suitable, the most acceptable policeman, I can only say "probably not", and we do not wish to be. Nothing would be more heartening than to have the international community, acting through the United Nations, accept this responsibility. But to say that the members of the United Nations are not now prepared to do this is not to say that the responsibility can be shirked or ignored by those committed to the rule of law.

America today is in somewhat the same position as the individual in a frontier settlement who, in the absence of any legal order, took upon himself the duty of opposing lawless violence. But America today bears this duty in no mood of arrogance or of reckless vigilantism—but rather in a mood of resolute search for justice and for peaceful alternatives.

We know well enough what the alternatives are. They are used to deal with conflict situations in every law-abiding community, whether it be the labor-management field in the United States or the community of sovereign nations. The United Nations Charter lists them all and enjoins all disputant nations to use them: "negotiations, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or other peaceful means of their own choice." In our own domestic life, these techniques are the normal way, and their use is enforced, where necessary, by the lawful police power of the state.

We have left behind us the ancient and unlamented institutions of trial by combat, duel, feud, vendetta, and all the other names that men have invented for the private redressing of real or imaginary wrongs. We cannot rest until the international community has likewise left them behind forever.

Now, in the light of these principles, let us consider again the struggle in Vietnam: what steps we have already taken in our quest for peace, and what further steps may be open to us.

The first step is to define and limit our aims; and this we have clearly done. This is not a war to establish an American empire or a "sphere of influence" in Asia. We seek no military bases, no permanent establishment of troops, no permanent American "presence" of any kind in South Vietnam. We do not seek the overthrow of the Communist Government of North Vietnam—however much we differ with its ideology.

Nor is it a war to threaten any legitimate interest of the people of China. There was a time when all of Southeast Asia consisted of vassal states paying tribute to the Chinese emperors. If the rulers in Peking have forsworn this kind of hegemony, then our aims in Vietnam need not conflict with theirs.

Nor is this a holy war to destroy communism as an ideology. Indeed, we stand ready to live in peace with any and all countries regardless of ideology. All we ask is that they join in seeking common understandings, common undertakings and the peaceful resolution of all defferences. That is the overall policy that guides our relations with Communist and non-Communist nations alike.

Nor do we seek in Vietnam to impose unconditional surrender; nor do we exclude any segment of the South Vietnamese people from participation by peaceful means in their country's future government.

Our aim is much more limited than any of these things. It is, in the interest of a minimum rule of law—indispensable to international stability and to world peace—simply this: to prevent the Viet Cong, strongly controlled and reinforced by the North, from imposing by force its claim, never tested by free elections, to be the "sole genuine representative" of the South Vietnamese people. And it is a noteworthy fact that these people, even in the midst of serious political disturbances, have manifested no visible desire to accept the rule of the Viet Cong.

Let me restate our aim affirmatively. It is to assure for the people of South Vietnam the same opportunity to work out their own destiny—the same right of self-determination—that the United Nations Charter affirms for every nation. Any aim short of that—any aim that simply yields to outside force—cannot lead to permanent peace. This is the teaching of the entire age in which we live.

One important step in the process of self-determination is the forthcoming election for a constituent assembly. In this phase there can be a most important role for the United Nations—namely, to provide impartial international observers to check on the validity of this election. The South Vietnamese Government has made a request to Secretary General U Thant for such observers, and the United States strongly supports that request. For our own part, I repeat what I have said before, that the United States is prepared to accept and abide by the results of these elections—as well as the reunification elections contemplated by the Geneva agreements—whatever these results may be.

Even in the midst of the preparations for elections, the fighting continues—and with it a heavy burden for the American people. But we must not allow the weight of this burden to distract us from the obligation to pursue unremittingly the goal of a peaceful solution.

The United States has stated and restated the principles upon which, and the steps by which, we seek to negotiate an end to the war in Vietnam. For practical purposes, however, I believe all our proposals can be summarized in two simple points. And I further believe that, despite the wide range of views expressed on Vietnam in our country, the vast majority of our citizens would support these steps. They are:

1. There should be a mutual cessation of all types of hostilities on all sides of the conflict: an end both to bombing and to infiltration, to the killing, terrorism, and every form of violence by all of the forces involved—regular and irregular, North and South, Vietnamese and American and all others. We know already from two aerial bombing pauses, the most recent thirty-seven days long, that it is not enough to stop the bombing over North Vietnam while the war in all its other manifestations continues. It is the war, not just the bombing, that should come to an end.

2. The parties to the Geneva accords of 1954 and 1962, which were designed to settle the conflicts in Vietnam and Laos, should reconvene and should reaffirm those agreements and revitalize them as the basis for peace in Southeast Asia.

The United States, for its part, pledges anew its readiness to pursue the quest for peace based on these two simple and straightforward principles. We remain willing to meet in Geneva at a moment's notice to discuss this or any other proposal for peace. The moment our willingness is matched on the other side, the way will be cleared for a peaceful end to this tragic war.

Much is said about the patience and persistence which Communists show in their cause—but we must be still more patient and persistent in our cause, which is the cause of peace.

Indeed, in pursuing this cause, we must show the same fortitude that our sons and

brothers are showing in Vietnam. We must be certain that our cause is worthy of their sacrifice. We must take to heart the counsel of Pope Paul before the United Nations, when he said:

"Let no one be superior to the others: *not one above the other* . . . It is impossible to be a brother if one is not humble. For it is pride, however inevitable it may seem, which provokes tensions, struggles for prestige, predominance, colonialism, selfishness; it is pride that shatters brotherhood."

Whatever trials may lie ahead, you may be certain that no consideration of false pride, personal or national, will deter us in our quest for peace—for a way to turn from the rule of violence to the rule of law. We will not cease to strive—in Vietnam and throughout the world—for that peace which is upheld not along by the laws and restraints that men devise, but in a still deeper sense by the divine law of equality and reconciliation which, in the words of the prophet Jeremiah, is "written upon men's hearts."

## OPPOSITION TO PROPOSING AGRICULTURE BUDGET CUTS

Mr. JAVITS. Mr. President, upon learning of the various budget cuts proposed by the administration in agriculture several months ago, I rose on the Senate floor to state my objection to cuts in the following programs: school milk, school lunch, land-grant college, agriculture research, golden nematode, and gypsy moth. I believe that the House of Representatives has restored all of these cuts that I opposed. I hope very much that the Senate will concur in the restorations made by the House.

At this time, I would like to bring to the attention of my colleagues my own opposition to the proposed diminitions in the budget for the Soil Conservation Service, Rural Community Development Service, and the Agriculture Stabilization and Conservation Service.

The Soil Conservation Service has for many years provided valuable service across the country and in particular to the State of New York. There are 52 soil conservation districts in the State of New York comprising over 28.5 million acres of land and 95 percent of the farms and ranches in the State. The administration's budget proposed to cut various operations of the Soil Conservation Service. Of particular interest to me is the cut of $1.6 million as passed by the House in funds for soil survey operations. Just last week, the Senate passed and sent to the House S. 902, a bill sponsored by Senator ELLENDER and myself to authorize the Secretary of Agriculture to cooperate with State and other public agencies in planning for changes in the use of agriculture land in rapidly expanding areas and other agricultural use areas. We cannot afford to make mistakes in land development as the cities expand into our rural and agricultural land. Community planners are becoming increasingly aware of the enormous aid given them by the soil maps resulting from the Soil Conservation Service soil surveys. Once the soil information is obtained for an area, it serves a wide variety of purposes for both public and private groups—for community leaders, zoning boards, planning commissions, engineers, highway departments, real estate developers, tax assessors, and many others. I would hope that the House will act promptly on this bill. However, the administration's fiscal 1967 budget proposed a reduction of $3.6 million for soil surveys. The House restored $2 million of this proposed reduction. I urge the Senate to restore the entire amount to this most important service.

In the field of watershed planning. I hope that the Senate will concur with the House and restore the amount of new starts for this program to 100. At the same time, the actual watershed protection program budget request was for only 35 new starts. I urge the Senate to restore the watershed protection program to its 1965 level of $71,239,690 which would include 80 new starts.

Also I favor a restoration of cuts in the Soil Conservation Service program for the Appalachian region. Certainly, we must intensify—rather than reduce—our aid to this seriously underdeveloped area.

I recommend that the Senate give serious consideration to restoring a great portion, if not all, of the administration's budget request for the Rural Community Development Service. Last year the appropriation for the RCDS was only $637,000. The House has agreed to maintain only the fiscal 1966 level. I have for a long time been aware of the problem faced by the people at the local level who often search in vain through the myriad of Federal aid programs which are available for one which really suits their needs. For most persons the job is simply impossible. If our Federal system is really to work, it is imperative that the people in the rural areas become aware of the benefits which they may receive from Federal aid. The administration in establishing the RCDS has taken what I consider an important step toward coordinating Federal aid programs. The Service emphasizes all Federal programs—particularly those outside the Department of Agriculture—as well as State programs.

Through its information program, the Service can save people in the rural areas a great deal of time and expense. I note that the House Appropriations Committee report was critical of the Service in that it has no operating program of its own. In fact, this is the very essence of the Service's work—that it makes available information of all other programs. It seems clear to me that the Rural Community Development Service enhances the value of every other Federal program.

The many hundreds of Federal programs are of little value, in my opinion, if we cannot make them reach the small rural areas whose citizens have little access to information on Federal programs which are available. The gaps in opportunity have not been and cannot be handled effectively through existing programs and old-line agencies. What is needed is a small but adequate force of specialists in rural development thoroughly trained in the procedures of other Federal agencies and assigned a clear and full-time responsibility of helping rural communities in each State make full use of available forms of assistance. We must make every effort to see that the rural people share equitably in our federal system.

It is estimated that a minimum of $1,750,000 would be required to maintain the present level of operations to include a small staff in Washington and in 23 States. Certainly our objective should be to see that the Rural Community Development Service is extended eventually to all 50 States, which I am informed could be done if the entire $3,468,000 as requested by the administration is appropriated.

One other recommendation is for a restoration of the cuts in administrative expenses allocated to the Agriculture Stabilization and Conservation Service. This Service has for many years offered a variety of conservation services to the American farmer, and I see no reason why we should diminish its effectiveness in order to effectively carry out the size program recommended by the Department of Agriculture. I propose a restoration of at least $6.8 million—$3 million for administrative funds for the cropland adjustment program—and $3.6 million for increased expenses pursuant to the Pay Act of 1965.

I also urge an increase from $90 million to $125 million for the actual implementation of the cropland adjustment program which was authorized in the Food and Agriculture Act of 1965. Its purpose is to assist farmers, through long-term agreements, to divert land from the production of unneeded crops to uses that will promote the development and conservation of our soil, water, forest, wildlife, and recreational resources. The program will also establish, protect, and conserve open spaces and natural beauty and prevent air and water pollution. Thus, in the long run, moneys expended for this program will result in great savings to the Government through decreases in Federal subsidies for outmoded production. I urge the Congress to encourage this program by increasing its appropriations.

In summary, these are appropriations to deal with rural problems most helpful to reduce reliance on direct or indirect farm price supports.

## JAMES RORIMER MEMORIAL

Mr. JAVITS. Mr. President, many tributes have been made to James Rorimer since he suffered a fatal heart attack May 11. This is most fitting since Mr. Rorimer was truly a great director of the New York Metropolitan Museum of Art.

But Mr. Rorimer was much more, too. He was a thoroughly charming as well as a learned and dedicated expert. He seemed to most New Yorkers to be the very symbol of the graciousness and artistic quality of the largest art museum in the country. The charm as well as the total commitment that so characterized James Rorimer became evident, I believe, in an article by Katharine Kuh in the current edition of the Saturday Review.

Mr. President, I ask unanimous consent to have printed in the RECORD Miss

Kuh's article in the June 4 edition of the Saturday Review of Literature.

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

JAMES RORIMER: *Erudite, Acquisitive, a True Collector*

In January 1965 James Rorimer, Director of the Metropolitan Mueum of Art, was honored with the Bronze Medallion of the City of New York. Inscribed on it were the following words: "Renowned Scholar, Guardian of Art Treasures, Innovator Among Museum Directors." All three designations were eminently correct, yet three more might have been added: "Imaginative Showman, Accomplished Administrator, Dedicated Representative of the Metropolitan Museum."

On May 11, New Yorkers were shocked to learn of Mr. Rorimer's sudden death due to a heart attack. Though he was director of the museum for scarcely more than a decade, his dynamic leadership makes it difficult to think of the institution without him. Indeed, his entire professional life, except for three years of military service, was devoted to the Metropolitan. He came there immediately after graduating from Harvard, as an assistant in the decorative arts department. Before he reached thirty he was already curator of medieval art. It was he, with substantial backing from John D. Rockefeller, Jr., who planned, supervised, and finally directed The Cloisters, that superb branch of the Metropolitan Museum located high above the Hudson in Fort Tyron Park.

Housing the finest collection of medieval art in the New World, The Cloisters is a testament to James Rorimer's scholarship and to his indefatigable persistence. He traveled widely, tracking down treasures with the eye of a connoisseur and the spirit of a bloodhound. Americans have him to thank for the acquisition of certain unique masterpieces, notably the famous Unicorn Tapestries, the Strasbourg Virgin, and the Chalice of Antioch, to mention some of the best known. Even a brief visit to The Cloisters underlines how avidly Mr. Rorimer pursued his quarry and how successfully he cornered it. Like all great curators (and there are very few) he was at once erudite and acquisitive, a rare combination that defines the true collector. If we are to judge a museum man by the treasures he leaves behind, then James Rorimer's name will not soon be forgotten.

When he moved from The Cloisters to become director of the museum in 1955, he continued to champion outstanding purchases and to attract important gifts. In his new post he had the Metropolitan's vast resources, his own passion, and, not least, a top staff behind him. During his term as director, the museum experienced its period of greatest growth. Mr. Rorimer rebuilt the interior, added more than 40 per cent to its floor space, air-conditioned the European painting galleries, and encouraged an already impressive attendance to double. Today, more than 6,000,000 people visit the museum annually. I would imagine that this is the largest attendance of any art museum in the world. If Mr. Rorimer's sense of showmanship sometimes verged on the flamboyant, still no one can deny his genuine interest in the public and in its response to works of art.

During World War II, as Chief of Monuments, Fine Arts and Archive Section of the Seventh Army, he rescued priceless European treasures that had been looted by the Nazis, and even assisted in restoring some of them, among others the medieval stained glass windows of Strasbourg Cathedral. He was the first Allied officer to enter the Louvre after the Liberation of Paris. From these varied experiences came his book, *Survival: The Salvage and Protection of Art in War.* Another volume by him, *Ultra-Violet Rays and Their Use in the Examination of Works of Art,* resulted from his pioneering interest in preservation and restoration. It was he who introduced the use of ultra-violet rays into museum laboratories, a method that has proved invaluable for examining works of art.

To be director of the most important, largest, and surely richest art museum in the country demands unflagging concentration and strong personal involvement. Those close to Mr. Rorimer have often described his total identification with every detail related to his institution. Like a watchdog, he prowled through the cavernous building, protecting an already peerless collection and at the same time planning its expansion. A man of such undeviating commitment cannot easily be replaced.

KATHARINE KUH.

## CREATIVITY IN TELEVISION

Mr. JAVITS. Mr. President, speaking before the National Press Club May 18, Hubbell Robinson, executive in charge of production for a new television series, "ABC Stage 67," predicted a new day was dawning for creativity in television programing.

Mr. Robinson was one of the most forward-looking executives during the so-called golden age of television in the mid-fifties when he spoke about a series of 26 television specials which would include drama, comedy, public affairs, and musical entertainment. His comments, which I heard on May 18, on the present status of television programing and his predictions for the future were so interesting and informative that I would like to call them to the attention of the Senate. I ask unanimous consent to insert in the RECORD the text of his speech at the National Press Club.

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

One of the problems I faced in talking to you today was trying to decide where to begin. Finally, I decided I was in much the same position as the French actor who expressed the delight he had on the stage because it permitted him to kiss ladies' hands. He said, "You know, you have to begin somewhere."

So, I'm going to start with the beginnings of my association with Stage 67, which were considerably less lofty than Dick Adler's.

That beginning for me started last January. My phone rang, and an ABC Program Executive said: "How are you?"

I said: "Fine."

He said: "Are you going to be in town next week?"

I said: "Yes."

He said: "We have something we might want to talk to you about."

I said: "Okay."

We said goodbye.

In the days that followed that memorable dialogue, I heard nothing. The following week the ABC Vice President in Charge of Programming phoned me.

He said: "How are you?"

I said: "Fine."

He said: "Are you going to be in town this week?"

I said I was.

He said: "We have something we might want to talk to you about."

I said: "Good." We hung up.

Again the days went by. Then one day I was having lunch in the Pierre Grill and I ran into Tom Moore, who, as you know, is President of the ABC Television Network.

Tom was very cordial. He said: "How are you?"

I said: "Fine."

He said: "Are you going to be in town this week?"

I said: "Yes."

He said: "Good, we have something we might want to talk to you about."

I figured I was making progress. At least now the President of the network had something he might want to talk to me about. Fortunately, he did, and we talked, and my life hasn't been the same since—which, in this case, is a good thing. What Tom outlined to me at that meeting was a pretty staggering project.

A series of twenty-six programs, an hour or more in length, for the 1966–67 season.

In prime time.

Aimed at reaching new levels in television entertainment.

Involving the finest creative talents from all fields of the arts to be given complete leeway in doing what they wanted to do.

Management backing all the way.

A series that would orbit the entire spectrum of programming—drama, comedy, fantasy, the dance, documentary and anything else we could think up.

No format or content restrictions.

No dictates on choice of producer, directors, writers, performers.

No interference from clients, advertising agencies or corporate management.

And ABC was providing big league backing to the tune of some ten million dollars, sponsored or sustaining.

In sum, a series which—if it could be brought off—would make it possible for television to stand level with its peers in every form of entertainment. For one who has long felt as I have that the way to water the wasteland was to pursue excellence with vigor and determination, this was heady stuff indeed.

Naturally, since Leonard Goldenson's NAB speech here in Washington in 1965, I had been aware that such a project was being considered—he had stated that he was asking the network to set aside one prime time hour a week for such an undertaking. What I did not realize was how far forward the project had already gone, how large a commitment had already been made.

About a dozen projects were already well under way, involving such talents as Truman Capote, Richard Adler, Frank Perry, Murray Schisgal, A. B. Guthrie, Mike Nichols, Bob Dylan. And it was of equal interest to find out that a half dozen projects, against which substantial sums had been spent, had been dropped because they failed to fulfill their original promise.

To me all this meant the series had already acquired character, that quality was to be the final measure of what was ultimately produced and what wasn't. Needless to say, the opportunity to serve as the ABC Executive in Charge of Production for such a project was overwhelming. It was also rather terrifying.

I pointed out to Tom Moore that what he was proposing was the equivalent of preparing twenty-six one-hour or ninety-minute pilots—an assignment as large as an entire network programming department enters upon each year. He looked me straight in the eye, grinned and said: "Yeah, I know." Forty-eight hours later I had signed to go to work. Some day soon I hope to read what I signed. I haven't had time to do so yet. Once in a while, when I stop for a breather, I feel like the refugee toiling the arid Israeli soil under a broiling sun who paused to lean on his hoe, looked up and said: "Lord, for two thousand years we have dreamed of a homeland—and it had to happen to me!"

For there is in this situation a rather fascinating irony at work. The classic posture

is for the programmers to exhort management to break out of standard molds and venture into the unknown. In this case it is management who is doing the exhorting. Certainly a new day is dawning when a network president says to a program man, as Tom Moore has said to me: "I would prefer a few adventurous failures to some conventional successes."

I haven't heard talk like that since the fifties, when television was younger and people were not yet so terribly afraid to fail.

In view of the recent past, it was a statement as timely as it was exciting. We have all seen the computer mind grow in power and influence, and statistics mark out the bounds beyond which imagination may not soar. We have witnessed an erosion of the spirit of adventure by the compulsive tendency to hedge the bet by making new shows resemble existing winners. Each season's enlarging tendency to live off its own fat has grown more pronounced. The security of the familiar becomes the unchallenged bulwark of that particular kind of Madison Avenue mind which is uncomfortable in the presence of creative thrust and individuality.

Even in the special, where there is freedom from the weekly format, the overpowering tendency to seek safety in the familiar continues to evidence itself, and so we see the reliance on the guest star in the well known formula revue and the revival of the classic drama and hits of the recent past. But fortunately, because somebody deeply cares and desperately tries to add an extra dimension of skill and imagination, the home screen sometimes lights up. This season's Julie Andrews and Barbara Streisand show, for example, did exactly that. And the CBS production of "Death of a Salesman," showed how artistic dedication can provide audiences with theatrical experiences of depth and distinction.

And sometimes, the weekly series show a high degree of accomplishment as well. The question is, is "sometimes" enough? Of course it isn't, although I don't think I'd go as far as those who claim that a week's viewing of television's regular nighttime fare represents the latest example of man's inhumanity to man.

I suppose, actually, that it is not so much with what television does that I am so concerned, as with what it does not do. Our lives are growing more complex in a technological society reshaping itself at an almost incomprehensible pace. Yet our most pervasive medium merely reflects its most simple outlines. The world of C. P. Snow is very much with us.

Curiously, while the weekly entertainment fare has been marking time, there is general agreement that the medium made dramatic progress in news and public affairs. I certainly need not dwell in detail before this audience on the expansion of the network's news operation, the remarkable feats of reporting in this era of space exploration, wars in the Orient, presidential and national tragedy and the increasing amount of air time devoted to news and informational programs. Almost every week we read announcements of new projects which show this thrust continuing and enlarging.

I touch on this increasingly imaginative activity in the news and information field, because it seems to me that the same attitude which management brings to bear on it must be brought to bear on entertainment, if the medium is to stay vital and viable on that front. This means recognition at the decision-making level of the limits of cost-per-thousands and head counting as measures of program worth.

I said limits, by the way, not because I argue with these measurements—I don't. I've lived with them throughout my own years in television. I understand them and accept them for what they are. But if they are the only measurement for every program at every hour and every night of everyone's schedule, we may look to dark days ahead.

The attitude I am talking of recognizes that the medium must be opened up regularly for experimentation, that opportunities for achievement that satisfies the inner man, as well as the pocketbook, must be created in order to attract and hold major talents.

ABC Stage 67 is, it seems to me, a bold expression of that kind of management attitude, and therein, I think, lies its long-range value and significance. I can make that statement with no suspicion of self-service, since I had nothing whatever to do with its conception or initiation.

To begin with, Stage 67 represents a totally conscious and thought-out effort to organize a creative environment that will permit entertainment's major talents to work for genuine excellence in television. To be specific—with one exception, no creative group is doing more than one program—and that one only two programs. That means we have twenty-five separate teams of producers, directors, writers, performers and other artists and craftsmen at work on single projects, They have the budget and the time to do their best work. I know of no other way it can be done.

We are proceeding in this fashion because Stage 67 is basically reaching for three priceless ingredients.

First—excellence. Now, admittedly, that is a large and, perhaps, imprecise word—but I think we all know it, recognize it, appreciate it when we encounter it, in writing, performing or production. It is what we expect, what we have the right to demand, when we work with superior talent which brings to the task thoroughness, devotion and integrity—the qualities that distinguish the work of the true professional.

Second—we are looking for uniqueness. This may come from unusual program content, unusual casting, an unusual way of staging, and when we get lucky, a combination of all three.

Third—we are hoping that occasionally we will break through the fog of kitsch that envelops "the box" today to engage the viewers' emotions, so that he will be stirred, touched, moved by what we put into his living room. We have gone too long, it seems to me, underprivileged and emotionally under-nourished as an audience, consuming a totally forgettable diet of trivia.

I simply refuse to believe there is not room in this medium for programs that deal in effective dramatic form with the human condition today. I cannot believe we lack completely the capacity to dramatize in understandable and compelling terms some of the problems that haunt and terrify us in this racing century. I do not, of necessity, mean that this has to be done by solemn drama. It may be as effectively accomplished by satire or fantasy. For example, in one of our programs called "The People Trap" science-fiction author Bob Sheckley, who wrote "The Tenth Victim," looks at the dehumanizing effects of megalopolis in the year 2000.

A drama called "The Confession," produced by Irving Gitlin and written by David Karp, concerns a drug-addicted boy who confesses to a crime he did not commit. As the truth is revealed, we begin to see many layers of guilt, not the boy's alone but that of his parents, the community, society as a whole.

The traditional American values of individuality and courage are restated and reaffirmed in Hamlin Garland's "Sun Prairie," adapted for us by Pulitzer Prize winner A. B. Guthrie. "Sun Prairie" reaffirms Jefferson's statement that "We are always equal to what we undertake with resolution. It is part of the American character to consider nothing as desperate."

Truman Capote's artistic vision reveals every man's deep loneliness and his need for love and affection in "A Christmas Memory."

These are some of the things we are doing in which we strive to make entertainment say something. Obviously, we will be employing many other forms in this attempt to prove that prestige and popularity can conclude a fruitful marriage.

We will have an original musical fantasy-comedy adapted by Jerry Chodorov from George Bradshaw's short story "How Like A God," and produced by Dick Adler, who also contributed the original score and lyrics. This will star Donald O'Connor as the God Hermes, Jimmy Durante as the president of the Notre Dame alumni association, the New York Jets as the hapless football representatives of New England University, and Joe Namath as a quarterback of considerably less renown than he actually has. If you want to see how Dick has put all of these strange elements together, look in on September 28.

Then there's a comedy-drama by Murray Schisgal, who wrote the current long-running Broadway smash hit "Luv." This will couple the talents of Alan Arkin and Sir John Gielgud. I don't know how you can get any more unique than that!

And my friend Jack Paar will bring his wonderful comic gifts to a presentation of "The Kennedy Wit," in which he will also serve as producer.

These random examples indicate, I think, that there is no pattern, no formula, other than to attempt twenty-six consecutive entertainments which have in common only their striving for excellence and distinction.

Note that in almost every case we have started with the writer, for it is our belief that in the first place comes "The Word." Fortunately, and I think inevitably, the concept of the series and the opportunity to have time to do the job the right way, are the reasons we have been able to attract such writers as Capote, Guthrie and LeCarre, and two others, for example, I have not mentioned—Arthur Laurents, who wrote "West Side Story" and "Gypsy," and T. E. B. Clarke who wrote "The Lavender Hill Mob."

These are all writers who have never worked in television before. All of the producers and writers I've mentioned—the "conceptual" people—have either never worked in the medium before or have been away from it far too long. It is scarcely necessary for me to say our medium will be made richer by their presence—and we hope to make the experience rewarding enough for them to want to stay. They will, I am confident, if the opportunities such as we are providing here are continued and enlarged in seasons to come. And I think that other creators, composers, directors, major talents of all kinds, can be a part of the television spectrum if they can find, as they seem to be finding here, a situation which respects and encourages their gifts and urges them without restraint to use them as they think best. I know from talking with all of them that television as a medium intrigues them. It is the quickest way to reach the most people. It is an unparalleled opportunity to demonstrate that mass and class are not unreconcilable words.

You and I remember well when we enjoyed the work of a formidable contingent of writers who found in television a happy outlet for their talents. It was that springtime of the medium which its admirers refer to as the Golden Age.

Whether the label is accurate or not, that time is worthy of attention, for there are some guide lines there, I think, as we look forward to what could turn out to be a period of creative renewal for television.

There are those who dimiss the Golden Age as nothing more than nostalgic nonsense, arguing that any clear-eyed exami-

nation of television's programming of the early and middle fifties would reveal it as primitive in terms of both economics and entertainment. And it is obviously true that much of our work in those days, at least in its execution, would fare poorly when compared with today's television's techniques.

Why then has it become a rallying point for the disenchanted? What was it about the programming of that era which left such an indelible imprint that those of us who care about television's future treasure that part of its past? For there certainly was a happening in those years—and only the simplistic rhetoric of the button-down mind would totally deny it or denigrate it.

In my view, it was not the individual programs of the Golden Age which made it shine, so much as its spirit; for it was, it seems to me, a time of creative ferment in the medium. Neither its imaginative people—both before and behind the camera—nor its management were as yet cynical. Certainly they wanted success, but they also placed value on success with distinction. They were not blandly following the precept that appealing to the lowest common denominator was the only way to achieve that success.

There was a spirit of adventure in the air. And most important of all, there was room for failure.

If the dramatic anthology series emerged as the period symbol, it is probably because it offered audience and critic the anticipation of a weekly theatrical event with all the attendant risks of any opening night, with all the excitement of an impending achievement or disaster.

Playhouse 90 was probably the most reviewed series in television's history. But over the three years it was a regular weekly feature, it received more unfavorable than favorable reviews. Although it did well, it certainly was not a rating champion. Was all the effort, time, money and love which so many lavished on it justified then? I suggest the answer may lie in the fact that within each season the series was able to produce a number of dramas that won universal acclaim for raising television's standards to memorable heights. Perhaps you recall some of them—"Judgment at Nuremberg," "Requiem for a Heavyweight," "A Sound of Different Drummers," "Days of Wine and Roses," "The Old Man," "A Town Has Turned to Dust," "The Ninth Day," "The Plot To Kill Stalin," "The Miracle Worker."

It seems to me that such achievements are one of the things the Golden Age was all about.

So for our present purpose, I feel, should not be to mourn the Golden Age, but to seek some means by which its thrust and flair can be reactivated and nurtured throughout the conceptual and imaginative functioning of the medium.

We must find ways to bring in—or back—to the medium many more of the world's major creative talents—far too few of them see in it today an opportunity for significant expression.

ABC Stage 67 is a step. Hopefully, only one.

At this point, I can't help thinking of the story General Sherman used to love to tell about a little girl who, on coming out of church, was asked if the minister had told her how to be good. She said: "No, he just preached."

Well, it's time to stop preaching and start trying to be good. How good—and how often—we'll all find out only by going the 26 Wednesday opening nights—and mornings after—that lie ahead. There's a story which nails down the situation pretty accurately. The scene is the Southern California-Notre Dame football game. There is one minute to play. Southern California has the ball on the Notre Dame five-yard line. The Southern Cal quarterback has to decide: shall he kick, shall he pass, or shall he run?

He turns with his hands on his hips and stares at the hundred thousand faces staring back at him. Finally, he raises his arm, shakes a clenched fist at them and yells: "All right, you monsters—tell me now, not Monday morning!"

Thank you.

## NATO: THE PROBLEM OF RELOCATION AND ARMED SALES TO WEST GERMANY

Mr. JAVITS. Mr. President, a meeting of vital importance is now taking place in Brussels among the Foreign Ministers of 14 NATO nations. They are in Brussels in order to reassert the unity of the Atlantic alliance and to plan for the impending withdrawal of France from the integrated NATO defense system.

The assertion of the unity of the 14 could not come at a more important time. In the wake of French withdrawal plans, some NATO partners seem overly sanguine about prospects for an immediate detente with the Soviet Union. There is always a danger that in their anxiety to settle complex problems at a single stroke they will attempt to push the alliance into a premature bargaining position. Before NATO can hope to settle the outstanding European problems with the Soviet Union, it must first mend its own fences.

An important element in this mending process is the relocation of the NATO headquarters and the NATO Council. Since the French Government has requested that all military installations be removed from French soil by April 1, 1967, the most pressing business on the Brussels agenda is to find a new home both for the military and political elements of NATO. It is disappointing, in this regard, to see the hesitancy of the Belgium Government with respect to locating the headquarters and the Council on Belgium soil. It is unwise for psychological reasons to remove either of these bodies from the European continent; Belgium is the logical choice. I would hope that for the sake of the alliance the Government in Brussels will quickly move to assume this new privilege and responsibility.

Another vital element in this mending process is the future role of West Germany in NATO. Most, including the Germans themselves, appear to recognize that it would be inappropriate for Bonn to have disproportionate influence in the alliance. It is natural to expect that the withdrawal of France will mean more influence for West Germany, but this tendency should be kept within clearly defined bounds. I would strongly urge that during this transitional period in the life of NATO that the United States would do nothing to aggravate the German situation. Most importantly, this is not the time to withdraw more U.S. troops from the Continent. Nor is it a time to give in to pressures for increased armed sales to West Germany in order to allay German fears.

Finally, Mr. President, it is extremely important that we encourage the Germans, if possible, within the context of NATO, to keep the troops of France in Germany, thus at least preserving whatever can be preserved of France's relationship to European security.

I ask unanimous consent to have printed in the RECORD two pertinent articles published in today's New York Times on this subject.

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

[From the New York Times, June 6, 1966]

RUSK AND ALLIES WILL MEET TODAY ON NATO TRANSFER—14 MEMBERS HOPE TO AGREE ON SHIFT TO BELGIUM BEFORE FRENCH AIDE ARRIVES

(By Henry Tanner, special to the New York Times)

BRUSSELS, June 5.—The foreign ministers of 14 of the 15 members of the North Atlantic alliance have arrived here to discuss the consequences of President de Gaulle's decision to withdraw France from the integrated defense system of the alliance.

Secretary of State Dean Rusk spent the day conferring with American and allied officials about issues involved in the conference opening tomorrow.

The foreign ministers hope to reach tentative agreement to move the military headquarters of the alliance to Belgium.

The move has been made necessary by the French Government's request that all military installations of the alliance be removed from French soil by April 1, 1967.

FRENCH AIDE JOINS LATER

The 14 will meet all day tomorrow in the absence of Maurice Couve de Murville, French Foreign Minister.

He is due to arrive tomorrow evening and to participate Tuesday and Wednesday in sessions of the 15-member council of the alliance.

The Belgian Government has been reluctant to express its willingness to accept the role of a host for the military headquarters. It has requested information on the number of men involved, the space required as well as an estimate of the probable cost.

This information was submitted Friday by Manlio Brosio, secretary general of the alliance, and by experts of its military headquarters.

ACTION UP TO PARLIAMENT

Pierre Harmel, Belgian Foreign Minister, is expected to inform the conference in cautious and qualified terms of the willingness of his Government to give favorable recognition to a request for relocation of military headquarters in Belgium. The final decision is up to the Belgian Parliament.

There has been great pressure on the Belgians to make at least a tentative gesture of acceptance.

For one thing, there are practical considerations. Relocation of a vast complex of headquarters and communications centers on short notice without interruption in operations is a Herculean task.

Some experts have said that it will not be possible to meet the French deadline unless plans for construction of a new site are started early this summer.

The second point is political. It is felt that it would be a sign of weakness and disunity and a bad omen for the future of the alliance if the 14 Foreign Ministers did not reach at least a tentative agreement on a new site in their first meeting three months after the French initiative.

Mr. Brosio said at a news conference tonight that the foreign ministers would also deal with the question of East-West relations, including the German problem and European security.

Denmark has served notice that she will ask the alliance to take the initiative of convening an East-West conference on Europe. The Danish suggestion has been discussed twice by the permanent 15-member council of the alliance in Paris.

The United States and some other delegations are skeptical. The American view has been that such a conference should be called only after a thorough preparation that would insure a positive outcome.

However, there is considerable feeling among the European members that the Western alliance, for psychological reasons, among others, must end its reputation of being a "cold-war" tool and cast itself more publicly in the role of a peace seeker.

The German issue is expected to dominate a dinner tomorrow night of the foreign ministers of the United States, Britain, France and West Germany.

Mr. Couve de Murville is expected to be asked by his three colleagues for the French reaction to the procedure suggested last week for negotiating the future role of French forces in West Bermany. These forces are to be withdrawn from the integrated command July 1.

The 14 members of the alliance other than France have proposed that the legal status of the French forces be discussed bilaterally by West Germany and France and that the future mission of these forces be determined in talks between France and a five-nation group consisting of the United States, Britain, West Germany, Italy and the Netherlands.

The French position is that the mission of the troops must be discussed on a purely technical level by the military commander of the alliance, Gen. Lyman L. Lemnitzer, and Gen. Charles Ailleret, the Chief of Staff of the French armed forces.

The French contend that political talks at government level would result in an attempt by their allies to impose a new form of military integration on them.

The question of the French forces in West Germany is crucial. If no agreement is reached and the forces withdraw from West Germany, the break between France and the rest of the alliance would become all but final, in the opinion of most observers.

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[From the New York Times, June 6, 1966]

TOO MUCH PRESSURE FOR ARMS SALE TO GERMANY

(By Robert Kleiman)

The United States now has a second NATO conflict on its hands—with West Germany as well as France. Fears of massive American troop transfers from West Germany to Vietnam have been aroused in Bonn by an unprecedented warning handed to Defense Minister von Hassel by Secretary McNamara at the Pentagon May 13. Washington, Mr. McNamara said, henceforth reserves the right to reduce its forces in Germany "proportionally" should Bonn's lagging purchases of American arms fail to offset U.S. troop costs.

This secret squeeze play, following Mr. McNamara's transfer to Vietnam of 15,000 American troops without consulting the Germans, has produced renewed consternation in Bonn and a formal protest to Secretary Rusk. Widespread German press criticism of an American "ultimatum" has erupted, although the facts were leaked only in veiled fashion and later officially denied.

BONN SEES DANGER

Bonn's view, partly shared in the State Department, is that it is dangerous to treat defense of the free world's most vital frontier as a German rather than a common Western interest. To equate it with the American interest in selling military hardware is grotesque. Bonn, in any case, feels it can offset the dollar drain of American troop expenditures in better ways than by buying weapons it does not want—especially after the 56 crashes and 30 pilot deaths in its 700-plane fleet of modified American F104G Starfighter jets.

Secretary Rusk is in Brussels this week to unite the NATO foreign ministers for difficult negotiations with France and, later, with the Soviet Union. American and British threats to reduce forces when West Germany is menaced by a total French troop withdrawal—unless it bows to General de Gaulle—will hardly stiffen Bonn for its confrontation with Paris. Nor would unilateral American troop withdrawals strengthen the West's hand with Russia in seeking a European settlement, German reunification and arms control in Central Europe, even if a thinning out of Soviet troops by "mutual example" should follow.

Bonn doubts that the United States would sacrifice these vital interests over payment deficits. The suspicion, as *Die Welt* phrased it, is that the financial issue has been "cranked up by Secretary McNamara" as a "pretext" to transfer two or three divisions to Vietnam next winter.

Such a plan is highly unlikely. Even though a troop shift to Vietnam cannot be ruled out, the arms purchase crisis with Germany undoubtedly is a separate matter. Bonn is more than $600 million from meeting its two-year pledge to order $1.35 billion of arms by December 31. It wants to shift part of that sum to purchase of American industrial equipment for its aid program in the developing countries, including Vietnam, and also to recast the whole offset program next year.

This practice has long been part of Bonn's offset arrangements with London; but it has led to shortfalls and delays in German purchases in Britain, and Mr. McNamara opposes it. He wants to upgrade the German forces with more support units and bigger war reserves, although Bonn insists its generals disagree. Defense Secretary McNamara wants Germany to buy military hardware, a proved dollar earner, despite philosopher McNamara's Montreal speech on development aid as a better route than excess hardware to world security.

In the Kennedy era, when the corrosive drive to sell American-made arms to reluctant European allies originated, it was considered a temporary expedient. The arm-twisting that accompanied it was regarded with regret. The Pentagon's chief arms salesman then, Assistant Secretary of Defense William Bundy, was jokingly dubbed "Basil Zaharoff" Bundy—in recollection of a less savory weapons merchant of earlier vintage—by White House colleagues of his brother, McGeorge Bundy, who had to field complaints from foreign governments.

EUROPEAN LAG IGNORED

The atmosphere has changed. Secretary McNamara now handles the big arms deals himself. The program has taken on an air of permanence—along with the gold outflow—and self-righteousness about "burden-sharing" permeates the Pentagon. Complaints that West Europe is falling behind in modern technology—and is not building the pooled arms industries to defend itself one day—get brushed aside.

There are alternatives, and Bonn insists they can be made to work. One is a Defense Payments Union in NATO, which the Johnson Administration is about to propose, mainly to ease Britain's coming sterling crisis. American and British troops in Germany, Italy and Belgium then would pay in scrip, and it would be the host country's responsibility to spend it for arms purchases or to accumulate useless paper. The scheme could easily be expanded to include German purchases of American civilian equipment for its development aid program—as will have to be permitted for German purchases in Britain.

NEW FUNCTION FOR NATO

Combined with an offer of a Marshall Plan for Eastern Europe, as proposed by Prof. Zbigniew Brzezinski—now a State Department policy planner—such an arrangement could advance German reunification and a European settlement. The Germans alone would be willing to put up billions of dollars for it. In a trade surge of this dimension, NATO would not only acquire a new function—that of making peace along with deterring war—but the financial and military need for high-pressure American arms sales might quickly disappear.

(NOTE.—*Robert Kleiman is a member of the editorial board of The Times.*)

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## HIGHER EDUCATION IN CALIFORNIA

Mr. KUCHEL. Mr. President, for the past 2 years, news events from Berkeley, Calif., have tended to present a dark image of the University of California. Reporting of the activities of a minority of the student body has left the impression that little else is accomplished at the University of California other than rioting, sit-ins, and protest. Those close to the scene have known that this was a distorted image.

I am delighted to bring to the attention of my fellow Senators the results of a recent nationwide study undertaken on behalf of the American Council on Education by Dr. Allan M. Cartter. Dr. Cartter has made "an assessment of quality in graduate education" which the American Council on Education has recently published. The results of this study are quite clear: across the board the University of California at Berkeley provides the most outstanding graduate education in the country. It is the only university to receive a distinguished rating in the five general categories studied by Dr. Cartter—the humanities, the social sciences, the biological sciences, the physical sciences and engineering. In the words of the author of the study, Berkeley "is the best balanced and distinguished university in the country." As a Californian, I am delighted that the oldest campus in the State's system of public higher education has been so honored. The objective findings of Dr. Cartter's study will do much to present a more balanced view of the total activities of the university.

I also wish to call the attention of the Senate to two other institutions in California which also received a high rating, notably, Stanford University and the California Institute of Technology. Stanford was rated among the leading universities in the country in four categories out of five, and Cal Tech in three. Californians can be justly proud of their fine record.

Mr. President, I ask unanimous consent to have printed in the RECORD an article giving further details on this subject entitled "Experts Rate U.C. Best U.S. University," written by Carl Irving, and published in the Oakland Tribune, Oakland, Calif., on May 20, 1966.

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

EXPERTS RATE U.C. BEST U.S. UNIVERSITY

(By Carl Irving, Tribune staff writer)

The Berkeley campus of the University of California is rated "the best balanced distinguished university in the country" in a major survey by the American Council on Education, which stressed faculty competence in its judging.

The two-year study was based on checks with 4,000 teachers and administrators at 106 major universities in the United States. The findings were to be revealed today by University of California President Clark Kerr at a meeting of the University Board of Regents at the Irvine campus in Orange County.

The report is the first comprehensive one of its kind on the state of higher education in the United States. The council, which is headquartered in Washington, D.C., represents most educational organizations in the country. It often advises the White House and Congress on legislation.

Berkeley is followed by Harvard and Stanford Universities, according to the findings, prepared by Dr. Allan Cartter, vice president of the council.

Berkeley, he concluded, led the list because it appeared in the leading group in all five major divisions of higher education, humanities, social sciences, biological sciences, physical sciences and engineering. If engineering had been omitted from the survey, Harvard would have emerged first in the over-all rankings, the report said.

Cartter surveyed nearly 900 department chairmen, 1,700 distinguished senior scholars and 1,400 "carefully selected" junior scholars at the 106 universities. Only 13 per cent of them had received their Ph.D. degrees from the Far West.

The heart of the questionnaire involved rating of faculty, the basic measure of a university. The survey also assessed the quality of graduate schools.

Cartter, in a telephone interview from Washington, said Berkeley's rating was "an amazing performance for a university already at the top." In a less complete survey in 1957, he noted, Berkeley had been second to Harvard. Now, it surpassed Harvard in what he termed the overall picture.

Cartter said Berkeley, since 1957, had nine departments improving, 18 maintaining the same ranking, and two dropping slightly.

The questionnaires were filled out in the spring of 1964, several months before the Free Speech Movement hit Berkeley. Cartter was asked what effect this would have.

"My guess is if we were to do the survey again today there wouldn't be much change. Looking at it from the other end of the country, it is too bad Berkeley had those riots, but they seem to have done a lot of good.

"Such factors as the Muscatine Report on reforming education at Berkeley and the appointment of Roger W. Heyns as chancellor last summer seem to have kept Berkeley in its eminent position."

Cartter also noted that Stanford had made "dramatic improvements" in the science and engineering areas. He also lauded UCLA and Davis. The latter, he said, had made "a surprisingly good showing in the biological sciences."

"U.C. has done so well at Berkeley the university will probably bring off successes at the other campuses," Cartter said. He cited Davis and San Diego in particular.

Cartter's report said "pains have been taken to ensure that the study reported be as objective as an opinion study can be, and that it represent fairly the large and the small, the public and the private, the nationally recognized and the regionally oriented graduate schools."

He said in the interview that the rating of the faculty and the graduate studies reflected directly on the quality of undergraduate education. A top faculty and graduate school, he said, attracts top undergraduates.

Those responding to the survey rated the faculties—and, by extension, the schools—on the basis of personal contact (either as students or at professional gatherings), published work and research, the professional competence of their former students and their general reputation in the scholarly community.

Cartter found that top departments were concentrated in 13 states, 80 percent of them in only five states. Institutions in the Southeast and Rocky Mountain states could not claim a single department in the highest category in any of the 29 fields studied, he noted, while the Southwest and the Plains could point to only one each.

"The Northeast, because of its historic leadership in higher education and the strength of its private institutions, is most over-represented," Carter said. "This is particularly evident in the humanities, a reflection of the long literary tradition of the region."

He added: "Universities can live on their reputations much more successfully and for longer periods than can most business firms." Among the important factors, he said, were library resources. Here he rated Harvard first and Berkeley second.

## THE BROAD BASE OF PRESENT AMERICAN FOREIGN POLICY

Mr. BREWSTER. Mr. President, a few weeks ago, I received the unanimous consent of the Senate to insert in the CONGRESSIONAL RECORD President Johnson's speech recently delivered at Princeton University. In my remarks, I stressed the President's concern and commitment to education as he expressed it on that occasion.

An editorial in the Baltimore Sun cited the same speech for its clarity in presenting the broad base on which rests current American foreign policy.

I commend the editorial to my colleagues, and ask unanimous consent that it be printed in the RECORD.

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

[From the Baltimore Sun, May 12, 1966]

PROBLEMS OF STRENGTH

The broad bases of present American foreign policy have seldom been so well stated as President Johnson stated them yesterday at Princeton in an address designed for the attention of the scholarly, intellectual community. The nation's aims, the President said, are the aims which men of intellect ordinarily support and serve, and the lessons we have learned in recent years are lessons those men cannot but approve of: "That a great power influences the world just as surely when it withdraws its strength as when it exercises it; that aggression must be deterred where possible and met early when undertaken; that the application of military force, when it becomes necessary, must be for limited purposes and tightly controlled." Our great power, the President emphasized, is tempered by our great restraint.

This is true. But within its broad accuracy as an outline of present policy there are still the complicated, painful problems of applying that policy day by day, even hour by hour, in situations of many degrees of difficulty and urgency. Where to draw the limits of objectives, just when to withhold the use of strength, or to withdraw strength, how to define purposes precisely and how to exercise tight controls—these are merely some of the questions.

Above all is the problem of the very possession of great strength. Where great strength exists, there will always be those, engaged in its creation or its deployment, whose impulse is to see it used; and there will always be members of the public who tend to believe that great strength must make for large simple solutions.

If the world was ever like that, it is not like that today. The President knows it, as do others who have learned the hard, new, historically unorthodox lessons of our time.

## A PENNSYLVANIA FIRST: ORDERLY PROVISION OF WATER AND SEWAGE FACILITIES IN DEVELOPING URBAN AREAS

Mr. SCOTT. Mr. President, one of the most critical governmental problems on the growing edges of our suburban communities is the assurance of a safe and reliable water supply. The problem arises because rapid growth in many suburban areas is accompanied by reliance on individual wells and septic tanks rather than community systems, under conditions which too often make such reliance dangerous, such as small lot size, topography, and soil which cannot absorb sewage flow. I am very proud, therefore, that the General Assembly of the Commonwealth of Pennsylvania recently enacted legislation which has great potential for preventing hazardous health conditions caused by inadequate planning and construction of sewage facilities, and the indiscriminate use of individual wells and septic tanks.

This legislation, known as the Pennsylvania Sewage Facilities Act—Act No. 537, Pennsylvania regular session 1966—requires municipalities to submit officially adopted plans for sewage systems, and authorizes the department of health to adopt standards for construction and installation of sewage disposal systems. This is the first State legislation of its kind, and is based on a model State bill prepared by the U.S. Public Health Service with the assistance of a special advisory committee that included representatives from the Public Health Service, the Advisory Commission on Intergovernmental Relations, the Department of Housing and Urban Development, the National Association of Counties, the National League of Cities, the American Society of Planning Officials, the National Association of Home Builders, Water Systems Council, Conference of State Sanitary Engineers, and the Septic Tanks Industry. In an earlier report on "Intergovernmental Responsibilities for Water Supply and Sewage Disposal in Metropolitan Areas," the Advisory Commission on Intergovernmental Relations—ACIR—recommended that "legislation be enacted endowing the appropriate State and local agencies with regulatory authority over individual wells and septic tank installations, with a view to minimizing and limiting their use to exceptional situations consistent with comprehensive land use goals." The model State bill grew out of this recommendation. Copies of the model State act and

the full report are available from the ACIR on request.

The Federal Government has, of course, taken action in recent years to assist local communities to provide themselves with adequate community waste disposal facilities. But, essentially, the issue of water purity and supply in our urban areas is a matter of community and State initiative and responsibility, for here is where the effects of inadequate sanitary facilities are first and most sharply felt. Sound planning and development of water supply and sewage facilities at the local and State level are essential not only to assure availability of an adequate supply of safe water, prevent pollution, eliminate health nuisances and hazards, and conserve ground water. They are also important for encouraging economical and orderly development of land for residential, industrial, and other purposes, since the type and location of water and sewage facilities is a critical determinant of land use. It is, therefore, it seems to me, a matter of nationwide importance that the Commonwealth of Pennsylvania has now taken the leadership in enacting a law providing for orderly development of community sewage systems.

Under the Pennsylvania act, pursuant to rules, regulations, standards, and procedures prescribed by the State department of health, municipalities are required to submit to the department a plan for sewerage systems serving their jurisdictions. The plan must delineate three areas: First, where community sewerage systems are now in existence; second, where community sewage disposal systems are planned to be available within a 10-year period; and, third, where community sewage disposal systems are not planned to be available within a 10-year period. The plans must provide for orderly extension of community interceptor sewers in a manner consistent with the needs and plans of the whole area, and provide for adequate treatment facilities to prevent discharge of untreated or inadequately treated sewage or other waste into any waters. It must also establish procedures for delineating and acquiring on a time schedule necessary rights-of-way or easements for community systems, and for financing construction and operation of the planned community system. So that the system is not in conflict with local and areawide comprehensive planning, the sewerage system plans must be reviewed by the municipal planning agency and any areawide planning agency, and the results of the review transmitted to the State health department.

It is encouraging to note that Pennsylvania will not only set standards and prescribe regulations, but will also provide positive assistance to localities. First, the State health department is authorized to furnish technical assistance to localities in coordinating their official plans; second, it offers matching grants to localities to help finance the cost of preparing official plans and enforcing the plans and health department regulations.

The teeth in the Pennsylvania law are found in the provision for permits and inspections. Before a person may install an individual or community sewage disposal system, or even construct a building in which such a system is to be installed, he must obtain a permit indicating that the site and the plans and specifications of the system comply with the standards set forth by the State department of health.

Mr. President, with the adoption of effective standards and procedures by the State department of health, and the subsequent preparation and adoption of local sewerage facilities plans, this new Pennsylvania act can provide new safeguards to assure that our communities are looking well ahead to make certain that their citizens will get an adequate supply of safe water, and at the same time will not be creating conditions in the handling of their wastes that will constitute a threat to the health, economy, and well-being of their neighboring communities. I commend this new program to study and adaptation by all the other States.

## THE SITUATION IN VIETNAM

Mr. McGEE. Mr. President, there have been in recent days several telling articles published which do much to clear up the public understanding of the situation in Vietnam—past, present, and future, insofar as we can view the probabilities of future events. Among these articles are two of particular note, written by Senior Editor Arnaud de Borchgrave, of Newsweek, and by Joseph Alsop in the Saturday Evening Post.

Both Mr. de Borchgrave's "A Dissent From the Dissenters" and Mr. Alsop's "Why We Can Win in Vietnam" stand as persuasive statements on why we are involved in Indochina and what we have accomplished, as well as what we hopefully can yet achieve. I ask unanimous consent that these articles be printed in the RECORD.

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

[From Newsweek, June 6, 1966]

### A DISSENT FROM THE DISSENTERS

(By Arnaud de Borchgrave, senior editor)

(NOTE.—*Once again "gut" questions are being asked about the American commitment in Vietnam. Last week, Newsweek colomunist Emmet John Hughes gave his views after a visit to Vietnam. This week, Senior Editor Arnaud de Borchgrave, also recently in Vietnam, dissents from the dissenters.*)

"Vietnam is not important to us," Professor John Kenneth Galbraith said recently. "It is not a bastion of freedom, nor is it a testing place of democracy."

The slogans about why the U.S. is in Vietnam—e.g., making South Vietnam safe for democracy—and arguments about the slogans have contributed mightily to mass confusion at home and abroad. The rhetoric tends to obscure both the fundamental interest and the fundamental issue.

The fundamental interest, quite simply, is to contain the expansion of Chinese Communist imperialism. As Professor Zbigniew Brzezinski of Columbia articulated one of the U.S.'s basic foreign policy goals, it is "to establish international conditions which channel the revolutionary changes taking place in many societies toward constructive ventures, and prevent the process of modernization and development from being forcibly taken over by Communist elites supported by militant Communist states employing the strategy of 'national liberation wars'."

The fundamental issue is whether we can find an effective answer to this new method of warfare—the device whereby China and North Vietnam can expand, almost by proxy, by promoting a so-called "people's war" of so-called "national liberation."

And what we are trying to do in Vietnam is to demonstrate that changes in Asia—and elsewhere in the world—are not to be precipitated by "outside" force. Some of us have forgotten rather quickly that it was not South Vietnam that set out to absorb North Vietnam, but rather the other way round. What's at stake for the U.S. in Vietnam is not freedom and democracy for South Vietnam, though this might become a happy by-product. The key point at issue is whether the U.S. can successfully resist and subdue a war of "liberation." Similarly, what's at stake for China is whether it can prove that the balance of power in the world can be changed by tunneling under the nuclear stalemate of the major powers. Peking's chosen instruments are North Vietnam and the Viet Cong.

Countering a foreign-sponsored "people's war" is a terribly complex business. Such a conflict usually carries a minimum of risks for the sponsor. It always is made to look like a revolution of rising expectations against the forces of retrogression backed by the U.S. American intervention is hard to justify because the lineup is so confusing, deliberately so, and the people's grievances irrefutable.

When Senator RUSSELL says, "we should go in there, win and get out," one cannot help but feel that he and millions of others have not yet understood what Vietnam is all about. It is not that type of war. Classical wars with classical victories will probably never be seen again. The Communists are in for the long haul. And we should be, too. The other side will not abandon new methods of conquest until we have proved them unworkable.

In power politics—and that is still the name of the game—lines must be drawn somewhere, and if the U.S. doesn't draw them, who else in the Western world today would—or could? The alternative, it seems to me, is an isolationist Fortress America. What the U.S. is doing in Asia is no different, in basic principles, from what the U.S. helped the Europeans achieve during the past two decades: a line was drawn and Russia was contained and has now—in the words of Konrad Adenauer—"joined the ranks of those nations seeking peace in the world."

How long will it take to contain China, coax her out of her largely self-imposed isolation, and nudge her into more constructive endeavors? It could be another ten years or more. But evidence is accumulating that it might be shorter. I doubt whether Mao would be so obsessed with the need to prevent the next generation from becoming "Khrushchevite revisionists" if it were not already happening. In an attack on "anti-party elements," China's army newspaper has warned that unless they are defeated, it might be "perhaps only several years or a decade . . . before a counter-revolutionary restoration on a national scale inevitably occurred."

No other government in the world is run by such an old group of men. The average age of the Politburo is 68; of the much larger Central Committee, 61. And the next generation is already asking question, if only in the innermost recesses of their subconscious, questions about a seemingly interminable series of foreign policy reverses that stretch from the Congo to Indonesia.

Two years after Premier Chou En-lai toured Black Africa as a liberating hero, one black African country after another is expelling

Chinese operatives and/or severing relations with Peking.

Captured documents have now produced the evidence that it was on instructions from Peking that the Communist party tried to seize power in Indonesia last fall. And the ensuing bloodbath of revenge against Communism has made the Vietnam war seem mild by comparison. Indonesia was a deadly blow to Peking's strategy in Southeast Asia; the largest Communist party in the non-Communist world lies destroyed. We now see Indonesia negotiating an end to its military confrontation with Malaysia.

Other Asian countries have drawn a lesson from China's failures in Africa and the Far East, and the American commitment in Vietnam has helped to convince them that China's brand of Communism is not necessarily the wave of the future. Indeed, there is a world of difference between what some Asian leaders say publicly and what they concede privately. One of India's highest government officials told me that "if you give up in Vietnam we will most probably have to double our military presence in the Himalayas." No sooner said than he added, "but for the record I will go on saying you must get out of Vietnam."

Burma is another case in point. In Rangoon recently, Liu Shao-chi, the Chinese chief of state, could not get Burmese leaders, not noted for their pro-American sentiments, to sign a joint declaration condemning the U.S. for its actions in Vietnam.

For China—and its veteran leaders of the Long March—Vietnam is the crucial test of Mao's theories. It is also China's big chance to wreck America's entire position in Asia. If we hold our ground and Communist expansion is blocked—as it was in Malaya—the Chinese will have suffered another major foreign-policy setback. The dogmas will be shattered once and for all and we may at last look forward to change in Peking.

If we give in, what incentive will there be for China to change? We would probably have to start all over again two or three years hence, perhaps in Thailand, which is neither a better time nor a better place.

Policymakers in China and North Vietnam are convinced that the U.S. domestic front will eventually crack. They have seen thousands parade in front of the White House, some of them waiving the Viet Cong colors. They know that the Republicans are already mobilizing to make an issue of the war. They can see mounting criticism against a growing commitment in a war that Americans are told can only end in stalemate. They have read in The New York Times that "there is broad agreement about Vietnam in the U.S. . . . namely that the country wants out, and its representatives in Washington know it and agree, but it must be an honorable out." They also see the slippage in President Johnson's Vietnam "ratings." And they have just heard Representative MENDEL RIVERS, the influential chairman of the House Armed Services Committee, say: "We may have to make a decision damn soon" about whether to pull out altogether. Peking, which goes on depicting the United States as being on the verge of despair, undoubtedly believes that in another year or two U.S. public-opinion pressure to get out will have grown to the point where it won't care whether the "out" is "honorable" or not.

Vietnam has been publicly debated for months. I have just toured college campuses around the U.S. Besides the notion shared by only a minuscule fraction of students and faculty, that we should simply get back into our boats and planes and pull out, no alternatives were even suggested. Most seem to realize there is little chance of peace talks until there is a change of heart on the other side.

Time is not necessarily on China's side. The more China advances scientifically and economically, the greater the schism between die-hard dogmatists and those who have to get on with the job of running a huge country efficiently and coming to terms with the modern world. The passing of the revolutionary mystique will mean the new generation will have to open the window, just as Russia did.

"Therapy for Peking's present almost paranoid state of mind," writes Harvard's John K. Fairbank "must follow the usual lines of therapy: it must lead the rulers of China gradually into different channels of experience until by degrees they reshape their picture of the world and their place in it."

The claim is often made that there is no practical alternative to the eventual takeover of South Vietnam by the Vietnamese Communists; that the NLF is truly a national movement in tune with the aspirations of the people; that we are still losing ground militarily; and that the South Vietnamese don't want us. Such misrepresentations get bandied around as "fact" by prominent members of the intellectual community.

If Communism is so popular, why has the Viet Cong felt it necessary to assassinate more than 20,000 local officials? Three leaders of the National Students Association of America have returned from Vietnam reporting they found no sympathy for the NLF among Vietnamese students. If the NLF is the embodiment of national aspirations and its victory inevitable, how does one explain, as Buddhist leaders never tire of pointing out, that no one of prominence has joined the cause? If the NLF is indigenous to the South, how does one explain that it was created and is now controlled by Le Duan, after Ho Chi Minh the most powerful Communist leader in Hanoi?

If we are not doing immeasurably better militarily, how does one explain that Communist defectors for the first are now disclosing their unit locations and enabling U.S. forces to go in and hit them when they least expect it? Or that defectors, until the recent political crisis slowed up military operations, were running at the rate of 35,000 a year (up from 5,000 in 1964 and 11,000 in 1965)? Or that both prisoners and defectors, taken in widely scattered parts of the country, say they are physically exhausted, always on the move, with no campfires allowed at night, little food and haphazard supplies? Or that a recent survey taken among 500 prisoners showed that only 30 percent believed in a VC victory against 70 percent a year ago?

Little noted in the U.S. press earlier this year was growing evidence of indecision in Hanoi. An article by Defense Minister General Giap revealed considerable bewilderment over what he called the new factor of limitless American power which he concedes, in retrospect, thwarted the Viet Cong of imminent victory last year. American acceleration of the conflict, he warned, has "confronted the Vietnamese people with a very serious situation and the urgent task of mobilizing and consolidating all the people to fight on." Giap also admitted that victory over the United States was a long way off when the North Vietnam general wrote that "Americans have great military potential, are extremely stubborn, cruel and cunning and know how to draw lessons quickly from experience to contrive even fiercer * * * fighting methods."

Politically, however, the pessimists claim we are back to square one. They argue that the coming elections are disaster incarnate, as inherently absurd as an Ionesco play, and that they will be followed by a neutralist government that will go through the motions of proclaiming its anti-Communism and at the same time thank the U.S. for its services while making clear they are no longer required.

I personally see the rapid political evolution as a drive to reassert Vietnamese sovereignty. Premier Ky and his fellow generals (and some U.S. advisers), quite unwittingly, have helped the various religious groups to surface as the true spokesmen for the people. This is basically a healthy development. The Buddhists (about 80 percent of the population) are indeed an indigenous movement. They have no love for the West in general and the U.S. in particular—but they have no use for Peking or Hanoi either. Their leaders have said over and over again that no Communist party in Asia can live in harmony with other political parties. The last thing they want is for the U.S. to leave or stop fighting the Viet Cong until they are sure of a secure, independent, internationally guaranteed future.

The Buddhists would like to become the nucleus for a popular majority that might serve as the basis for an honorable settlement. And when and if negotiations do get underway with the Viet Cong, their only high card is America's presence. Anti-Americanism, therefore, is worrisome, not alarming.

The big question in my mind is whether the American people will have the patience, the staying power and the far-sightedness not to hand China's present leaders something they could misconstrue as a victory after an unbroken line of setbacks at home and abroad. During this holding and waiting period, we could do a lot worse than heed the President's appeal to "come together as a people and as nation" to support the government's policy.

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[From the Saturday Evening Post]

WHY WE CAN WIN IN VIETNAM

(By Joseph Alsop)

In Vietnam, great numbers of Americans are now committed to a war which very few Americans even begin to understand. Most of us, of course, have a fair understanding of the issues our troops are fighting for, but only a tiny minority understand the war itself.

This has struck me with increasing force after every one of my more recent visits to Vietnam—and I have been there 16 times since 1953. People talk about other matters such as the chops and changes of politics in Saigon, where the Communists might manage an eventual victory—although I do not think they will. No one ever mentions the fairly desperate combat problems that now face the Viet Cong. No one analyzes the present strategy of our brilliant field commander in Vietnam, Gen. William C. Westmoreland. No one refers in any way to what is currently happening on the battlefield. Yet the battlefield is where our own best hope of victory lies.

The whole pattern of the fighting, as it happens, is still determined by an almost successful gamble that the Communists made to win the war last year. Hence we must backtrack a bit at the outset in order to see the timing, the nature and the risks of this enormous Viet Cong gamble, to make what happened reasonably comprehensible.

Many normally well-informed persons still believe that a Communist guerrilla movement like the Viet Cong is something spontaneous—halfway, let us say, between a misguided patriotic society and a nationwide game of cops-and-robbers. From their first obscure guerrilla origins, however, the Viet Cong have been a second government of South Vietnam, and they still are. Furthermore—and here is the important point—this clandestine Communist second government has all the fiscal, economic, manpower and other problems that plague any normal government. Since this is also a government at war, the V.C. second government's biggest problem is naturally to recruit, equip and maintain its armed forces. This has always been the biggest problem, and its difficulties caused the Viet Cong gamble already mentioned, which was decided on in late 1963

after the coup d'etat against South Vietnamese President Ngo Dinh Diem.

South Vietnam in the summer of 1963 was a country in which every province had its own civil war, with the Saigon government controlling the provincial capitals and a good many villages, with the V.C. second government controlling a good many other villages, and with troops of both sides in the field everywhere. By that time, there was a Viet Cong provincial battalion of about 500 men operating in each of Vietnam's 43 provinces. There was a Viet Cong district company of about 150 men operating in each of at least 250 of the administrative districts into which the provinces are subdivided. And in each of several thousand V.C.-controlled villages and hamlets, there was a Viet Cong guerrilla band of 20 or 30 men to maintain local discipline and to harass friends of the established government in neighboring villages and hamlets. All these V.C. soldiers—about 50,000 in the local forces and 110,000 in the guerrilla bands, or approximately 160,000 men in all—had to be paid and armed and kept supplied with ammunition and much other matériel, and all but the minority of strictly part-time guerrillas had to be provided with rations as well. Salaries and rations also had to be found for tens of thousands of Viet Cong in essentially civilian occupations, ranging upward from humble couriers and tax collectors, through secret policemen and the personnel of the medical services, to the awe-inspiring members of the Communist Party's central committee for South Vietnam in their remote jungle lair near the Cambodian border.

In addition, this second government was deeply engaged in a big and costly program of military public works. The rule books for guerrilla war, written by Mao Tse-tung and his remarkable Vietnam Communist pupil, Gen. Vo Nguyen Giap, lay down an absolute requirements for guerrilla main bases in areas immune to penetration by hostile troops. The mountainous jungle-covered and swampy tracts of South Vietnam provide splendid terrain for many such main-base areas. But barracks, hospitals and numerous other facilities had to be secretly built within these fastnesses. Wherever the ground was suitable, the main bases also had to be fortified by an almost inconceivably antlike program of digging and tunneling; and although *corvée* labor from V.C.-controlled villages was used for this purpose, the hundreds, even thousands of men in the *corvées* at least had to be given rations while away from home. Finally, all the main bases had to be prestocked with medical supplies, ammunition and food. This was an enormous undertaking in itself. A single underground cache found last year, for instance, contained no less than 2,000 tons of rice. Since the cache was in a huge hole approachable only by a narrow tunnel, all this rice had evidently been carried in on men's backs, bagful by bagful.

Early in 1963, moreover, the first main forces—their nature will be explained in a moment—had begun to be mobilized in the main-base areas. Therefore, long before Diem was assassinated in November, 1963, the Viet Cong leaders had to meet a pretty imposing total budget. Their clandestine second government then controlled no more than about four million of the total South Vietnamese population of 17 million. Few legally established governments of countries having only four million people manage to keep more than 160,000 men under arms at all times, even if their soldiers are paid the merest pittance, as are the soldiers of the Viet Cong.

Such was the position when the Diem regime was brought down by an army coup, and almost the entire structure of government control abruptly came to pieces, for a while, in almost every province. The Viet Cong were thus enabled to surge forward everywhere, and this led to the decision to begin organizing main forces on a really big scale.

Like everything else the Viet Cong had done up to that time, the move to organize the main forces was strictly in accordance with the rule books of Chairman Mao and Gen. Giap. Main forces (the classification is Mao Tse-tung's) bear little resemblance to the simple guerrilla bands that almost everyone envisions when the Viet Cong are mentioned. They also differ sharply from the local forces—the provincial battalions and district companies, which are already well above the guerrilla level—for the main forces have no permanent regional attachments, and their units are much larger and more heavily armed. In fact, they almost exactly resemble regular troops in a regular army. According to the Mao-Giap rules, these main forces have two functions: to help the local forces and guerrillas increase the pressure everywhere, until the established government is visibly hanging on the ropes; and then to strike the knockout blows in big set-piece battles like that which finished off the French at Dienbienphu.

Witn more than 160,000 men already under arms, and with the additional organization of something like a brand-new regular army now decided upon, the V.C. second government obviously had its work cut out. At the outset, all went easily enough. In the secret main-base areas, with their palm-thatched barracks, their deep-dug, jungle-hidden fortifications and their painfully accumulated supply caches, large numbers of Viet Cong cadres and recruits were now assembled for regimental training. The new main-force regiments had a strength of around 1,500 men each. In design they were roughly comparable to regular light-infantry regiments of 30 or 40 years ago, and they had the capability of being joined together in light-infantry divisions for the knockout blows that were expected later. Each regiment was given an attached porter battalion of about 500 men to handle its local supply and transport. To get all these men, recruiting was stepped up in all the V.C. areas of South Vietnam. A major expansion of the supply movement from North Vietnam, down the Ho Chi Minh trail and along the sea-smugglers' routes, was also undertaken to provide the new regiments with their 57 mm. recoilless rifles, heavy mortars, anti-aircraft guns and other crew-served weapons. And many more specially trained cadres were brought down from the Communist North to become officers and noncoms.

By New Year's Day of 1964, at least five of the new main-force regiments already had been recruited, armed and trained. By this time, too, because of their post-Diem surge, the Viet Cong controlled perhaps five million to six million people. Even so, however, the second government's base in the countryside—the Viet Cong infrastructure, as our intelligence officers call it—was still too small to support the ambitious military superstructure that was planned. To complete the plan, the masks had to be dropped. This was the Viet Cong gamble. If Gen. Westmoreland's strategy attains the hoped-for results, this dropping of the masks will be remembered as the moment when the Viet Cong began to lose the war. But it did not look that way at the time.

Until 1964 the Viet Cong had always worn two masks—one to deceive people abroad, the other for the South Vietnamese themselves. For foreign eyes, they had worn the mask of an indigenous movement of social discontent. However, as early as 1956, Le Duan, now first secretary of the Communist party of North Vietnam, had gone south to make preparations for the beginning of guerrilla war, with the aid of many thousands of cadres whom the Communist government in the North had ordered to go underground in the South when the French war ended in 1954. From Le Duan's arrival onward all the higher direction of the V.C. had come from Hanoi. The northern Communist government had also provided large quantities of military equipment and had secretly sent further tens of thousands of cadres to the South to aid and guide the struggle there. But all this was hidden well enough that those who wished could go on claiming that this was "just a civil war."

The other mask, worn to deceive the simple people of South Vietnam, was vastly more important and valuable to the V.C. This was the mask of amiable agrarian reformers—the same mask that the Chinese Communists had worn with such success until they got control of China. Until the critical period we are now examining, the Viet Cong also wore this mask with great success, thereby gaining rather solid popular support in their "liberated areas" and seriously softening up every contested area. The success ultimately depended, however, on something much more important than Communist propaganda or V.C. land reform. It depended on a convincing pretense of government by consent, which was impossible without a considerable degree of real consent. To gain this degree of consent, the Viet Cong promised the peasants, again and again and with utmost emphasis, that there would be *no* V.C. taxation and *no* V.C. conscription.

These promises were approximately kept until the year 1964. Devious, even cruel, tricks were often resorted to, of course. A potential recruit's government identity card would be stolen, for example, and he would then be frightened into volunteering by warnings that the government police would shoot him as a Communist if they ever picked him up. Or an obstinate noncontributor to the Viet Cong war chest would be "struggled with" by V.C. cadres before all the people of his village, and if this public brainwashing did not get results, he might then be shot in the back of the neck as a "spy for the reactionaries and imperialists." But in the main, the V.C. military outfits really were manned by volunteers, which made the average outfit both tough and highly motivated. And in the main, besides road tolls, market tolls and the like, the V.C. tax collectors only asked the people of the villages for "voluntary contributions," which meant that the burden on the peasantry was light and easily bearable.

The trouble was that this semivoluntary system reached its limit with the creation of the first five or six main-force regiments, as did the system of largely concealed aid and direction from the North. If the masks were retained, enough men and resources to complete the war plan simply could not be secured, and both masks were therefore boldly and simultaneously dropped. Beginning in 1964, all the main forces and many of the provincial battalions were completely re-equipped with the new 7.64 mm. family of Chinese-made weapons, which required a supply movement from North Vietnam too big to be hidden any longer. At the same time, preparations also began for the eventual invasion of the South by complete units of the North Vietnamese regular army. Thus the pretense was abandoned that this was "just a civil war." At the same time, and incomparably more important, the pretense of governing by consent was also quite ruthlessly abandoned.

The repeated Viet Cong promises that there would be no V.C. taxation and no V.C. conscription became dead letters. Taxes were sternly imposed on the people of the villages. Quarter by quarter the Viet Cong increased these levies until they became cruelly burdensome. Universal military service was proclaimed for all males from 18 to 36. As the manhunt progressed, the Viet Cong press gangs began rounding up boys of 14 or 15.

All this was a gigantic gamble, for the V.C. had now broken the first and most sacred rule of Mao Tse-tung: Popular support of the guerrilla movement must never be endangered until the final victory. But the Hanoi leaders and the V.C. high command clearly believed that the gamble could never go sour, simply because they were so certain of an early victory—after which, of course, any grumbling in the villages could be dealt with by secret police.

To insure the expected victory, they brought off a feat probably without parallel. Although they were still no more than the second government of South Vietnam, the Viet Cong between January, 1964, and the early spring of 1965 wrung from the unhappy villages enough men and resources to increase the V.C. main forces to 24 regiments. complete with porter battalions, or the equivalent of eight army divisions. Even so, this was not enough to meet the war plan's requirements. Hence the second government undertook the considerable further responsibility of maintaining and providing porter battalions for two complete divisions of the North Vietnamese regular army, the 325th and the 304th, which covertly invaded South Vietnam in late 1964 and early 1965. By the spring of 1965, therefore, besides 160,000 troops in the V.C. local forces and guerrilla bands, the second government could boast a main-force army of the strength of 10 light-infantry divisions. And this new army, with its porter battalions and longer range supply detachments, numbered close to 80,000 men. The achievement was astonishing, but the price was heavy. One can imagine the Viet Cong finance minister—they have one, even if his name is not publicly known—groaning when he learned the true scope of the main-force program. And one can all but hear his colleagues airily telling him not to worry, because victory was just around the corner.

It is almost unknown in America, but the truth is that a Viet Cong victory really was just around the corner in the late spring of last year, months after the situation had been supposedly saved by President Johnson's decision to bomb North Vietnam. Throughout the spring of 1965 almost the whole South Vietnamese army was firmly pinned down in the provinces by the urgent requirements of local defense. In those spring months almost the whole of the army's slender mobile reserve, 13 South Vietnamese ranger and Marine battalions, was also being chewed up by new main-force regiments. By mid-June, after the bloody fight at Dong Xoai, about 60 miles from Saigon, only three of the government's reserve battalions remained in good combat trim. Meanwhile, the Viet Cong had an uncommitted central reserve equivalent to at least five divisions in their main-base areas. No reserves on one side, strong reserves on the other, meant, of course, that the V.C. could win province after province by concentrating in heavily superior force wherever they chose to do so. In this manner they could count on rolling up South Vietnam like a carpet before the summer ended. Then President Johnson upset their calculations by ordering the commitment of U.S. troops on a big scale.

This order had all the elements of a brilliantly successful, if wholly unintentional, ambush, and like every good ambush, in the first place, it was a complete surprise. There had been an earlier surprise in February, when the President gave the order to bomb the North after the Viet Cong attack on the Pleiku barracks. But this second surprise was quite as complete as the first, and it was far more terrible.

Nor was this all. Effective ambushers must never attack the head of a column, nor hold their fire until the column has passed—either way, some of the enemy column may escape. But to open fire on the middle of the column insures that the ambushees can neither advance nor retreat, but must stand and fight and be annihilated. It was this effect that President Johnson's order unwittingly achieved.

In order to see why this was so, it is only necessary to consider what would have happened if the President had committed American combat troops in Vietnam rather more than a year earlier, when the Pentagon first urged him to do so. In that spring of 1964, the harshest and most burdensome period of the second government's main-force program still lay in the future, and the Viet Cong had barely begun to drop their masks. It would still not have been too late for a convincing reassumption of the Viet Cong mask of agrarian reformers, with no need for heavy taxes or press-ganged conscripts. The V.C. could therefore have pulled back and dug in for many more years of less intensive war, on the classical, slowly erosive, elusive guerrilla pattern that they understand so well. There can be no doubt that this is precisely what the Viet Cong would have done if the President had in fact committed U.S. troops a year earlier. The rule books are very strict about this: Mao Tse-tung strongly emphasizes the need for any guerrilla movement to be ready to retreat at once if the conditions of the struggle unexpectedly develop in an unfavorable manner.

But the Viet Cong could not follow this pull-back rule when Johnson at last committed U.S. troops, because the V.C. had already breached Mao Tse-tung's cardinal rule against alienating popular support before the final victory. It is not easy, after all, for any government, legal or clandestine, to pull back and to ask its people to fight onward indefinitely, if the most sacred promises have been broken, and if this has been justified by assertions that the war will end in triumph in a few weeks or months. It is very dangerous, too, for any guerrilla movement to dilute its fighting units with unwilling conscripts, as the Viet Cong had done. In the early summer of 1965, this danger was demonstrated by a first trickle of Viet Cong desertions, previously all but unheard of—a trickle that has now become a near hemorrhage in some units and some areas of Vietnam. Above all, there was the danger in the countryside, where heavy taxes and press-gang conscription had caused the people's former propagandized consent to be widely replaced by sullen acquiescence. This danger was also being demonstrated by the tens of thousands who were refusing to acquiesce. And these people, fleeing from "liberated areas" to government areas, have now become a pitiful refugee army of nearly a million men, women and children. Their flight has even begun to leave the V.C. areas seriously short of hands to till the crops. For these reasons, it was much too risky to pull back, and the second government made its defiant choice to continue the war in the main-force phase.

The same basic considerations that led the Hanoi and V.C. leaders to make this choice also led Gen. Westmoreland to adopt his strategy of "seeking out and destroying" the Viet Cong main forces. When the President's troop commitment abruptly gave Westmoreland the responsibility for turning the tide and winning the war, this careful yet inspired soldier had been studying the Viet Cong for many anxious months. Obviously the V.C. and North Vietnamese main-force regiments, being heavier outfits that could be located and engaged with greater ease, were the most suitable military targets for the incoming American troops. Gen. Westmoreland's chief reasons, nevertheless, for concentrating on the main forces were—and are paramilitary. Westmoreland reasoned that the Viet Cong had made themselves politically vulnerable by breaking the first rule of Mao Tse-tung, and that this vulnerability would increase as war pressures force the V.C. to take more rice and more conscripts from the long-suffering villagers. He believed, therefore, that the already severe strains on the V.C. second government could be increased until its entire structure would crumble. And he planned to precipitate this general breakup of the second government's structure by breaking the main-force backbone of the V.C. Time alone can tell whether Westmoreland is right, but he most certainly still believes he will be proved right—if the accidents of Saigon politics do not tragically forestall the proof.

We have now examined two of the three main parts of the war's military pattern—the gamble taken by the V.C. second government to create its main forces and the ambush effect of President Johnson's troop commitment. If the Viet Cong had not gambled by breaking Mao's first rule on popular support and if they now had a less burdensome and more flexible military organization, I should be making a very different military prognosis.

But these conditions do not now exist in Vietnam, because the rules have in fact been broken. And more rule breaking is the essence of the third part of the war's military pattern, which is the acuteness of the combat problems now besetting the V.C. For the Viet Cong leaders, beyond doubt, this is the pattern's most painful part, since their entire experience has taught them to put an almost religious reliance on the simple fighting rules laid down by Giap and Mao. These tactical rules worked brilliantly well for Mao in China, and for Giap against the French and for the Viet Cong themselves until last year. They built the record, in fact, that still leads people to repeat solemnly that "regular troops cannot defeat guerrillas." Yet these closely studied, carefully defined tactical rules for guerrilla war have all but begun to work in reverse in Vietnam nowadays. This is the most far-reaching single result of the U.S. troop commitment.

Consider, for example, "old never-fail." In the years before 1965, "old never-fail" was the sardonic name used by American officers advising the South Vietnamese army for the guerrillas' surprise-attack-plus-ambush combination. This combination was the principal offensive tactic of the Viet Cong, accounting for over 80 percent of their more showy and damaging victories during all the years when the war was going well for them. First would come the predawn news that mortar shells were falling on an isolated government post, which was surrounded by a strong V.C. force that had crept up under cover of darkness. The government's province chief (the military governor) would hastily organize a relieving force, and the column of troops would move out, as dawn began to break, along the wretched, narrow road leading to the post under attack. Then would come the report that the relief column had been ambushed by another strong V.C. force which had slipped into positions commanding the road's most dangerous sector. Next the radio would fall ominously silent, meaning, of course, that the post under attack had also fallen. And so the government's forces would be further eroded and demoralized, government control would be reduced, and V.C. power and authority would once again grow proportionally.

But "old never-fail" began to work very differently with the end of the rather primitive situation envisioned by Mao and Giap—a situation in which the government had few heavy guns, only the barest minimum of air power, and no air-mobile infantry. This situation ceased to exist in South Vietnam last year. First, a network of heavy-artillery positions was thrown over most of the country, and these were linked by good communications to every government post in the populated areas, and to most of the more remote posts as well. Second, after Pleiku the President not only ordered bombing of

the North, he also authorized direct use of American air power in the South, thereby multiplying the air strength the Viet Cong had to face. And finally, the American troop commitment vastly multiplied the helicopters available for troop lifts.

Today when the Viet Cong attempt "old never-fail," as they still frequently do, the ambushers generally discover that they are really ambushees. The post chosen for surprise attack at once calls in the heavy artillery, and the big guns inevitably slow down the assault. When dawn breaks, U.S. fighters and fighter bombers make their appearance, guided by spotter planes, and unless the Viet Cong break off the attack, they become exposed targets for decimation from the air. If the situation warrants, there may also be a heli-lift of infantry, either to cut off the V.C. surrounding the post, or to take the V.C. ambushing force in the rear.

"Old never-fail" has certainly not become "old always-fail." Nor have their novel tactical handicaps taken all the fight out of the Viet Cong, any more than their widespread loss of popular support has deprived them of the active help of the 10 to 15 percent of genuine Communist converts in their "liberated areas." Only recently they were able to bring up two artillery batteries for an attack on the very outskirts of Saigon—which did not succeed, but did cause much disquiet in the city. And terroristic acts continue in most provinces at a very high rate.

Yet it is deeply meaningful that in the months from last September—when the U.S. troop commitment began to have a serious impact—until late April, when these words were written, the record shows only two victorious V.C. operations much above the petty-terror level. These were the annihilation of a South Vietnamese regiment in a Michelin rubbber plantation early last winter and the more recent capture of the isolated Special Forces post at Ashau on the Laotian border. By contract, the Viet Cong failures have been too numerous to be recalled. These failures have vastly greater meaning, moreover, than might be surmised from newspaper stories of body counts of 50 enemy dead here, 100 in another place, and in another place above 200, after a Viet Cong or North Vietnamese assault has been beaten back. These stories mean that the V.C. are now regularly breaking the next-most-important guerrilla rule after the rule about always retaining popular support.

As Mao and Giap both emphasize, any guerrilla movement lives and grows and has its being by success. Great failures may perhaps be precariously survived, as happended in China at the time of the famous Long March. The rule books nonetheless enjoin guerrilla commanders always to prefer the mere assassination of a village elder to the dramatic capture of a district town, if it is thought that the attempt on the town may risk defeat. Yet the Viet Cong have been floundering forward with great obstinacy and considerable courage, from failure to bloody failure for many months, with few military successes.

These changes in the tactical situation have quite directly affected every type of Viet Cong unit, whether main-force, local-force or guerrilla—for the guerrilla bands are almost always ordered to support the larger operations in their neighborhoods. The main forces—Gen. Westmoreland's prime targets—are the units chiefly affected by another change of great significance. Life in a main-force regiment once offered a good deal to tempt an ambitious young Vietnamese. He belonged to a crack unit, which was a matter of pride. He had been taught to believe in an early victory, and as a main-force soldier he could expect personal advancement when victory was won. Above all, he did not have to endure prolonged hardship. Two or three night marches out from the base, one or two days of fighting at the scene of his regiment's operation, and two or three night marches back to his regimental main-base area—that was about the maximum effort that was normally required each month. The balance of every month was spent resting, training, absorbing replacements and doing meticulous sandtable exercises to prepare the next sally against a government post. And all these weeks between operations were passed in the absolute security of a main base, with its simple but comfortable barracks, its reassuring fortifications, and its food caches.

Today, however, this quite bearable existence has suffered a savage transformation. It began when Gen. Westmoreland called in the B–52's of the Strategic Air Command, with their immense loads of heavy bombs that can penetrate even fortification tunnels 30 feet below ground. Daily since late last summer, the B–52's have been hammering the main-base areas, with such effect, as captured documents have revealed, that the main-force regiments are now under strict orders to spend no more than one night, or at most two nights, in the same place. Long gone, therefore, are each month's restorative stretches of orderly barracks life.

Night after night, the main-force soldiers must bivouac in the jungle or on the mountain slopes. Every day or every two days there is a toilsome march to the next bivouac. These movements cause supply problems, and the men sometimes go hungry. There is little time for rest or training, or any of the other things that keep an outfit happy and in combat trim. In addition, as the American forces in Vietnam have grown stronger, there have been more infantry sweeps through the main-base areas—many of which had not been visited by hostile troops since the beginning of the French war. Supply caches that took months, even years, to accumulate are found and destroyed by our men. Fortifications representing hundreds of thousands, even millions, of man-hours of hard work are discovered and greatly damaged, if not always totally destroyed. V.C. outfits that have sought the base areas' security must either flee or stand and fight against hard odds. In these ways still another cardinal Mao-Giap rule has been broken—the rule that a successful guerrilla movement needs completely secure bases. Without this minimal security, Mao says, any such movement must automatically "deteriorate" into a mere "peasant revolt" which "it would be fanciful to suppose" could "avoid defeat."

From the foregoing follows the final profound change in the V.C. situation. In Vietnam the intelligence gathered has always been substantial, but the South Vietnamese formerly had no way to process intelligence as it came in, much less to respond to it promptly. Nowadays, in contrast, the intelligence gathered has multiplied many times over, partly by freer reporting by the people of the countryside, partly by mechanical means such as airborne infrared devices that spot main-force campfires and the like, and partly by the enormously increased numbers of deserters and prisoners of war. Furthermore Gen. Westmoreland's headquarters has now set up something like a Vietnamese-American intelligence-processing factory, capable of handling several tons of captured documents and several hundreds of interrogations in a single week. Thus it is no longer a case of blind men fighting men who see all too well, as it was for so many years.

The new eyes of the intelligence can even penetrate main-base areas well enough so that each B–52 strike has proved to have an even chance of finding its pinpoint target of barracks and fortifications within the huge surrounding tract of swamp or jungle or mountain forest. Movements of Viet Cong units are also being swiftly tracked if luck is good and the movements are fairly big. Sometimes we have no luck, as with the recent attack near Saigon. Yet good intelligence enabled Gen. Westmoreland to mount no fewer than eight uniformly successful spoiling operations against long planned V.C. attacks in a recent period of only a few weeks. Thus another crucial rule is being broken pretty frequently, for both Mao and Giap lay great emphasis on all guerrillas' need to move absolutely unseen, while watching the smallest enemy movement. Inasmuch as such texts as Mao Tse-tung's *On the Protracted War* and Vo Nguyen Giap's *People's War, People's Army* have always had the standing of scripture for both the Viet Cong and the North Vietnamese, the Mao-Giap prescriptions' rather monotonous failure to work nowadays must be a very shaking thing in itself. The Viet Cong soldiers must be greatly shaken too by the failure of their leaders to find substitute prescriptions that work a bit better. Nowadays a Viet Cong battalion commander getting his orders for another surprise attack-plus-ambush must have the same sinking feeling that the government's province chiefs always used to have when word came in of another predawn assault on an isolated post. For the long pull, an unending diet of many big and little defeats, with only the rarest success to raise the spirits, can in itself prove fatal to the Viet Cong. The strain of declining morale is already grave, as prisoner interrogations reveal, and this strain is bound to increase if Gen. Westmoreland is allowed to pursue his strategy.

These are the principal factors that control the present pattern of the fighting in Vietnam. I would be less confident of their great significance if I had not closely watched the trend of the fighting. When I visited Vietnam in the spring of 1965, one could easily discern American air power's effects on the Viet Cong. But it was equally easy to see that air power alone was not enough, and that the V.C. would win during the summer if the President did not commit U.S. ground troops.

When I visited Vietnam again last September, the full impact of the initial U.S. troop commitment was really beginning to be felt. The fine Marine victory at Chulai had taught the Viet Cong that Americans were not "paper tigers" after all—at any rate, not on the field of battle. The first B–52 raids on the main bases were beginning to show impressive results. It was already clear that the tide had turned, but it was by no means clear as yet how the Viet Cong and their masters in Hanoi would deal with this alarming change.

On this key point there was some divergence between Gen. Westmoreland and the majority of his staff. Westmoreland already suspected that the President had achieved an unintended ambush, and he therefore doubted whether the Viet Cong were free to follow Mao's rules of "advance and retreat." His staff members were almost unanimous in expecting the Viet Cong to follow the rules. This was a disturbing prospect, for a return to classical guerrilla fighting was bound to mean American troops endlessly marching through jungle and over mountains in frequently vain pursuit of mere companies of the enemy. Westmoreland's staff asked "whether the people at home would stand for an endless penny-packet war." If there was any way at all to exhaust American patience and fortitude, endless penny-packet war was surely the most likely way.

These worries were shown to be ill-founded in October, in the obstinate battle for the Pleime Special Forces post, and in the subsequent fighting in the Ia Drang valley, which continued into early November. For days on end, with superb courage and endurance, a small band of men of the Special Forces, both American and Vietnamese, took on and hurled back a greatly superior number of troops of the V.C. main forces. When the

Pleime outpost had been relieved at last, the scene shifted to the Ia Drang valley. Here the men of the 1st Air Cavalry engaged an entire North Vietnamese division, composed of the 32nd regiment, the 33rd regiment, and the 66th regiment, with two V.C. main-force regiments in occasional support. Even by mid-October the number of American combat troops on the ground was not large, and Maj. Gen. Harry Kinnard, commander of the 1st Air Cavalry, could not afford to overcommit his vital division. Hence he never put into the line more than two battalions-plus, the battalions in combat being rotated by helicopter as the fighting went on. On our side, therefore, we did not have as much as a full regiment engaged at any one time, whereas the enemy had three regiments always engaged, with two more to aid them.

As must happen, alas, in battle, 275 men of the Air Cavalry were killed in the weeks the action lasted. But we have since captured the enemy's complete battle plans, and we also have a post-battle critique by the North Vietnamese commander on the scene, who has the pseudonym of Gen. Bai Quan. This evidence reveals that in this single battle the enemy lost the staggering total of 5,000 killed and severely wounded, as well as almost all his heavy weapons. By any test this victory against such odds was a shining feat of U.S. arms, all the more noteworthy because these were near-green American troops.

After the Ia Drang valley no one could any longer believe in an intended Viet Cong pull-back to low-level guerrilla activity. If the V.C. could not or would not pull back, it was clear that they would have to try to go forward. Furthermore, there was increasing evidence of a massive, continuing invasion of South Vietnam by North Vietnamese regulars coming down the Ho Chi Minh trail. Reconnaissance also revealed that the North Vietnamese were urgently improving the trail to make it a truckable highway.

In November, therefore, Hanoi's apparent intention to reinforce the Viet Cong to the utmost led Gen. Westmoreland's staff to make carefully revised estimates of the enemy's maximum capabilities—the maximum military buildup the North Vietnamese government and the V.C. second government could achieve and support. These estimates projected a continuous growth of the enemy main forces in South Vietnam at the rate of two regiments per month until the end of 1966. In other words, the main forces, which had a strength equivalent to 10 divisions when the President committed U. S. troops, were projected to grow to a strength equivalent to about 18 divisions before next New Year's Day.

This projection by Gen. Westmoreland's staff was presented to Secretary of Defense McNamara when he visited Saigon at the end of November. It of course implied a need for a good many more American troops to match the enemy's expected increase of strength. For this reason the new estimates caused a panic in Washington when Secretary McNamara brought them home. Out of the panic grew the President's peace offensive, the pause in the bombing of the North, and other manifestations that presumably helped to renew the Hanoi leaders' slumping faith in their basic theory of American weakness of will. The question remains whether the panic was justified. I think it was wholly unjustified.

My chief reason is based on the situation I discovered when I returned to Vietnam for my most recent visit in February. On the one hand, all was far from perfection on our side. The stability of the South Vietnamese government could certainly not be taken for granted. And the President's hesitant and intricate methods of war-making, combined with the manifestoes of the war's senatorial and other critics, had deprived our men of the absolute confidence in their support at home that American troops in combat always ought ideally to have. On the other hand, however, these imperfections, though serious enough, were powerfully counterbalanced by the situation of the Viet Cong.

The refugee flow from the V.C. areas was increasing; by the end of February the total was nearing 800,000 men, women and children, or close to one sixth of the population that the V.C. had controlled at their high point. Viet Cong propaganda was already publicly denouncing the refugee movement as an imperialist plot to diminish the rice supplies available to the second government's tax collectors. There were symptoms that the V.C. second government's available pool of conscripts had already begun to dry up in more than one province. In Gen. Westmoreland's highly successful Masher-White Wing operation, the two prime-target regiments, the 18th of the North Vietnamese 325th division and the 2nd V.C. main-force regiment, had come south into Bindinh province with the primary intention of taking the offensive—instead they were so badly knocked about that they were put out of action for several months. But P.O.W. interrogations revealed that these regiments' southward move from Quangngai province had the secondary purpose of securing badly needed replacements, since the press gangs had been coming back almost empty-handed.

When I went down to the delta town of My Tho, I discovered the sad plight of the most famous V.C. provincial battalion in Vietnam, called by Hanoi radio the "Ever Victorious Ap Bac Battalion" in memory of a smashing success in the past. The "Ever Victorious" had just suffered two drubbings within two months by the local South Vietnamese troops. Furthermore—and much more revealing—the battalion was now afflicted, according to a large number of defectors, with a desertion rate well above 60 percent per year. Each province in Vietnam is markedly different from the next province, and symptoms in Quangngai and in Dinhtuong, the stamping ground of the "Ever Victorious" must never be exaggerated into nationwide symptoms, yet all this evidence was pretty impressive nonetheless.

The provincial evidence and the immense refugee movement were impressive, above all, because they had no precedents. Even more impressive, and equally unprecedented, was the evidence of the many battlefields. Until hardly more than a year ago, just one Viet Cong prisoner of war or battlefield deserter was so rare a phenomenon that Saigon would be agog about him for days on end, and it was also a real cause for celebration if as many as four or five enemy dead were found on the field of battle. Even today the V.C. and North Vietnamese have not altered the battlefield discipline that requires all killed and wounded to be carried away by their comrades, any more than they have changed their rules against desertion. After the Chulai fight, a couple of hundred Viet Cong corpses were found hidden in a trench where they had been dragged with butchers' meat hooks. More recently, V.C. P.O.W.'s have turned up with loops attached to their clothing to make dragging easier in case of need—a prebattle precaution which must surely raise fighting spirit in a wonderful manner. Thus while others might be unimpressed, I, remembering the quite recent past, was left all but incredulous by the almost daily body counts of enemy dead abandoned on the battlefield, and by the constant news of prisoners of war and battlefield deserters.

It is also worth noting that in the two months of January and February, the body counts reached a grisly cumulative total of 7,352 enemy dead. This means that the true total of enemy killed in action was certainly above 10,000, for although counts made in combat must be discounted for accidental duplication, a big addition must also be made for enemy dead dragged away in continuing compliance with the old discipline. It is also conservative to assume that the total of the enemy's disablingly wounded was double the total of those killed. Hence the overall figure for enemy dead and disabled in January and February alone was probably above 30,000. To this must be added 1,100 P.O.W.'s and battlefield deserters—the latter being troops who seize the opportunity of battle to squat down in a ditch until they are overrun by our men.

To be sure, not more than half these heavy V.C. losses were soldiers of the main forces, for many were porters, guerrillas, local-force troops and even civilians impressed as temporary porters. But even so, it was abundantly clear that the main forces were being very badly knocked about. This was all the more striking because the Ia Drang experience had taught the Viet Cong and North Vietnamese commanders not to court any more set-piece battles. Engaging main forces had therefore become more difficult, since they in most cases had first to be sought out. Altogether the "seek out and destroy" strategy struck me as succeeding beyond all expectations. What is more important, this opinion was—and is—shared by Gen. Westmoreland.

If you look at this war's military aspect without regard to such political factors as instability in Saigon, or hesitancy in Washington to give full backing to Gen. Westmoreland, you have to conclude that the situation is full of promise. To be sure, the enemy is still reinforcing at about the rate projected in the November estimates. To be sure, the very fact that the enemy is still reinforcing means that clearly he intends to use his reinforcements in battle. So there is hard fighting still ahead. But if you make a practical analysis of the V.C. second government's problems, you are driven to conclude that the present enemy reinforcement is like one of those last high raises that losing players sometimes make to frighten their opponents out of a poker game.

The limit on the number of troops the North Vietnamese Communists can send southward is not yet in sight, but the limit is quite clearly in sight on the number of troop units the V.C. second government can sustain in the South. This is why it is wrong to talk about an "unlimited war," and this is also the main reason for believing that we are confronted with something like a desperate last high raise in poker. If you examine the projection of enemy-troop buildup made by Gen. Westmoreland's staff, you find, first of all, that most of the buildup is accounted for by a very large additional invasion of the South by North Vietnamese. This is risky in itself, since many of the southern rank and file of the Viet Cong much resent the overt northern takeover in the South. Second, you find a very puzzling anomaly, in the form of a great increase in the burden of the already overburdened V.C. second government.

In the spring of 1965 the strain of supporting main forces of a strength of 10 divisions was already severe. If the enemy buildup continues until the end of this year as projected by the Westmoreland staff, the strain will be nearly twice as great, for the V.C. second government will be supporting main forces of the strength of 18 divisions. All the strictly military personnel of the main forces are now coming from North Vietnam—but this was already the case in 1965. But now, on the one hand, the V.C. second government has a reduced productive and manpower base, primarily because of the refugee movement. And on the other hand, if the buildup continues as projected, the second government is eventually going to have to provide the main forces with nearly twice as much rice and each month, with at least double the number of men to fill gaps in the regimental ranks, and with close to double the number of men or women

(for women are now being drafted for this purpose) to serve in the ported battalions and the longer range transport detachments. If the strain was already severe in the spring of 1965, what then will be the strain on the V.C. second government by December, 1966?

The answer, I think, is that the present enemy reinforcement has behind it a truly desperate decision—a decision, in fact, to throw in all remaining reserves, and to consume all the remaining stocks of food and other supplies still cached in the main bases, to make one final try for victory. If this be true, we are indeed confronted, with a last high raise. And the maker of a last high raise always loses the game if another player has the resources and the courage to call and raise again.

I believe that we in America have the needed courage, as I know we have the needed resources. To this hopeful observation, however, I must add two brief footnotes. First, a warning is needed concerning that phrase "losing the game." When and if Gen. Westmoreland succeeds in breaking the enemy's main forces, the big war in Vietnam will be over, and the game will really be won. Breaking the main forces will break most of the V.C. power in the countryside. It will not break *all* the V.C. power, however. A little war of mopping-up operations, costing few casualties and needing fewer troops, but troublesome and ugly all the same, may therefore continue for a considerable period. By method and determination, that little war can be won in the end in South Vietnam. But the war planners in Hanoi will still be the masters of the V.C. remnants of the South. They will still have the power to end all fighting by calling home their men. And the prime reason for maintaining a stern, persistent, though not irrational, bombing pressure on North Vietnam is to teach the lesson that the call-home order had better be given as soon as the big war in the South is decisively lost.

Second, despite the hopefulness of the military situation, the war can perhaps be lost somewhere in the dark labyrinths of Saigon politics. Despite all the positive factors, this warning must be reiterated, and the need for American patience with the vagaries of Vietnamese politics must be emphasized.

For close on a century before 1954, the Vietnamese had no experience of self-government. Under Ngo Dinh Diem, they then made considerable progress. As authoritarian governments go, the Diem regime was worthy of considerable respect—for more respect, certainly, than the dogmatic, harsh and gloomy Communist regime in the North—but under Diem, the Vietnamese got their bellyful of authoritarian government in Saigon. A long period of sometimes wild cut-and-try is therefore unavoidable, before the Vietnamese find the mode of government that suits their traditions, habits and outlook. There is nothing to worry about in that—so long as they do not stab themselves in the back during one of the wilder cut-and-tries. For the long pull, moreover, South Vietnam is one of the very richest countries in Asia, with an industrious and talented people who have been forcefully dragged into the 20th century by all the technological lessons of their bitter war experience. So I have no patience with those who ask, "What shall we have in South Vietnam, even if we win?" Every sort of basic factor promises a good future, if the suffering people of South Vietnam can only be granted peace at last. If that time comes, moreover, the United States can not only take the satisfaction of a stronger nation that has rendered loyal service to a weaker ally, we in our country can also sleep more easily in our own beds. For if the northern Communist aggression against South Vietnam is not successfully defeated, there will be another such aggression, and another, and another, until men begin to say, "The line must be drawn somewhere." And thus the Third World War may begin, and that is what we are now fighting to avert.

## THE JOSEPH H. HIRSHHORN MUSEUM AND SCULPTURE GARDEN

Mr. ANDERSON. Mr. President, a bill to establish the Joseph H. Hirshhorn Museum and Sculpture Garden has been referred to the Committee on Public Works. The proposed site is an area bounded by Seventh Street, Independence Avenue, Ninth Street and Madison Drive. As a member of the Board of Regents of the Smithsonian Institution, which would administer the center, I want to thank Senator RANDOLPH for introducing this legislation.

To Mr. Hirshhorn the American people are indebted. His gift of some 4,000 paintings and 1,600 pieces of sculpture are thought to be among the most valuable contemporary collections in private hands. Most of us will try to understand Mr. Hirshhorn's desire to share with others the pleasure these works have brought to him. As a boy his horizons rose beyond the Brooklyn slum in which he determinedly nurtured an early appreciation of the arts. Now Mr. Hirshhorn passes on to the American people the fruits of his aspirations. It is only fitting that these works have their permanent home in Washington—a city whose emergence as a cultural center mirrors the vitality and growth of our 20th century. Certainly, Mr. Hirshhorn follows nobly in the steps of other great humanitarians who have so generously given of themselves.

## AWARD FOR HIGHWAY SAFETY TO INDIANA MAN

Mr. HARTKE. Mr. President, on May 24 Jim Hetherington of WFBM–TV in Indianapolis received the Creative Award for television writers at the annual Alfred P. Sloan Radio-TV Awards for Highway Safety in New York City.

It is my pleasure to read his citation:

Jim Hetherington of WFBM–TV, Indianapolis, Indiana, displayed outstanding creative talent in preparation of the script for an analytical documentary entitled A Cross By The Road. The film explained with dramatic effect the complexity and enormity of the traffic accident problem, yet outlined with clarity the interrelated solutions which can be implemented. Widespread public response to this exceptional film created a better understanding of traffic safety values.

I am proud that Mr. Hetherington and WFBM–TV have received this recognition for their outstanding public service to the people of Indianapolis and Indiana.

The principal address at the Sloan Awards dinner was given by Under Secretary of Commerce Alan S. Boyd. His remarks effectively answer those who would dodge responsibility for mounting a really meaningful attack on traffic accidents by continuing to blame this national disgrace almost entirely on drivers.

Under Secretary Boyd has given the best explanation I have seen of the need to take account of all elements in highway transportation and of directing our efforts to helping motorists avoid accidents, injury, and death.

As he so clearly shows, those who sit back and contend that accidents are caused in almost all cases by bad driving are in effect making excuses for doing nothing constructive about it.

Mr. Boyd shows that there is a way to do something about it, and I believe all my colleagues will be interested in his reasoning. I believe he offers assurance that the various legislative proposals now before Congress can produce a program that will get results for the American people.

I have offered amendments which I believe will improve and strengthen the program proposed by the administration, and I am confident that the Congress will enact a strong, fair and effective bill. We shall continue executive consideration of S. 3005 and the proposed amendments in the Commerce Committee tomorrow.

Mr. President, I ask unanimous consent that Mr. Boyd's speech be included in the RECORD.

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

REMARKS BY ALAN S. BOYD, UNDER SECRETARY OF COMMERCE FOR TRANSPORTATION

(Prepared for delivery at the annual presentation of the Alfred P. Sloan Radio-TV Awards for Highway Safety, at the Waldorf-Astoria Hotel, New York City, May 24, 1966)

There is a normal human tendency to be self-satisfied: to feel that what we are doing now and the way in which we conduct our affairs is good and sufficient. It is often uncomfortable to consider that we can and should improve our activities. But we can step out of our humdrum routine to promote, to inspire, and to educate. Those whom we honor tonight have done this by utilizing the communications media with sensitivity and imagination to promote Highway Safety.

In winning the Alfred P. Sloan Awards you have demonstrated your ability to live up to Mr. Sloan's own high ideals of public responsibility. This sense of responsibility was reflected in his life-long commitment to the cause of highway safety, and the personal leadership he gave to this cause.

Thirty years ago he joined with three other industry leaders in organizing the Automotive Safety Foundation, which he continued to support even after his retirement as an active executive of General Motors Corporation. In 1948, as founder and chairman of the Alfred P. Sloan Foundation, he established these awards to the broadcasting industry, and he continued to participate personally in this program so long as his health permitted.

It is good to take occasion periodically to recognize the efforts spent on traffic safety because those who are devoting their energies to this cause may be tempted to feel that they have been rowing upstream and against a strong current, at that. Tonight's ceremony affords a brief pause to look around and see where we have been and where we are going. I can't leave this simile, however, without urging you not to rest too long on your oars.

We have made considerable progress in this long upstream struggle. Travel on the Nation's roads and streets is almost three times as safe as when the Automotive Safety Foundation was founded—as measured in deaths per vehicle miles.

But it still is far from safe enough. The closer we get to shore, if you will, the stronger the current—because of the enormous growth in population, in drivers, vehicles, and highway usage. The absolute toll in lives lost,

injuries, accidents and damages now reaches new records each year.

The figures are familiar and frightening: Fifty thousand Americans killed in a year; 100,000 permanently disabled; nearly 4 million injured; over $10 billion in economic losses.

You know, and I believe more and more American citizens know, that this national tragedy need not continue. They agree with President Johnson that "we can on longer tolerate such anarchy on wheels."

Earlier this year President Johnson presented a program designed to carry forward a comprehensive, accelerated attack on traffic accidents. Congress now is preparing to make decisions about this program which I am confident will launch a new era in safer highway travel for the American people—provided the program receives the strong and continuing support it must have to be most effective.

First, let me make it as clear as I can that the Administration's approach is positive, not negative.

The Administration has not sought to create scapegoats. It has no script for "good guys" and "bad guys." It has not thought in terms of accusing or punishing anyone.

It has, instead, thought in terms of how accidents, injuries, and deaths can be reduced. We in the Administration are not interested in legislation for the sake of legislation. We are not concerned with organizing elaborate programs for their own sake—or for their propaganda value.

In three words: We want results.

Last April 22 in making an appeal for enactment of the Administration's highway safety bill, President Johnson said:

"The American people are aroused. They want action. We want action, too, but we want it to be fair and intelligent—for the American driver and the great industry that provides his car."

That sums up our goal: to obtain tangible improvements in highway safety, with fairness and intelligence.

This objective has been the guideline in formulating the Administration's proposals. I believe an examination of those proposals will bear me out.

These proposals do not anticipate any easy cure, just as they do not single out any particular villain. They do not prejudice any fact of the safety issue. Rather, they offer a program designed to take full advantage of the progress made to date, and to force the pace in discovering and implementing new knowledge and new techniques that will yield substantial, provable benefits.

The public discussion and debate of the past few months, while they have stimulated a desirable public interest in traffic safety, have tended to center attention on one or two elements of the problem. The Administration's program, on the other hand, considers all aspects.

The scope and direction of the Administration's program has been emphasized repeatedly by Secretary Connor in his appearances before Congressional Committees. I would like to quote from his testimony:

"The program that would be provided by this legislation would devote the needed emphasis and resources to all aspects of the highway safety problem. It is based on the recognition that accidents often are caused by multiple factors—they are frequently the result of some failure of the system which includes the driver, his vehicle, and his environment, including the highway, or the interaction of all three. It does not assume that any one of these elements is more important than the others, and it is not directed toward a panacea-type solution to the highway safety problem.

"The approach of this legislation, besides being directed toward all elements of the traffic safety problem, would include the participation of all levels of the Government—Federal, State, and local—as well as industry and private organizations."

I might add that the legislation was drafted intentionally to be flexible with regard to program, organization and administration, so as to facilitate the full use of existing knowledge and the results of research and development as they become available and as their usefulness is proven.

Specifically, the Administration proposes a broad Federal research and development program in highway safety. The Administration also seeks directive authority to set safety performance standards for automotive vehicles and their components. And the Administration is seeking $420 million over a six year period to assist the States in developing and improving their own comprehensive traffic safety programs under uniform national standards.

The latter provision recognizes the traditional responsibilities of State and local governments with regard to control of the traffic system.

The Federal Government's responsibility to provide leadership and coordination for these State programs was clearly established by Congress last year, in an amendment to Federal-aid highway legislation. Now, the Administration is seeking Federal funds to assist the States in carrying out the objectives of this amendment.

This approach is in keeping with the spirit of Federal-State cooperation which has worked so successfully in the Federal-aid highway program. Through this program the Federal Government has made and is making an enormous contribution to highway safety. It is enabling the States to construct the Interstate Highway System, whose controlled-access freeways are the safest roads yet built. It is assisting the States in their long-range improvement programs for major highways. And now it is aiding them in a priority program for eliminating the danger traps that still remain on Federal-aid highways.

The Federal-aid program, is providing substantial benefits in safety, as well as in faster, more economical, and more comfortable travel.

Still, highways are only one element of the traffic safety problem. The legislation now on the books, as a result of last year's amendment, plus the financial aid requested by the Administration, would permit the development of a comprehensive program, with no aspect excluded.

It would permit a program directed toward the total highway transportation system, and its three basic elements: the driver, his vehicle, and the highway. The States would continue to assume primary responsibility for control of the driver and the highway, but the Federal government would take a portion of the States' responsibility for the vehicle, to the extent that it would assure that new vehicles met minimum safety performance standards. This new role for the Federal Government recognizes the desirability for uniform national standards for manufacturers, rather than separate State standards.

In addition, under its authority to set uniform standards for other areas of State traffic safety programs, the Federal Government could identify the major gaps and weaknesses that exist throughout the country today, and proceed in cooperation with the States to upgrade current programs and formulate new ones as needed.

The goal of the program I just outlined is to get tangible improvements in highway safety with fairness and intelligence. The key to how this program must proceed to get results lies in the concept that accidents and their consequences result from failures of the system which includes the driver, the vehicle, the highway, and their interaction.

While this concept is simple enough to state, its implications are not widely understood. It requires the rather belated application to highway transportation of what is known in engineering as the "systems approach."

The main obstacle to the most effective use of systems engineering in the past, has been the practice of assigning a "primary" cause in accidents—and particularly of blaming most accidents on "driver error." In this way of thinking any accident that a driver may conceivably have averted is *ipso facto* his fault. The way to prevent accidents, then, is to make all drivers perform at all times without error.

Systems engineering, on the other hand, recognizes that accidents can result from multiple causes, in the sense that a cause is any condition existing prior to the accident which it might have been possible or practicable to eliminate, and but for which the accident would have been avoided. In this view, all accident causes are equal if, by the elimination of any one of them, the accident might have been prevented.

Rather than accepting driver error as the "primary" cause of most accidents, systems engineering seeks ways to change the elements of the highway transportation system so that accidents will not occur, or so that their severity will be reduced.

For a simple parallel we can take an illustration from industry. A worker could be trained to operate a dangerous power machine and signs could be posted warning him to work safely. Then if he gets careless just once and maims himself, it is presumably his own fault. On the other hand, the machine could be designed with a protective guard which would make it impossible for him to get hurt.

In highway transportation, the effectiveness of the systems approach has been demonstrated quite clearly by the Interstate Highway System. These controlled-access freeways are consciously designed to prevent many types of traffic conflict and to make driving easier and safer.

They provide separate roadways for opposing traffic with wide medians, or median barriers, to prevent headon collisions. They have no intersections, or cross traffic at grade, thus preventing angle collisions. They have gentle curves and grades and long sight distance. They have wide, paved shoulders and clear roadsides.

On the best of our highways, if a driver loses control of his car for whatever reason—whether he was swatting a bee, lifting his pet dog off the floor, falling asleep, or if he had a "couple of beers"—if he goes off the road, he has a chance of regaining control without slamming into a tree, or rolling into a ditch. What could have been a needless fatality becomes simply an incident.

Or take a case where the vehicle is at fault. If the brakes fail, the driver has a better chance to ride out safely on the Interstate, because there are no intersections, or driveways, or cross traffic, or sharp curves, and there are wide shoulders where he can get out of the traffic stream.

Because safety has been engineered into the Interstate System, the same drivers have only a half or a third as many accidents on the Interstate as they do on conventional highways. This year alone, the Interstate Highways now open to traffic will save the lives of at least 4,000 persons who would be killed if they were forced to use conventional roads.

It is apparent, then, that if we try to understand drivers as they are—with their capabilities and their limitations—we can design highways and vehicles that make their driving more reliable and more effective.

We need to recognize that driving today is a complicated task, that it occasionally requires drivers to make decisions and to act with speed or precision that is beyond their

abilities. We can help them by reducing the difficulty of the driving task or by giving them better tools to cope with it.

System engineering is the way to this objective. It can be effective both in preventing accidents and in reducing the severity of those that do occur. At the present time, for example, highway engineers are experimenting with breakaway sign supports for those obstacles that must remain near the pavement. Research also is underway in the Bureau of Public Roads to develop electronic or mechanical aids for the driver, which could, for instance, inform him when it is safe to pass on a two-lane rural highway, or when he is closing too fast on the car ahead.

The systems approach also looks to changes in the vehicle that will make driving more reliable, or that will prevent or reduce injury and death when accidents happen. And it looks to the interaction of the vehicle and the highway, and to reducing the adverse effects of the environment, particularly of hazardous weather conditions.

By approaching highway safety as primarily a technological problem—and only secondarily as a social or legal one—and by attempting to reduce the demands on the driver, we encounter some raised eyebrows from those accustomed to thinking of accidents in terms of driver error. It has been suggested, for instance, that this approach is somehow immoral, that it relieves drivers of responsibility for misconduct, that it excuses them instead of punishing them.

I do not agree. It is no more immoral than shaving with a safety razor instead of a straight edge.

It does say that the man who makes a mistake, where it is an honest one or pure negligence, need not suffer instantaneous corporal, if not capital, punishment. And that innocent passengers and drivers of other cars need not suffer with him. The drunken, reckless, or irresponsibile driver can be brought to justice through due process of law.

Furthermore, the people we are trying to protect are not, by and large, habitually dangerous drivers. They are not the "suicidal boobs" that self-styled experts like to preach against. Nor are they imaginary. They are, in fact, you and I.

The truth is that the great bulk of accidents involve average, normally responsible drivers. This was borne out quite clearly in an analysis by the Bureau of Public Roads last summer of 150,000 California drivers' records. The study showed that almost an entirely different group of drivers is involved in accidents each year. Removing the repeaters—those who have two or more accidents in one year—would have little or no effect on the following year's accidents.

So, our annual traffic toll is, to an overwhelming degree, an accumulation of rare accidents, occurring to all too many generally good drivers. It is plain, then, that if accidents are to be radically reduced, all drivers—not just the "dangerous" few—must be helped.

This is precisely what President Johnson's traffic safety program is meant to do.

Relating this view of driver error or driver responsibility more specifically to the safety efforts we are honoring tonight, I would guess—and this is an undocumented guess—that most of the traffic safety efforts of radio and TV stations in past years would come under the heading of "driver motivation" or "driver improvement." No one, of course, would deny that there is room for improvement in the general level of driver competence. For that matter, I suppose each of us here could stand to improve his own skill behind the wheel. But while driver improvement is a worthy cause, it must be supplemented by engineering more safety into the highway transportation system.

For this reason, I would urge broadcasters to support safety programs at all levels of government. And I would urge you to review your public service safety efforts, remembering that our objective in mass communications as well as in our operational programs should be to help rather than harass the driver.

I believe President Johnson's proposals provide the means to make such programs a reality. I think they are the basis for an effective safety program that will get results for the American people.

## POSITION OF AMERICAN TELEPHONE & TELEGRAPH ON MILITARY SERVICEMEN'S DEPOSITS

Mr. YARBOROUGH. Mr. President, on May 12, 1966, I called to the attention of the Senate a situation in which telephone company practices with regard to deposits for telephone service were resulting in discrimination against members of the military and their families. At that time, I sent a letter to Mr. F. R. Kappel, chairman of the board, American Telephone & Telegraph Co., urging him to reexamine telephone company policy concerning deposits required of the military.

I recently received a reply from Mr. Kappel. In his letter, he states:

As a result of your calling this to our attention, we have contacted all of the telephone companies in the Bell System again to insure that the transitory nature of the military assignment and the possible high toll usage of servicemen and their families are not made factors in determining the need of a deposit.

In addition, a policy permitting a customer to bring his credit standing with him within the Bell System is being reemphasized.

I have replied to Mr. Kappel today, indicating my pleasure with these actions of American Telephone & Telegraph with regard to deposit policy. I have in addition asked his continuing attention to this subject, to assure that the policies announced are made general throughout the Bell System, wherever servicemen may call upon it for telephone service.

I ask unanimous consent that Mr. Kappel's letter to me be printed at this point in the RECORD:

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

AMERICAN TELEPHONE & TELEGRAPH CO.,
*New York, N.Y., May 27, 1966.*

Senator RALPH W. YARBOROUGH,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR YARBOROUGH: Thank you for your letter of May 20 relative to servicemen doing business with the telephone company. You are certainly right that it is not our intention to discriminate in any way against servicemen. In fact, it is our hope that we could do quite the contrary. I share your concern in this matter and have been personally interested in our treatment of them for several years. During this period we have taken a number of steps to make certain that we did not discriminate in any way against servicemen.

As a result of your calling this to our attention, we have contacted all of the telephone companies in the Bell System again to insure that the transitory nature of the military assignment and the possible high toll usage of servicemen and their families are not made factors in determining the need of a deposit.

You also may be interested to know that a while back we introduced a plan that would in effect permit a customer to transfer his credit standing with him when he moves from one place to another within the Bell System. Since all Bell System companies accepted the plan a serviceman who has established credit with one company should have no difficulty in obtaining telephone service without a deposit at the new location when he moved. We have again taken steps to see that this policy is being reemphasized throughout the Bell System.

Let me assure you that I and my associates share your continuing interest in this subject. I am quite hopeful that renewed emphasis on this matter will resolve the problem.

Sincerely,

F. R. KAPPEL,
*Chairman of the Board.*

## AMERICAN FORK-DRY CREEK WATERSHED WINS U.S. AWARD

Mr. BENNETT. Mr. President, it is with a great deal of pride that I announce to the Senate the selection of the American Fork-Dry Creek watershed of North Utah County, Utah, as the Nation's outstanding watershed of the year by the National Watershed Congress.

This is indeed a signal honor since it is the first time a watershed in the West has received this award. The American Fork-Dry Creek project topped a field of 15 candidates from every region in the United States.

Although this 10-year program is only 75 percent completed, it has already proved a boon to the economy of Utah County and the State.

Congratulations are certainly in order to the six Federal and five State agencies who are cooperating in the project and especially to the eight community, conservancy district, and irrigation organization who sponsored it.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point two editorials from Utah newspapers concerning this award.

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

[From the Salt Lake Tribune, May 18, 1966]

UTAH WATERSHED HONOR SPURS CONSERVATION

National recognition given the largest and in many ways the most important watershed rehabilitation project in Utah should be a boon to conservation throughout the region.

The American Fork-Dry Creek project, involving 118,700 acres of watershed in the Wasatch Plateau and serving the communities of Lehi, Pleasant Grove, Alpine and American Fork, farms and industrial installations, is the first watershed in the West to receive the highest award of the National Watershed Congress. It is appropriate that as the four-million-dollar undertaking nears completion it should be adjudged watershed of the year for 1966 at the 13th annual Watershed Congress in Oklahoma City.

Restoration of this long-time unstable mountainous area has already proved a boon

to the economy of Utah County and the state. Repeated floods from the steep slopes, some of them denuded by early day mining activity, others overgrazed and some naturally barren, have wreaked devastation in the canyons and the valley below. After months of careful negotiation, the rehabilitation project was designed in 1958, mainly by Soil Conservation Service engineers. Work has been under way since on construction of four debris basins to hold back surging waters and reseeding 44,000 acres of denuded lands. The latter was a project of the U.S. Forest Service. Of the total cost, the federal government paid $1,700,000 for engineering and $500,000 for soil conservation. About 80,000 feet of canals and ditches are being lined with concrete to best utilize water. Included in the project is the Silver Lake Flat irrigation reservoir, providing water for late season use. Improvements also benefit wildlife and fish.

Six federal and five state agencies are cooperating in the project which is sponsored by eight community, conservancy district and irrigation organizations.

James B. Craig, editor of American Forest Magazine, presented the Watershed-of-the-Year plaque to Leo P. Harvey of Pleasant Grove, who represented the sponsoring organizations.

This is one of 42 projects in Utah proposed under the National Watershed Protection Act. Only six of these have progressed to the point of authorization for construction. Three applications have been cancelled or terminated, but 14 have been authorized for planning work.

The National Watershed Congress ceremony should stimulate sponsors of other projects in Utah where summer floods are a serious threat.

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[From the Provo (Utah) Daily Herald, May 18, 1966]

AMERICAN FORK-DRY CREEK WATERSHED CONTROL JOB WINS NATIONAL PRIZE

The American Fork-Dry Creek Watershed of North Utah County has been selected by the National Watershed Congress as the nation's outstanding Watershed of the Year, according to Joseph H. Francis, State Commissioner of Agriculture and chairman of the State Soil Conservation Committee.

The 10-year program (launched in 1959) is about 75 per cent completed. Four flood-control reservoirs have been completed and one more—principally for storage—is to be built. Contouring, re-seeding, grazing control and other factors have entered into a comprehensive program for the $4½ million project (local participation is about 50 per cent). The entire area is above the Lehi, American Fork, Pleasant Grove area where serious floods used to plague the areas and where, officials state, flooding has been effectively controlled since the program began to take effect.

FIFTEEN CANDIDATES

The American Fork-Dry Creek Project was selected as the winner from a field of 15 candidates from every region of the United States, including Hawaii. Leo P. Harvey, Pleasant Grove, president of the Utah State Association of Soil Conservation Districts, Tuesday accepted the award at the 13th annual meeting of the National Watershed Congress now in session in Oklahoma City, Okla.

Mr. Harvey, chairman of the watershed committee, has been one of the more active boosters of this comprehensive watershed project from time the application was submitted to its present stage of completion. Mr. Harvey donates many hours of his time and money to keep the project moving toward completion. Marion Green, American Fork, has also given freely of his time to serve as the local contracting officer on the large construction jobs.

APPROVED IN 1959

The American Fork-Dry Creek $4½ million project was approved by Congress and authorized for construction by the Soil Conservation Service in 1959. Approximately 50 per cent of the overall $4½ million cost, is local participation. The North Utah County Conservancy District was organized by the people to help finance the local cost as well as to handle operation and maintenance in future years. Loren Spencer, project engineer, and Gerald Hansen, work unit Conservationist, both with the Soil Conservation Service, have worked closely with the watershed committee to help them with installation.

The 118,710 acre watershed is about 84,000 acres mountainous area and 44,000 valley land. About 59,000 acres of the mountainous area is with the Uinta National Forest. About one-half of the valley acres are good irrigated land. The watershed work plan provides for stabilization of critical areas through the use of special purpose terraces, contour furrows, gully control, range seeding and deferred grazing.

FOUR STRUCTURES

Four large floodwater retarding structures were included to help prevent damage to farm land, irrigation canals, cities and roads. It included plans for accelerating the farm conservation program. Irrigation water management is an important feature. The Forest Service has constructed most of the special purpose terraces, gully control measures, and grass seeding. Cattle use on one part has been changed to sheep use. Grazing use is being regulated so as to permit improvement in the vegetative cover.

The Alpine, American Fork, Lehi and Pleasant Grove Irrigation Companies along with the farmers have installed 75 miles of concrete canal lining and pipeline to convey the water to the fields. This, along with associated structures, has made the control of irrigation water much easier and provides the user with a more reliable water supply. The Soil Conservation Service has provided engineering assistance for this work and Utah Water and Power Board and the Utah County Agricultural Conservation Program have provided financing assistance to the irrigation companies and farmers.

WORK COMPLETED

Combination floodwater retarding and debris reservoirs have been constructed on the Battle Creek, Dry Creek, and Grove Creek drainages. The Tibble Fork structure in the American Fork River drainage will be completed this month. This structure is designed to include a fishery and fish have already been planted. Utah State Fish and Game will manage this man made lake. The multi-purpose reservoir planned for Silver Lake Flat has been designed and remains to be constructed. The Dry Creek structure has already paid for itself during the snow melt periods of 1964 and 1965, officials declared.

The 12 local sponsors, representing the people, are very proud of their project, what has been accomplished and the benefits already derived. This is an excellent example of community benefit.

BASIC STANDARDS

Three basic standards are used by the Awards Selection Committee in arriving at their choice for Watershed of the Year honors:

1. The extent and interest and participation by all agencies and groups within the watershed;

2. The adequacy of the project in meeting all of the natural resources conservation and improvement needs of the watershed;

3. The present status of completion of the project.

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## THE AMERICAN SELLING PRICE IN THE KENNEDY ROUND

Mr. DOUGLAS. Mr. President, one of the crucial issues in connection with Kennedy round of the trade negotiations in Geneva is the entire question of what is known as the American selling price, or ASP.

A number of people from my State on both sides of the issue have written to me about it. I therefore took the opportunity to ask Mr. Christian Herter, Special Representative of the President for Trade Negotiations, the former distinguished American Secretary of State, for the views of his Office on this issue. He has now replied and I believe the answer to these questions are of sufficient significance that they should have widespread circulation.

I therefore ask unanimous consent that Mr. Herter's letter and the position paper his Office has sent to me be printed at this point in the RECORD.

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

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
EXECUTIVE OFFICE OF THE PRESIDENT,
*Washington, June 1, 1966.*

Hon. PAUL H. DOUGLAS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR DOUGLAS: You have requested the views of this Office on the issue of the American selling price (ASP) system as it relates to the Kennedy Round of trade negotiations in Geneva. As you know, this issue has become an important one in the Kennedy Round and has also been the subject of considerable comment both in the Congress and elsewhere.

In order to permit members of the Congress and all other interested persons to consider our point of view, I am enclosing a paper which sets out the position of this Office on a number of the important aspects of the issue of the ASP system.

In particular, the enclosed paper contains the views of this Office on the following questions:

1. What is ASP?
2. Why is ASP an important issue in the Kennedy Round?
3. Has a decision been made to offer the modification of ASP in the Kennedy Round?
4. What authority does the President have to negotiate on ASP?
5. Why shouldn't the authority to modify ASP be sought from the Congress before any negotiation?
6. Will the Congress be presented with a *fait accompli* if an agreement on ASP is negotiated?
7. Will all aspects of any possible concession on ASP be publicly aired prior to any negotiation?
8. Why shouldn't there be a merger of the two Tariff Commission studies which involve ASP?
9. What is the nature of the current discussions in Geneva on ASP?
10. What concessions will the United States seek in return for any concession on ASP?
11. What is the basic question involved in the issue of ASP?

I hope that our answers to these question will lead to a greater understanding

both of the issue of the ASP system and the work of this Office as it relates to this issue.

Most sincerely yours,

CHRISTIAN A. HERTER,
*Special Representative.*

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POSITION OF THE OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS REGARDING THE ISSUE OF THE AMERICAN SELLING PRICE SYSTEM

1. ASP IS A SPECIAL BASIS OF CUSTOMS VALUATION

Section 402 of the Tariff Act of 1930 provides three alternative methods of customs valuation for purposes of computing ad valorem rates of duty on most imported products. The preferred method of valuation is known as "export value", i.e., the wholesale price of the imported product offered in arm's-length transactions in the country of origin. If "export value" cannot be determined, the next method of valuation is "U.S. value", i.e., the wholesale price of the imported product in the United States, less such elements as profit, duty, and transportation costs, in order to approximate "export value". If "U.S. value" cannot be determined, the final method of valuation is "constructed value", i.e., an estimate of what "export value" would be based upon the cost of the product in the country of origin.

These three normal methods of valuation do not apply to four groups of imported products: benzenoid chemicals, rubber-soled footwear (such as sneakers), canned clams, and certain wool-knit gloves.

With respect to benzenoid chemicals, since the early 1920's the tariff law has provided that any imported benzenoid chemical which is competitive with a similar domestic product shall be valued on the basis of the American selling price (ASP), i.e., the wholesale price, of the domestic product. If the imported benzenoid chemical is not competitive, it is to be valued, first, on the basis of U.S. value and, if this cannot be determined, then export value or constructed value.

With respect to rubber-soled footwear, canned clams, and wool-knit gloves, Presidential proclamations issued in the 1930's on the basis of Tariff Commission reports provide that any such imported product which is similar to a domestic product shall be valued on the basis of the ASP of the domestic product. If the imported product is not similar to any domestic product, it is to be valued on the basis of the normal methods of valuation.

Of the four categories of products subject to the ASP system, only the first two are significant in trade terms, with imports of competitive benzenoid chemicals valued at approximately $25 million per year and imports of competitive rubber-soled footwear valued at somewhat less per year.

2. ASP IS AN IMPORTANT ISSUE INTERNATIONALLY AND ESPECIALLY IN THE KENNEDY ROUND

The use of the ASP system has long been criticized by other countries, primarily on the following grounds. First, the ASP system is inconsistent with the customs practice of all our trading partners with respect to non-agricultural goods. Second, the ASP system would be in violation of the standards of customs valuation laid down by the General Agreement on Tariffs and Trade (GATT) but for the fact that the use of the ASP system antedated U.S. adherence to the GATT and was made permissible under a "grandfather" clause in the GATT. Third, the ASP system permits the domestic manufacturer to adjust the protection afforded by the rate of duty by adjusting the price of his product. Fourth, an exporter of a product potentially subject to the ASP system cannot, at the time of exportation, know whether that product will be subject to ASP nor what the ASP will be until it has passed through customs.

In the Kennedy Round, the other participants regard the ASP system as one of the most serious import restrictions maintained by the United States and they are pressing the United States to modify the ASP system. Both the EEC and the U.K. have made modification of the ASP system as it affects benzenoid chemicals a precondition for concessions in their own tariffs on chemical products. Moreover, Japan has laid special stress upon the need to modify the ASP system as it relates to rubber-soled footwear.

3. NO DECISION HAS BEEN MADE TO OFFER THE MODIFICATION OF ASP IN THE KENNEDY ROUND

On March 12, 1966, in Italy and again on March 16, 1966, in West Germany Ambassador Blumenthal stated that "the United States is prepared to negotiate on ASP in the Kennedy Round". Ambassador Blumenthal's statement has unfortunately been misinterpreted as an indication that the United States has decided to offer the modification of the ASP system in the Kennedy Round. This is not the case. Ambassador Blumenthal's statement said no more than the United States has been saying since the Kennedy Round began. This is that the United States is prepared to consider and talk about any trade issue which our negotiating partners wish to raise with respect to either industrial or agricultural products, and we expect them to do the same. In this context, the word "negotiate" is in fact synonymous with the word "discuss".

Only the President can decide whether or not the United States should offer a concession on the ASP system in the Kennedy Round. The President will not make such a decision until exploratory discussions in Geneva afford some basis for determining what kinds of reciprocal concessions the United States might obtain from the other countries, and until the domestic industries concerned, as well as all other interested persons, have had a full opportunity to express their views on both the accuracy and the economic impact of a conversion of the present rates of duty based on ASP.

4. THE PRESIDENT HAS EXISTING AUTHORITY TO NEGOTIATE BUT NOT TO MODIFY ASP

Two separate issues are involved in any consideration of the President's negotiating authority regarding the ASP system.

The first issue is whether the President now has the authority to modify the ASP system pursuant to a trade agreement. The President could not do so without a statutory delegation of Congressional authority, and no such authority is presently available to the President, either under the Trade Expansion Act of 1962 or any other existing legislation. Thus, a comprehensive conversion of ASP rates, whether or not pursuant to a trade agreement, could be accomplished only by Congressional action.

The second issue is whether the President can enter into a trade agreement providing for the modification of the ASP system, subject to a subsequent grant of Congressional authority to permit the agreement to be implemented. Under the Constitution, the President's authority regarding the conduct of foreign relations clearly permits him to negotiate and conclude such an agreement.

In this regard, Senate Concurrent Resolution 83 is to be regretted, because it seeks to cast doubt on the President's clear Constitutional authority to negotiate and conclude an agreement subject to subsequent action by the Congress. Senate Concurrent Resolution 83 therefore raises a false issue and by doing so in no way assists the United States in the Kennedy Round but only serves to obscure an already complex problem.

5. CONGRESS WILL BEST BE ABLE TO ASSESS THE MERITS OF ANY AGREEMENT MODIFYING ASP AFTER, RATHER THAN BEFORE, IT IS NEGOTIATED

It has been suggested that, if there is any likelihood of an agreement providing for the modification of the ASP system in the Kennedy Round, the President should seek authority to implement such an agreement before it is negotiated. In our view, Congress will best be able to assess the merits of any agreement modifying the ASP system, after, rather than before, it is negotiated.

If any agreement is finally concluded, the Congress will be able to assess with considerable certainty the impact of the agreement on the domestic industries concerned, since the proposed modification of the ASP system, including any tariff reductions, will be set out in such agreement. But if the President were to request authority from the Congress to modify the ASP system before any agreement were concluded, he would need flexible authority to carry out effective bargaining. The Congress, in considering such a Presidential request, could not gauge the impact on the domestic industries as clearly or as concretely as if an agreement had been concluded.

Moreover, prior to the conclusion of any agreement, there would be no firm indication of what counterconcessions other countries would be prepared to offer in return for a concession on the ASP system. As a result, if the Congress were to consider legislation providing for the conversion of the ASP system in this session, it could do so only in terms of abstract issues, with no meaningful information concerning particular offers of counterconcessions.

In short, if any agreement providing for the modification of the ASP system is concluded in the Kennedy Round, the Congress would be in a position to explore in detail all aspects of the agreement and to assess its merits comprehensively. In the first place, it would have before it a final set of converted rates and therefore be able to judge their adequacy in terms of specific products and their impact on the domestic industries concerned. In the second place, the agreement would contain a precise statement of the counterconcessions on particular products which other countries were prepared to grant. The Congress could then inquire into and appraise the agreement not as an abstract issue but in terms of the trade interests of the United States.

6. IF AN AGREEMENT SHOULD BE NEGOTIATED ON ASP, CONGRESS WILL NOT BE PRESENTED WITH A FAIT ACCOMPLI

In contemplating the possibility that an agreement involving a concession on the ASP system is concluded in the Kennedy Round, the important question is whether the Congress would be presented with a *fait accompli* and would have no choice but to enact the necessary implementing legislation. This should not be the case for the following reasons.

First, the Congress would be kept fully informed at every step. Before a decision is made whether or not to offer a modification of the ASP system, two public hearings will be held. This will permit the Congress as well as interested private parties to consider the issues regarding any possible modification of the ASP system. Moreover, before a decision is made, the Congressional Delegates to the Kennedy Round will be able to observe the progress of the exploratory discussions in Geneva, as one of the Congressional Delegates did at the first meeting early in May. In addition, the Congressional Delegates will also have an opportunity to follow the conduct of any negotiation concerning ASP.

Second, the Congress would be free to accept or to reject any agreement concerning the ASP system on the basis of its indi-

vidual merits. The United States has already made it abundantly clear and will continue to emphasize that the Congress would, in effect, have to approve any agreement involving the ASP system, and that it would do so only if such an agreement provided mutual and equivalent benefits. Moreover, it is clearly understood that any such agreement will be separate and distinct from the overall Kennedy Round agreement. Therefore, in considering whether to enact the necessary implementing legislation, the Congress would be able to appraise any agreement on its individual merits, without getting enmeshed in the rest of the Kennedy Round.

For these reasons, if an agreement involving the ASP system were negotiated and concluded in the Kennedy Round, at every step of the way the Congress would be fully informed and would be able to consider implementing legislation without being faced with a choice of either approving or disapproving the overall trade agreement emerging from the Kennedy Round.

7. TWO PUBLIC HEARINGS WILL BE HELD SO THAT ALL ASPECTS OF ANY CONCESSION ON ASP MAY BE PUBLICLY AIRED

On June 8, 1966, the Tariff Commission will hold a public hearing on the basis of the preliminary converted rates which it published on May 2, 1966. This will permit the domestic industries concerned, as well as importers and others, to comment on the accuracy of these preliminary conversions and to probe all the technical problems which such conversions entail.

Some time in September a second public hearing will be held on the basis of the final converted rates proposed by the Tariff Commission. The purpose of this second public hearing will be to permit all interested persons to speak to the economic impact of substituting the new converted rates for the present ASP rates and of a possible 50% reduction in such new rates. In the winter of 1963–1964, the Tariff Commission and the Trade Information Committee held hearings at which the domestic industries concerned with ASP spoke to the economic impact of reducing the present ASP rates by 50%. Prior to any offer concerning the ASP system, the domestic industries, in particular, should obviously be given an opportunity to speak to the economic impact of eliminating the ASP system as a system and reducing the new rates by 50%.

By virtue of these two hearings, the domestic industries and all other interested persons will have a full and fair opportunity to present their views on the important aspects of any possible concession on the ASP system. The President will make no decision to negotiate on this matter until such hearings have been completed and the results have been fully analyzed.

8. A MERGER OF THE TWO TARIFF COMMISSION STUDIES INVOLVING ASP IS NEITHER DESIRABLE NOR POSSIBLE

The Tariff Commission is presently conducting two investigations which involve the ASP system. First, purusant to the President's request which was transmitted by this Office on December 23, 1965, the Tariff Commission is preparing a conversion of existing rates based upon the ASP system to new rates based on normal methods of valuation which will yield approximately the same amount of duty. On May 2, 1966, it published a list of preliminary converted rates and, after a public hearing, is expected to submit the final list of converted rates to the President in the latter part of July. Second, pursuant to a request of the Senate Finance Committee made on February 9, 1966, the Tariff Commission is studying all methods of valuation, including the ASP system, used by the United States and by the principal trading partners of the United States. It is to submit a preliminary report on June 30, 1966, and a final report on February 28, 1967.

It has been suggested that no action should be taken on ASP in the Kennedy Round until the Tariff Commission has not only completed the study requested by the President but has also finished the investigation requested by the Senate Finance Committee. This suggestion is unsound for two reasons.

First, it does not appear that anything would be gained by a merger of the two studies. The ASP system is quite separate and distinct within the overall U.S. system of customs valuation. It is restricted by law to only four categories of products—benzenoid chemicals, rubber-soled footwear, canned clams, and certain wool-knit gloves. Together, these products account for a well-defined and relatively small proportion of total imports into the United States. In addition, the general characteristics of the ASP system are well known and have been the subject of proposals by the Executive Branch and groups outside the U.S. Government for a number of years. Moreover, it is certainly feasible for the Tariff Commission to convert rates of duty based on ASP without in any way being required to make a general investigation of U.S. methods of customs valuation or those of other countries. Finally, it is not clear that the overall study requested by the Senate Finance Committee would be at all improved by including within it the narrow and special task of converting ASP rates.

Second, and perhaps more importantly, if there is to be any negotiation on the ASP system, it will certainly have to take place well before February of 1967, when the Tariff Commission must submit its final report to the Senate Finance Committee. Given the present time schedule of the Kennedy Round, which is becoming increasingly tight, the President must be in a position to decide whether or not to negotiate on the ASP system no later than early fall. Indeed, if the Kennedy Round is to be concluded within the time presently allowed by the Trade Expansion Act of 1962, the multilateral trade agreement must be substantially worked out by February of 1967, in order to allow the necessary time in which to record the numerous and complex concessions and to permit all the countries concerned to obtain final approval from their governments. Thus, simply as a matter of timing, it would be out of the question to postpone any possible negotiation until after the completion of the study requested by the Senate Finance Committee.

9. THE DISCUSSIONS IN GENEVA ON ASP ARE PURELY EXPLORATORY AND IN NO WAY CONSTITUTE NEGOTIATIONS

In Geneva on May 3, 1966, in a special group dealing with chemicals, the United States began to discuss the ASP system as it relates to benzenoid chemicals, and to explore the possibility of offering a concession on the ASP system which would take the form of a conversion of rates based on ASP to equivalent rates based on normal methods of valuation.

These discussions were begun because it was concluded that, by beginning an exploratory discussion of the possibility of converting ASP rates, the United States can achieve two significant objectives. First, the United States can demonstrate that it is indeed prepared to discuss in considerable detail what some regard as a significant trade barrier, thereby strengthening its ability to ask the same of other countries. Second, and more importantly, the United States can succeed in shifting the debate on ASP and ask other countries what they would be prepared to offer as counterconcessions for any such concession on the ASP system. This should reveal how significant the ASP system really is to the Europeans, insofar as it relates to benzenoid chemicals.

At the same time, these discussions will not prejudice in any way a final decision on the ASP system with respect to benzenoid chemicals or any other product. At the meeting in Geneva which began on May 3, 1966, Ambassador Blumenthal made a number of points in this regard. He stated to our negotiating partners that any discussions at this stage are purely an exploration of what might be feasible. He made it clear that they are in no way to be taken as constituting a formal offer on the part of the United States, or even a commitment to make such an offer at some future date. He also emphasized that the conversions under discussion are wholly tentative and subject to change, and that any comments on the accuracy of such conversions should be addressed solely to the Tariff Commission. Moreover, he stressed the fact that the technique of converting ASP rates is the exclusive task of the Tariff Commission and is not to be the subject of negotiation in Geneva. Finally, Ambassador Blumenthal stated that any comprehensive conversion of the ASP system would have to be submitted to the Congress for its approval, and that our trading partners must be willing to specify significant offers before the United States will decide whether or not to offer a concession on ASP.

10. IN ANY NEGOTIATION ON ASP THE UNITED STATES WOULD SEEK CONCESSIONS OF BENEFIT TO THE DOMESTIC INDUSTRIES DIRECTLY CONCERNED

If the United States should offer a concession on the ASP system in the Kennedy Round, it will seek reciprocal concessions of benefit to the domestic industries directly concerned with ASP. This has already been made clear to all countries with respect to benzenoid chemicals. Ambassador Blumenthal has emphasized that, if the United States were to negotiate on the ASP system, the Europeans in particular would have to make significant offers of concessions with respect to chemicals.

With respect to rubber-soled footwear, on the other hand, the domestic industry apparently does not believe that any concessions granted to the United States on such products would be of any value to it. This does not mean, however, that for this reason alone the United States should refrain from negotiating on the ASP system as it affects rubber-soled footwear. It is not and has never been U.S. policy in any trade negotiation to exchange tariff concessions only on identical items. The purpose of the Kennedy Round, like all the trade negotiations which preceded it, is to achieve a significant liberalization of world trade, on the ground that this serves the national interest. Any negotiation which was based on a principle of article-for-article reciprocity would yield very meager results. Thus, it is possible that the United States might negotiate a concession on the ASP system as it relates to rubber-soled footwear in exchange for concessions which would benefit other industries with markets in the foreign country or countries concerned.

It should be emphasized, however, that a decision whether or not to offer a concession on the ASP system as it relates to rubber-soled footwear, or any other product, would be made only after the most careful analysis of the economic impact of such a concession. In particular, it is clear that the recent decision of the Department of the Treasury concerning the determination of ASP as it relates to rubber-soled footwear constitutes a unilateral tariff reduction. Special consideration would be given to this factor before any final decision was made with respect to rubber-soled footwear in the Kennedy Round.

11. THE BASIC QUESTION WITH RESPECT TO ASP IS NOT ASP ITSELF BUT THE PROTECTION IT AFFORDS

In our view, the ASP system should be considered in terms of its protective effect and the needs of the domestic industries concerned, and not in terms of the alleged sanctity of the system as such.

Accordingly, the Tariff Commission has been asked to devise new rates of duty based on normal methods of valuation which will yield an amount of duty approximately equivalent to that provided by the present rates of duty based on ASP. Following publication of the final rates proposed by the Commission, a public hearing will be held with respect to the economic impact on the domestic industries of such a modification of the ASP system and the possible reduction of the new rates by 50%.

This procedure is designed to achieve the widest possible exploration of the basic issue regarding the ASP system—its protective impact and the needs of the domestic industries. Such exploration will, we believe, dispel much of the rhetoric regarding the ASP system and permit reasoned consideration of the trade interests of the United States.

## NATIONAL SECURITY FOOD AND FIBER ACT—S. 3306

Mr. TOWER. Mr. President, the great and excessive surpluses of agricultural commodities which used to glut this Nation's warehouses several years ago are apparently now a thing of the past. In a speech on this floor on the 27th of April, my very able and distinguished colleague on this side of the aisle, Senator PEARSON, presented dramatic statistical proof that the total stocks available of wheat in the Nation are now lower than at any time since the height of the Korean war.

At the same time, the decline in corn reserves has been even more drastic. The total stock of Commodity Credit Corporation corn was at April 1, the lowest inventory recorded since 1949.

The gentleman from Kansas also pointed out the reserves of other food products have been sharply depleted, and in many cases are presently at their lowest for the past decade or longer.

This situation is a source of some consternation to me and should be of concern to all Americans, in view of our present conflict in Vietnam and our commitment to the freedom of the people there. It is imperative that sufficient stores of foodstuffs be maintained in our granaries so as not to jeopardize our military position.

We must always have on hand sufficient stores of food to meet wartime conditions, and as we are presently involved in operations in South Vietnam we cannot foresee where we may next be requested to help maintain freedom. There is a year's lag between the time when the need for additional commodities is realized and the time when stocks of agricultural commodities can be expanded. A major crop failure could leave the Nation and our fighting men stranded without adequate supplies, unless steps are taken—such as those embodied in the Pearson bill—to assure adequate reserves.

Accordingly, on May 3, Senator PEARSON's concern in this matter prompted him to introduce S. 3306, the National Security Food and Fiber Act.

This legislation, Mr. President, provides for the establishment and maintenance of reserve supplies of agricultural commodities for national security reasons. I wish to second Senator PEARSON's comments, and voice my support of his meritorious bill which I am privileged to cosponsor.

S. 3306 would specify quantities of agricultural products which the Secretary of Agriculture would be directed to maintain each year as a carryover from the preceding year. Thus, declaring the specific commodities and naming the reserve levels which are to be observed, S. 3306 serves clear notice of congressional intent and removes from the executive branch the power to manipulate surplus stocks in the marketplace so as to achieve de facto price controls by dumping commodities on the market.

The commodities and reserve levels spelled out in S. 3306, were suggested by the National Agricultural Advisory Commission and were endorsed in hearings this year by Secretary Freeman. I would be considerably more at ease if I knew, Mr. President, that the Department of Agriculture will not be able to set price ceilings on agricultural commodities because the Congress had the foresight to enact legislation to achieve the purpose of maintaining reserves for national security purposes without granting additional authority which could be used to further the war on farm prices.

Inflation, I have pointed out many times, is the result of the Government's general money policies and is not the result of rising prices.

If the public is going to have to bear the brunt of inflation brought on by the Federal Government, then it will have to bear it; but it should no more be shifted to the shoulders of the farmers than it should to the shoulders of other innocent businessmen.

## ARTHUR HOLLY COMPTON MEMORIAL

Mr. SYMINGTON. Mr. President, recently in St. Louis, Washington University established a living memorial to its former chancellor, the distinguished scientist, Arthur Holly Compton.

Most appropriately the university created a new laboratory of physics, dedicated to the memory of the preeminent experimental physicist, and director of the work resulting in the first atomic chain reaction.

It was at Washington University that Dr. Compton carried out experimental work on scattering of X-rays in the early 1920's. This laid the basis for the now famous Compton-effect, the discovery of which earned him the Nobel Prize for physics in 1927.

On the occasion of the dedication of the Arthur Holly Compton Laboratory of Physics, Dr. Glenn T. Seaborg, chairman of the U.S. Atomic Energy Commission, made a moving tribute to Dr. Compton.

Because I believe his remarks and reminiscences about the great scientist will be of interest to my colleagues, I ask unanimous consent that they be inserted at this point in the RECORD.

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

OF ARTHUR HOLLY COMPTON—SOME REMARKS AND REMINISCENCES

(Remarks by Dr. Glenn T. Seaborg, Chairman, U.S. Atomic Energy Commission, at the dedication of the Arthur Holly Compton Laboratory of Physics, Washington University, St. Louis, Mo., May 4, 1966)

It is a great honor and a real pleasure for me to speak to the distinguished group of administrators, educators and scientists who have gathered here today to honor the memory of Arthur Holly Compton. No more fitting memorial to my friend and yours could be created than to have his name linked to a building like the one we are dedicating today. In this building men of science—those already of great accomplishment and those aspiring to such—will share with Dr. Compton, in accordance with the basic purpose of Washington University, the building of an enduring civilization where men and women rise to the best that is in them.

As was well recognized by those who wished to honor the memory of Arthur Compton, it is particularly appropriate that this memorial should take the form of a laboratory of physics. Arthur was pre-eminently an experimental physicist. He had a burning desire to learn the facts of nature and to find their meaning. He was equally at home in the laboratory and in the development of bold theoretical concepts to interpret the experimental results which he obtained there. His unbounded confidence in both his experiments and his interpretation of the results brought him into sharp controversy with some of his contemporary fellow physicists on two occasions in two widely separated fields, x-rays and cosmic rays.

Arthur Compton's experimental work on scattering of x-rays carried out here at Washington University in the early 1920's laid the basis for the now famous Compton-effect, the discovery of which earned him the Nobel Prize for Physics in 1927. But it required much experimental and theoretical checking before his concept of "billiard-ball" collisions between protons and electrons was accepted by some of his more skeptical colleagues.

At the height of his triumphs in the field of x-rays, he decided that most of the fundamental work in this field had been accomplished, and abruptly switched his attention to the new and more exciting field of cosmic rays. As might be expected, his first interest focused on trying to find out something about the nature of these rays. The principal question in this regard in the early 1930's was whether the cosmic rays consisted of uncharged photons (the "birth-cry" of matter in far space) or of charged particles. It seemed to Arthur Compton that the best way to tackle the question would be to find out if the earth's magnetic field had any effect on the intensity of the cosmic rays. That was a big undertaking because the entire globe had to be the laboratory. But Arthur was equal to the occasion, and organized systematic measurements of cosmic rays by widely-spread expeditions on several continents. When his analyses of the global results convinced him that there was indeed a latitude effect of cosmic rays, showing that they consisted of charged particles rather than photons, he again found himself in controversy with those whose experimental results had revealed no latitude effect. And again his experimental results and conclusions were vindicated by subsequent experiments of others.

No doubt most of you are quite familiar with the story of Arthur Compton's life and the details of his major accomplishments, but perhaps on his fitting occasion you will

let me add a few footnotes to the Arthur Compton biography—footnotes derived from some personal reminiscences of my associations with Compton the scientist and Compton the man.

I count it among the most fortunate circumstances of my life that I had such a fine association with Arthur Holly Compton over so many years. I was familiar with Arthur's work since my college days, many years before I had the pleasure of meeting him and working with him.

My first meetings with Arthur Compton were just casual ones, but the one that I would count as really my first important meeting with him occurred in February of 1942. And this one I recall vividly. It was at a time when the Metallurgical Laboratory was just being set up at the University of Chicago. Plans were being made for the production of plutonium in quantity. A conference had been arranged to discuss the problems of the chemical extraction of plutonium after its possible production by the nuclear chain reaction operating with uranium. Arthur said he would like me to come from Berkeley to attend the conference and I, of course, was pleased to have the opportunity.

I have vivid memories of this particular conference for it was here that I was faced for the first time with the enormity of the problems connected with the extraction of plutonium from the large quantities of fission products that would be present in the uranium as a result of its undergoing the chain reaction. I remember that we discussed a number of possible methods of chemical extraction. In answer to a typically direct question from Arthur as to whether I thought the development of such an extraction procedure would be possible within the severely restricted time limitations involved, I replied that I thought it would. I also remember that I had some private doubts about such a fantastic proposition, but I did not think it appropriate to express any lack of confidence in my part of the job in the face of Arthur's tremendous enthusiasm about the whole project.

I believe that Arthur Compton may have had far more faith in me at that time than perhaps I had in myself, for in reading his autobiography, "Atomic Quest" some years later, I came across the following passage relating to the plutonium extraction question.

". . . I went with Bush and Conant to lunch at the old Cosmos Club. In the table conversation I remarked that we should give further thought to the production of plutonium as an alternative to the separation of uranium 235. In spite of the unknown difficulties in establishing a controlled nuclear chain reaction, did not the advantage of chemical extraction in the case of plutonium instead of isotopic separation in the case of U-235 make this process a worthy competitor? Bush called attention to the obvious uncertainties that lay in putting into production a kind of process that was completely unknown to industry and which had yet to be shown possible in the laboratory. Conant added that, even if we could produce the plutonium, we knew almost nothing of its chemistry. Even when we had this knowledge the task of extracting the plutonium from the uranium would be greatly complicated by the intense radioactivity. It would take years to get the chemical extraction process in operation. This was Conant, the expert chemist, speaking from experience.

" 'Seaborg tells me that within six months from the time the plutonium is formed he can have it available for use in the bomb,' was my comment.

" 'Glenn Seaborg is a very competent young chemist, but he isn't that good,' said Conant.

"Actually the time from pulling the last activated slugs from the Hanford piles until the metallic plutonium that they contained was ready for use at Los Alamos for the first bomb turned out to be hardly two months."

That is the end of the quote from Arthur's book, and I am still grateful to him for his confidence.

It was only about two months after my conference with him that Arthur asked me to move from Berkeley to join him at the Metallurgical Laboratory to take charge of the work that would be required to develop such a chemical extraction process for plutonium. I remember that I arrived in Chicago on April 19, 1942, which happened to be my 30th birthday. This also happened to be an unusually dark and dreary day, and I recall having some misgivings as to my judgment concerning the change in climate that I had elected.

My relationships with Arthur during the next three years, while the many difficult problems in the production and extraction of plutonium were being worked out, were very close. He was the type of person whose door was always open in order to discuss the many problems involved.

I could tell you many, many stories about the Metallurgical Laboratory days but I do not feel that I should spend my time here today in such an occupation. One incident, however, is worth relating at this point because it brings to mind Arthur's tremendous power of concentration. On a cold, stormy wintry night, I believe that it was in January or February, he walked over from his office in Eckart Hall on the University of Chicago campus to my office in the New Chemistry building on Ingleside Avenue adjoining the campus. After our talk in my office on a subject which I cannot now recall, we continued our conference as we walked down Fifty-seventh Street on our way to our homes. The going was treacherous and I recall that at one point he slipped on the ice and fell head over heels to the sidewalk. He got up with amazing speed, and, totally unconcerned, continued without noticeable interruption to the end of the very same sentence he had had in progress before the incident.

I remember that during that period at the "Met Lab" my wife, Helen, had an especially close relationship with Betty Compton in connection with Betty's many activities. Betty was Treasurer of the Chicago Metropolitan Y.W.C.A.—an organization with a sizeable budget, and she interested a large number of "the Project" wives in her project.

The relationship of Helen and myself with Arthur and Betty Compton did not cease with the successful completion of the tasks of the Plutonium Project. We had many contacts since that time.

After Arthur took up his duties as Chancellor here at Washington University I visited the campus on numerous occasions. Immediately after the war he brought Joseph Kennedy, my close associate at Berkeley who had participated with me in the discovery of plutonium, to the University as the chairman of the Chemistry Department. Arthur Wahl came to the University as a member of Kennedy's department at about the same time and is still here, his fine reputation as a nuclear chemist having been enhanced recently by receipt of the American Chemical Society's Award for Nuclear Applications in Chemistry. As you know, Wahl worked as a graduate student with Kennedy and me in the discovery of plutonium—and surely Art Wahl's is one of the historic Ph.D. theses of all time. So, because of my various associations here, I have had a number of reasons to visit Washington University in the past and have taken advantage of my opportunities to do so.

I might add that there is also another important connection between Washington University and plutonium. During the early days of the war and of the Plutonium Project, the Washington University cyclotron was used for the preparation of important amounts of plutonium. These were weighable amounts, hundreds of micrograms, huge by the standards of those days and very important to the success of the Project.

In thinking back on my associations with Arthur Compton I remember particularly that he and I served as members of the Historical Advisory Committee of the Atomic Energy Commission, and that Arthur was an especially great aid to Hewlett and Anderson in the advice he gave them with respect to Volume I of the history of the Atomic Energy Commission, "The New World." I can recall vividly a meeting of the Historical Advisory Committee held in Richland, Washington, in the summer of 1960. At a huge public gathering held in the Village Theater during the evening, also attended by Betty, Arthur and I shared the platform to reminisce about the wartime Plutonium Project and to share our thoughts on its present and future consequences. The discussion went on to explore the rich area of the philosophy of science and it showed Arthur at his best.

In addition to these high moments, there were many other times of pleasant personal association and times when we were in contact on a variety of matters. In connection with my duties as Chancellor of the University of California at Berkeley, I arranged, with the help of Dr. Edward W. Strong, an outstanding professor of philosophy on the Berkeley campus, a visiting professorship for Arthur to discuss the relationship between science and philosophy. These two eminent scholars were most interested in developing this field. Arthur and Ed struck up an immediate and firm friendship, and Arthur was actively engaged in this field of endeavor to the last day of his life.

Arthur was always interested in athletics. He played football in college—most, if not every game attended by Betty—and he always maintained his enthusiasm for the game. He and Betty attended a football game at Berkeley with us when I was chancellor and, although I fancied myself as somewhat of an expert, his greater understanding of the fine points of the game was readily apparent.

Arthur loved children and they shared his feeling. I remember the trouble to which he went, when our youngest child was a baby, in taking some color photographs of her. His prints are among the finest pictures we have.

I have recalled something of Arthur Compton, the man, as I was privileged to know him. But in dedicating this laboratory to his memory, I think it appropriate to say something about a few of the great general values which, we all know, motivated Arthur Holly Compton throughout his long, useful and inspiring life.

A wise aim of mankind is to realize to the greatest possible degree a reverential acceptance of man's modest place in the universe; Arthur Compton was keenly aware of this important goal. In his attempt to obtain a mastery of the processes of physical nature, he never lost sight of the great needs of mankind for artistic creation and appreciation. His moral aspirations were of the highest, leading to a progressive embodiment of social statesmanship.

Science, whose aim is to understand Nature, starts with the supposition that Nature can be understood by reason. Our understanding of Nature has advanced most rapidly when inquiring scientists conducted careful experiments to observe and record the behavior of physical entities under controlled conditions. Arthur Compton saw scientific research as a search for truth and this search played a central role in his life. In his reminiscences "A Life in Science" he states:

"The part of my scientific study that I have most enjoyed has been this effort to discover new truth. Nothing has given me greater satisfaction than such research.

From childhood until I was forty-eight years old the uncovering of truth about the world of nature was my life commitment. And I am sure that few people have found greater enjoyment in the quest for truth."

Although sponsored by society, the scientist working in highly objective fields, like mathematics and physics, is often constrained, even compelled, to carry out his technical tasks without consideration of the social, political, religious and economic consequences. Compton, however, recognized that, as a scientist, he was a member of a society that encouraged and supported scientific activities. He also recognized that society in general is responsible for what it does, or fails to do, with the scientific discoveries placed at its disposal. As a scientist, Compton knew that he had a special responsibility as a member of society. He believed that most scientists, because of their special knowledge of the facts, could be expected to recognize and foresee the consequences of their discoveries to a greater degree than could the non-scientific oriented individual, and thus they would have to assume more and more responsibility as science played a growing role in the affairs of our society. Discussing the role of the scientist in his reminiscences he said:

"The scientist is commonly thought to be a man apart from the main body of citizens. This is an error made by the critics of scientists and not infrequently by certain of their defenders. The fact is that science as the growth of knowledge is an aspect of life shared in differing degree by all moderns, and respected by nearly all. Scientists are merely those citizens whose lot it has been to make especially close study of certain aspects of knowledge and, in most cases, to use the knowledge of science as a basis of living."

Compton knew that we live in an interdependent world where it is necessary for all of us to adapt ourselves to the rapid change brought about by science and technology. He recognized also that the scientific laboratory had outgrown the stage when good work could be done with simple collections of glassware, microscopes, agar plates and the like. It was clear to him that accomplishments for the betterment of mankind were possible only by full cooperation among specialists in many fields, each working to enable the group to achieve a common goal. His leadership in the Plutonium Project has become a classic example of the team approach to difficult and complex problems. At the same time, however, he realized the importance of the personal contribution of the individual, either working alone or as a team member, in achieving a common goal. He saw in the success of the team approach to the solution of scientific problems, a valuable pattern for society as a whole to follow and recognized the search for truth as a cooperative process in which every step on the road to the solution of a problem presupposes the validity of all previously taken steps and prepares for all new steps to be taken in the future. Perhaps his philosophy about the role of the individual and the interdependence of individuals in today's society is best summed up in a statement he wrote about their relationship in terms of his own career:

"As I think back on these early experiments, one matter strikes me forcibly. It is the contrast between my first airplane experiments, which were done entirely with my own hands and with a minimum of contact with others working in the same field, and my last major engineering or scientific job, which was the atomic reactor, where thousands of people were engaged using the best available tools, and my part consisted largely in organizing the activities and the thoughts of the scientists who were concerned with getting the job done. In the thirty-three years that intervened my own scientific work, like that of the nation, went through all the stages from primitive pioneering, where one's own individual skill and resourcefulness, not only in ideas but also in handcraft, was the basis of success, to what has now become a vast enterprise in which each individual contributes a small but expert part, but in which, nevertheless, the originator of the idea has still to take the responsibility for it."

The example which Arthur Compton set for us on the high value of the search for truth inspires us all. The need to satisfy the ever-increasing number of people wanting an education and Compton's personal dedication to the development of the inherent value of every person, led him to take on the important position of Chancellor of Washington University. He recognized that the ideal of a great American university rests entirely on the theory of the dignity of the human spirit. This ideal is the very embodiment of democracy; it emphasizes the individual.

His prophetic religious background. which formed the roots of his ethics, led him to grasp fully the necessity for developing an awareness of the unity of nature in young and eager individuals.

He knew that the development of the fruits of nuclear energy would bring with it new breadth and new depth to the engineering and scientific professions. He felt strongly that we must achieve an increased level of scientific literacy among our people.

Today, we see embodied in the Arthur Holly Compton Laboratory of Physics an edifice which is not only the culmination of the efforts of its material constructors, but also a monument reminding us of the theory of the dignity of the human spirit, of the concept of truth, and of the high value of the search for truth. Those who work in its halls will realize, from the great example of Arthur Holly Compton, that their obligation is to accomplish those scientific tasks that are new and hard and deep, because such deeds are essential to the physical, mental and moral advancement of men and women everywhere.

The Arthur Holly Compton Laboratory of Physics will serve this fine university, and ultimately the world of science, in several ways. These well-planned new facilities will naturally be a tremendous asset to the current staff and students of the physics department. And, as I have been advised, the new facilities will also provide for the admission of more students to both the undergraduate and graduate physics programs. Arthur Compton would have appreciated both these assets, as he knew, like most of his colleagues—perhaps more so—the need a scientist has for adequate working space and equipment, and was keenly aware of our nation's need for an increased flow of well-trained scientific talent.

In addition to these important assets, the facilities of the Compton Laboratory will aid in the coordinated growth of the university's science programs by helping the physics department in its cooperative work with the Department of Chemistry and the School of Engineering and Applied Science. Certainly this is significant in view of today's need for a greater interdisciplinary approach to our scientific and technological development. As an administrator of what was one of our country's largest scientific endeavors, Arthur Compton could also appreciate this aspect of the role to be played by a building bearing his name.

In conclusion let me add just a few thoughts on the general role of physics in our lives today and, therefore, perhaps the overall significance of the laboratory we are dedicating today.

Arthur Compton was among those geniuses of science whose work, building on that of their predecessors, was directly responsible for a dramatic surge of activity in physical science and its accompanying impact on society. In the birth of the Nuclear Age the world witnessed, and has yet to be fully reconciled with, a new relationship between theoretical science and technology. I believe nuclear physics offers an outstanding example of this relationship. It has only been within the last few decades, relatively speaking the last few moments of our history, that science has taken its place among the forefront of those activities which are dramatically affecting man's daily life.

Modern physics, which probes the very basis of reality, is not only giving us an understanding of nature, its beauty, order and logic, but is providing us with a new mastery of nature and the great responsibilities which go with such mastery. Among the lessons to be learned from our adventures in today's physics is the one that knowledge—all knowledge—is worth pursuing to the utmost. The search for new knowledge must continue, for its own sake—because the desire to know is among the things which make us human—and because we have learned that all knowledge, sooner or later, can have an important effect on our lives.

Most of us are not pioneers. We take the legacy and materials others provide and build our world from them. But those of us privileged to be in science are the ones working closest to mankind's newest frontiers, and in doing so we bear a great responsibility in this age of science to our fellow man. In this respect, a new hall of physics, such as we are dedicating here today, becomes far more than a monument to science or to the man whose name it will bear. It becomes a testimony to our belief in the future and to our faith in the young men and women who will guide that future. Filled with teachers, students and researchers it becomes a living, creative entity and a vital part of the great university in which it resides. Above all, this is what we dedicate today at Washington University and in the name of its former chancellor and friend, Arthur Holly Compton.

In closing let me congratulate those who were instrumental in planning and building this fine new laboratory. And to those who will be working and learning within its walls, my best wishes for your success and a hope that through the work you undertake here you will someday advance the realm of science and consequently the future of man.

## STRAIGHT TALK ON THE NATO CRISIS—THERE HAS BEEN AN EROSION OF U.S. PRESTIGE

Mr. HRUSKA. Mr. President, on May 25, Mr. Robert D. Murphy, president of Corning Glass International, testified before the European Affairs Subcommittee of the House Committee on Foreign Affairs on the critical situation now facing the United States as a result of the disarray of the North Atlantic Treaty Alliance.

Mr. Murphy has had a long and distinguished career in the U.S. Foreign Service and as a high-ranking official in the State Department in both Republican and Democratic administrations.

He served as director of the Office of German and Austrian Affairs, Department of State and U.S. political adviser for Germany in the critical postwar period, Ambassador to Belgium, Japan and as Under Secretary of State from 1953 to 1959.

Of particular significance was his wartime contact and experience with General de Gaulle which gave him a close

view of the man whose personality is now so influential in contemporary European affairs.

His testimony focuses on what he considers to be the "proximate cause" of the present crisis—De Gaulle's NATO policy.

CONCOMITANT CAUSE—EROSION OF U.S. PRESTIGE

But Mr. Murphy declared it would be wrong to place all the blame on De Gaulle. After all, he stated:

It is so long since the United States has had a resounding success or victory that there has been an erosion of prestige.

Then he went on to say:

Many Europeans share the De Gaulle notion that our performance with the resources at our command has not been impressive. They are conscious of the fact that some Americans really don't want "to win"; they are opposed to the use of power. Disregarding the comparative morality they note the Soviet brutal but effective handling of Hungary and make insidious comparisons with American handling of the Berlin blockade, (at a time when the United States possessed nuclear power and the USSR did not), United States acceptance of a stalemate in Korea, the Bay of Pigs fiasco and a hesitant, reluctant use of power in Vietnam, the outcome of which is still uncertain.

If, as Mr. Murphy asserts, many Europeans share the De Gaulle notion that performance of the United States with the resources at our command has not been impressive and that there has been "an erosion of prestige"—one is prompted to inquire what must be the view of Asians of our role and effectiveness in contemporary world affairs? After all, there is a common link of heritage and blood line with Europe and strong cultural, political, and economic ties. If the Europeans disdain—not our power but our will, what can we expect from those who do not share this common heritage. Mr. Murphy has raised a fundamental question—one deserving of widespread discussion and concern.

Impressive, too, was Mr. Murphy's observation:

In past dealings with other questions De Gaulle has concealed his ultimate intention or real goal until he is in a tactical position to achieve it.

He points out that De Gaulle has evidenced a "low opinion coupled with a certain distrust of the quality both of American and British political and military leadership," and suggests that because of his methods, ability, dedication, and ruthlessness, his forthcoming June visit to Moscow should be regarded "not without anxiety."

Ambassador Murphy underscores a fact of life perhaps overlooked recently: the deterioration of NATO is a prime Soviet objective and that they find in De Gaulle, with his apparent desire for comparative independence from the United States and Britain and a certain similarity of views on Germany, an unusual opportunity to achieve that objective.

He indicates that the French personality seems to be the crux of the current problem; he hopes that it will be a passing phase and that we will not ignore our permanent interests in a strong Western Europe.

His conclusions are well worth noting. He says:

I cannot believe that basic Soviet aspirations have changed.

At the time I thought it an error to establish NATO HQ in Paris, and believed it should be set up in a Benelux country. It would seem normal to remove the headquarters now. I do not understand how France can withdraw from NATO but continue as a member of the Alliance. As inconvenient as the removal from France of NATO installations and personnel may be, it seems to me that we should operate in a way best to serve our own interests reducing the expense to a minimum. It would be unwise to plead with de Gaulle for concessions.

Mr. President, I commend this straight talk on NATO to my colleagues and ask unanimous consent that the full text of the statement be printed in the RECORD at this point.

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

STATEMENT BY ROBERT MURPHY BEFORE SUBCOMMITTEE (MRS. EDNA KELLY, CHAIRMAN) COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, MAY 25, 1966

Madam Chairman, it is my understanding that the objective of these hearings regarding recent developments in NATO, is to explore the future of that organization as well as to examine relationships within the North Atlantic Community with especial reference to current French policy. That policy has created a critical situation in the Alliance.

I shall not take the Committee's time reviewing the history and importance of NATO with which the distinguished members of this Committee are well acquainted due to their long and close association with European affairs. In any event, Dean Acheson and others who have appeared before you have comprehensively outlined the facts and developments leading to the present unhappy state of affairs. I share their sense of NATO's importance to our national security. I believe one or two witnesses have pointed to the anomaly that the very success of the alliance since its establishment in 1949, at a time when Europe was just emerging from the shambles left by World War II, is the cause of at least some of the current difficulty. The collective security provided by the alliance afforded a shield behind which the European nations could and did apply their great talents and resources. Without the security and protection of the alliance those talents could not have achieved the high degree of prosperity and well-being the European members enjoy today. Whatever criticisms may be leveled at American foreign policy, no one can deny that the North Atlantic feature of our policy succeeded beyond our most extravagant expectations.

It may be just a coincidence of course that the lengthy planning of President De Gaulle has matured just at a high point of France's prosperity. He has arrived at a stage in his career where his authority is consolidated and he now wishes to try an experiment which evidently has been maturing for years. The prosperity and relaxation in Europe, and particularly in France, provide the necessary environment for President De Gaulle to launch a new policy. Implicit in the current French assumption that Soviet intentions to dominate Europe have modified and the danger has receded, is the thought that the United States presence is no longer necessary. A European solution employing elements from the days of the triple entente could be sought, and perhaps it could achieve within it a limited solution of the key problem of Germany. European pride, ambition and a certain human susceptibility are involved. We Americans at times have resented European intervention in our domestic affairs. For many years there has been an American overpresence in Europe—the type of situation mentioned by John Rockefeller the other day in discussing Asian problems. Among the hundreds of thousands of Americans visiting Europe annually, together with our troops and regular American residents, there are many who make speeches, offer gratuitous advice and irritate. No doubt many Europeans want the American visitors' money and many have profited by both our military and financial assistance. But international politics does not emphasize gratitude which here above all other places is certainly the expectation of favors to come.

We should remember, too, that many Europeans and especially many Frenchmen have convinced themselves that our aid has always been designed for the selfish purpose of enhancing American security by building a European buffer which would protect the United States should an attack come from the East.

I would like to address myself to the proximate cause of the present crisis—De Gaulle's policy. Having been in contact with him during the war days in North Africa, I have followed with interest the trend of his policy vis-a-vis NATO since he came to power for the second time in 1958. Then I worked in the State Department and presided the tripartite conversations we had with French and British representatives regarding De Gaulle's proposal to establish a form of triumvirate consisting of himself, Prime Minister Macmillian and President Eisenhower for the determination of global policy. When that proposal was found unacceptable both to the British and to ourselves, there began a series of French decisions affecting France's participation in NATO, the elimination of the French Mediterranean naval units from NATO command; later the elimination of similar units from the Channel command; the refusal of bomber bases in France; the refusal to stockpile nuclear weapons, and other matters. These actions were taken in De Gaulle's typical leisurely chopping away which seems to characterize the phase when his plan or policy is in the making. In past dealings with other questions De Gaulle has concealed his ultimate intention or real goal until he is in a tactical position to achieve it. Algeria is a good example. When possible he operates according to plan. There may be a lengthy period of quiet preparation allowing time for events to occur. With a good sense of timing he eventually comes to a phase of realization, after appropriate orchestration, where the action may be swift or even violent. Thus his planning for NATO with a beginning in 1958 hesitated through the Kennedy Administration with gentle efforts to take under his fatherly wing our young President, but becoming more pointed after Mr. Johnson came to power. Since then we have been treated to De Gaulle's recognition of Red China and his disparagement of American efforts in South East Asia. He staged a rather Barnum and Bailey tour of Latin America and has not been unfriendly to Castro Cuba. In Paris, the Soviet Union for years had an Ambassador (Vinogradov) who was ideally cast for his role and who left no stone unturned which could promote Franco-Soviet rapprochement. This happened to coincide with what I believe is a dogged determination on De Gaulle's part to achieve, as a self-designated leader of western Europe, a parity of negotiating level with the Soviet Union. France's possession of a nuclear striking element, however, small, is an integral part of his planning and determination.

Throughout his maneuvers is evident a low opinion coupled with a certain distrust of the quality both of American and British

political and military leadership. I am confident that American possession of vast resources and wealth stimulates that low opinion because he believes that had France equal resources and wealth the role he, as France's leader, would play in the world would be far more effective than our own.

Confident that by now we know something of De Gaulle's methods, of his ability and dedication as well as his ruthlessness, his June visit to Moscow should be regarded not without anxiety. True to form, he has concealed his goal; we are not informed of his plan. We can only make deductions based on a series of moves over a period of years. No doubt some of his close collaborators within the French Government are as badly informed as we are. I certainly do not exclude a major move in the direction of some form of agreement of close cooperation between France and the Soviet Union. This will undoubtedly involve the subject of Germany, and will deal with German reunification, armament, and German participation in NATO. In the early post-war years, the French Government sought separate agreement with the Soviet Union on a number of issues regarding Germany but were met by Stalin's contemptuous disregard of a weak France. Today Soviet leadership cautiously seeks an avenue of approach to its prime objective, the deterioration of NATO, and perhaps finds De Gaulle France more propitious. De Gaulle's desire for comparative independence from the United States and Britain, and the enjoyment of a certain similarity of views regarding Germany by France and the Soviet Union provide an unusual opportunity.

I devote this much attention to the De Gaulle factor because it is the immediate cause of present NATO crisis. It would be wrong to place all the blame on De Gaulle. It is so long since the United States has had a resounding success or victory that there has been an erosion of prestige. Many Europeans share the De Gaulle notion that our performance with the resources at our command has not been impressive. They are conscious of the fact that some Americans really don't want "to win"; they are opposed to the use of power. Disregarding the comparative morality, they note the Soviet brutal but effective handling of Hungary and make insidious comparisons with American handling of the Berlin blockade (at a time when the United States possessed nuclear power and the USSR did not), United States acceptance of a stalemate in Korea, the Bay of Pigs fiasco and a hesitant, reluctant use of power in Vietnam, the outcome of which is still uncertain.

Of all critical Europeans, De Gaulle undoubtedly wonders not whether the United States has the power and resources, but whether it has the will and ability to use them successfully for itself and to the profit of its Allies.

I note evidence of a trend in European psychology regarding the United States not only in political circles but commercial. Witness the stockholders meeting in Switzerland the other day with a heckler saying—"I am no Gaullist but with the way American business is taking over in Europe the United States is losing friends all the time." His remarks were applauded.

The Soviet pleasure over President De Gaulle's damage to NATO was illustrated by Marshal Malinovsky, Minister of Defense, who, at the recent Party Congress declared, "Washington leaders are trying with all their might to strengthen the aggressive military-political blocs, first and foremost NATO." But serious contradictions within the North Atlantic bloc are more and more acute. Many participants refuse to reconcile themselves to the dictates of American imperialism, etc., etc. This obvious reference to the trend in Paris indicates that the Russians can barely conceal their satisfaction over De Gaulle's maneuvering.

Perhaps, Madame Chairman, I have devoted a disproportionate share of time to the French personality but that seems to be the crux of the current problem. I hope that the French aberration is a passing phase and that we will not ignore our permanent interests in a strong Western Europe. I hope we will continue to concert with our remaining allies, and adapt NATO to the changed environment. Perhaps a solution can be found to the problem of sharing our nuclear power with our allies, but I have no suggestions as to how this may be accomplished. The essential thing is that the United States has that power, and will know how to use it. I cannot believe that basic Soviet aspirations have changed.

At the time I thought it an error to establish NATO HQ in Paris, and believed it should be set up in a Benelux country. It would seem normal to remove the headquarters now. I do not understand how France can withdraw from NATO but continue as a member of the Alliance. As inconvenient as the removal from France of NATO installations and personnel may be, it seems to me that we should operate in a way best to serve our own interests reducing the expense to a minimum. It would be unwise to plead with De Gaulle for concessions.

## DANISH AMBASSADOR DELIVERS COMMENCEMENT ADDRESS AT DOANE COLLEGE

Mr. HRUSKA. Mr. President, on Sunday, May 29, one of Nebraska's favorite and most distinguished recent visitors delivered the commencement address at Doane College, in Crete, Nebr., on whose board of trustees I have the honor to serve. It was not possible for me to hear the address of the Ambassador of Denmark, Torben Ronne, since on the same day it was my privilege to address the graduating class at the Midland Lutheran College, in Fremont, Nebr.

I have read his speech and am deeply impressed with its simplicity and the directness of its philosophy.

When this distinguished speaker himself received a degree in political and economic science from the University of Copenhagen his father said to him:

I have now given you an education, which perhaps is the best and the only inheritance I can give you. The rest is up to you.

Today's young people will be limited only by the extent of their own ambitions, ideals, or capabilities. They have received the education, and they have only to do the rest.

Mr. President, I ask unanimous consent to have printed in the RECORD the commencement address of the Honorable Torben Ronne given at Doane College on May 29, 1966.

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

A BALANCED EDUCATION AS A MUST

(The commencement speech by the Ambassador of Denmark, Mr. Torben Ronne, at Doane College, Crete, Nebr., May 30, 1966)

Mr. President, Graduates, Ladies and Gentlemen, the privilege of being invited to speak on this occasion gives me triple pleasure.

First, it has taken me back to the state of Nebraska, which my wife and I recently visited with the Prime Minister of Denmark and his wife.

At that time we were the guests of the University of Nebraska and of Dana College in Blair, and we were reminded of the fact that, during the last hundred years thousands of our countrymen came to this state and found a new and permanent home here. Many of the immigrants contributed to and shared in shaping this great and powerful nation. Many sons and daughters from the homes of Danish immigrants have received their education from institutions of higher learning in Nebraska. From these universities and colleges they have found their place in the American society imparting to it some of the highest ideals of liberty and values of the land of their forefathers. The ideals of liberty and equality and the dignity of man are the basic principles on which the great American society is built; and we in Denmark are proud of those of our countrymen who came to this great state and contributed to its growth.

The second pleasure is that of having received the honorary Doctor of Law degree that you have conferred upon me today. In that I have received much more than what little I have to offer. To the Board of Regents, to the faculty, and to you, Mr. President, I can only say that I am more grateful than I can express here. I shall always treasure this recognition and remember that I must share it with those who in one way or another have made you feel that you wanted to honor Denmark.

I know of your close connection with the University of Copenhagen, my own Alma Mater. It is old of years—founded in 1472—but young in spirit—as an educational institution must be if it is to give its students not only the required pensa, but also a sense of right, duty, and honor.

My third pleasure is that you have asked me to give the Commencement Address today. It is an honor for any man to be asked to speak to the graduating class. It is also an obligation.

What can I tell you, the graduating class of 1966, on this your greatest day? The four years are over. The books are closed. The doors that you know so well, to your classrooms, to the library, and to the laboratories, are closed. There is a silence today in those rooms that you have not experienced before because you are leaving the rooms, the campus, the teachers, and so much, much more.

And yet, you will never really leave this place. Wherever you are going—to a teaching profession or another institution of higher learning for graduate work, to the business world, to industry, or to government service, part of you will remain here where you have received so much, and where an important chapter of your life will be sealed with the diploma that you are about to receive.

And Doane College will never leave you; it has become part of your life, perhaps more so than you realize today.

My thoughts go back some twenty years, when I received my degree in political and economic science from the University of Copenhagen. In his speech for me at the dinner on that occasion my father said: "I have now given you an education, which perhaps is the best and the only inheritance I can give you. The rest is up to you".

You have reached that point today. Your parents, other members of your family, perhaps, and your friends will help you celebrate this important event in your life. Your parents, undoubtedly, will feel like my father did, that the inheritance they have given you or helped you to get, is perhaps the very best they possibly could give you.

No, you will never really leave this place because you are not finished with educa-

tion—and—this may perhaps frighten you—you never will.

Doane College has given you the tools to work with, it has given you an academic education that will be useful only if you know how to utilize it, and that brings me to my subject: "A balanced education as a must".

When Cornell University opened its doors to its first students, about a century ago, the founder of that university, Ezra Cornell, a very successful businessman, who had founded the Western Union Telegraph Company, commented in his speech "—that there is not a single thing finished." This statement applies to education more than to anything else.

I believe that we in Denmark have in common with America that we are not entirely satisfied with our educational system. I do not think that we should be alarmed about that because, the moment we are fully satisfied, we have reached a stage of standstill, and that should never happen in education.

I will not go into details about the Danish educational system, but let me say just a few words about some of its special features.

It is characteristic of the Danish school system that a large number of institutions follow up the basic training given in the elementary and secondary schools. The technical schools and trade schools, which a few years ago were evening schools, are now day schools. Those schools are frequented by students who have gone into apprenticeship—at the present time one third of a particular age group. In the years to come, we estimate that the number will rise to one half of this group.

Why aren't these youngsters attending a college or a university for further education? Simply because there is a need in our kind of society to educate as many of our young people as possible to turn out the commodities that have made the name of Denmark known all over the world, like silver, porcelain, glass and furniture, to mention just a few. This is important because it enables us to trade with the world to such an extent that we have managed to be among the nations with the highest living standard although Denmark has practically no natural resources.

Because of our special educational structure we have in Denmark a much smaller percentage of students seeking a higher academic education than you have. Yet, our highly technical age makes it necessary that more and more of our young people receive an education suitable to the need of the country. In Denmark we have a shortage of skilled labor as well as of academically trained people. This in spite of the fact that trade, commerce, shipping, and industry have absorbed thousands and thousands of young people from the farms, where mechanization has reduced the number of people to such an extent that only 18 per cent of the population now live in the rural districts. Yet, these 18 per cent are producing much more ham, bacon, butter, and eggs than did 50 per cent of our population some fifty years ago.

The conditions and the requirements of the time, in which we live, lead us into a balanced education. But a balanced education is not only what our present society demands, it is much more than that. It is first of all the need of the individual, if he is to fill his place.

It is a must for developing a man's capability of learning and thinking, as well as his ability to create and work—and in this way make him contribute to the culture and carry it on. An education which aims only at satisfying the already existing needs will not at all be sufficient.

You, the members of the graduating class, are facing many problems. Demands will be made on you as individuals, as "members of the family," as members of a working team, of a nation, and of a world community.

From an economic-materialistic point of view we must bear in mind that it is not sufficient today to have a solid basic knowledge of one's own language and the other subjects that belong to a liberal arts education. Against the background of the many-sided and complicated economic development in industry, agriculture, and commerce an understanding is needed of those aspects of our society; and where the education, you have received, has left holes in these fields, you are expected to fill them yourself. Even if you are not going into industry, agriculture, commerce, or government service, it is a must for you to know what is going on, just as it is essential for those of you who are going to work in these fields to acquire an understanding of the dynamic character of world history, especially of the changes that have taken place and will continue within the production activities.

Perhaps those of you who are going to teach face the problem of a balanced education more than anybody else. You are not only going to teach the subjects prescribed by the school authorities, but also to prepare the next generation for living among other people, in the family, at the workingplace, in organizations, in political life, and in international cooperation.

Democracy is a much abused word. We hear about several kinds of democracy. But even so, I venture to suggest that the teacher has a duty to educate children for democracy.

For we must understand that, democracy is not only a system of government, a set of rules; it is a way of life—and a way of life which puts us under an obligation, wherever people meet and cooperate.

To my mind the place to introduce democracy is in the home, in the school, and in a college such as Doane. But only the spadework—so to speak—can be made in those places. It is the individual adult, who is charged with the great responsibility of becoming a leader in society who will find that a balanced education is a must in our time, in the kind of world, in which we live.

It is natural for each country to have strong national feelings. In history, literature, folk songs, etc., the people to whom we belong come alive, and a feeling of solidarity, of respect for those who created the nation, grows up as a living reality.

The documents, so generously left you by the founders of your nation, the Charters of Freedom, as they are enacted in "The Declaration of Independence," "The Constitution," and "The Bill of Rights" are not only exhibition material that you look at when you visit the National Archives in Washington. They are, first of all, political documents that set forth the way of life for the American people. They are also inspiring documents for all freedom-loving people in the world.

And we do have to realize that we are citizens also in a greater community. Technical development leads to cooperation among nations, whether it is wanted or not. Such cooperation must imply that the peoples of the various nations cultivate an interest in the problems of other peoples—and not least, of course, in the problems of the developing countries.

We are past the time when we could allow ourselves to look at the happenings in these countries as a sort of stage play, something which did not really concern us. The problem of these countries are realities, and we are compelled to take part in them. And I think that it is good policy to do that, and perhaps especially in the educational and cultural field, which so often is a neglected aspect of the foreign policy of the old countries in the world.

Dr. Charles Frankel, the Assistant Secretary of Educational and Cultural Affairs in the Department of State, writes in his recent book: "The Neglected Aspect of Foreign Affairs," published by the Brooking Institution: "A major society in the twentieth century that fails to develop a systematic body of thought about this new dimension of international relations is like a seventeenth-century society that failed to give careful attention to the role of commerce overseas."

Your country has given much to those countries, so much that it is part of the heritage of your nation, a heritage which you as the generation upon whom the future of the world depends must continue and be responsible for if those countries are going to be able to develop their own resources and become self-sustaining members of a world-community.

I know, that in this speech I have taken you far away from Nebraska, and far away from your home and your country. I have perhaps even taken you away from the theme of my talk. I have done that intentionally, reminded of a philosopher, who once said: "Man will become sterile if he looks only at his own life, or his own country, or even his own era. Each of us", he said, "is a link in a long chain, and we do not utilize our potentialities for living as human beings if we do not know how to preserve and further develop the culture of which we are part".

But I do not believe that in this speech I have taken you away from Doane College, from your Alma Mater, which has understood the importance of being affiliated with a foreign university. We are, of course, both happy and proud that the affiliation is with the University of Copenhagen.

I spoke earlier about the many closed doors at Doane today.

But you, the graduates, are leaving Doane on this day, where the doors to your future are wide open.

Out there—somewhere—is your place, from where you will have the opportunity to cooperate with vision, constructively, realistically, courageously toward a better world for the coming generations. It is a task, which many of us, from time to time, feel is overwhelmingly difficult. Let it then be an encouragement that this is one of the finest tasks that exist.

To all of you: Congratulations, and the best of luck.

## THE HIGH COST OF ELECTRICITY IN NEW ENGLAND

Mr. MUSKIE. Mr. President, the Boston Globe has recently published a nine-part series on the high cost of electricity in New England. Globe Staff Reporter Richard J. Connolly objectively documents the need for a Federal power cost "yardstick" for New England where we pay the highest electricity bills in the Nation.

Mr. Connolly demonstrates that a yardstick would lower power costs, would increase power use, would create competition in power generation and, in turn, would break the power monopoly which is now enjoyed by New England's private utilities and which penalizes every consumer.

The Dickey-Lincoln School hydroelectric power project on Maine's St. John River would provide the yardstick and its benefits to New England. Mr. Connolly's series supports our arguments for Dickey, which Congress authorized last year over the strenuous opposition of the private power lobbyists.

Mr. Connolly wrote:

The New England utilities deal in two kinds of power—electrical and political.

They have successfully used one—political—to enhance the value of the other at the expense of the consumer.

Mr. Connolly reports that in the absence of competition, the State public utility commissions generally have not guarded the interests of the public effectively or positively.

He writes that too often the private utilities have not had the incentive to reduce costs, that reduced costs have not meant rate reductions, and that assured markets have not produced efficiency and aggressive innovations.

Mr. Connolly finds that regulation by competition may best serve the power needs of New England.

He substantiates his findings impressively.

He writes that the private power companies administrative and general expenses per killowatt-hour of sales is 87 percent above the national average.

He writes that on a cost-per-consumer basis, New England's systems are 26 percent above the national average.

Mr. Connolly refutes many of the excuses made by the private utilities for the high power rates. For instance, he finds that if fuel costs to the utilities were reduced to the national average, the consumer's bill would be reduced by only 5 percent.

Mr. Connolly refutes the claim by the utilities that recent cost reductions have resulted from increased efficiency. He finds that many of the reductions resulted from decreased taxes, and that in some cases even these decreases were not passed on to the consumer.

Mr. Connolly reports that the much ballyhooed plans of the utilities for a $1.5 billion investment in new generators hold no guarantee for reduced bills to the consumer. He notes also that nuclear power, the backbone of the private utilities' plans, has not proven itself and is not competitive anywhere in the Nation.

He writes that their arguments against Dickey-Lincoln School are the same as they have used against every public power project in the Nation.

He writes also that residents of communities with public power enjoy the lowest electricity bills in the Nation. These same communities have the highest power use in the Nation.

Regrettably, New England pays dearly to support the private companies. New England householders pay $4.56 for a 100-kilowatt-hour bill. Householders in the Tennessee Valley pay $2.85. Commercially, Tennessee Valley businesses pay 87 percent less than New England businesses. If our region's power rates were reduced just to the Nation's average, our manufacturers would save $71 million a year, or about 31 percent.

Mr. President, Congress is now considering the appropriation of $1.2 million for engineering work for the Dickey-Lincoln School project. I urge my colleagues to read Mr. Connolly's series. It is a factual analysis of New England's power needs and of how Dickey-Lincoln School will help meet those needs. I ask unanimous consent that the nine installments in Mr. Connolly's series be printed in the RECORD.

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

[From the Boston (Mass.) Globe, May 11, 1966]

OUR HIGH COST OF ELECTRICITY

(By Richard J. Connolly)

New Englanders paid an average of $4.56 for a 100-kilowatt-hour electric bill last year—$1.71 more than the bill of householders in the Tennessee Valley.

The national average was $4.02.

But in the East South Central region—where the Tennessee Valley Authority provides low-cost hydroelectric power—the bill was 29 percent below the national average.

If you are confused by electric terms—and most of us are—remember that a kilowatt-hour (kwh) is used in measuring energy just as the gallon is used in measurement of gasoline or water.

A kilowatt (kw) is a unit of power equal to 1000 watts.

If a 100-watt bulb were to burn continuously for 100 hours it would use 10 kilowatt-hours.

While water is sold at so many cents per 1000 gallons, the electric company sells you electricity at so many cents per kilowatt-hour.

Generally, a 100 kwh bill reflects charges for lights, small appliances and refrigeration.

If you also cook electrically, your bill rises into the 250 kilowatt category.

New England paid an average of $8.57 for its 250 kwh bill last year while the U.S. average was $7.38.

New England's average commercial bills were even higher than this region's residential rates. Comparable bills in the region served by TVA were 87 percent lower than New England's.

INDUSTRY PAYS TOO

Industry also finds electricity costly in the Northeast. The average bills were as much as 12.7 percent above the national average.

But in the East South Central region—and again the Federal power project proves its worth—industry bills were as much as 28.5 percent below the U.S. average.

The Federal Power Commission notes that comparatively low bills were also reported in the Pacific region which benefits from operation of another Federal project, the Bonneville Power Administration.

New England lacks a Federal "yardstick" project. It may come, however, through construction of the Dickey-Lincoln School dams on the St. John River in northern Maine.

The above-average prices which Boston consumers pay are apparent in a Federal Power Commission study of residential bills in the 25 largest cities.

The bills ranged up to 45.3 percent above the U.S. average.

But in Seattle, which is served by a publicly-owned utility, the bills were as much as 55.2 percent below the national figure.

NO "YARDSTICK"

The government's report on typical electric bills prompts the Consumers Information Committee a non-profit organization, sponsored by farm, labor, rural electric and power groups, to state:

"Quite obviously, consumers in the Northeast have been paying for the success their power companies have had—so far—in keeping the Federal power 'yardstick' out of their region."

Vermont, which enjoys the lowest electric rates in New England, provides an example of the benefits that can be derived from public power.

Vermont purchases 150,000 kilowatts of St. Lawrence and Niagara power a year from the Power Authority of the State of New York (known as PASNY) and sells it to Vermont's utilities.

Even with some public power, however, Vermont ranks 33d in the nation-wide comparison of typical residential bills in the 250 kwh category and 42nd in the 1000 kwh bracket.

In the opinion of Walter N. Cook, manager of the Vermont Electric Cooperative, his state also offers an example of how the cost of public power can increase as it flows through private transmission lines.

The PASNY power is transmitted throughout Vermont by the Vermont Electric Power Co. (V.E.L.C.O.) which is owned mostly by the Central Vermont Public Service Corp. (C.V.P.S.).

St. Lawrence and Niagara power is delivered to the Vermont state line by PASNY at approximately 5.6 mills per kilowatt-hour. There are 10 mills to a cent.

Cook points out that after V.E.L.C.O. levies tolls, delivers it to the subtransmission lines of the other utilities and by the time it reaches the substations of the cooperatives, the cost has increased 50 percent.

WRONG WAY COSTS

Since 1959, the first full year of St. Lawrence power, 50 percent more electricity has been distributed in Vermont.

But Cook maintains that the unit cost has increased over 10 percent when it should have dropped 33 percent.

Consumer-owned corporations, unable to build large plants or tie-in with transmission lines are at the mercy of the "electric power giants which the local commissions and the Federal Power Commission seem unable to control effectively," according to Cook.

The National Rural Electric Cooperative Assn., a national service organization of REA-financed, non-profit electric systems, estimates that rural electric systems in Vermont pay wholesale rates 42 percent above the national average.

SAME IN MAINE

It places the wholesale cost of the Maine cooperatives at 83 percent higher than the average cost of all wholesale energy purchased nationally by rural electric from private companies.

Robert V. Clark, president of the Maine Electric Cooperative Assn., has reported a 40 percent increase in the coops' cost over the past 20 years while the national pattern has shown a 20-percent drop.

"We have the pleasure—if you want to call it that—of paying the highest wholesale rate in the country, just under two cents per kwh, to the Maine Public Service Company," Clark reports.

Like Vermont's Cook, Clark is a strong critic of private utilities.

"Maine's power companies have had things pretty much their own way for decades," Clark told a congressional committee considering the merits of the Dickey project.

"They have wielded their power mercilessly at times to block or transform legislation to suit their own idea patterns of their own corporate needs," Clark charged.

IN REBUTTAL

But in the opinion of William H. Dunham, president of the Central Maine Power Company, the electric utilities of that state have provided excellent service at fair and reasonable rates.

The same congressional group heard Dunham say he believed most sincerely that the theory that Maine power rates are high is an exaggeration.

In three years, according to Dunham, Maine utilities have made rate cuts of over $2.2 million.

The major utilities in New England, forming the "Big Eleven Powerloop," claim that their efficiencies have resulted in steady price

reductions totaling $22 million in the last three years.

The power industry, which has become more public relations conscious since the Northeast blackout, has used full-page newspaper ads to inform consumers they have "lower and lower rates to pay."

One industry spokesman concedes that at least 40 percent of the rate reductions can be attributed to the 1964 Federal income tax cut.

Nathan S. Paven of Quincy, legislative vice president of the Massachusetts Consumers Assn., takes issue with the claim of efficiency of the power companies.

Paven, former assistant attorney general, argues that as much as 52 percent of the rate reductions resulted from tax decreases.

He says at least one Massachusetts power company has yet to agree to a rate reduction and still collects taxes that is no longer obligated to pay.

Paven labels as "fallacy—no, outright misrepresentation" claims that the reductions were due to increased efficiency of the private companies.

Public utility commissioners of New England have failed, Paven maintains, to represent the position of the consumer and have, with few exceptions, "parrotted" the position of the utilities.

The Consumers Information Committee also contends that not all power companies have lowered rates to consumers to reflect the tax cut.

Too many power companies still earn rates of return in excess of those allowed by state regulatory commissions, ECIC states.

Historically, the utilities are said to be allowed a rate of six per cent but in practice most power companies reportedly are allowed a return of more than seven per cent.

"We've said it before," the ECIC says. "We'll say it again: Despite the highly-touted rate reductions by power companies in recent years, most have been token. Rates of return of too many power companies are still too high."

The consumers' group says its claim is supported by Federal Power Commission figures showing that the country's private power companies had a net profit of 16 cents out of each dollar received from consumers in 1964.

When 1965 revenues are totaled, the ECIC predicts, they will reflect a 5.6 percent increase over the preceding year.

The committee estimates, on the basis of preliminary reports, that the power industry's net profits will rise 8.8 percent and dividend payments will increase 7.4 percent for 1965.

The private power companies generally earn money two ways—owning the transmission lines or continually increasing their investments and justifying an increase in their rate base by new construction.

By increasing investments, utilities can take advantage of certain incentives and depreciation tax credits allowed by the Internal Revenue Service.

One of the most outspoken critics of the power industry, Sen. LEE METCALF (D-Mont.) has underscored the high rates of return of the private utilities.

Of the 188 investor-owned firms with operating revenue of at least $2.5 million in 1963, 111 had return rates of at least seven percent.

Fifty-five had rates above eight percent. Twenty were returned at least nine percent, according to the senator.

METCALF has charterized the investor-owned utilities as the "I.O.U.'s."

WHAT THEY MEAN

Kilowatt—1000 watts.

Kilowatt-hour—A unit of energy equal to the work done by one kilowatt acting for one hour.

Hydroelectric plant—An electric power plant in which the generators are driven by falling water.

Yardstick—A Federal power project which provides competition to the industry and thus stimulates lower rates.

*Average residential electric bills, Jan. 1, 1965, by regions*

| | 100 kwh | Percent above or below U.S. average | 250 kwh | Percent above or below U.S. average | 500 kwh | Percent above or below U.S. average |
|---|---|---|---|---|---|---|
| U.S. average | $4.02 | | $7.38 | | $10.41 | |
| New England | 4.56 | +13.4 | 8.57 | +16.1 | 11.69 | +12.3 |
| Middle Atlantic | 4.44 | +10.4 | 7.98 | +8.1 | 11.75 | +12.9 |
| East North Central | 3.91 | −2.7 | 7.38 | | 9.94 | −4.5 |
| West North Central | 3.83 | −4.7 | 7.36 | −0.3 | 10.57 | +1.5 |
| South Atlantic | 3.88 | −3.5 | 7.15 | −3.1 | 10.40 | −0.1 |
| East South Central | 2.85 | −29.1 | 5.57 | −24.5 | 8.00 | −23.2 |
| West South Central | 4.08 | +1.5 | 7.53 | +2.0 | 10.39 | −0.2 |
| Mountain | 3.83 | −4.7 | 7.37 | −0.1 | 10.28 | −1.2 |
| Pacific | 3.80 | −5.5 | 6.37 | −13.7 | 8.89 | −14.6 |
| Noncontiguous [1] | 4.98 | +23.9 | 9.02 | +22.2 | 13.58 | +30.5 |

[1] Alaska and Hawaii.

[From the Boston (Mass.) Globe, May 12, 1966]

OUR HIGH COST OF ELECTRICITY, II: WHY SO MUCH?

(By Richard J. Connolly)

Fuel. Taxes. Power plant inefficiency. New England's geographical location.

They all add up to dough. And you pay it on your electric bill.

There are other explanations for the high cost of electricity in New England.

We have a large number of power systems—both public and private. New England is parochial and has a negative attitude toward the need for a Federal power project.

Our rates range as high as 29.8 percent above the national average and soar up to 87 percent above the region served by the Tennessee Valley Authority.

Unless you have lived in another region, you may not have realized the price we pay for electricity.

High rates mean less consumption. Less consumption means less electric comfort—fewer electric blankets, stoves, heating systems, air conditioners and other appliances.

New England's fuel costs and taxes have been cited most frequently as contributors to our above-average power rates.

With Federal income taxes excluded, New England utilities pay $40.12 in taxes for each $1,000 of net plant worth. The U.S. average is $31.53.

The Massachusetts figure is even higher than New England's. At $50.35, it is 37.4 percent above the national average.

Most New England systems, being privately owned, pay corporate income taxes and their stockholders and bondholders are taxed on dividends and interest.

This factor must be considered when New England's power costs are compared with those in other areas.

Systems in many parts of the country are either exempt from taxes or purchase untaxed power from public sources.

New England's fuel cost per million British Thermal Units is 33.9 cents compared with the U.S. figure of 25.3 cents.

Utilities in Massachusetts pay 34.5 cents 26.7 percent more than the U.S. average.

New England lacks abundant water resources so it must rely heavily on fossil fuels which are costly because of our geographic location.

Coal accounts for approximately two-thirds of the total fossil fuel used by the utilities of this region.

Before a load of coal goes to work in a New England power plant it makes a 225-mile rail trip from the Virginia coal fields to Hampton Roads and then a 400-mile coastal water trip.

And although New England utilities have under contract a 26,000-ton collier to minimize transportation costs, freight charges still amount to more than half the cost of coal burned in conventional steam generating stations.

There is no doubt about the cost of fuel being high.

But there is some evidence that private utilities have relied too heavily on the fuel cost factor in defense of their high rates.

Former Federal Power Commission Chairman Joseph C. Swidler realized that fuel costs were high and should be given full weight in comparisons among regions. Swidler noted, however, that they accounted for only 15 percent of each dollar of revenue for the New England utilities in 1961.

Even if fuel costs had been cut to the national average and the whole benefit passed on to consumers, the bills to the ultimate consumer would have been reduced by less than five percent, Swidler said.

New England's rates would still be well above the national average.

Observing that the utilities had made great strides, Swidler challenged industry leaders to concentrate their efforts on efficient fuel use.

Progress has been made. Revolutionary changes are underway in this region's power industry.

The New England Electric System's Brayton Point steam-electric generating coal fired plant at Somerset was the most efficient of its type in the country in 1964. It attained an average annual heat rate of 8776 BTU's per kilowatt-hour.

It was the first time that a New England generating plant appeared among the top most efficient plants in the country.

The Federal Power Commission recently singled out the New England Electric System and the United Illuminating Co. of New Haven, Ct., for outstanding improvements in heat efficiency.

New England Electric's gain was 4.6 percent and United Illuminating progressed 5.7 percent.

Despite the distinction it attained at Brayton Point, New England has continuously lagged in both efficiency and installed generating capacity.

Boston Edison increased its capabilities by opening its 380,000-kilowatt turbine generator last August.

Known as New-Boston Unit No. 1, the station is the largest in New England. A similar unit is being built at the same site, L st., South Boston.

The company predicts that its system will become one of the most efficient in the country when its second unit goes on the line next year.

New England still is conspicuously absent from the list of largest steam-electric and hydroelectric plants in the U.S.

In 1964, the region had an installed generating capacity of 8,174,334 kilowatts, an increase of 3.1 percent over the preceding year.

But the U.S. average increased 5.2 percent.

In the five-year period preceding 1964, New England's growth in generating capacity amounted to 19.5 percent. Still it failed to keep up with the national average, which increased 36.5 percent.

About 45 percent of the heating capacity in the 15 major systems of the region is less than 10 years old. But New England still has too many old, small generating plants.

While some are nearly fully depreciated and offer cheap power for short-term peak-hour supplies, they are not as efficient as the big units.

The large number of small plants in the 50-megawatt (a million watts or thousand kilowatts) size has attracted serious criticism of New England.

The utility men often justify use of old, small units on the grounds that their cost has been written off. This may be so, but they are subject to high taxes and fixed charges which add to operating costs.

The industry, although in its most progressive stage in history, is old and thus burdened by inherent inefficiencies associated with antique plants and multiple systems.

John M. Wilkinson of the Federal Reserve Bank's research department, who recently completed a comprehensive study of the power industry, found administration and general expenses per kilowatt-hour of sales 87 percent above the national average.

"On a cost-per-customer basis—the most relevant comparison since it costs about as much to administer a 1000-kilowatt hour as a 10,000-kilowatt-hour load—New England systems were 26 percent above the national average," Wilkinson reported.

The emphasis has been on coordination and merger, joint-use generation and transmission planning.

Yet there still are too many small utilities, reluctant to surrender the sovereignty which marked new England's pioneering development of power.

Thirty-nine privately-owned generating companies have 73 thermal and 93 hydroelectric plants.

Twenty-six municipal and three rural cooperatives generate all or part of their own power in 38 small plants, and 88 municipal and rural systems purchase power.

It's a Yankee trait to shift for oneself; to operate on a local basis; to cherish independence.

But it is costly. It burdens the rate payer and thus restricts full use of electricity.

The power industry has been reminded by former FPC Chairman Swidler that it is a conspicuous example of an industry in which lower rates encourage greater use of electricity and low-level use not only reflects higher costs but helps keep them high.

You need only look at your electric bill for proof.

WHAT THEY MEAN

British thermal unit: A measure of heat energy. The quantity of heat energy required to raise the temperature of one pound of water one degree Fahrenheit at sea level.

Fossil fuels: Coal, oil, natural gas.

Thermal plant: A generating plant using heat to produce electricity.

Capacity: The maximum power output or load for which a machine, apparatus, station or system is rated.

Kilowatt: 1000 watts.

Kilowatt-hour: A unit of energy equal to the work done by one kilowatt acting for one hour.

[From the Boston (Mass.) Globe, May 12, 1966]

IN ANTICIPATION: DICKEY STIMULATING PRIVATE POWER

A top Interior Dept. official said Wednesday the Dickey-Lincoln School power project in northern Maine already has stimulated New England's private utilities.

Asst. Interior Sec. Kenneth Holum made the statement in an address to delegates to the American Public Power Assn. conference meeting in Boston.

Although Congress authorized the Dickey Dam project less than a year ago, Holum said, it has begun to have a "yardstick" effect on the overall industry in this region.

"The utilities are now busily planning big nuclear plants, pumped storage projects, interties and interconnections," said Holum, who is in charge of Interior's water and power development.

"This is all good," Holum said. "Moreover, Dickey will fit into the New England power system very well. It will augment the power supply of the region . . ."

The lack of a Federal "yardstick" like Dickey dam is one of the major reasons why New England has the highest electric rates in the country.

In areas where government power projects have been built, private power interests have been stimulated and the projects have had a "yardstick" effect on rates, resulting in reductions.

Holum also said the Dickey project opens the way for development of an extra-high voltage transmission system in New England, linking this region and New York with the substantial hydroelectric power capacity of Canada's Maritime Provinces.

Both Holum and Sen. EDWARD M. KENNEDY, who sent the association a letter, hailed two other projects under consideration in New England

One is the proposal of Vermont Gov. Philip H. Hoff to import power from Canada. The other is to construct generating stations at the mouths of coal mines in the Appalachian region, and distribute power to New England and 16 other states.

Holum said the latter project, known as the Yankee-Dixie plan and designed to eliminate fuel transport costs, is "especially significant" and makes "good sense." He predicted more efficient electric systems would emerge along the eastern seaboard.

Holum called Hoff's plan "exciting" and predicted it would "unquestionably" bring lower costs to New England.

Referring to the Dickey, Me., project, Holum said: Many attempts have been made by forces opposed to its construction to prove that it is an infeasible project. But I am here to tell that the Dickey hydroelectric power project continues to meet all established requirements of economic and engineering feasibility.

"The City of Calais (Me.) could get rid of its 25-watt light bulbs and install better lighting," Holum continued. "It also will provide low-cost peaking power for the remainder of New England."

In his endorsement of the Dickey, Yankee-Dixie and Hoff proposals, KENNEDY wrote:

"All of these proposals promise to relieve New England's high electric rates—rates which impose a burden on New England consumers and, even more important, put our region at a disadvantage in developing new and expanded industry which is so badly needed to keep our economy on the upswing."

"When the massive power failure failure of November blacked out most of New England and New York, the need for modernization of this region's-utility system became apparent to the entire nation," Sen. KENNEDY said.

RICHARD J. CONNOLLY.

OUR HIGH COST OF ELECTRICITY, III: THERE IS HOPE

(By Richard Connolly)

The New England power industry is investing more than $450 for every family it serves, hoping to cut rates 22 percent within six years and up to 40 percent by 1980.

But don't jump to any conclusion by figuring what the $450 investment will mean to your household budget.

Even the electric company apparently isn't sure what the overall $1.5 billion construction program will mean to rates.

The New England electric industry plans to spend $1.5 billion for 11 large plants and improvements to present facilities.

Two recent statements by the power industry indicate the uncertainty of our future bills, now the highest in the country.

In one statement, the Electric Coordinating Council of New England, representing the industry, predicted a 22 percent reduction in "overall production costs" in six years.

But the industry was fuzzy about what the reduction would mean to the consumer.

"No utility man (nor anybody else) can predict the exact extent of price reductions in the next six years . . ." the council said.

"But, this we are prepared to predict. The general quality of our service will keep improving, and our prices relative to other prices will improve steadily."

The industry apparently has a clearer idea of what its "Big Eleven Powerloop" building program will mean to us by 1980.

"This program," the council said in a subsequent statement, "is expected to achieve and surpass the National Power Survey objective of a 30 percent reduction in electrical rates by 1980 by effecting a 40 percent reduction by that year."

Whatever happens, it is unlikely that New England's power rates will ever descend to the national level.

The chief spokesman for the coordinating council, Howard J. Cadwell, chairman of the Western Massachusetts Electric Co., says aiming at the national average rate is "shooting at a moving target."

Cadwell knows his kilowatts.

He has been in the industry for more than 35 years and has been one of the dominant forces in the endeavor to achieve full coordination. He figured in one of the best examples of industry coordination.

It was the formation of the Connecticut Valley Electric Exchange (C.O.N.V.E.X.) by the Connecticut Light and Power Co., United Illuminating Co., Hartford Electric Light Co., and Western Massachusetts Electric.

Cadwell's firm has been joined by Connecticut Light and Power and Hartford Electric information of Northeast Utilities which would become the largest electric system in New England.

Cadwell is reluctant to flatly predict that the consumer's price will be cut 22 percent by the massive expansion program by 1972.

"I think we will make the reduction," he says. "But I don't control such factors as inflation, taxes and the demand for more personalized service."

"In terms of 1966 taxes, in terms of technology as we know it now and in terms of 1966 purchasing power, with all things being equal, yes, we can reduce rates that much."

The Federal Reserve Bank of Boston has studied current developments in the private power industry and has predicted a 25 percent reduction in prices in six years.

Taxes and fuel costs, in the opinion of Cadwell, form the major barrier to the industry's attempt to trim rates to the national average.

Delivered fuel costs would have to be cut 26.7 percent and state and local taxes would have to be reduced 37.4 percent if rates in Massachusetts were to drop to the national average.

"The job is further complicated by this fact," Cadwell says.

"While Massachusetts electric companies and their people have been taking aggressive action to improve fuel efficiency and labor efficiency, other companies throughout the country have been doing the same thing."

This is what he means by a "moving target."

There is "real hope," Cadwell believes, in construction of bigger generating plants and extra high voltage lines that make big plants possible.

He suggests two other methods:

"By cooperating with the other northeastern states in the balanced and rapid development of a nuclear and pumped storage complex. By a greatly accelerated marketing program."

Five nuclear-fueled, five fossil-fueled and one pumped-storage hydroelectric plant are planned by the utilities represented by the coordinating council.

The industry expects to reduce over-all production costs from 9.7 mills to 7.6 mills in 1973. There are 10 mills to a cent.

This will be accomplished, the industry believes, by an infusion of low cost power in large quantities and retirement of about one million kilowatts of old steam plants.

Prompted by the success of the Yankee Atomic Plant at Rowe, the industry has put the emphasis on nuclear power in its "Big Eleven Powerloop" program.

The Connecticut Yankee Power Co., a cooperative undertaking by the New England utilities, is building a nuclear power plant at Haddam, Ct., and it is scheduled for completion next year.

Boston Edison has announced plans for an atomic plant but has not disclosed its proposed location. The target date for completion is 1971.

Connecticut Light and Power. Hartford Electric and Western Massachusetts Electric are constructing a nuclear plant at Millstone Point in Waterford, Ct., with completion scheduled for 1969.

Nuclear plants are also planned by the Central Vermont Public Service Corp., and Green Mountain Power Corp. for operation near Brattleboro in 1970 and near Wiscasset, Me., by the Central Maine Power Co., and other Maine utilities operating jointly.

A pumped storage plant on Northfield Mountain in Massachusetts is slated for completion in 1971. The reservoir will span 300 acres.

In such a project, water is pumped up to the reservoir during off-peak periods and released to generate power when the demand for electricity is heaviest.

New England's power industry views nuclear power as the means of cutting prices—a theory which has drawn a challenge from the industry's critics.

There is no nuclear power plant in the country in a competitive position. The Atomic Energy Commission recently concluded that nuclear electric plants have not been sufficiently developed to be of "practical value."

The power industry states it is possible to contract for large nuclear plants at an overall production cost per kilowatt hour of about 4.7 mills for the first year of operation and 4 mills or less by the seventh year.

New hydro-type plants will generate power for 4.5 to 4.9 mills per kilowatt hour compared to the current average cost of 9.7 mills, according to the industry.

The National Rural Electric Cooperative Assn., has charged—and the Electric Coordinating Council has denied—that the "Big Eleven Power Loop" is designed for only one reason.

That, in the opinion of N.R.E.C.A., is to scuttle the government's plan to construct the Dickey-Lincoln School project.

The rural electric group said the utilities' plan "peculiarly enough" was announced only a week before last year's congressional hearing on Dickey.

The utilities maintained their projects would lower electric rates at less expense than the government's plan.

"The purported economics of the E.C.C.N.E. (coordinating council) proposal is not supported by present experience in the electric industry and, therefore, may not properly be compared to Dickey-Lincoln Street," the rural group stated.

"There is no assurance whatever that any savings derived by the companies from their proposal would result in lower bills for the consumers of New England," the association said.

Cadwell refutes the claim that the powerloop is a weapon against Dickey.

It should be "perfectly obvious" that the private plants are not a "defense."

"They've been germinating over several years," Cadwell says.

WHAT THEY MEAN

National power survey: A report by the Federal Power Commission in 1964 setting standards and guides for future planning by the power industry.

Hydroelectric plant: An electric power plant in which the generators are driven by falling water.

Pumped storage: An arrangement whereby electric power is generated during peak-load periods by using water previously pumped into a storage reservoir.

Mill: One-tenth of a cent.

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[From the Boston (Mass.) Globe, May 14, 1966]

OUR HIGH COST OF ELECTRICITY—IV: THEY'RE FIGHTING, BUT IT'S ODDS ON DICKEY

(By Richard J. Connolly)

Even with comfortable odds you wouldn't be wise to bet anything on their success.

Yet the private power interests in New England are determined to fight the Dickey-Lincoln School project until the first gallon of water splashes over the dam—perhaps six years hence.

Their battle cry last year, when they failed to block congressional authorization, and again this year as they oppose another appropriation for the project, is:

It will cost too much, produce too little and either result in higher electric rates or a substantial loss of money to taxpayers.

If output from Dickey Dam was given to New England customers for nothing, the industry has told a congressional subcommittee, it would have no significant effect on the cost of electricity.

The industry is reiterating its contention that its investor-owned companies through their $1.5 billion expansion program, can do the job cheaper than the Federal government.

The Dickey proposal is based on obsolete technology and justified by obsolete political and economic theories in the opinion of the power industry.

That charge and the rest of the industry's arguments against the Dickey project have been challenged by the Interior Dept., Corps of Engineers, congressional supporters and public power and consumer groups.

Dickey is of special interest to President Johnson who submitted the proposal to Congress. The high cost of power in New England—highest in the country—is, in itself, a strong and powerful argument for the project, Mr. Johnson said.

The project did not exactly slide through Congress last year. All but four of New England's 24 congressmen voted against it. But it was authorized, to the surprise of the power industry, and $800,000 was appropriated for studies and planning.

Now Congress is considering a $1.2 million appropriation for the project which will ultimately cost $277 million for construction of two dams and an additional $73 million for transmission lines to send power throughout New England.

The primary dam, 9,400 feet long and 340 feet high, will be built on the St. John River at Dickey, Me., about 10 miles from the Canadian border. It will generate about 760,000 kilowatts of electricity.

Seventeen miles downstream, at the site of the former Lincoln School, a reregulating dam will be built. The dam, 1,290 feet long and 87 feet high, will generate about 34,000 kilowatts. The whole job could be finished by 1972.

According to Senator EDMUND S. MUSKIE (D–Me.), the major congressional figure behind the project, Dickey would provide Maine with a one-third cut in power costs and would produce power for the rest of the region at rates up to 25 percent below the current average.

The Federal Reserve Bank of Boston has said the Dickey project would furnish peaking power at a delivered cost estimated at 15 to 20 percent higher than the cost of comparable power from alternative privately developed sources.

An estimated 100,000 kilowatts would be firm power for Maine and the rest would be available to the rest of the region as peaking power.

Peaking power is used to meet the needs of consumers during the few hours each day when electric use is at its peak—usually around supper time. Remember the blackout?

The Dickey project, 11th largest in the United States, is considered by the Interior Dept., which will serve as the marketing agent for the power, as a classic model of water resource development.

The Electric Coordinating Council of New England, to support its claim that private power can do it cheaper, says the "Big Eleven Powerloop's" planned construction program will cost about $144 per kilowatt of capacity.

But the Dickey project, representing less than 15 percent of the region's generating capacity, will cost $387 per kilowatt. Unlike Dickey, private industries program will provide a tax base, the industry contends.

Arguing that Dickey is technically and economically out of step with the times, the industry says modern fossil fuel plants, pumped storage facilities and nuclear plants are the key to cheaper electricity.

To all of the charges, Morgan D. Dubrow, a top Federal power man, says: "Poppycock!"

On the industry's "we-can-do-it-cheaper theme, Dubrow says:

"The fact of the matter is the Federal Power Commission made an estimate showing the charges for pumped storage and nuclear plants would be more expensive than Dickey. They can't do it cheaper."

Dubrow is no "Morgan-come-lately" to the power field. At 58, he has been in it for 30 years.

Dubrow is assistant and chief engineering research adviser to Kenneth Holum, assistant secretary for water and power development, Interior Department.

He formerly was manager of the Washington office of the Bonneville Power Administration and served with the Corps of Engineers and Federal Power Commission.

"I think there's going to be a big fight," Dubrow says of the current and future efforts to obtain appropriations for Dickey, "but when the bill comes out I'll be the most surprised man in Washington if it doesn't contain Dickey money."

Dubrow reminds the power industry that it is "taking on the President of the United States," when it opposes Dickey.

"I can't see how these people who have a public responsibility, a utility's responsibility, can oppose something that the government plans to use to help New England."

"They (the New England industry) talk about using pumped storage with nuclear power," Dubrow says. "They may kid the public but they're not kidding me. They've told the Federal Power Commission they'll use existing fossil units for their pumped storage."

"They tell one fellow they can provide power at 1.5 mills. The truth is, they've told the power commission they'll rely on an energy system costing at least 6 mills and up to almost 8 mills," Dubrow says of the industry's cost claims.

The advantages of the private industry's proposal, according to Sen. MUSKIE, are not consistent with latest estimates provided by the Federal Power Commission or the Atomic Energy Commission.

MUSKIE labels the industry's claim as a "theoretical promise" which he says "ignores the basic facts of New England's fragmented and inefficient power system."

Two other Maine lawmakers, Reps. WILLIAM D. HATHAWAY and STANLEY R. TUPPER, have also disputed the private power interests.

They view the industry's announcements of anticipated lower rates as a "frenzied" last-minute effort to "convince us that they have great plans for the future."

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[From the Boston (Mass.) Globe, May 15, 1966]

OUR HIGH COST OF ELECTRICITY, V: HOW FEDERAL YARDSTICK REDUCES POWER COSTS

(By Richard J. Connolly)

You hear it most frequently from the Federal government, leaders in the public power field and consumer organizations.

The most effective way to trim New England's above-average power rates, they say, is to introduce the "yardstick" to this region.

You don't hear it from the private power industry because it is convinced the government cannot produce power cheaper than itself.

The private power interests submit their arguments in the current controversy over construction of the Dickey-Lincoln School project in northern Maine.

Private power is fighting the proposal doggedly. It says it can produce power more economically. The government disagrees.

The Federal Reserve Bank of Boston has studied current public proposals for New England and has concluded the price would be the same whether power is supplied by public or private groups.

The bank is of the opinion that locational and operational disadvantages of the current public proposals may more than offset their lower-cost financing and tax-exemption advantages.

Entwined in the "yardstick" debate is a pattern that has been familiar wherever the government has planned a power project. Private power has bucked it.

But if the pattern holds true in New England, the industry will do an about-face, its critics say, and buy a chunk of the low-cost power expected to be derived from the project.

In areas where government power projects have been built, the resulting low rates have had a "yardstick" effect on the private industry rates.

"Few utilities," former Federal Power Commission member Howard Morgan of Oregon once observed, "can stand the glaring contrast between their own rates and those of the Federal and rural electrification programs.

"Wherever such a glaring contrast has existed, the utilities have found means of reducing costs and rates. They have had no choice."

President Johnson, himself, noting New England has the highest rates in the country, has cited the need for a "yardstick" government project in this region.

As demonstrated in the areas served by the Tennessee Valley Authority and the Bonneville Dam Administration, rates have dropped, sales have increased and the profits of the power industry have increased.

The attitude of the public power groups toward the need for a "yardstick" is reflected in the recent testimony of Francis H. King of Holyoke, retiring president of the American Public Power Assn., who appeared before a congressional committee.

King, manager of the Holyoke Gas and Electric Dept., said the Dickey project was the "yardstick" which New England has needed.

Noting that some New England consumers pay 29 percent more than the national average for electricity, King said:

"The Tennessee Valley Authority and other public power projects have proven to all of us that when the cost of power is low, the usage increases, unit costs go down and the cost becomes lower still."

He observed that in the Dickey controversy, the New England utilities have employed the "same tactics" used against virtually every other Federal hydroelectric project.

Alex Radin, general manager of the American Public Power Assn., appearing before a congressional committee last year, observed that if Congress had heeded the advice of the private power interests there would be no TVA, Columbia River, Missouri River or Central Valley power projects.

The Consumers Information Committee in Washington reports on a study which showed that private power companies nearest the Tennessee Valley have enjoyed earning rates substantially greater than the average of all utilities in the country.

The committee says that in 1963 the annual common stock earnings of the nine companies bordering TVA were 12 times what they had been 24 years earlier, while their total outstanding common stock investment had not quite tripled.

The common stock earnings of all privately owned utilities in the country in 1963 were barely five times what they had been and outstanding common stock had a little more than doubled, the CIC reported.

It should be remembered that New England's taxes and fuel costs are high. However, rates in New England are used in comparison with those in "yardstick" areas to show the benefits of Federal projects.

A consumer in Boston, lacking the influence of a "yardstick" project pays an average bill of $9.68 for 250 kilowatt-hours. A consumer in Portland, Ore., where the influence of the Bonneville Power Administration is felt, pays only $5.35 for the same bill.

It is difficult to assess the effect high-cost power has had on New England industries or to determine how much a factor power costs were in the decision of industrialists to leave our region.

But some idea of the power cost factor can be obtained from a study conducted by the Consumers Information Committee, using the 1963 census of manufacturers of the Census Bureau.

CIC says it showed that in 1962 the manufacturers of New England purchased a total of 12 billion kilowatt-hours at a cost of $180 million.

The cost per kilowatt-hour came to 1.49 cents, the ECIC found—66 percent higher than the national average and highest in the nation.

"If the cost had been on the level of the national average," the consumers' group figured, "industries would have saved $71.4 million in 1962."

New England's high rates are more important than the average consumer may realize. Not only does he pay a higher average electric bill, the cost is a factor in the price of his clothing, food and entertainment.

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[From the Boston (Mass.) Globe, May 16, 1966]

OUR HIGH COST OF ELECTRICITY, VI: IMPORTED CANADIAN POWER MAY BE THE ANSWER FOR NORTHEAST

(By Richard J. Connolly)

It is a beautiful but awesome cascade of white water thundering constantly through an ages-old gorge in the Labrador wilderness.

One hundred and five feet higher than Niagara, Churchill Falls emits a mist that can be seen 30 miles away.

A shallow basin of more than 27,000 square miles, scoured by glaciers of several thousand years ago, drains into the vast, tumbling Churchill River, 750 miles northeast of Montreal.

For the first 15 miles, the river drops 1,000 feet. Its most spectacular descent is at Churchill Falls where it roars into nine million horsepower.

The potential of it all holds the fascination of a group of New Englanders, led by Vermont Gov. Philip H. Hoff, who view it as the answer to our need for low-cost power.

The falls is the proposed site of a billion-dollar hydroelectric plant which could be in operation by 1971. The license for development is held by the British Newfoundland Corporation of Montreal (BRINCO) through its subsidiary, Churchill Falls Corp.

First the project would meet the power demands of Newfoundland and its mainland territory, Labrador. The surplus would be sold to the government-owned Quebec Hydro-electric Power Commission for use throughout Quebec.

Hydro-Quebec would distribute its surplus to the Consolidated Edison of New York and/or a private non-profit corporation in New England. It may be a case, however, of who signs the agreement first—Con Ed or New England.

Con Ed is negotiating with Hydro-Quebec for the purchase of about 1,200,000 kilowatts of power annually under a 25-year contract.

The New England utilities, whose cooperation is necessary for success of the Hoff plan, have reacted less than enthusiastically to the idea but at least they have it under study.

Hoff's proposal was born in Boston during a chance hotel conversation between the governor and Premier Joseph R. Smallwood of Newfoundland. The two shared a speaking program a year ago.

Smallwood's enthusiasm over the incredible potential of the Churchill Falls dam fired Hoff's imagination. He carried the idea to the New England governors who had appointed Hoff a one-man committee to see what could be done about this region's power cost problems.

Hoff plunged into the matter with determination and subsequently tangled with the private utilities who have not been accustomed to challenge by public officials.

The first Democratic governor in Vermont in 109 years conferred with Canadian authorities and advised the governors conference last November that Canada was prepared to do business.

As Hoff saw it, the opportunity to import Canadian power would mean a reduction of at least 25 percent in our power rates a figure disputed by private power interests.

Originally, Canada said it could provide New England with 2,000,000 kilowatts of power a year. But it informed Hoff last week that the commitment would have to be cut to 1,200,000, still enough power to meet New England's needs, according to Hoff.

The power would be carried to a distribution station near Montreal and transmitted over new lines to the Vermont border. For

the benefit of the rest of New England, a distribution station would be built near Brattleboro.

A critical question in view of the Northeast blackout is the reliability of the Canadian supply and transmission system.

Canada has answered it by stating the block of power sold in the U.S. would be less than one-third of its reserve.

To facilitate the deal, Hoff proposed legislation for creation of a non-profit Vermont corporation. It would float a $400 million bond issue as a pre-payment to help Hydro-Quebec build the generating facility in Labrador and build transmission lines.

Under pressure from private utilities, the Vermont Legislature sidetracked the plan, referring it to the Legislative Council a research agency, which was advised to study it and report by July 1.

Time was essential to Hoff. Con Edison was negotiating with Hydro-Quebec. There was a danger that Con Ed would sign an agreement and that New England would be left out of the picture. A method was necessary to enable New England to remain in the running.

So a group of officials of Vermont electric cooperatives and municipal light departments all strongly in favor of the Hoff plan, formed the Vermont-New England Power Exchange Corp., known as VNEPE.

Over opposition from Vermont's private power leaders, the Vermont Public Service Board, the state's utility regulating agency, gave the corporation status, enabling it to proceed with the negotiations with Hydro-Quebec.

The private utilities argued against state approval of the power exchange corporation on grounds that Legislature intended that the whole idea should be studied further.

By creating the corporation to continue talks with Hydro-Quebec the supporters of the Hoff plan circumvented the Legislature, the private group maintained.

The Vermont utilities, public and private, could absorb 20 to 25 percent of the Canadian power, the rest would be sold to utilities throughout New England with cooperatives and municipal systems receiving preference.

Hoff has estimated that the power could be purchased at the border for a little less than four mills per kilowatt hour. It could be delivered to a point near Brattleboro for less than 4.5 mills. There are 10 mills to a cent.

The cost of generating and transmitting electricity in New England was 11.4 mills a kilowatt hour last year. Production cost 9.7 mills of the total and transmission cost 1.7 mills.

Michael F. Collins of Wakefield, spokesman for 83 municipal light departments and electric cooperatives in this region, has said his group would purchase whatever power Vermont could not use.

Collins is manager of the Wakefield Municipal Light Dept. He has estimated that the municipals and coops could save as much as $15 million annually in power costs by buying surplus Vermont power.

Hoff, in the meantime, has embarked on a vigorous selling program. His chief task is to convince the New England governors that the Canadian power is necessary. No governor has voiced opposition to Hoff.

The most enthusiastic of the governors is New Hampshire's John W. King who has said he favors any plan which will save money for electric consumers.

Hoff is in the strange position of battling the private utilities with one hand and trying to woo them to his proposal with the other.

The private power interests, who have not generally rejected the Hoff plan, say too little information has been available. If it proves economical, most of them have said, they will consider it.

Presently the utilities are endeavoring to determine how the cost of Canadian power would compare with their own expansion plans in this region. They have announced their own report will be ready by June 14.

The study is being handled by the planning committee of the Electric Coordinating Council of New England, according to Howard J. Cadwell, president of Western Massachusetts Electric Co.

Charles F. Avila, president of Boston Edison Co., finds no benefit in Canadian power for Edison's customers.

Avila says that Canadian power would have to replace nuclear power in the Edison system because of a high capacity factor required for low-cost hydroelectric power.

Edison, by using nuclear power and other new facilities, could produce electricity cheaper than the indicated Canadian price, Avila maintains.

Gov. Hoff, on the other hand, concedes that the utilities are working diligently to meet the region's power needs through nuclear generation and other facilities.

But he believes that New Englanders will have to pay "premium prices" for nuclear generation. Canadian power, he claims, will be the most economical.

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[From the Boston (Mass.) Globe, May 17, 1966]

OUR HIGH COST OF ELECTRICITY, VII: ELECTRIC POWER? IT'S POLITICAL, TOO

(By Richard J. Connolly)

The New England utilities deal in two kinds of power—electrical and political.

They have successfully used one—political—to enhance the value of the other at the expense of the consumer.

In New England, where average electric rates are the highest in the country, private power has virtually had its own way for years.

It has maintained its strength through powerful lobbyists, campaign contributions and patronage jobs within the industry.

Politics has paid off handsomely to private power, and there have been suggestions that the reverse is also true.

Sen. GEORGE D. AIKEN of Vermont, senior Republican in the Senate, more than alluded to it when he told his constituents that their congressional delegation has never been "in the pocket of the Boston utilities."

That pocket AIKEN says, is "lined with gold and ermine."

If AIKEN's statement indicates that only the Boston utilities wield political influence, it does not go far enough.

The region's industry as a whole, as evidenced by developments in the Dickey dispute and the Canadian import proposal of Gov. Philip H. Hoff, is adept in politics.

It has extended its power in Washington and in the capitals of the six New England states. Consumers organizations have maintained that the pro-utility rulings of the regulating agencies demonstrate the strength of private power.

The industry readily admits it fights vigorously in the political area for its goals. But to suggest that it has "bought" a legislator or a regulator?

"That's the last thing a utility company can involve itself in," says Howard J. Cadwell, president of the Western Massachusetts Electric Co., and spokesman for the New England industry.

"My best answer is ask anyone if they've ever heard of Western Mass. greasing anyone's palm," Cadwell says.

The industry displayed its political might, but surprisingly suffered a setback, during last year's congressional consideration of Dickey.

Private power had the support of all but four of New England's 24 congressmen but was unable to block authorization of the project which will have a "yardstick" effect on the industry.

Rep. STANLEY R. TUPPER, Maine Republican, said there were more power lobbyists on Capitol Hill against Dickey than there were congressmen. One industry spokesman said TUPPER'S statement was an exaggeration since there were only three utility men there at the time.

The debate over Dickey also underscores the ability of private power to muster support from strange bedfellows.

The United Mine Workers, foes of private power in the residual oil battle, joined the utilities in opposition against Dickey dam.

The alliance is puzzling because private power said it could provide a lower-cost alternative to Dickey—nuclear-powered generating plants—which would not burn coal.

Lobbying tactics of the industry prompted the Electric Consumers Information Committee at Washington, D.C., to observe:

"The massive display of illogical arguments simply demonstrated the political effectiveness of the private power industry in New England in keeping the influence of Federal power out of what they regard as their private domain."

The effectiveness of the power lobby was demonstrated in Vermont before the Legislature sidetracked Gov. Hoff's plan to import low-cost Canadian power.

Hoff said he had never seen anything like it in his political career. He said the utilities "attacked people's regulation . . . used innuendo and implications to try to defeat the bill."

The legislative members, the Brattleboro Reformer wrote, were under "devastating and at times questionable pressure from the special interest lobby of the private power field."

The Senate had given Hoff an overwhelming endorsement of 22–2. He and his power counsel, Sen. Frederick J. Fayette (D-Chittenden-Grand Isle), anticipated no trouble in the House.

They underestimated the private power lobby headed by Albert A. Cree, chief executive officer of the Central Vermont Public Service Corps (CVPS).

The lobby's big gun was Atty. John D. Carbine of Rutland, one of the most popular lobbyists in the state. Carbine's mark is on most of the utility laws in Vermont.

Hoff's group was equally busy, buttonholing lawmakers in the hallways of the State House. Some complained their arms were "about twisted off."

In a letter and telegram campaign, CVPS advised lawmakers that Hoff's proposition was a "dangerous and vicious bill" and that it called for a state power authority despite its "deceiving dress" as a non-profit corporation.

Several weeks earlier, Cree had proposed a Vermont-Quebec power purchase authority as a financing vehicle.

Hoff, who had refrained from attacking Cree head-on, exploded, accusing Cree of "rule or ruin" tactics in trying to kill his bill.

Hoff's legislative scouts had assured him he had at least 100 of the 150 House votes. In the first test, the bill carried 73–69 but it eventually was sidetracked by a 10-vote margin.

A letter from Cree appeared on the desk of each House member during the final House vote.

Some members said they received as many as 50 telegrams. Each bore this message: "I urge you to defeat S–2, the power bill."

Rep. Hubert Brooks, Montpelier Republican, said he received a telegram with his own name on it.

"If the cost of this telegram shows up on my telephone bill," Brooks told the utilities executives sitting in the gallery, "I'm going to deduct it from my utility bill."

Hoff disclosed he had received a letter from at least one person whose name was signed

to a telegram but who said he knew nothing about it.

Vermont's only television station, WACX-TV, in Burlington reported that Consolidated Edison Co. of New York, which is also interested in Canadian power, had halted negotiations.

The implication was that Vermont had plenty of time to act because the New York firm offered no competition. Con Edison later said it was still negotiating.

But the harm had been done. The news report provided lobbying fodder for the power company which distributed the transcript to the state's newspapers within an hour of the telecast.

Hoff's case was also weakened when a legislator who had supported him switched at the last minute, carried several pro-Hoff votes with him, and urged the House to submit the proposal to the study group.

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[From the Boston (Mass.) Globe, May 18, 1966]

OUR HIGH COST OF ELECTRICITY, VIII: COAL BY WIRE PROPOSED AS PRICE CUTTER

(By Richard J. Connolly)

Coal by wire.

It's as simple as that.

The idea is known as the Yankee-Dixie plan and it's being pushed by public and rural power systems in 22 states.

New England, heavily burdened by high fuel costs, would be included in the billion-dollar plan.

As explained by Francis H. King, former president of the American Public Power Assn., the proposal is to form a huge power grid by:

1—Constructing three big generating plants at the mouths of coal mines in the Appalachian region.

2—Erecting 3,125 miles of high-voltage transmission lines in a web spanning the 22 states.

King, manager of the municipal Gas and Electric Department of Holyoke and co-chairman of the Yankee-Dixie steering committee, believes the project could be completed in four years.

Currently Yankee-Dixie is trying to design a vehicle for the issuance of revenue bonds which would be sold in the private market and underwritten by power sales contracts.

To assure the protection of consumer interests, according to King, the development would be on a non-profit cost of service basis.

Each generating plant would have a capacity of at least two million kilowatts and the transmission lines would carry 500,000 and 345,000 volts along the eastern seaboard.

Yankee-Dixie would serve Maine, Massachusetts, Vermont, New Hampshire, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Maryland, Delaware, West Virginia, Virginia, North Carolina, South Caroline, Alabama, Georgia, Kentucky, Florida, Indiana, Ohio and Illinois.

In its promotional literature, Yankee-Dixie envisions power cost reductions ranging from 25 percent in Florida to 50 percent in New England.

But King is quick to point out that New England could not expect such a tremendous savings immediately because Yankee-Dixie's power would amount to only five to 10 percent of this region's needs.

Supporters of the plan anticipate that prices would be about those paid by the Tennessee Valley Authority—3.5 mills to four mills per kilowatt-hour.

The predominant rate in the Northeast is seven to eight mills per kilowatt-hour. There are 10 mills to a cent.

The plan would not only result in lower power costs. It would boost the economy of the Appalachian region where an estimated 5,000 new jobs would be created.

It is the hope of its supporters that private power companies, operating within the 22 states, will join in the project.

In its quest for methods to reduce its above-average power costs, New England has another project under consideration.

It is proposed creation of a Maine Power Authority which would operate a $280 million system with two nuclear reactors at Otter Point on Owl's Head in the Rockland, Me., area.

The project would include a 1,400,000-kilowatt installation and about 800 miles of transmission lines throughout the state. Operations could begin in the early 1970's.

Maine's Legislature considered the plan earlier this year and referred it to a special study committee which was given $75,000 to hire an independent engineering firm to assess the idea.

The Legislature noted that three Maine electric utilities and eight others from elsewhere in New England, the "Big Eleven Powerloop," also plan an atomic plant in that state.

The Maine Power Authority and the private group, known as Maine Yankee Atomic Power Company, would serve the same market.

Maine Yankee Atomic and the Maine Power Authority would generate an almost identical supply of 700,000 kilowatts, more than the state needs pending an unexpected industrial expansion.

The plant at Otter Point would provide what is known as base-load or constant power and the proposed hydroelectric project at Dickey-Lincoln School would furnish peaking power.

Proponents of the Maine Power Authority believe the two projects—theirs and Dickey—could augment each other, increasing annual residential use in Maine while cutting power costs.

John N. Harris, technical consultant to advocates of the authority, believes the project could operate nearly 40 percent more cheaply than private utilities.

A power authority could produce at a cost range of from 3.1 to 3.2 mills at the start compared to a 4.8 mills cost factor for the private companies, according to Harris.

The Legislature has asked for an interim report next month and a complete report by Aug. 1.

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[From the Boston (Mass.) Globe, May 19, 1966]

OUR HIGH COST OF ELECTRICITY, IX: THE GREAT BLACKOUT PUT THE SPOTLIGHT ON POWER

(By Richard Connolly)

When the lights went out during the Northeast blackout, the spotlight of public scrutiny shone brighter than ever on the private utilities of New England.

It still shines, much to the awareness of the utilities themselves.

More people are asking more questions about how our private utilities operate. They want to know why New England's average electric rates are the highest in the country.

They want to know what is being done about it.

"Kilowatts . . ." "Megawatts . . ." "Firm power . . ." "Peaking power. . . ."

The glossary of power terms goes on and on, to the confusion of the average consumer.

He is interested in power principally in terms of his electric bill and whether it's going up or down.

The consumer is served by a monopoly. He has no choice of product.

As one congressional critic of the private power interests has pointed out, the consumer cannot go bargain hunting for "Super Krunchy Kilowatts."

Under these conditions he must rely upon his elected representatives and the regulatory agencies which they appoint. Government must stand guardian for the interests of the consumer.

Since the blackout, government in this region has taken a closer look at private power.

In Massachusetts, for example, the Legislature created a special commission to investigate the massive blackout of last Nov. 9 and the generation, distribution and cost of power.

The commission was given a broad mandate which also covers the electric rate structure and the financing of the electric companies both private and municipally-operated.

Headed by Sen. James P. Rurak (D-Haverhill), the commission has held several organizational meetings to map its job and to determine how much money it will need. The 17-member commission includes representatives of labor, industry, private power, public power and the Legislature.

The legislation which created the commission was proposed originally by the Massachusetts Consumers' Council which said the power question has been a chronic problem.

The only way it could be solved, the Consumers' Council maintained, was through a "tough, hard-nose commission operating in the public eye."

Whether the legislative commission finds the answer for Massachusetts remains to be seen.

In its overall approach to the problem, New England has under consideration several huge projects—the "Big Eleven Power Loop," Dickey-Lincoln School and Gov. Hoff's plan to import Canadian power.

The advocates of each vouch for the relative cost benefits of the projects.

The Federal Reserve Bank of Boston studied the projects and the current condition of the power industry extensively and concluded that New England consumers would pay less for electricity before long.

The analysis, conducted by John Wilkinson of its research department, showed that the price would be about the same whether the new facilities are erected by public or private groups.

"Long ago," Wilkinson wrote in his review, "state legislatures and the Congress recognized that electric utilities were natural monopolies 'clothed with a public interest' and they have been regulated—more or less—ever since.

"There is justification for the belief that, in general, commission regulation of rates and service has been neither very effective nor very positive in the past," Wilkinson continued.

"There are many exceptions, of course, but too often the incentive to reduce costs has not been present, cost reductions have not meant rate reductions, and assured markets have not fostered efficiency and aggressive innovations.

"For the bold expansion that the future demands, many feel that another tool—regulation by competition—may better serve the region.

"Competition or even the prospect of it is healthy. The absence of competition, less than ideal regulation, and a limited view of the public interest may mean a sacrifice of efficiency.

"But in a natural monopoly situation, competition too may come at some sacrifice in efficiency . . .

"The elected representatives of the people of the region will decide what mix of plans and tools seem to offer the optimal solution."

NUCLEAR POWER PLANT SITE CHOSEN

AUGUSTA, ME.—Baily Point, a peninsula on Wiscasset's Back River, has been named the

"preferred site" for a $100 million nuclear power plant, the Maine Yankee Atomic Power Co. president said Wednesday.

William H. Dunham said that if the U.S. Atomic Energy Commission and other governmental agencies approve, the plan is to start building next year for completion in 1970. The plant would serve much of New England.

DICKEY PROJECT DATA QUESTIONED

WASHINGTON.—Rep. EDWARD P. BOLAND (D-Mass.) questioned in House Appropriation Committee hearings made public Wednesday the basis of cost and benefit estimates used to justify Federal Development of the Dickey-Lincoln Dam project in Maine.

During closed hearings on public works appropriations for the next fiscal year, BOLAND, an opponent of the project, questioned the reliability of data on which the estimates were based.

## TRIBUTE TO WALTER B. PHELAN, DECEASED

Mr. McGEE. Mr. President, on Thursday, June 2, it was my sad task to attend the funeral of a dear friend and State political leader, Mr. Walter B. Phelan, of Cheyenne, Wyo.

A young man with a brilliant career already well established and an even brighter future to look forward to, Walter Phelan was stricken suddenly by a heart attack. His untimely death came as a shock—not only to his wonderful family and those of us who have had the honor to know him well, but to the entire citizenry of the State of Wyoming.

For Walter Phelan was no ordinary man. He distinguished himself in every endeavor he undertook. As an attorney at law, he was considered one of Wyoming's outstanding barristers. He was the county attorney at Cheyenne for 8 years. He was the chairman of his State political party for 4 years. He served five terms in the Wyoming State House of Representatives; and during the last session of that body, he was selected to the position of speaker of the house. In this position of leadership he was able to achieve the passage of much beneficial legislation and was almost singlehandedly responsible for adoption of a revision of Wyoming's Municipal Code. Walter had planned, this year, to seek office in the Wyoming State Senate where he most certainly would have been elected. I know he would have made even greater contributions to Wyoming's destiny in that role.

Mr. President, our State—and indeed, our country—has lost a friend and an outstanding citizen in the death of Walter Phelan. My sentiments are echoed in the editorials which have appeared in the Wyoming press these past few days, and I ask unanimous consent that they be printed at this point in the RECORD.

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

[From the Cheyenne (Wyo.) Eagle, May 31, 1966]

WALTER B. PHELAN

A brilliant legal and political career suddenly came to an end yesterday morning when Walter B. Phelan died.

At 46, Phelan already had established himself as one of the fine attorneys of Wyoming and as a solid leader in the Wyoming Democratic party.

He served as Wyoming Democratic chairman from June, 1961, to Dec. 6, 1964, when he resigned to accept the post as Speaker of the Wyoming House of Representatives—an honor bestowed upon him by fellow Democratic legislators.

He was serving his fifth term as a member of the state House of Representatives at the time of his death.

As Speaker of the House, during the regular session of the 38th legislature, he guided several important pieces of legislation through that body.

Long an outspoken critic of Wyoming's Right-to-Work law, he saw to it that a repeal passed the House in the 38th legislature. The repeal was defeated in the Republican-controlled Senate.

Largely because of his influence, the 38th legislature repealed a provision that had prevented Wyoming from accepting its share of federal aid for education, and he helped to push through the longest bill of the 1965 state legislature—a revision of Wyoming's Municipal code.

He was a co-sponsor of a legislative reapportionment bill which passed the House, but died in the Senate. The reapportionment formula in the measure was very similar to that later decreed by a three-judge federal court.

One of the finest speakers on the political scene, he was much in demand for appearances at political rallies and meetings throughout the state.

He was extremely popular, and for at least eight or ten years he had been urged to seek high office. Perhaps he would have this year, or four years from now, had he lived.

Besides serving as state Democratic chairman and as a member and speaker of the House of Representatives, he served as Laramie county Democratic chairman, and eight years as Laramie county attorney—and a good one he was.

In the political arena, Walt Phelan asked no quarter and gave no quarter. But he was admired and respected by both Democrats and Republicans throughout Wyoming. His friends were many and devoted.

His death is a loss for all Wyoming, and particularly for the City of Cheyenne.

We join with his many friends in extending sympathy to his wife and two children.

[From the Cheyenne (Wyo.) State Tribune, May 31, 1966]

And whither I go ye know, and the way ye know.—St. John 14:4.

TRIBUTE TO WALTER

The last time we talked with Walter Phelan, it was in company with Father Bernard Brown, a Catholic priest who serves as an Oblate order missionary with the Hare Skin Indians above the Arctic Circle. It really was Father Brown's interview but Walter brought him by because the priest was a house guest of the Phelans and furthermore a longtime family friend.

For once we did not engage in any political needling with Walter, which quite often took the form of our conversation. He was intensely interested in Father Brown and the latter's dedicated efforts with the remote Indian tribe. For those who thought of Mr. Phelan as strictly either a legal expert, and he was an outstanding attorney in any arena, or a doughty opponent on the political field, and he certainly was that, too, this was something of a switch.

But there were many sides to Walter, and this is but one of those that were not revealed to the general public who most often conceived of him as a political battler, in the thick of controversy. There were even some very interesting side angles to this facet of his personality, and one that made us like him very much despite some of the jawbone conflicts we engaged in.

For example, Walter once observed to us: "There's no point in being in politics unless you can have some fun out of it." This was in connection with some statement calculated to outrage the Republicans, whom Mr. Phelan quite frequently sought to annoy, and took great delight in doing so.

As a master of wielding the political shiv, Walter often drove home the point; and when it came his turn to receive the counterblows, he did so without complaint, or resorting to the excuse that he had been ill-used, or had suffered a low form of attack.

This was because he not only was a highly intelligent man but he also possessed an intelligence graced by a well-developed sense of humor; plus a sense of the spirit of combat that did not carry with it rancor, spite or hate.

Somehow we got the impression that through the swirling smoke of broadsides fired through press releases, editorials, speeches and other forms of political weaponry, Walter was having a tremendously good time with all of the give and take that he engendered, particularly as state chairman of the Democratic party.

The contest of living was fun as parlayed into politics, and he enjoyed it to the hilt.

This side of his personality overreached the others: That of the lawyer, of good citizen, leading layman in his church, of good father and family man. This may or may not be unfortunate, judging how one views life.

It is sad that so much talent and energy has been lost to this community, state and nation through a physical accident such as the massive coronary occlusion that Mr. Phelan suffered early Monday. He had a great future ahead of him both in the law and in politics, and this had not been diminished one whit by the fact that he did not gain the nomination for the federal circuit judgeship for which he was recommended.

His career in state government was going forward; he had every intention of running for the State Senate and most likely would have been elected, over our opposition, of course; but elected nevertheless.

We were sort of looking forward to this, and somehow secretly glad he did not stray off onto the neutral pathways of the judiciary which would have put him out of the arena.

So as we take our leave of Walter Phelan, with a great deal of sadness, we do so thinking of him loading the political cannon and firing like mad, often in our direction. We shall sincerely miss him in many respects, not the least of which was that he was both a gentleman and a staunch, but honorable, combatant.

## RESOLUTION OF THE ARKANSAS BANKERS ASSOCIATION

Mr. HARRIS. Mr. President, on May 18, 1966, the Arkansas Bankers Association met in Hot Springs, Ark., and, among other things, commended the foresight and perception of the distinguished senior Senator from Arkansas [Mr. MCCLELLAN] for his handling of the banking inquiry by the Senate Permanent Subcommittee on Investigations, which he heads as chairman.

As a member of the Senate Permanent Subcommittee on Investigations, I would like to ask unanimous consent that the attached resolution be printed in the RECORD.

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

RESOLUTION

Whereas, the banking industry occupies a position of great trust and responsibility with respect not only to its stockholders and depositors but, also, to the public; and

Whereas, isolated instances have arisen where such trust has been violated, with harmful publicity to banking as a whole; and

Whereas, the Arkansas Bankers Association feels that all reasonable precautions should be taken within the concept of the dual banking system for adequate protection against any breach of such trust; and

Whereas, certain laws have been promulgated, principally on the national level, which duplicate existing laws; overregulate banks; restrict free flow of money; and inhibit the ability of banks to attract funds; and

Whereas, even though all financial institutions were created by law for specific functions, with separate and distinct powers and services, there is a willful blurring of the distinctions, and the attempted blending of the services, to the confusion of the general public; and

Whereas, the Congress of the United States is becoming more fully aware of the existing conditions and problems, because Arkansas' own native son, Senator JOHN L. MCCLELLAN, has directed the attention of Congress to the report of the Senate Permanent Sub-Committee on Investigations on recent practices in banking: Now, therefore, be it

*Resolved*, That the Arkansas Bankers Association, in this Seventy Sixth Convention here assembled, urges and requests that the historic concept of the dual banking system with its inherent public trust, separate and distinct powers, be preserved without duplication and overregulation, and that Senator JOHN L. MCCLELLAN be commended for his foresight and perception in the necessity to combat the existing trends.

Respectfully Submitted,
J. C. BARNETT,
*Chairman.*
SAM BOWMAN,
P. L. COPELAND,
WILLIAM H. KELLEY,
ELLIS E. SHELTON,
J. B. WADDINGTON,
*The Resolutions Committee of the Arkansas Bankers Association.*
HOT SPRINGS, ARK., *May 18, 1966*

## U.N. OPPORTUNITY IN VIETNAM

Mr. RIBICOFF. Mr. President on June 2, South Vietnam made a formal request for United Nations observers to oversee the elections for a constituent assembly in September.

This request is a welcome one. It should be hailed by all who long for a solution to the tragic situation in Vietnam. For this request, if granted, will give the United Nations an opportunity to become actively involved where an objective international presence is sorely needed.

It will not be easy to gain United Nations sanction for this proposal. The President has given his strong support to the South Vietnamese request. Ambassador Goldberg shares his enthusiasm. We hope that Secretary General U Thant will lend his great personal influence and the prestige of his office to this undertaking. Most of all we hope that France and the Soviet Union will give their support to the proposal when it comes before the Security Council. Their votes are important.

Mr. President, I ask unanimous consent that an editorial which appeared in the New York Times on June 3 be inserted in the RECORD.

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

U.N. OPPORTUNITY IN VIETNAM

The formal request by the Saigon Government for United Nations observers at the election of a constituent assembly in September provides the opportunity for effective U.N. involvement in the Vietnamese crisis. We hope that Secretary General Thant, who has been so alert to the menacing implications for the world of military escalation and internal chaos in South Vietnam, will swiftly join President Johnson in endorsing Saigon's bid for impartial supervision of the balloting this fall.

The assembly election is an essential initial step toward establishing democratic rule in South Vietnam, and the U.N. is the ideal agency to supply observers to help guarantee fair voting in a war-shattered country with no tradition of representative government. The United States, as we have often noted, is much too deeply committed in Vietnam to be considered detached in any election role it might be asked to exercise.

The United Nations operates with no such handicap. Moreover, the precedent set in September would be helpful in assuring similar international supervision of the wider elections that later will be necessary when negotiation of a Vietnam peace settlement and construction of an interim regime become possible.

If the Soviet Union and France want to help clear the way for an eventual termination of the fighting on the basis of democratic determination by the Vietnamese people, their support for the assignment of U.N. election observers would represent a practical road toward such a solution. The cost of adequate supervision will be substantial for a world organization already crippled by fund shortages; but it is infinitesimal when measured against the potential contribution toward establishing the rule of law in the disaster zone that is Vietnam.

## CONDITION OF ANIMALS IN EXPERIMENTAL LABORATORIES

Mr. BREWSTER. Mr. President, on Friday, May 27, 1966, a very instructive news report entitled "Few Animal Laboratories Pass Informal Inspection" appeared in the Christian Science Monitor.

The article gives some idea of the conditions that exist in many research facilities where perpetual caging, inadequate cages, lack of postoperative care, and careless handling by caretakers are among the main abuses to animals.

The Monroney amendment to S. 2322, the animal protective bill now pending before the Senate Commerce Committee, would restore to that bill the provisions for inspection of care and housing of research animals during the time when they are not undergoing actual experiments.

The article I have cited gives good reasons for the passage of S. 2322 with the Monroney amendment. I 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:

FEW ANIMAL LABORATORIES PASS INFORMAL INSPECTION—LEGISLATIVE HEARINGS HELD

BOSTON.—"If people really knew the condition of animals in most of the experimental laboratories in the United States, they would demand corrective legislation," said Mrs. Dorothy Dyce, of the Animal Welfare Institute, in an interview here. Hearings on bills to regulate these conditions open this week before the Senate Commerce Committee.

As laboratory animal consultant for the Animal Welfare Institute, whose headquarters are in New York City, Mrs. Dyce travels throughout the United States, observing conditions in laboratories of hospitals, schools, institutions for scientific research, and pharmaceutical houses.

Out of 104 such laboratories visited since 1963, Mrs. Dyce said that in only two did she find every animal comfortably housed and apparently given proper care both before and after surgery. These were at the Jewish Hospital in Brooklyn, N.Y., and at Dartmouth College, Hanover, N.H., where in her judgment particularly conscientious veterinaries are in charge.

She pointed out, however, that without legally authorized inspection and regulation, no laboratories could be given a blanket approval, since conditions might be good in one direction and bad in another.

EXAMPLES OFFERED

Asked to specify some bad conditions found in laboratories, Mrs. Dyce cited:

Perpetual caging: In many laboratories, the animals are literally never released from the cages. Some dogs have been continuously confined for as long as seven years. In such laboratories the animals, some of them in serious condition, cannot escape the water when the cages are hosed out.

Inadequate cages: Most cages are far too small. In one laboratory all the cages are 30''x30''x26''. Collies, boxers, and other large dogs cannot lie, much less stand, in a normal position. Cages for cats and other small animals are small and overcrowded.

Lack of postoperative care: It is the rare laboratory, Mrs. Dyce charges, that offers adequate treatment after surgery. Often they are left completely unattended.

Careless handling by caretakers. In some laboratories inexperienced caretakers are assigned to animal care resulting often in crude treatment.

INFORMATION AVAILABLE

The Animal Welfare Institute has been combatting these conditions by educational means. It offers free of charge, to any interested laboratory, two complete reference manuals, "Basic Care of Experimental Animals" and "Comfortable Quarters for Laboratory Animals." A film, "Handling Laboratory Animals," is distributed at cost.

But, Mrs. Dyce pointed out, education alone is not enough. Legislation is the only workable solution. The Animal Welfare Institute strongly recommends bills S. 2322 and S. 3059, now before the Senate Commerce Committee. Both would establish humane standards for conditions in laboratories as well as on dealers' premises.

For legislation regulating experimentation itself, the Institue recommends the Clark-Cleveland bills, S. 1071 and H.R. 5647, now pending in congressional committee.

## COMMUNICATING WITH LATIN AMERICA: PROGRESS AND PROBLEMS

Mr. MONTOYA. Mr. President, last week, I reported to the Senate on the effectiveness of our information program in Latin America in regard to books and other printed materials.

Today, I would like to turn to an equally important aspect—perhaps more important—of our effort to communicate with our Latin friends.

I am referring to the broadcast media, radio, and television, through which we attempt to reach millions of people who cannot or will not read the books which are produced by the U.S. Information Agency.

Convulsive social and political changes are occurring in Latin America. Many ingredients have figured in this reaction; one is radio.

This change is affecting more and more facets of Latin American culture and society. Ever growing numbers of people are not only being touched by it, but are participating in it—wittingly or otherwise. A tiny device helps power this ongoing social revolution. As expressed in the U.S. Information Agency's 25th semiannual report to Congress, a "device of comparatively recent invention has led to what has been called the transistor revolution in communications. Cheap, battery-powered transistor radios have enabled previously isolated, politically naive peoples to make contact with a world over the next hill or beyond the horizon or thousands of miles away. As they learn of this other world, where the living is better and men have a say about their destinies, their aspirations soar, and their ideas and attitudes undergo a change."

Meanwhile, as the industrialized nations of the world jet further into the electronic era, Latin America has not lagged far behind. If confirmation is needed, one need only refer to the statistics on the growth of television in Latin America:

| Year: | *Transmitters* | *Receivers* |
|---|---|---|
| 1961 | 123 | 4,131,000 |
| 1962 | 138 | 4,782,700 |
| 1963 | 162 | 5,697,490 |
| 1964 | 190 | 6,217,200 |
| 1965 | 211 | 8,821,200 |
| 1966 (projected) | 233 | 9,405,600 |

The major target of Communist propagandists today is the developing world, and, within the developing world, Latin America receives special attention.

Communist shortwave broadcasts to Latin America total over 450 hours per week.

In addition to Spanish and Portuguese, these broadcasts are delivered in English, 8 hours a week; French, 3 hours; Creole, 12 hours; and two major Indian dialects—Guarani, 3½ hours; and Quecha, 7½ hours. Communist satellite languages account for 38½ weekly broadcast hours.

Total worldwide broadcasting by Communist countries increased by 10 percent in 1965 over 1964, but two countries accounted for fully half that increase—and one of the two was Cuba. The other was North Korea. Interestingly, North Korea discontinued its 7 weekly hours of broadcasting in English to Latin America and initiated, in its stead, 14 hours of Spanish.

The U.S. counterattack against this Communist barrage is the responsibility of the Voice of America, the broadcasting arm of the U.S. Information Agency.

VOA broadcasts to Latin America in Spanish, Portuguese, and English.

In Spanish, there are daily airshows from 6 to 9 a.m. and 6 to 11:30 p.m., plus a Monday-through-Friday schedule of daily half hours for 5:30 to 6 p.m. of news, for a total of 62 hours per week.

Portuguese-language broadcasts total 23½ hours weekly, consisting of a daily airshow from 5 to 8 p.m. and, Mondays through Fridays, a half hour—4:30 to 5 p.m.—of news.

Twenty-four and a half hours of VOA's weekly total of worldwide English broadcasts may be heard in Latin America. Additionally, 7 hours weekly are directed specifically to Latin America. This is the program "Report to Latin America," comprised of news backgrounders, commentaries, interviews, and topical features. The program is aired every evening from 6 to 6:30 p.m. and repeated from 9 to 9:30 p.m.

News accounts for 26 percent of the Spanish and 27 percent of the Portuguese programing of the Voice of America. Thirty percent of the Spanish and 25 percent of the Portuguese is devoted to news analysis. Commentaries and features, plus other features centering on self-help and the Alliance for Progress, make up the remainder.

Of the approximately 38 million radio receivers in Latin America, 18 to 20 million are capable of receiving shortwave broadcasts. Including an estimated 530,000 in Cuba, VOA's daily listeners number about 4,200,000.

For special events, however, such as the coverage of Gemini flights, the VOA can count on great numbers of local Latin American radio stations picking up the VOA broadcasts and relaying them to listeners via medium-wave. In the specific case of the Gemini VI and VII launchings, 633 Latin American stations relayed the VOA coverage. A careful estimate of the audience for the Gemini IV coverage—which was relayed by 522 stations—indicated over 57 million listeners in Latin America.

Aside from special events, VOA and USIS programs are being relayed by or placed on 1,485 Latin American radio stations for a total of 11,192 transmitter hours per week. Taped package programs of VOA, placed on local stations, account for 9,315 of these hours; placement of USIS locally produced shows, 1,043; and relays of OVA programs, 834. VOA's newscasts are used, in Spanish, by 162 radio stations in 19 countries, and, in Portuguese, by over 50 in Brazil.

As the number of countries—and the number of transmitters in those countries—engaged in international shortwave radio broadcasting keep increasing, signals come closer together on the bands of receivers. What it boils down to is simply that the stronger signals are those which get through. Other things being equal, the listener will prefer the stronger, clearer signal, received more audibly and with less interference.

VOA is doing well in this constant jockeying for position. Nearly half of the total potential television audience of 39 million in Latin America listens to VOA broadcasts.

That is not to say, however, that we should relax. If an audience of 16.5 million is good, then 20 or 30 million is that much better.

Radio has effected in Latin America, as elsewhere in the developing world, what Leonard Marks, Director of the USIA, has referred to as a sort of "instant literacy." For a long time, motion pictures have filled a similar void in the area, combining sight and sound, while dispensing with the necessity for the audience to be able to read and write. Television, however, does all of this and more. It bypasses literacy, on the one hand, while, on the other, it has been used in Mexico and other countries as an instrument for teaching literacy. In closed-circuit arrangements, it helps overcome such inadequacies as lack of trained instructors in universities. From the political viewpoint, it brings the nation and the world into the homes of people. To radio, it adds the element of the visible. To the motion picture, as traditionally known in moviehouses, it adds the element of immediacy.

Much as television has already revolutionized communication in Latin America—and between ourselves and Latin America—we are merely on the threshold of its full potential. What the future holds, as orbiting communication satellites are sent aloft in greater numbers, with stepped-up capabilities, and for longer periods of time, we can only guess.

During 1965, 23 countries with television in Latin America devoted 7,000 hours of their telecasting time to USIA materials.

None of the USIA's posts in these countries paid anything for this massive block of air time, which. if purchased, would have cost—by conservative estimates—$2,350,000.

Programing for Latin America by the USIA draws on some of the material produced for worldwide use, such as "Report From America," "Science Reports," President Johnson's speech at Johns Hopkins University, "In Search of Peace"—on Pope Paul's visit to the United States, and "Walk in Space."

There is, additionally, areawide TV programing specifically directed at Latin America:

News: Feature clips which are distributed to posts not receiving U.S. commercial news service.

Documentaries: Such as Alliance for Progress specials and OAS specials.

News in depth: Special events coverage and special conferences, and a pilot series, called "Hemisphere Perspective."

Series: "Panorama Panamericano," a 15-minute weekly videotape program is a major regular vehicle for continued coverage of Alliance for Progress events throughout the hemisphere. It is carried on 121 television stations in 101 cities of 20 Latin American countries.

Nuestro Barrio—"Our Neighborhood"—is a 26-episode, continuing series of 30-minute dramatic programs devoted entirely to the Alliance for Progress, designed for showing in evening peak-listening periods and using top Latin American talent. It is being telecast at prime time in 24 Latin American cities on top-rated TV stations. Some cities plan daily reruns.

Country programing: Eight USIS posts produce 21 continuing television

programs, while 18 produce specials and adapt and use material provided by USIA's Motion Picture and Television Service.

Special output: Among special output items have been television treatment of the Tricontinental Conference in Cuba, the Vietnam peace offensive, and the Cuban exodus.

In summary, Mr. President, this is a good record of performance that deserves the wholehearted support of the Senate. That is not to say that more cannot be done, but the Voice of America and the USIS are doing a good job now, and I am pleased to commend their performance to my colleagues.

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

## BANK HOLDING COMPANY AMENDMENTS OF 1966

Mr. MANSFIELD. I ask unanimous consent that the Senate proceed to the consideration of H.R. 7371.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The LEGISLATIVE CLERK. A bill (H.R. 7371) to amend the Bank Holding Company Act of 1956.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. TALMADGE in the chair). Without objection, it is so ordered.

Mr. ROBERTSON. Mr. President, H.R. 7371, the Bank Holding Company Act Amendments of 1966, as amended by the Banking and Currency Committee, constitutes a major step forward in the regulation of banks and banking. It demonstrates clearly that the Congress is fully aware of the special needs and problems in the field of banking, including both the competitive problems and the problems relating to public convenience and necessity, and can and will pass appropriate special legislation to handle these special problems.

The Bank Holding Company Act of 1956 was the outcome of 18 years of effort on the part of my predecessor, Carter Glass, and many years of effort on the part of the Banking and Currency Committee after I became a member of that Committee. It was intended to apply in the field of banking and bank holding companies the general purposes of the antitrust laws—to promote competition and to prevent monopoly—and the general purposes of the Glass-Steagall Act of 1933—to prevent unduly close connections between banking and other businesses. For the first time, the Bank Holding Company Act of 1956 imposed effective and meaningful restrictions on the forming of new bank holding companies, the acquisition of banks by bank holding companies and the conduct of business within bank holding company systems. These controls have proved generally effective and satisfactory.

However, like all major statutes, the Bank Holding Company Act of 1956 was the product of compromise, and, like all such statutes, experience under it demonstrated the need for amendments of one kind or another. We knew at the time we passed the 1956 act that it would be necessary to revise the act as the result of experience under it, and we, therefore, required the Federal Reserve Board to report to us at the end of 2 years and annually thereafter with recommendations for amendments. The Federal Reserve Board has done so, and H.R. 7371, as reported, embodies many of those amendments.

H.R. 7371 contains two major elements. In the first place, it would terminate two major open-end exemptions which, unless closed, could make the act virtually meaningless. These are the exemptions for long-term trusts and religious, charitable, and educational institutions, and the exemption for registered investment companies and their affiliates. In the second place, H.R. 7371 would make a substantial number of amendments to the regulatory and administrative provisions applicable to registered bank holding companies subject to the act.

All of the provisions in the bill—both the elimination of loopholes and the changes in regulatory and administrative provisions—are supported by the Federal Reserve Board, which originally recommended most of them, although the bill does not include all of the recommendations made by the Board over the past 10 years.

### HISTORY OF THE BILL

The House Banking and Currency Committee held extensive hearings in 1964 and 1965 on bills directed particularly at closing the two major loopholes in the act—H.R. 7371 which would have repealed the exemption for long-term trusts and religious, charitable and educational institutions, of which the Alfred I. du Pont Trust Fund, which owns 30 banks, a paper company, and a railroad in Florida, is the principal example at the present time—and H.R. 7372, which would have repealed the exemption for registered investment companies and their affiliates, of which the Financial General Corp., which controls 26 banks and a number of insurance companies and other financial and industrial interests, is the principal example at the present time. These bills were reported in 1965.

The House took up H.R. 7371 and added the provisions of H.R. 7372, and also a provision eliminating the present exemption for one-bank holding companies—corporations controlling only a single bank. However, the House did not consider the Federal Reserve Board amendments to the regulatory and administrative provisions applicable to registered bank holding companies subject to the act.

When H.R. 7371 came to the Senate Banking and Currency Committee, the committee considered that bill, along with two other bills pending before the committee—S. 2353 containing the current recommendations of the Federal Reserve Board, which I had introduced at their request on August 3, 1965, and S. 2418, introduced by Senator MORSE and other Senators on August 16, 1965. The Federal Reserve Board was asked to find out what banks and what bank holding companies would be affected by the bill, particularly the provision terminating the exemption for one-bank holding companies. This information was issued in a committee print which is included as a part of the hearings on the bill—part 1, page 312. Extensive hearings were held by the committee on 8 days in March of 1966 and again on 3 days during May. After consideration of the testimony at the hearings, a committee print bill was prepared and distributed on May 10, 1966, to the members of the committee for their consideration at an executive session. This committee print bill, with two amendments, was reported by the committee to the Senate on May 19, 1966.

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

Mr. ROBERTSON. I yield.

Mr. HOLLAND. The provision which the Senator has just mentioned affects at this time and applies at this time to only one testamentary trust, and that is the estate of Alfred I. du Pont. Is that correct?

Mr. ROBERTSON. That is correct.

Mr. HOLLAND. I thank the Senator.

Mr. ROBERTSON. As pointed out, we have not covered those trusts that would end within 25 years, or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust. It never has affected those. It relates only to the indefinite long-term trusts. In the future more of them could be organized. The bill applies also to corporations that we thought would be controlled effectively by the Investment Company Act of 1940, so that it would not be necessary to apply the Bank Holding Company Act to Financial General Corp. But it is true that the only testamentary trust which will be affected at this time is the Du Pont trust fund, but there are many that could be so affected in the future. And the bill applies to other charitable institutions like the Mott Foundation in Illinois and Michigan.

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

Mr. ROBERTSON. I yield.

Mr. HOLLAND. If I understand the Senator correctly, this bill, insofar as its application to testamentary trusts is concerned, refers to only one testamentary trust, and that is that of Alfred I. du Pont, and insofar as its application to investment trusts is concerned, refers only to Financial General Corp. Is that correct?

Mr. ROBERTSON. That is correct; but the Federal Reserve Board and all the banking agencies say that before we get many more included we ought to close these loopholes. They also say we need changes in the regulatory provisions of the act, and they are included in the bill before us.

Let me point out that the bill as we are taking it up in the Senate has been changed substantially from the bills that were considered by the committee. We gave Financial General Corp. more time. We gave Du Pont more time.

We eliminated one provision which would have affected hundreds of corporations owning only one bank and a number of labor unions owning only one bank. The Comptroller testified he did not see any necessity for going that far. We do not see any need for going that far.

Banks which were held singly, and not in combination were not found to be restraining trade. They operated just as other small banks did.

The bill does not include everything that the House had before it.

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

Mr. ROBERTSON. I yield.

Mr. HOLLAND. The provisions eliminated from the original bill were, however, provisions recommended by the Federal Reserve Board. Is that correct?

Mr. ROBERTSON. That is correct. The Board wanted me to tack those provisions onto the bill in 1955, when I introduced the bill. There were two reasons why I dropped those provisions with respect to the 1955 bill. The first reason was I did not think it was necessary. The second reason was that we could not have gotten the bill through if those provisions were included. I think these were good and sufficient reasons for taking that action from a practical standpoint.

In 1956, the Federal Reserve Board did not want any bank to be connected with any commercial enterprise. That was a good theory, but we could not find any supporting ground for that theory. We said that was good in theory, but not necessarily in practice.

Nobody can discount the contributions of my predecessor, Carter Glass. He served in Congress longer than any man in the history of Virginia, first in the House and then in the Senate. He was chairman of the Appropriations Committee. He was President pro tempore. He was the ranking member of the Banking and Currency Committee. He was the author of the Federal Reserve Act, and he tried for 18 years, and did all he could, to get a bank holding company bill through, and he never got it through.

The Federal Reserve Board asked me to undertake that task. At that time I was relatively new in the Senate. I did not fully realize what I was going up against. I agreed to undertake the task. I soon learned what I was up against.

I learned that if I were to get anything through, I would have to approach it from a realistic standpoint and abandon the theory that a corporation which had 25 percent or more control of any one bank was to be bound by the provisions of the bill, and that we should make some concessions to existing conditions.

Then the Federal Reserve Board came along with a new proposal, and the House passed it. The House had two bills before it. One related solely to Du Pont. One related solely to Financial General Corp.

A Member of the House offered an amendment on the floor. I do not know whether he expected the amendment to be adopted or whether he expected the adoption of the amendment to kill the whole proposal. But whatever he expected, it was adopted without any testimony and without any hearings. We got an extreme bill that we never had been able to get before from the House.

It then became my responsibility to recognize that we should close loopholes, but if we wanted to close loopholes, we had better be fair to those who already had exemptions and we had better be practical enough to follow the advice of the Comptroller of the Currency and various authorities, such as the American Bankers Association, for example, which recommended that we continue the exemption for corporations which had not more than 25 percent of the stock of just one bank. They all said there was no need to remove this exemption, and that it would in fact be harmful to competition to remove it.

I quote from the testimony of a good friend, the very able Chairman of the Federal Reserve Board who had recommended elimination of the one-bank exemption. This is what he said before our committee:

> If you ask whether the Board can cite specific examples of such abuses among the hundreds of one-bank holding companies in existence today, the answer is clearly "No."

The Federal Reserve Board had sent questionnaires to 500 or 600 such companies. Not one abuse was cited in any of them. They said that in theory it is a bad situation.

I said, "That is all right in theory, but in practice you cannot prove that it has been bad for the banking industry."

From my experience with the legislation, following the efforts of my able and distinguished predecessor, who had proposed such legislation for 18 years, I knew that I had to abandon my attempt to get such legislation through the Senate in 1955. I knew full well what I was up against when I tried to write something that I thought the Senate might accept.

I am not sure that I was liberal enough. I tried to be fair. I certainly was more liberal than was the House. In any event, I knew that if I went along with the Federal Reserve Board as to the one-bank proposition, we would never get anywhere.

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

Mr. ROBERTSON. I yield.

Mr. HOLLAND. Am I correct in my understanding that neither the present law nor the proposed law affect the right of an individual, as distinguished from a company, to collect the control, by an ownership of 25 percent or more, of as many banks as he is able to control, with his own initiative, with his own ability, and with his own resources, without penalizing him in any way or bringing him under the Holding Company Act?

Mr. ROBERTSON. That is correct. The bill does not affect an individual.

Mr. HOLLAND. My understanding is that the individual can combine as many ownerships of as many banks as he sees fit.

Mr. ROBERTSON. I am advised by my aid that that provision has not been changed. An individual could do so. That is correct.

Mr. HOLLAND. I appreciate the frankness of the distinguished Senator. That is my understanding, also.

Mr. ROBERTSON. That is correct.

Mr. HOLLAND. However, my understanding is also that under the pending bill a distinct handicap is placed upon a testamentary trust, in the event the owner of several banks or one who controls several banks and other businesses, as well, should be so unfortunate as to pass away and should leave a will containing a testamentary trust that is more than temporary, and does give to some charitable organization an interest that will be perpetual.

Mr. ROBERTSON. That is true. If the period of time is not more than 25 years or not more than the period permitted by the rule against perpetuities, the law does not apply. But if it is a permanent testamentary trust, the bill applies.

Mr. HOLLAND. Do I correctly understand that as to a perpetual trust, the limitation is 25 years, and as to a nonperpetual trust, the limitation is the life or lives of persons in being, plus 21 years and 10 months?

Mr. ROBERTSON. We have the rule against perpetuity. If it is not permanent, if it does not go beyond 25 years or beyond the period permitted by the rule against perpetuities, the law does not apply. If the trust will last longer than that—if it is permanent, the law applies. The Senator is correct in saying that at the present time we are dealing with only one permanent trust that would be affected.

However, the Federal Reserve Board is of the opinion that this situation invites other permanent trusts to go into the banking business and to combine it with other businesses. The Federal Reserve Board believes that this situation presents a loophole, an exception that should be changed, and that an investment company that is regulated should not be permitted to go into the banking business and buy banks all over the country, anywhere it wishes. Dozens of investment companies could do it, but they have not.

However, because Financial General had issued a mortgage which I understood used as collateral the stock of all the corporations it owned, it could not spin this stock off, because it was subject to that mortgage, and the mortgage ran for 12 years. So we allowed them 12 years in which to spin off the stock of these nonbanking corporations. But then they had to get rid of it.

I thought the provision in the House bill of allowing Du Pont only 2 years was

entirely too harsh. On my own initiative, I decided it was too harsh. I recommended 5 years in the clear, if they want to take that long, as absolute legislative right.

Mr. HOLLAND. Mr. President, I think the Senator was more generous in his provision of 5 years overall than would have been the case under the present law of 2 years plus 3 years, 1 at a time, in the judgment and in the grace of the Federal Reserve Board.

Mr. ROBERTSON. That is true. That provision was in the House bill when it came to the Senate.

Mr. HOLLAND. That is my understanding.

I think the Senator from Virginia was more generous, though not by any great degree, in providing the 5 years as time certain, rather than providing 5 years as time uncertain and 3 years in the judgment and thrcugh the grace of the Federal Reserve Board, 1 year at a time, as was provided by the House bill.

However, my question is: Why did the Senator from Virginia see fit to give to the Du Pont Estate less time than is given to other testamentary trusts which are not trusts in perpetuity, in that those trusts are allowed to run through the life or lives of persons in being, plus 21 years, plus 10 months, whereas in the case of the Du Pont Estate the time is fixed at 25 years and no more?

Mr. ROBERTSON. Again, it was a question of fact. One is permanent and one is not. One will end automatically, and with the knowledge that it will end automatically, they are not likely to go into this program in a big way. We do not have any evidence of a temporary trust going into millions of dollars of banks and millions of dollars of other property and commingling the management.

Therefore, we were faced with a recommendation of the Federal Reserve Board that the Du Pont Estate be given 2 years. We were faced with a bill passed by the House which gave the Du Pont Estate 2 years.

I was very friendly with Du Pont. Mrs. Alfred I. du Pont is one of the most wonderful women I have known, and one of the most charitable. She has sponsored many charities in Virginia, and we are appreciative of all that she has done.

I said that I could not help what the theory of others was. I said that on my own initiative I would say it was too difficult, and that I would recommend that we allow up to 5 years. That is why we did not provide 25 years.

One trust is permanent and the other trust is not. We are trying to establish the rule that permanent trusts and corporations that started out as investment companies and are regulated by the SEC should not be exempt. There are many of them. We are going to say in the future, so far as we can, that the bank holding company business should be fully regulated and should be separated from other commercial enterprises.

Mr. HOLLAND. I thank the Senator.

Mr. LAUSCHE. Mr. President, will the Senator from Virginia yield, to allow me to ask a question of the Senator from Florida?

Mr. ROBERTSON. I yield.

Mr. LAUSCHE. Will the Senator from Florida explain why he thinks there is an inequity in the treatment of the two different classes about which he has been questioning the Senator from Virginia?

Mr. HOLLAND. Does the Senator mean that there are two different testamentary trusts?

Mr. LAUSCHE. That is correct. I mean that there is one time rule applicable to the Du Ponts and another rule applicable to others.

Mr. HOLLAND. I should be very happy to answer that question. In the case of the estate of Alfred I. du Pont, deceased, because there is a perpetual trust to a hospital or a home for crippled children in Delaware, the limitation applied there is 25 years, and from this date only 5 years in which to wind up the trust. On the other hand, in the case of numerous other testamentary trusts in which there is not any perpetual trust, but simply a trust that comes under the rule against perpetuities; namely that they are given time to run during the life or lives of persons in being plus 21 years and plus 10 months, it seems to me that it is very obvious that there is very real discrimination used in this regard against the estate of Alfred I. du Pont.

With regard to the length of time allowed to all other testamentary trusts except perpetual trusts—and our distinguished friend, the Senator from Virginia, has stated that there is only one trust which comes under that definition at this time that would be affected by the bill—it seems very clear to me that there is flagrant discrimination between the trust involving the estate of Alfred I. du Pont and a vast number of testamentary trusts which follow the rule against perpetuities amongst and between them.

Mr. LAUSCHE. The distinction is that the discrimination is against the Du Pont Estate?

Mr. HOLLAND. There is no question about that. I am sure that the Senator from Virginia would have to admit that my statement of fact is completely correct.

Mr. ROBERTSON. I do not challenge the statement at all.

Mr. HOLLAND. The witness for the American Bankers Association made that point very strongly in stating that he saw no justification at all for making this discrimination between other testamentary trusts in general—which would cover many testamentary trusts—and, at this time, this one testamentary trust which does run in perpetuity because it sets up a children's hospital and endows it with all the estate that would be left after the death of the named beneficiaries.

Mr. ROBERTSON. Mr. President, I think that is a fair statement. The American Bankers Association did endorse the bill, but they recommended an exemption during life estates. However, I think they would have no objection at all if the Du Pont trust had been granted 12 years like Financial General, as I believe one witness indicated. I should like to read from this letter of May 17:

THE AMERICAN BANKERS ASSOCIATION,
*Washington, D.C., May 17, 1966.*

Hon. A. WILLIS ROBERTSON,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR ROBERTSON: The American Bankers Association has examined the May 10, 1966, committee print of proposed amendments to the Bank Holding Company Act of 1956 and is in accord with its more important provisions. The Association is particularly pleased that the two-bank definition of bank holding company is retained.

However, the Association reaffirms the position taken in its initial statement that an exemption from the Bank Holding Company Act should be allowed for trusts for the life interest of individual beneficiaries living when the trust becomes effective whether the trust is perpetual in form or whether the trust expires after a given term of years or at a time related to the death of the beneficiaries. The Association also continues to recommend that Edge Act and agreement corporations be excluded from the definition of "company" in Section 2(b) of the Bank Holding Company Act.

The American Bankers Association takes this opportunity to congratulate your committee on the fine manner in which it has handled this difficult and complicated legislative problem.

Sincerely yours,

LEWELLYN A. JENNINGS,
*Chairman, Federal Legislative Committee.*

LONG-TERM TRUSTS AND CHARITABLE INSTITUTIONS

H.R. 7371, as reported, would amend the present provisions concerning nonbusiness trusts. It would retain the present exemption for nonbusiness trusts which must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, but it would eliminate the exemption for other nonbusiness trusts of a more permanent nature. The purpose of the amendment is to distinguish between trusts set up by deeds of trust or wills which serve as vehicles for the accomplishment of the usual family and estate planning objectives on the one hand, and long-term trusts of unlimited or indefinite long duration on the other.

This distinction is accomplished by exempting only those nonbusiness inter vivos and testamentary trusts which must either terminate within 25 years by their terms or which by their terms—as affected by applicable law—must terminate not later than 21 years and 10 months after the death of individuals living on the effective date of the trust. In other words, short-term trusts and the usual personal trusts which do not violate the rule against perpetuities would continue to be exempt from the act.

Long-term trusts, however, and religious, charitable and educational institutions, whether created by trusts or otherwise, would no longer be exempt. If such a trust or institution should control two or more banks, it would not be permitted to retain control of a nonbanking business. However, while it would have to divest itself of its controlling interests in nonbanking businesses, it presumably would reinvest the proceeds in stocks, bonds and other securities yielding approximately as much income, so

the charitable or other objectives of the institution would not be adversely affected.

A long-term trust or religious, charitable or educational institution, however, would not be required to cease its exclusively religious, charitable or educational activities. Such activities—for example, the operation of a tax exempt charitable hospital or a tax exempt educational institution—would not constitute engaging in business for the purposes of the Bank Holding Company Act, and no divestiture of such an activity would be required.

The committee reached the conclusion that it was not consistent with the basic policy of the Bank Holding Company Act to permit an exemption from the broad public purposes of that act for long-term trusts and religious, charitable and educational institutions. This conclusion does not, of course, indicate any reflection whatever on the desirability or value of such institutions or of their purposes and objectives. It simply means that the basis for special treatment of such institutions, for example in the field of tax exemption, does not warrant exemption from statutes carrying out broad public policy purposes, such as the Bank Holding Company Act, any more than it would support an exemption from the antitrust laws or the Interstate Commerce Act.

Throughout the entire course of English and American legal history, religious and charitable institutions have been subject to special restrictions on the acquisition of property where this would conflict with important public policies. The Mortmain Acts, going back as far as 1279, were passed to prevent the alienation of land which might frustrate feudal rights and privileges. Those who are familiar with "Mr. Tutt's Case Book" will recall the story, "Mr. Tutt, Father-in-Law," where the provisions of a will leaving property to a charitable corporation were upset because the corporation had already received the total amount of property permitted under section 15 of the New York General Corporation Law of 1929.

While the Alfred I. du Pont trust is the principal organization which will be affected by this provision at the present time, the exemption itself has no limits whatever. Any charitable foundation, such as the Ford Foundation or the Rockefeller Foundation, or any educational foundation like Harvard or the University of Chicago, or any church or any other religious institution is completely free at the present time to establish a chain of banks extending across State lines, without any control or restriction whatsoever from the point of view of the public policies enunciated in the Bank Holding Company Act.

Because long-term trusts and charitable institutions which must divest themselves of nonbanking interests—or of banks if they do not want to continue as bank holding companies—cannot spin off stock to their stockholders but must sell the stock, the committee revised the divestment procedures applicable to these cases. The present law requires divestiture within 2 years, and gives the Federal Reserve Board power to grant three 1-year extensions—making a total of 5 years. This provision makes good sense where the divestiture can be accomplished by spin off. However, when the divestiture must be accomplished by sale, it imposes an unreasonable and unnecessary burden on the trust or institution to come up against a deadline at the end of the second and third and fourth years, not knowing whether or not the Board will grant the extension and thus putting the trust or the institution at the mercy of prospective buyers.

Instead of this year-by-year extension for a total of 5 years, the committee changed the provision to give a flat 5-year period for this divestiture. This is no longer than the total under the present act, but the elimination of the annual deadlines could prove of substantial assistance. The committee added a provision requiring that any bank holding company subject to this 5-year limitation must endeavor to divest itself promptly, and it must report its progress in such divestiture to the Board 2 years after the repeal of the exemption and annually thereafter. The committee expects the Federal Reserve Board to keep it advised of the status of any such divestitures. The committee also called attention in the report to the fact that the act does not contemplate any further extensions after the end of the 5-year period.

REGISTERED INVESTMENT COMPANIES AND AFFILIATES

H.R. 7371, as reported, would also repeal the exemption of investment companies registered under the Investment Company Act of 1940 and their affiliates. When this exemption was inserted in the 1956 Act, it was expected that regulation under the Investment Company Act of 1940 would provide adequate protection against possible abuses or other problems which might result from this exemption. Experience has shown clearly that regulation of registered investment companies and their affiliates under the Investment Company Act of 1940 does not carry out the aims of the Bank Holding Company Act of 1956.

On the contrary, any of the 300 registered investment companies to which this exemption now applies, or any of their numerous affiliates, might take advantage of this loophole to frustrate the purposes of the Bank Holding Company Act. Up to the present time only Financial General Corp. falls within this exemption. However, unless the loophole is closed, we may expect many other concerns to take advantage of it, and 5 or 10 years from now it might be far more difficult, perhaps impossible, to close the loophole.

A special provision was made with respect to divestiture of nonbanking assets by Financial General Corp., which has issued substantial quantities of bonds and debentures, secured by bank and insurance stocks, which come due in 1976 and 1978. Under these circumstances, spinning off the nonbanking assets to the Financial General Corp. stockholders before 1978 would be extremely difficult, if not impossible. Accordingly, the committee inserted a provision postponing until December 31, 1978, the requirement that Financial General Corp. divest itself of its nonbanking assets. However, Financial General Corp. would be required to register promptly, and would be subject at once to the act's restrictions on acquisition of new banks or new nonbanking concerns and to the act's restrictions on intrasystem transactions.

ONE-BANK HOLDING COMPANIES

The committee heard many witnesses and received many letters and statements in connection with the proposal to repeal the exemption for one-bank holding companies, which was contained in the House bill, H.R. 7371, and in the Federal Reserve Board proposal, S. 2353.

After considering all of this testimony, the committee came to the conclusion that there was no substantial evidence of abuses occurring in one-bank holding companies. Furthermore, the committee received much testimony to the effect that repeal of the exemption would make it more difficult for individuals to continue to hold or to form small independent banks. The repeal of the exemption would, therefore, be likely to cause the forced sale of large numbers of banks and in a diminution of competition rather than in an increase of competition. Consequently, the committee decided not to adopt this proposal.

However, in order to minimize the danger that conflicts of interest might occur in this field, the committee amended the Federal Deposit Insurance Act so as to make the provisions of section 23A of the Federal Reserve Act relating to transactions between a bank and its affiliates applicable to all insured banks.

ANTITRUST LAWS

The committee adopted two amendments to the act relating to the antitrust laws. In the first place, the committee amended section 11 of the act by establishing the same procedures with respect to the antitrust laws in the case of bank holding company formations and acquisitions as the Bank Merger Act Amendments of 1966 established for bank mergers. Under this procedure the Attorney General would be notified of any approval under the Bank Holding Company Act, and the transaction approved could not be consummated for 30 days so as to give the Justice Department an opportunity to start an action under the antitrust laws. If the Justice Department did not start an action within this 30-day period, then the bank holding company formation or acquisition would be exempt from section 7 of the Clayton Act and section 1 of the Sherman Act. A similar exemption would be given to all bank holding company formations or acquisitions before the enactment of the provision if no litigation had been initiated at that time. The provision makes it clear, however, that no exemption is granted from the antimonopoly provisions of section 2 of the Sherman Antitrust Act either with respect to past or to future transactions.

In the second place, the committee amendment also provided that in any litigation initiated under the antitrust laws in connection with bank holding

company formations or acquisitions the court should apply the substantive rule of law—the standards—prescribed in the Bank Holding Company Act for bank holding company formations and acquisitions, and the committee amended these standards by replacing the former more general standards with the new standards written into the Bank Merger Act in 1966 which relate particularly to competitive questions.

These new standards make it clear that the possibility of anticompetitive effects of any proposed transaction must be considered carefully. On the other hand, they make it equally clear that, as long as these anticompetitive effects would not result in a monopoly or are not in furtherance of a conspiracy to monopolize, the transaction may nevertheless be approved if these anticompetitive effects are clearly outweighed in the public interest through their favorable effect on the convenience and needs of the community to be served.

It is not necessary at this point to comment in great detail on these new standards adopted from the Bank Merger Act of 1966. I explain these standards fully in connection with the Bank Merger Act on February 9, 1966, when the Senate accepted them as a part of S. 1698 and sent the bill on to the President for his signature. As I indicated in my remarks on this subject on February 10 and May 3, 1966, this matter had been carefully considered by the members of the Senate and particularly by the members of the Banking and Currency Committee, and, therefore, further discussion at this time is unnecessary.

At this point it seems appropriate to call to the attention of the Senate the comments of the Department of Justice on various aspects of this bill. The Department of Justice was asked to comment on H.R. 7371, S. 2353, and S. 2418 by letters of September 27 and December 9, 1965. A reply was received on May 9, 1966—too late to be included in the record of the hearings. In this letter the Department of Justice recommended: First, elimination of the one-bank holding company exemption; second, elimination of the exemption for registered investment companies and their affiliates, and third, elimination of the exemption for long-term trust and religious, charitable, and educational institutions.

It should be noted that the committee accepted the second and third recommendations, but did not agree with the Department of Justice's recommendation to eliminate the one-bank holding company exemption because the committee reached the conclusion that this exemption encouraged and promoted competition in the field of banking and because no evidence had been presented by the Federal Reserve Board or anyone else that the undesirable results which such one-bank holding companies were supposed to cause in fact had ever occurred. I ask unanimous consent that a copy of the Department of Justice letter of May 9, 1966, be printed in the RECORD at this point.

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

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
*Washington, D.C., May 9, 1966.*

Hon. A. WILLIS ROBERTSON,
*Chairman, Committee on Banking and Currency, U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your requests for the views of the Department of Justice on S. 2353, S. 2418 and H.R. 7371, to amend the Bank Holding Company Act of 1956.

We believe that S. 2353 (which combines features of H.R. 7371) and S. 2418 would effect desirable changes in the Bank Holding Company Act of 1956 and favor the enactment of a bill which would combine the provisions of the two bills.

The existing law of concern to this Department which would be affected by the bills is section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841). Among its other provisions, section 2 defines a "bank holding company" as any company which holds a 25 percent or more ownership or control in each of two or more banks, or controls the election of a majority of the directors of two or more banks. The section exempts from the definition any company registered under the Investment Company Act of 1940, and which was so registered prior to May 15, 1955 (or which is affiliated with any such company in such manner as to constitute an affiliated company within the meaning of such Act), unless such company (or such affiliated company) as the case may be, directly owns 25 per centum or more of the voting shares of each of two or more banks.

Also section 2 of the Act defines "company" to mean any corporation, business trust, association or similar organization. Among its other exclusions, the definition does not apply to "(2) any corporation or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individuals, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation".

S. 2353 would amend section 2 of the Act to provide that ownership or control of 25 percent or more of the voting stock, or control over the election of a majority of the directors, of any bank shall constitute the holder of such ownership or control as a bank holding company. Also, the bill deletes the present exemption in the section with respect to any company registered under the Investment Act of 1940. Further, S. 2353 would amend the definition of "company" by deleting therefrom the present exemption quoted above.

S. 2418 would amend section 2 of the Bank Holding Company Act in a manner similar to that provided for in S. 2353. In addition, however, S. 2418 would add to section 2 a new subsection (h) which would provide that two or more trusts having one or more trustees or beneficiaries in common shall be presumed to control each other unless the Federal Reserve Board determines otherwise.

One of the principal purposes of the Bank Holding Company Act is to place limitations upon the combination under single control of both banking and nonbanking enterprises. The primary reason for enacting this legislation is a banking one—namely, to extend the limitations upon ownership of nonbanking businesses, which now apply only to companies owning the requisite interest in two or more banks, to companies holding the requisite interest in a single bank.

In addition to its banking objectives, the legislation would enhance competition. Under the present Bank Holding Company Act, a company that controls one bank and at the same time controls business, industrial or finance companies, is exempt from the Act. It is, therefore, possible for situations to arise where a bank can be influenced to favor the other subsidiaries of its parent with loans and banking services. In turn, these other subsidiaries may be influenced to favor the bank with their custom. Such reciprocal dealings distort normal patterns of trade and may be harmful to competitor banks and competitors of the other subsidiaries.

The deletion of the present provision of section 2 exempting from the definition of "bank holding company" any company registered under the Investment Company Act of 1940 would also be beneficial to competition. The Bank Holding Company Act prohibits the formation of a bank holding company without the approval of the Board of Governors of the Federal Reserve System. It also prohibits any such company from acquiring any additional bank, or as much as five per centum of the voting stock of any bank, without the Board's approval. It further prohibits banks that are subsidiaries of a holding company from lending to or investing in the parent company or other subsidiaries of such holding company. In addition, a bank holding company is restricted, with certain exceptions, to ownership of banks in the state in which the holding company has its principal office. The present exemption provides companies which may qualify thereunder an opportunity for exploitation of competitive advantages over registered bank holding companies which cannot engage in similar activities. We favor the removal of the exemption as a means of correcting a deficiency in the present Act.

The amendment of the definition of "company" in S. 2353 would remove the exemption now enjoyed by religious, charitable, and educational trusts. S. 2418 would replace the present definition of "company" with one limiting the exemption to the "family type" trust frequently created for the care of the spouse or minor children of a decedent.

There appears no sound reason why corporations, community chests, funds, or foundations, organized and operated for religious, charitable, or educational purposes, should be accorded an exemption where in fact they may be operating as bank holding companies. The change in definition of "company" would cure this defect in the Act.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RAMSEY CLARK,
*Deputy Attorney General.*

Mr. ROBERTSON. Mr. President, a second letter dated May 18, 1966, was transmitted from the Department of Justice referring to the antitrust amendments which were proposed in the committee print of May 10 and which, with one amendment, are incorporated in the bill now pending before the Senate. In this letter the Department of Justice opposed the application of the 1966 Bank Merger Act procedures to the Bank Holding Company Act, and it took this position even though the standards of the Bank Merger Act might be substituted for the standards of the Bank Holding Company Act—a change which was made by the committee and is incorporated in the bill pending before the Senate.

Without commenting at length on the inconsistencies between the position now taken by the Department of Justice in this letter and the position the Department has taken in litigation involving bank mergers and the position the Department took with respect to the 1966 Bank Merger Act Amendments, it seems sufficient to state that the committee was convinced that bank holding company formations and acquisitions should not be treated in the same way as other holding company formations and acquisitions and felt that this was consistent with the congressional action in the 1966 Bank Merger Act Amendments, which was characterized in the Justice Department letter as asserting "a congressional intent that bank mergers should not be treated in exactly the same way as other mergers." In the committee's view, the similarities between banking expansion through mergers and banking expansion through formation and expansion of holding companies, from the point of view of anticompetitive effects and the conveniences and needs of the community to be served, far outweigh the legal technicalities urged by the Department of Justice, and consequently the committee felt it was appropriate to apply the same standards and the same procedures to bank holding company transactions as the Congress has so recently applied to bank mergers.

I ask unanimous consent that a copy of the Department of Justice letter of May 18 be inserted in the RECORD at this point.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
*Washington, D.C., May 18, 1966.*

Hon. A. WILLIS ROBERTSON,
*Chairman, Committee on Banking and Currency, U.S. Senate, Washington, D.C.*

DEAR SENATOR ROBERTSON: Earlier this month the Department of Justice submitted its views on S. 2353, S. 2418 and H.R. 7371, three bills amending the Bank Holding Company Act of 1956. We should like to supplement our submission with a brief statement of our position concerning a proposed further amendment to § 11 of the 1956 Bank Holding Company Act.

The amendment concerns acquisitions[1] that, under the Bank Holding Company Act of 1956, must be approved by the Federal Reserve Board. The amendment provides that the Government may not bring a new antitrust action[2] against any such transaction consummated prior to enactment of the proposed bill. It further provides that in any antitrust action concerning such a transaction, the courts must apply the same standards for approval that the Federal Reserve Board must apply under § 3 of the Bank Holding Company Act.

The language of the proposed amendment is quite similar to language contained in the recently enacted amendment to the Bank Merger Act of 1960.[3] It would be a mistake to believe, however, that passage of the Bank Merger Act of 1966 provides a reason for enacting the proposed amendment. In fact, the two amendments differ considerably, for each arises within a very different historical context and each has radically different effects. In part because of these differences, the Department of Justice believes that to amend § 11 of the Bank Holding Company Act as proposed would be most unwise.

The major historical difference between the 1966 amendment to the Bank Merger Act and the amendment now proposed arises from the fact that many bank mergers take the form of an acquisition of assets, while acquisitions by bank holding companies normally take the form of an acquisition of stock. Prior to the decision of the *Philadelphia National Bank* case[4] in 1963, it was very doubtful whether the Clayton Act applied to asset acquisitions by banks. Congress, when it passed the Bank Merger Act in 1960, may have believed that the Clayton Act did not apply, and it may have framed standards for judging the validity of bank mergers in accordance with this belief. In 1963 the Supreme Court held in *Philadelphia National Bank* that bank mergers were subject to the Clayton Act. Congress then passed the 1966 Bank Merger Act amendment in order to provide relief for merged banks that were surprised by the Philadelphia National Bank decision and to assert a Congressional intent that bank mergers should not be treated in exactly the same way as other mergers.

The history of the application of the antitrust laws to acquisitions by bank holding companies is quite different. Since acquisitions by bank holding companies normally take the form of stock acquisitions, it has always been clear that they normally are subject to both the Clayton Act and the Sherman Act, for the Clayton Act has always applied to all stock acquisitions. Moreover, when it enacted the Bank Holding Company Act of 1956, Congress made clear its intent that the antitrust laws were to apply with full force to anticompetitive acquisitions governed by the Act and that the Federal Reserve Board was not to have the power to approve acquisitions that violate the antitrust laws. Congress specifically stated that nothing contained in the Act shall "constitute a defense to any action, suit or proceeding pending or hereafter instituted on account of any prohibiting antitrust or monopolistic act, action or conduct."[5] While the standards which the Federal Reserve Board applies in determining whether or not to approve any acquisition may not emphasize the overriding importance of preserving competition,[6] there is little need for them to do so, for under the Act, the antitrust laws automatically prohibit transactions with significantly anticompetitive effects. Also, unlike the Bank Merger Act of 1960, the Bank Holding Company Act of 1956 makes no explicit provision for the Justice Department formally to express to the Board its views concerning the anticompetitive effects of a proposed acquisition. Again this omission is explainable, for the Act allows the Justice Department to proceed against an anticompetitive acquisition in court.

Since no one has ever doubted that the antitrust laws apply to stock acquisitions by bank holding companies, there is no reason to immunize existing acquisitions from attack. The position of bank holding companies that have made acquisitions is not at all similar to the position of banks that have merged, for prior to 1963 merging banks may reasonably have believed that bank mergers were not subject to the Clayton Act, but bank holding companies could not have believed that they were free from antitrust scrutiny. Moreover, since stock acquisitions are involved, an antitrust suit cannot produce difficult "unscrambling of assets" problems, as allegedly occurred when bank mergers were attacked. There thus is no more reason to declare an antitrust amnesty for bank holding companies than to declare an amnesty for steel companies, automobile manufacturers or for any other industry. We see no reason to declare an amnesty of any kind.

More importantly, adoption of the proposed amendment would immunize current and future acquisitions from antitrust attack to a far greater extent than similar language enacted in the Bank Merger Act of 1966 immunizes bank mergers. In enacting the Bank Merger Act of 1966, Congress rendered uniform the standards to be applied by both courts and banking agencies and in doing so it emphasized that the most important factor by far—to be considered by agencies as well as courts—is the effect of the proposed transaction on competition. The proposed amendment to the Bank Holding Company Act, on the other hand, picks up, not a revised standard emphasizing competition, but, rather, the standards set out in § 3 of the Bank Holding Company Act—standards that do not emphasize the effect of a proposed transaction upon competition since Congress has always intended that the antitrust laws separately apply to such transactions. If the courts are required to apply only § 3 standards and cannot apply those of the antitrust laws, significantly anticompetitive mergers may well be immunized from attack contrary to the intent of Congress in passing the Bank Holding Company Act. Hence the proposed amendment, although in form similar to the Bank Merger Act of 1966, may lead to a radically different result by relegating competitive considerations to a less important role. (Even were the amendment revised to incorporate the test of the Bank Merger Act, we would oppose that change. It would be unwise to substitute the vague, uncertain standard of the Bank Merger Act of 1966 for the more clear criteria that have been articulated in the development of the antitrust laws.)

In sum, because we believe that the proposed amendment may unwarrantedly weaken the antitrust laws, the Department of Justice strongly opposes its adoption.

Sincerely,

RAMSEY CLARK,
*Deputy Attorney General.*

[1] While the amendment also deals with mergers and consolidations of bank holding companies, as a practical matter, there have been few, if any, such transactions.

[2] Except under Sherman Act § 2.

[3] Bank Merger Act of 1966, 80 Stat. 8.

[4] *United States* v. *Philadelphia National Bank*, 374 U.S. 321.

[5] Bank Holding Company Act of 1956, § 11.

[6] The standards that the Board is to take into consideration are: (1) the financial history and condition of the company or companies and the banks concerned; (2) their prospects; (3) the character of their management; (4) the convenience, needs, and welfare of the communities and the area concerned; and (5) whether or not the effect of such acquisition or merger or consolidation would be to expand the size or extent of the bank holding company system involved beyond limits consistent with adequate and sound banking, the public interest, and the preservation of compensation in the field of banking.

COMMERCIAL BANKS

Mr. ROBERTSON. Mr. President, one amendment the committee made, which will be of interest to many Senators, related to the definition of the kinds of banks covered by the bill. Generally speaking, the bill was intended to apply to commercial banks of a sort which might have relationships with businesses and business firms which should be avoided. In the course of the hearings questions were raised with respect to so-called industrial banks, to mutual savings banks, and to certain trust companies which do not accept demand deposits subject to check. In addition, the committee received evidence with respect to trust companies which do not make ordinary commercial loans.

The committee amended the definition of the term "bank" so that it now covers "any institution that accepts deposits that the depositor has a legal right to withdraw on demand." This definition clearly excludes industrial banks, mutual savings banks, and trust companies such as the Hershey Trust Co. which accepts no deposits whatever. Since these institutions do not receive deposits in the form ordinarily received by commercial banks, it was considered appropriate to change the definition of banks so they would not be covered by the act, and the committee report makes it clear that this exclusion is based on the fact that, if an institution does not accept demand deposits, it cannot be considered a commercial bank subject to the provisions of the act.

In this same connection the Federal Reserve Board was asked for its comments with respect to banks which may accept demand deposits but which do not engage in making commercial loans and should, therefore, also not be included within the definition of commercial banks for this reason, even though they would not be disqualified on the ground that they do not accept demand deposits. A letter was received from the Federal Reserve Board dated May 11, 1966, in which the Chairman stated:

I am impressed by the argument that a bank which does not make commercial loans is not apt to be involved in the kind of abuses the act is designed to prevent.

The Chairman went on to state that:

If in the future the Congress should be disposed to adopt the "one-bank" amendment, I would be happy to cooperate with you in working out provisions to insure against coverage of such a bank.

In order to clarify this point, I ask unanimous consent to have this letter inserted in the RECORD at this point.

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

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
*Washington, D.C., May 11, 1966.*

Hon. A. WILLIS ROBERTSON,
*Chairman, Committee on Banking and Currency, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your letter of May 6, 1966, asking for comment on an amendment to the Bank Holding Company Act proposed by the President of the Boston Company. The amendment is designed to make it clear that "bank," as defined in the Act, means a commercial bank. As you will recall, the Board has agreed upon an amendment to accomplish this result, which I sent to you with my letter of April 20, 1966.

The Board's amendment adopts a simple and widely accepted test to identify a commercial bank: whether it accepts demand deposits. The Boston Company's proposal would substitute a different test (whether the institution is "primarily engaged" in commercial banking) which would, I am afraid, pose difficulties of administration and interpretation. The Company would continue to be exempt from the Act unless the Congress adopts the Board's "one-bank" amendment. Since this amendment has been eliminated from the current version of this legislation before your Committee (Committee Print, May 10) I see no need to change the definition of "bank" to take care of this one company that would continue to be exempt in any event.

I am impressed by the argument that a bank that does not make commercial loans is not apt to be involved in the kind of abuses the Act is designed to prevent. I also continue to believe that the Board's "one-bank" amendment is sound in principle and should be adopted, although your Committee obviously disagrees. If in the future the Congress should be disposed to adopt the "one-bank" amendment, I would be happy to cooperate with you in working out provisions to ensure against coverage of such a bank.

Sincerely yours,

WM. MCC. MARTIN, Jr.

TAXES

Mr. ROBERTSON. Mr. President, I feel that in presenting the bill one other phase of this matter should be referred to, and that relates to taxes.

The Bank Holding Company Act of 1956 contained an amendment to the Internal Revenue Code of 1956 which in general terms provided that property which a bank holding company subject to the act was required to distribute to its shareholders in order to comply with the act, could be distributed without the recognition of gain by the shareholders, in order to prevent the imposition of an unnecessary and inappropriate tax penalty upon corporations acting in good faith to carry out the policies of the Bank Holding Company Act. H.R. 7371, as it passed the House, did not contain any provision granting comparable relief for divestitures which might be required under its terms. The Senate Banking and Currency Committee recognized fully the appropriateness of such tax relief but did not add a provision granting it and does not now recommend to the Senate a provision granting it because of the constitutional and other inhibitions against the initiation of tax legislation in the Senate.

However, a bill, H.R. 11257, was introduced on September 24, 1965, by Representative MULTER, which was referred to the Committee on Ways and Means. I have advised the chairman of that committee, and also the chairman of the Committee on Finance of the Senate, of the fact that the Senate Banking and Currency Committee has reported a bill calling for mandatory divestitures for which tax relief comparable to that provided in the 1956 act would be appropriate. I have now received letters from the chairman of the Committee on Ways and Means and the chairman of the Committee on Finance which indicate that H.R. 11257 will be handled expeditiously. I ask unanimous consent that a copy of my letter to the chairman of the Ways and Means Committee and the letters from Chairman MILLS and Chairman LONG be inserted in the RECORD at this point.

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

MAY 19, 1966.

Hon. WILBUR D. MILLS,
*Chairman, Committee on Ways and Means, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: On yesterday the Banking and Currency Committee voted to report H.R. 7371, as amended, and I am today filing the Committee report. This bill would amend the Bank Holding Company Act of 1956 by terminating two exemptions now in the law—the exemption for long term trusts and religious, charitable and educational foundations and the exemption for registered investment companies and their affiliates.

Section 10 of the Bank Holding Company Act of 1956 added a new Part VIII, relating to distributions pursuant to Bank Holding Company Act of 1956, to subchapter O of Chapter 1 of the Internal Revenue Code of 1954 in order to obviate tax consequences for distributions required by the Act. In the Senate this provision was considered by the Committee on Finance, and a letter from that Committee approving the proposal was printed with the Committee's report on the bill. I understand that similar consideration was given by the Ways and Means Committee to the same proposal while the bill was under consideration in the House of Representatives.

No similar provision relating to the tax consequences of divestiture required under H.R. 7371 is contained in that bill. However, I am advised that a bill, H.R. 11257, was introduced by Representative MULTER, on September 24, 1965 and referred to the Committee on Ways and Means, and that this bill would provide appropriate relief for companies required to divest by H.R. 7371.

In my judgment, H.R. 7371 should not become law, imposing a requirement of divestiture on corporations and possibly imposing serious tax consequences, unless, either simultaneously or as part of H.R. 7371, appropriate tax relief for the required divestitures were given, in accordance with the practice followed in 1955 and 1956.

I should like, therefore, to bring this matter to your attention and to suggest, if I may, that, in the light of the constitutional rules relating to tax legislation, you consider with your Committee the possibility of proceeding with action on H.R. 11257.

In view of the interest of the Committee on Finance in the same matter, I am taking the liberty of sending a copy of this letter to the Chairman of that Committee and to Senators DOUGLAS and BENNETT, members of both the Committee on Finance and the Committee on Banking and Currency.

With kind personal regards, I am

Sincerely yours,

A. WILLIS ROBERTSON,
*Chairman.*

Copies to Honorable RUSSELL B. LONG, Chairman, Committee on Finance, United States Senate; Honorable PAUL H. DOUGLAS, United States Senate; Honorable WALLACE F. BENNETT, United States Senate.

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COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., June 6, 1966.*

Hon. A. WILLIS ROBERTSON,
*Chairman, Committee on Banking and Currency, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In reply to your letter of May 19 suggesting that the Committee on Ways and Means might consider action on Mr. MULTER'S bill, H.R. 11257, I have been advised that the Committee staff has received a favorable report on this bill from the Treasury Department. The Treasury Department did suggest that an appropriate cutoff date would be April 12, 1965, instead of the date contained in the Multer bill.

In light of this favorable report with this suggested change from the Treasury Department, I will ask the Committee to consider this bill just as soon as our Committee schedule will permit. I would now expect this to be in the next 4 to 6 weeks.

Sincerely yours,

WILBUR D. MILLS,
*Chairman.*

TREASURY DEPARTMENT,
*Washington, D.C., June 2, 1966.*

Hon. WILBUR D. MILLS,
*Chairman, Committee on Ways and Means, House of Representatives.*

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Department on H.R. 11257, "A BILL Relating to the income tax treatment of certain distributions pursuant to the Bank Holding Company Act of 1956, as amended."

This bill would provide, for corporations first becoming a bank holding company by enactment of H.R. 7371, relief of a type generally comparable to that provided in 1956 by the enactment of sections 1101–1103 of the Internal Revenue Code. As noted in our report to the Committee on H.R. 7372, dated September 10, 1965, this Department is not opposed to legislation that provides relief of that general type to corporations first becoming a bank holding company by current amendments of the Bank Holding Company Act. Accordingly, this Department would not oppose the enactment of this bill.

As stated in our report on H.R. 7372, advancing the May 15, 1955, cutoff date in sections 1101–1103 of the Code is appropriate for corporations first becoming a bank holding company by current amendments to the Act. H.R. 11257 would advance that date to September 23, 1965 (the date the House first proposed to eliminate the "one bank exemption" in the Bank Holding Company Act, when it amended H.R. 7371 on the floor). However, should H.R. 7371 be enacted in a form comparable to that recommended by the Senate Committee on Banking and Currency, so that the one bank exemption is retained and only the Investment Company exemption (together with certain other exemptions not material for this purpose) is eliminated, April 12, 1965 would appear to be an appropriate cutoff date. Since that date, when H.R. 7372 was introduced, there has been strong evidence that the Investment Company exemption might be eliminated from the Act, and a later cutoff date might be said to encourage the acquisition of properties with a view to their tax-free distribution to shareholders.

The Bureau of the Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,
STANLEY S. SURREY,
*Assistant Secretary.*

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U.S. SENATE,
COMMITTEE ON FINANCE,
*June 6, 1966.*

Hon. A. WILLIS O. ROBERTSON,
*Chairman, Senate Banking and Currency Committee, Washington, D.C.*

DEAR MR. CHAIRMAN: On May 19 you wrote the Chairman of the Committee on Ways and Means of the House of Representatives regarding a change in the tax law necessitated by reason of amendments to the Bank Holding Company Act of 1956 which your Committee has approved. You favored me with a copy of that letter.

I understand the substance of the necessary tax amendments is reflected in H.R. 11257 now pending before the Committee on Ways and Means. The Treasury has indicated that in general it favors easing the tax consequences of the divestitures which your bill would require. The tax relief contemplated by H.R. 11257 (tax-free distributions coupled with a carry-over basis) largely conforms to the relief this Committee approved in 1956 when the Bank Holding Company Act was approved.

That being the case, I see no reason why the Committee on Finance cannot act with dispatch to take up the appropriate amendments soon after they are passed by the House. You recognize in your letter that the Constitution requires that the House act first on tax measures.

With every good wish, I am,
Sincerely,
RUSSELL LONG,
*Chairman.*

Mr. ROBERTSON. Mr. President, I offer two amendments to the committee amendment and ask that they be read.

The PRESIDING OFFICER. The amendments will be stated.

The LEGISLATIVE CLERK. On page 21, line 7, strike out "(i)" and insert "(j)."

On page 25, strike out lines 7 and 8.

Mr. ROBERTSON. Mr. President, I should like to explain these amendments briefly.

The first amendment would merely correct the identification of a new subsection to be added to section 18 of the Federal Deposit Insurance Act. Instead of calling the new subsection "(i)," it would be called "(j)."

The second technical amendment would delete subsection 14(k) of the bill, page 25, lines 7 and 8, which would have repealed section 601 of the Internal Revenue Code. That section gave special tax treatment to certain reserves required to be established under section 5144(c) of the Revised Statutes. The bill repeals this reserve requirement, and section 601, therefore, would become obsolete. However, inclusion of an amendment to the tax laws—even one that would appear to have no substantive effects, might raise questions about the constitutional right of the House of Representatives to originate tax legislation. Accordingly, since repeal of section 601 is not necessary to the accomplishment of the purposes of H.R. 7371, it should be deleted from the bill.

Mr. President, I ask unanimous consent that these amendments be considered and agreed to en bloc.

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

The amendments to the committee amendment were agreed to.

Mr. ROBERTSON. Mr. President, I move that the committee amendment as amended, be adopted, with the understanding that it will be open, as original text, to further amendment.

The PRESIDING OFFICER. The amendment submitted by the committee is in the nature of a substitute.

Mr. ROBERTSON. That is correct.

The PRESIDING OFFICER. Is it the request of the distinguished Senator that the committee amendment in the nature of a substitute as amended be agreed to and treated as original text for the purpose of further amendment?

Mr. ROBERTSON. That is correct.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. ROBERTSON. Mr. President, I ask unanimous consent that all members of the staff of the Banking and Currency Committee whose presence may be needed during discussion of the bill be permitted to be present on the floor.

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

Mr. ROBERTSON. Mr. President, there will be some rather important amendments offered to this bill, and in view of that fact, and the wish of the proponents of those amendments to have Senators hear them explained, 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. DOUGLAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOUGLAS. Mr. President, I support the Bank Holding Company Act Amendments reported by the Committee on Banking and Currency. The bill is not wholly satisfactory to me, but I voted to report it because it is extremely difficult to get constructive legislation in this field if you will settle only for "all or nothing."

DU PONT EXEMPTION GRANTED IN 1956 BECAUSE IT WAS FALSELY DESCRIBED AS CHARITABLE

I strongly support the amendments which repeal the exemption given under the 1956 act to the Du Pont Estate in Florida. The purpose of the Bank Holding Company Act of 1956, which was achieved only after long years of effort, was twofold: First, it was intended to apply in the field of banking and bank holding companies the general purpose of the antitrust laws; namely, to promote competition and to prevent monopoly. Second, it was intended to prevent extensive control of combinations of both banking and nonbanking activities.

I was a member of the Committee on Banking and Currency when this act was passed. While it is true that legally the exemption given to the Du Pont Estate in Florida is based on the fact that it is a testamentary trust, nevertheless, it was my understanding, and I think it was the understanding of other Senators, at the time, that we assented to this exemption because the income from the estate was supposed to be wholly devoted to charity. This was what I was assured in an executive session, and this is the reason that I did not oppose the Du Pont exemption on the floor.

But the fact is that the income from the estate is not and was not fully assigned or even primarily assigned to charity. Only 12 percent of the income of the estate at the time of the enactment of the Bank Holding Company Act, and the same is true today, is irrevocably assigned to charities. I ask unanimous consent that a table which appears in the hearings at page 80 showing the income payments from the Alfred I. du Pont Estate be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOUGLAS. This table shows——

The PRESIDING OFFICER. Will the Senator suspend for a moment?

The Senate will be in order. Personnel will refrain from audible conversation while the Senator from Illinois makes his speech.

The Senator may proceed.

Mr. DOUGLAS. This table shows that since 1935 the income of the estate has been distributed as follows: $119,293,-010.91 to Mrs. du Pont; $14,839,830.30 to the Nemours Foundation; and $2,424,-471.80 to other annuitants.

Therefore, there was no justification for this exemption at the time it was granted and there is no justification for it now. It is true that on the death of Mrs. du Pont most of the income of the estate will be assigned to charitable purposes.

DU PONT ESTATE HAS WIDELY ABUSED PRINCIPLES OF THE BANK HOLDING COMPANY ACT

Nevertheless, even this is not the real issue with respect to the Du Pont Estate. The clear fact is, the question of charitable use of the income aside, that the Du Pont Estate has operated in such a way as to offend the very basic purposes of the Bank Holding Company Act. The Du Point Estate has used its exemption to develop and to expand a great combination of banking-industrial-railroad-landholding empire in Florida. It now controls 30 banks throughout the State. It is Florida's largest landowner with well over a million acres under its control. It is also Florida's largest taxpayer.

In direct contradiction of the principles of the Bank Holding Company Act, it combines banking with a railroad business, the Florida East Coast Railway, a very large paper and box manufacturing industry, the St. Joe Paper Co., and a large tree farm and landholding operation. In addition, of course, it has a vast investment in bonds and stocks and in real estate outside of Florida.

No other group in the country has been permitted this license for expansion in the banking field plus directly associated expansion in nonbanking fields. When Mayor Robert King High, of Miami, now the Democratic nominee for Governor of Florida, testified before the Committee on Banking and Currency, he brought to the attention of the committee an article from the Miami Herald of February 23, 1964, by Mr. James Russell, its business editor. It begins with this sentence:

> You can hardly travel 50 miles in Florida—in any direction—without encountering some facet of the Du Pont Estate.

I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. YARBOROUGH in the chair). Without objection, it is so ordered.

(See exhibit 2.)

Mr. DOUGLAS. It very clearly demonstrates the very extensive developments made by the Du Pont Estate under cover of their exemption from the act. Now, Mr. President, it may be said that perhaps this was a mistake to exempt the estate in 1956, but sometime in the near future, it is likely that the principal beneficiary will die and then the income from the estate will go in large part to charity, so why should we repeal the exemption? It is extremely important to note that the trustees who control the operations of the estate are self-perpetuating; that is, the present trustees name the successor to any trustee who dies or resigns. It is becoming very firmly established, and I think most people understand, that, even if the income from a trust is largely assigned to charity, the trust or estate may be managed in such a way—the stocks it owns voted in such a way and its other assets so manipulated—as to further financial interests which have nothing to do with charity. Regardless of the assignment of the income, this type of vast concentration of economic power, particularly when it combines banking and nonbanking interests, is not in the public interest. We are concerned not only with the distributing of income, but with the control of power.

So my chief reason for supporting the repeal of the Du Pont exemption is the fact that it has provided a shelter under which vast economic and political power has been assembled, contrary to the principles of the act. The exemption has been distinctly unjust to all the other banking and nonbanking groups which have complied with the act. Even if the Du Pont Estate were not guilty of any misuse or selfish application of its power, there would be every reason to remove this exemption.

DU PONT ESTATE ABUSES VAST POWER

Mr. President, the fact is, however, that the Du Pont Estate is guilty of abuse of power. The record is a fine illustration of exactly why the Congress worked so long to enact the Bank Holding Company Act. The testimony presented by Mayor High is a catalogue of offenses against the people of Florida by the Du Pont Estate. I think we can give some added weight to Mayor High's testimony on the basis of the recent Democratic primary in the State of Florida. I encourage Senators to read Mayor High's statement. He discusses the decline in service and in safety efforts by the Florida East Coast Railway after that company was acquired by the estate. He discusses the difficulties with the Du Pont Estate in the development of highways. He points out the difficulties the State authorities have had in collecting taxes owned by segments of the Du Pont Estate.

He concludes his statement with a resolution adopted by the commissioners of the city of Miami urging the repeal of the Du Pont exemption. I ask unanimous consent that the resolution, which appears at page 113 of the hearings, be printed at this point in the RECORD.

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

RESOLUTION No. 36443

A resolution of the Commission of the City of Miami supporting and endorsing the amendment to the Bank Holding Company Act of 1956, placing the Alfred I. Du Pont Estate under the provisions of said act; providing further that the city clerk is hereby directed to send copies of this resolution to the Honorable DANTE FASCELL and the Honorable CLAUDE PEPPER, U.S. Representatives

Whereas the Bank Holding Company Act of 1956 was aimed at preventing abuses of power by bank holding companies by providing that bank holding companies must divest themselves of control over nonbanking enterprises, be registered with the Federal Reserve Board, and were prohibited from acquiring more banks without said Board's approval; and

Whereas the major aim of the Bank Holding Company Act was to foster and protect the system of independent unit banks; and

Whereas the Alfred I. Du Pont Estate was exempted from the Bank Holding Company Act of 1956; and

Whereas by placing the Alfred I. Du Pont Estate under the Bank Holding Company Act it will divide up the vast concentration of power now enjoyed by the Alfred I. Du Pont Estate; and

Whereas Representative PATMAN of Texas has introduced on the floor of the House a bill to bring the Alfred I. Du Pont Estate under the Bank Holding Company Act; and

Whereas the Commission of the City of Miami fully supports said amendment as presented by Representative PATMAN: Now, therefore, be it

*Resolved by the Commission of the City of Miami, Fla.:*

Section 1. That the Commission of the City of Miami fully endorses and supports the amendment to the Bank Holding Company Act of 1956, as introduced by Representative PATMAN of Texas, placing the Alfred I. Du Pont Estate under the provisions of this act.

Section 2. That the city clerk is hereby directed to send a copy of this resolution to the Honorable DANTE FASCELL and the Honorable CLAUDE PEPPER, U.S. Representatives.

Passed and adopted this 3d day of March 1965.

STATE OF FLORIDA
*County of Dade*
*City of Miami*

I, F. L. Correll, clerk of the city of Miami, Fla., do hereby certify that the attached and foregoing pages Nos. 1 and 2, inclusive, contain a true and correct copy of a resolution passed and adopted by the commission of said city at a meeting held on the 3d day of March 1965 designated Resolution No. 36443.

Witness my hand and the official seal of the city of Miami, Fla., this 9th day of April 1965.

[SEAL] F. L. CORRELL,
*City Clerk.*
By RAYMOND I. MOORE,
*Deputy City Clerk.*

Mr. DOUGLAS. Mr. President, I would also call the attention of Senators to the testimony of Mr. J. A. Maloney, editor and publisher of the Apalachicola Times. Mr. Maloney is a very courageous man, and he undertook to describe for us the influence of the Du Pont Estate in western Florida, where the estate's lands run 170 miles from east to west and 40 miles from north to south.

Let me inventory some of the evidence presented to the committee concerning the inevitable abuses of power by a concentration of this size.

I do not think that the relationship of the estate to the Florida East Coast Railway is the sole issue which justifies the repeal of this exemption, but it is an issue which has received a great deal of attention. Testimony before the committee establishes these facts, at least in my opinion:

The Florida East Coast Railway, of which Mr. Edward Ball, the principal trustee of the estate, is chairman, has continuously defied its duty under the

Railway Labor Act to try to settle the Florida East Coast Railway dispute.

The Florida East Coast Railway has rejected the recommendations of two Presidential Emergency Boards in the wage dispute that led to the January 23, 1963, strike of the nonoperating employees. The unions involved accepted the recommendations of the Presidential Boards.

The Florida East Coast Railway has defied or ignored pleas from the Florida delegation in the Congress, the Secretary of Labor, and President Kennedy to either negotiate a settlement or arbitrate this dispute. The unions involved have agreed to arbitrate.

The Florida East Coast Railway has been the target of six injunctions and four contempt orders because of its violations of the Railway Labor Act and other Federal laws during the strike.

Only recently, the Florida East Coast Railway has imposed drastic new terms—and these are properly described as "yellow dog" terms—on many of its operating employees. These terms are so harsh that they have caused many of the railway's strikebreakers to strike. For example, the railway has tried to abolish all craft lines, to nullify seniority rights, abolish the paid meal period, and substitute 6- or 7-day workweeks at the sole discretion of management in place of the existing 5-day workweek.

It is a very reasonable conclusion that this extremely hard line of the railway is supported by being part of the vast empire of the Du Pont Estate. A railroad which lacked this substantial underpinning would not violate with impunity the Railway Labor Act, the principles of collective bargaining, and the legitimate expectations of railroad workers in the 1960's.

The second area of abuses is the failure of the Florida East Coast Railway to pay its assessed property taxes. Mayor High testified that the FEC refused to pay its assessed property taxes to the cities and counties where it operated for the years 1962, 1963, and 1964. Instead, the railroad offered checks for about one-third of the amount owed and filed suit in the State court challenging the assessment.

On March 27, 1964, a State judge overruled the railroad's contentions completely and the railroad appealed. But after a struggle of 3 years, State officials finally were able to collect the amounts owed with penalties. In the meantime, however, east coast cities and counties had to struggle along without the needed taxes due them.

Mayor High also testified that the St. Joe Paper Co., a large segment of the Du Pont Estate, greatly underpaid its State intangible tax. This tax is levied by the State primarily on stocks and bonds at the rate of $1 per $1,000 of value, according to Mayor High. It was only after an investigation of the company's books by the State that the company agreed it had undervalued its stocks and bonds for tax purposes by $90 million from 1962 through 1964 and paid up $153,317.32 to cover the taxes owed, interest, and penalties. I ask unanimous consent that an article from the St. Petersburg Times for June 22, 1965, which appears at page 111 of the hearings, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

Mr. DOUGLAS. A fourth type of abuse which springs from the monopoly control was described to the committee by Mr. Maloney. Several newspaper articles by Mr. Robert Sherrill in the Miami Herald illustrate these complaints. I ask unanimous consent that two such articles, one entitled "Ball Mobilizes Muscle To Fight Tiny Tax Bill," and the second entitled "Du Pont Estate Rules Panhandle" be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 4.)

Mr. DOUGLAS. Mr. President, the latter article points out, for example, that the St. Joe Paper Co. pays only a fraction of the taxes it properly owes in Gulf and Jackson Counties. It points out that when Calhoun attempted to levy a $550 tax on a bulldozer, the company took the issue into court and held it there for 2 years.

No ploy is too rough for St. Joe to pull when fighting taxes—

The article states.

Company officials told Calhoun County businessmen that if they did not get the tax assessor to let up, they would take their trade away from them. And they did.

Mr. Maloney testified, at page 291 of the record, that the papermill employees of the St. Joe Co. may borrow money from the Florida National Bank, the only bank in Port St. Joe and a bank owned by the Du Pont Estate, but if they do their pay check is then sent to the bank. The bank then withholds the payment due on its note and pays only the remaining balance to the employee. Mr. Maloney pointed out that Florida law does not compel an employer to recognize a garnishee pay, but this arrangement by the commonly owned papermill and bank appears to be substitute for garnisheeing.

Mr. President, none of these allegations were denied by Mr. Ball and his coterie of witnesses.

I repeat, even if these abuses had not occurred, or even if a Senator wishes to close his mind to them, the mere development of this huge empire which combines banking and nonbanking interests fully justifies the repeal of this unwarranted exemption from the act. There exists under the shelter of this exemption, and there is no doubt that the Du Pont Estate has actively taken advantage of the exemption, potential for further abuses, particularly where a railroad and a chain of banks along the railroad line are held by the same company. Nowhere in the country have we permitted this type of development. There is no justification for this privileged treatment under the act.

REPEAL OF THIS UNWARRANTED EXEMPTION IS IN THE PUBLIC INTEREST—NOT PUNITIVE

In conclusion, I should like to comment on the allegation made by some that the repeal of the Du Pont exemption is in some way special and punitive legislation.

Such an allegation ignores completely the fact that the special privilege exemption granted the Du Pont Estate in 1956 was agreed to on a mistaken assumption—or to put it less charitably, a false assertion—that the Du Pont Estate was a wholly charitable foundation, when in fact only 12 percent of its income is assigned for charitable purposes.

Second, such a claim of punitive legislation completely disregards the intent of the Congress in the Bank Holding Company Act and the clear violation of that intent by both the Du Pont Estate and the Financial General Corp.

Third, the claim of punitive legislation ignores the fact that this bill, while its main purposes are to close these unwarranted exemptions enjoyed by the Du Pont Estate and Financial General, also deals with a number of other very significant aspects of bank holding company regulation. As the Senator from Michigan [Mr. HART] will point out, I am sure, the so-called antitrust amendment of section 11 has very broad implications, as do other sections dealing with financial dealings among members of a bank holding company.

Fourth, these complaints ignore the fact that this bill, including the repeal of the Du Pont exemption, is endorsed by the American Bankers Association, the Association of Registered Bank Holding Companies, and other groups in the banking and finance field.

And fifth, Senators should keep in mind that the recommendation to repeal the Du Pont exemption comes from the Board of Governors of the Federal Reserve System. The chairman of the Board, Mr. William McC. Martin, urged repeal of this exemption in his testimony before the committee:

The next question arises when an individual extends his control over banks beyond his death, as is commonly done through testamentary trusts established for the benefit of a widow or children. The Board sees good reason to exempt the ordinary family trust, which may be regarded as only a temporary extension of the control originally exercised by the individual who established the trust. But when a will creates a trust that is perpetual, with trustees who are not only replaceable but are authorized and indeed obliged to manage the trust's affairs so that it may grow and prosper, the Board believes that the line between control by individuals and control by corporations has been crossed, and that such a trust should be subject to the act just as a corporation should.

Surely no one would claim that the Board of Governors of the Federal Reserve System has a special ax to grind or would recommend punitive legislation against a single group of banks.

The Committee on Banking and Currency has endorsed the repeal of this exemption because of the facts and on the merits of the argument.

I hope that the Senate and the Congress as a whole will enact this bill before many more weeks have passed so that the vast Du Pont Estate will be treated the same as other bank holding companies in this country.

Mr. President, I yield the floor.

EXHIBIT 1

*Income payments from Alfred I. du Pont*

| | Mrs. du Pont | Nemours Foundation | Other annuitants |
|---|---|---|---|
| 1935 | | | $29,719.99 |
| 1936 | $2,316,787.77 | $15,000.00 | 48,646.67 |
| 1937 | 2,337,979.22 | 137,369.56 | 48,780.00 |
| 1938 | 714,797.04 | 26,509.09 | 47,780.00 |
| 1939 | 1,824,955.54 | 141,300.48 | 49,743.91 |
| 1940 | 1,587,214.94 | 118,624.73 | 59,861.27 |
| 1941 | 1,633,284.00 | 194,084.18 | 61,340.16 |
| 1942 | 1,150,954.53 | 129,675.62 | 65,506.86 |
| 1943 | 1,029,210.93 | 113,074.22 | 68,532.88 |
| 1944 | 1,188,999.79 | 148,499.97 | 75,140.28 |
| 1945 | 1,441,688.07 | 169,321.10 | 82,513.58 |
| 1946 | 2,914,726.18 | 359,962.66 | 85,839.15 |
| 1947 | 4,140,760.93 | 543,512.85 | 88,450.28 |
| 1948 | 2,257,917.80 | 280,625.26 | 88,100.28 |
| 1949 | 3,210,858.42 | 411,423.88 | 88,100.28 |
| 1950 | 5,222,417.09 | 701,920.51 | 89,711.37 |
| 1951 | 3,217,542.40 | 411,483.06 | 92,754.84 |
| 1952 | 2,849,294.82 | 361,267.47 | 91,900.00 |
| 1953 | 2,737,606.20 | 346,037.21 | 91,900.00 |
| 1954 | 4,027,646.02 | 504,906.28 | 91,900.00 |
| 1955 | 6,427,033.31 | 849,140.91 | 91,900.00 |
| 1956 | 5,887,986.88 | 775,634.57 | 91,900.00 |
| 1957 | 5,802,264.62 | 763,945.18 | 91,450.00 |
| 1958 | 4,310,235.94 | 564,577.63 | 91,300.00 |
| 1959 | 6,199,023.64 | 818,048.68 | 91,300.00 |
| 1960 | 5,677,594.26 | 746,944.67 | 91,300.00 |
| 1961 | 5,196,237.53 | 681,305.12 | 88,200.00 |
| 1962 | 6,633,482.22 | 877,293.03 | 86,900.00 |
| 1963 | 7,584,862.57 | 1,007,026.71 | 86,200.00 |
| 1964 | 9,208,128.90 | 1,228,381.21 | 84,900.00 |
| 1965 | 10,561,519.35 | 1,412,934.46 | 82,900.00 |
| Total | 119,293,010.91 | 14,839,830.30 | 2,424,471.80 |

Source: 1935-63, information from Du Pont Estate trustees to House Banking Committee, hearings, "Bank Holding Company Legislation," 1964, p. 830; 1964 and 1965, annual reports of Du Pont Estate trustees to Circuit Court for Duval County, Fla., chancery case No. 42436-E.

EXHIBIT 2

[From the Miami (Fla.) Herald, Feb. 23, 1964]

ESTATE VALUE WELL OVER BILLION DOLLARS: DRIVE ANYWHERE IN FLORIDA—YOU'LL SPOT DU PONT HOLDING

(By James Russell)

You can hardly drive 50 miles in Florida—in any direction—without encountering some facet of the duPont estate.

It may be a bank. It may be timberland. It may be a railroad train. Or it may be a citrus grower or small manufacturer or retail store owner who has kept his business going with money borrowed from the estate.

If you were asked to point to one single entity as the largest economic force in Florida, it would almost invariably be the duPont estate.

Created in the late 1920s and early 1930s by the late Alfred I. duPont, the maverick of the famous duPonts of Delaware, the estate embraces a complex of banks, real estate, railroads, timber, and paper production facilities with a value of well over a billion dollars.

The duPont estate's significance in Florida cannot be accurately measured in dollars.

It is Florida's largest land owner, with well over a million acres under its control.

It is Florida's largest banker, with 31 banks and 700 million dollars in assets under its wing.

It is Florida's largest taxpayer.

And, as any state official can tell you, it is Florida's most powerful economic-political force, strong enough to elect governors and senators and influential enough to achieve or block all sorts of state public works projects.

The most astonishing thing about the duPont colossus is that one man rules it, directs it and determines how and where its power will be wielded.

It is doubtful that even the late Alfred duPont, who saw the potential of Florida 40 years ago, could have anticipated the growth and influence that his brother-in-law, Ed Ball, would accomplish with the duPont millions.

DuPont was a rich, rich man when he moved to Florida early in 1927 with his wife, Jessie Ball duPont, who is still living and who got an income of more than seven million dollars from the estate last year.

"We have all the money necessary for any reasonable effort to help Florida grow and prosper," du Pont said on his arrival in Florida in 1927. "Our business undertakings should be sound, but our primary object should not be the making of money. Through helpful works, let us build up good in this state and make it a better place in which to live.

"In my last years I would much rather have the people of Florida say that I helped them and their state than to double the money I now have."

Actually, the du Pont fortune did both those things. It helped finance Florida's growth and easily doubled his money.

When du Pont died in 1935, there were seven banks in his Florida National group. Today, there are 31 and they spread from the Panhandle to the Keys.

There were 300,000 acres of timberland in Northwest Florida under his ownership. Today, there are more than a million acres comprising virtually all the timberlands in 10 counties and a substantial amount in four others plus some in Georgia and Alabama.

The estate's St. Joe Paper Co., founded a year after du Pont's death, has more than tripled in size since it went into production in the late 1930s and now has additional plants in a dozen states plus an affiliate in Ireland.

St. Joe Paper, which largely created and fostered the city of Port St. Joe in Northwest Florida, also has a railroad and a telephone company as part of its holdings. Apalachicola Northern Railroad Co., a 99-mile road largely serving the paper company, and the St. Joe Telephone and Telegraph Co., which grew from a firm with a dozen phones to one with 7,000 customers, are subsidiaries.

Ed Ball brought the du Pont estate's most controversial property, the Florida East Coast Railway Co., into the fold in the 1940s, when it was in receivership as a result of the great Florida bust. Defaulted FEC bonds were selling for as little as six cents on the dollar. Ball bought and bought until he had a pile of bonds with a face value of 23 million dollars—easily enough for control.

But it took 20 more years of court fighting to give Ball and the du Pont estate the right to get it out of receivership and run the railroad.

Two years after Ball got his hands on the FEC's operations, he was involved in another fight—this time with the rail unions. More recently, the U.S. government has become a Ball adversary while trying to force a settlement of the current 13-month-old strike.

Small though it is, with its 570 miles of track, the FEC is a 90-million-dollar company. It controls large amounts of real estate on and around its routes and its present and potential freight business is enormous, particularly in the booming Cape Kennedy moonport area.

The du Pont estate has other valuable properties, including the 17-story du Pont Building in downtown Miami, a 10-story building in downtown Jacksonville and one of the most valuable pieces of real estate in South Florida—the Dupont Plaza property on Biscayne Bay.

Even without its network of banks, railroads, real estate and industry the estate would be rich by any standards.

Its owns 764,000 shares of stock in E. I. du Pont de Nemours & Co. and 445,000 shares of General Motors. At present market values, they are worth 230 million dollars. Last year the shares paid dividends of more than 7.5 million dollars.

Since Alfred du Pont died, the Florida holdings he acquired at bargain prices during the depression era have grown and grown in dollar value and in economic power.

Most of the fruits of this effort now go to du Pont's widow, although du Pont's will specified that ultimately—presumably after his wife's death—all the profits of the estate shall go to two charities. One, in existence since 1940, is a clinic for crippled children in Wilmington, Del. The second, not yet established, would provide aid to needy old people.

The charitable aspects of the estate helped keep it from falling under the federal Bank Holding Company Act of 1956, a law that prevents bank groups from owning nonbanking enterprises.

It is this act that Sen. WAYNE MORSE of Oregon is now seeking to have amended to wrest control of the Florida East Coast Railroad from Ed Ball.

"Nearly all of the estate's large income has gone every year to Mr. du Pont's widow, Mrs. Jessie Ball du Pont," MORSE told the Senate earlier this month. "In 1963, the estate paid annuities to Mrs. du Pont of $7,510,775, of which she assigned about 12 per cent to a charitable foundation for crippled children . . .

"Twelve per cent falls far short of meeting the rationalization that . . . the du Pont estate ought to be excluded from the Bank Holding Company Act because the estate's income went primarily for charitable purposes. The evidence shows that it did not."

If MORSE succeeds in getting through a measure removing the du Pont estate's exemption, the vast industrial and financial empire that Alfred du Pont created and Ed Ball nourished may be split down the middle.

EXHIBIT 3

[From the St. Petersburg (Fla.) Times, June 22, 1965]

ST. JOE PAYS BACK TAXES; ERROR BLAMED

TALLAHASSEE.—Ed Ball's St. Joe Paper Co. undervalued its stocks and bonds for tax purposes by $90 million from 1962 through 1964, the State comptroller's office said yesterday.

The company—after an investigation of its books by the State—has delivered a check for $153,317.32 to cover the back taxes, interest, and penalties.

George Roller, head of the State's intangible tax division, earlier had absolved the St. Joe Paper Co. from suggestions that it was not paying all the taxes it owed the State.

In May of last year, Roller wrote a letter to a congressional committee claiming that "an exhaustive search" of tax rolls showed the company had "complied with the intangible tax laws of the State of Florida."

Yesterday, Roller was calling St. Joe's underpayment of taxes "an honest mistake."

But Comptroller Ray E. Green said Roller "goofed" when he wrote Tennessee U.S. Represenative BILL BROCK that everything was up to date. Green is a business associate of Ball, a multimillionaire political figure.

The discrepancies in what St. Joe paid in intangible taxes and what it owed was pointed out by a story on the St. Petersburg Times-Miami Herald Service several months ago.

Tax rolls in Gulf County—where St. Joe Paper Co. is located—showed that the company was claiming intangibles of $29.6 million as of April 1, 1964. Its report to its stockholders showed $88 million.

Intangibles are stocks, bonds, cash, and accounts receivable. They are taxed at a rate of one-tenth of 1 percent.

Roller said his investigation of St. Joe Paper Co.'s financial records was "aided greatly" by cooperation from the company.

"They were very helpful," Roller said.

He said he also examined records of the 35 banks affiliated in the Florida National Bank chain and of the $1 billion Du Pont Estate which Ball runs.

Roller said he found no discrepancies in any records of these companies.

The discrepancies in the St. Joe declarations and the actual values "were created by a fusion of accounting procedure," Roller said in a prepared statement.

The company, he said, reported its stocks on a cost basis instead of "just valuation."

Roller's prepared statement—in which he both reaffirmed and denied previous statements—was somewhat confusing.

State law requires stocks and bonds to be taxed at their market value. Stocks not regularly traded on the stock market are to be valued according to a precise formula listed in the law.

Roller, in his statement, said there had been no clear way to arrive at the value of securities.

In April 1965, St. Joe reported to Gulf County Tax Assessor Sam Patrick that it owned $89.591 million worth of intangibles, an increase of more than $50 million in 1 year.

Roller attempted to explain this:

"The greater value reported by this company was due clearly to an oversight in not including one block of stock which was created out of their holdings for it was return of capital for noncorporate stockholders."

To explain precisely what he meant by that would require him to break the law, Roller said. What stock a company owns and pays taxes on are to be kept confidential by State and county officials under Florida law.

Some weeks ago, though, Roller said:

"The increase was because of the General Motors stock they hold. There was a split in GM stock and its value went up considerably."

Stockbrokers said there has not been a split in GM stock in 10 years.

Assessment of taxes and penalties against St. Joe went back only 3 years—the limit for such action under Florida laws.

Roller said he could not estimate how much tax St. Joe had failed to pay previous years because of its "fusion" bookkeeping.

"It probably wasn't too much," he said.

A chart prepared by Roller showed that in 1962, St. Joe reported intangibles of $17.1 million when it should have reported $46.1 million.

Tax paid was $25,700.

The company has been assessed an additional tax of $43,519.74 plus $4,351.97 in penalties, and $12,925.36 in interest.

In 1963, it reported $19.9 million, should have reported $50.2 million.

Tax paid was $19,907.

Additional tax of $45,548.46 was assessed along with $4,558.45 in penalties and $7,521.44 in interest.

In 1964, the company reported $24.9 million and should have reported $55.6 million.

Tax paid was $19,907.

Additional tax of $30,746.25 was assessed, plus $3,076.43 in penalties and $1,015.22 in interest.

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EXHIBIT 4

[From the Miami Herald, Mar. 17, 1965]

BALL MOBILIZES MUSCLE TO FIGHT TINY TAX BILL

(By Robert Sherrill)

BLOUNTSTOWN.—Ed Ball's St. Joe Paper Co., worth at least $150 million, is in a fight to the finish with Calhoun County over a tax bill of $550 on a bulldozer.

The dispute started when St. Joe slipped up on its system of transporting all equipment over the line into Gulf County, its home base, one day a year to avoid taxation.

St. Joe is the most powerful corporation and largest landholder in West Florida. Calhoun is one of the poorest counties in the state.

St. Joe's tactics include boycotting the leading businessmen of Calhoun in an effort to make them put pressure on the county assessor.

They have. But Emory Bridges, the assessor, hasn't given in. Calhoun commissioners are backing him.

D. C. Simpson, who runs an auto supply company here, said that shortly after the tax dispute broke out, two of St. Joe's forest managers told him "to get the tax assessor to do something about their taxes, or they'd take their business away from me. And they did. And it hurt.

"C. L. Clark told me that if I helped them out, they would throw a lot of business my way. But I couldn't do anything for them."

Clark, administrative assistant to former Gov. Fuller Warren, is now a public relations official for Ball, czar of the vast duPont holdings in Florida.

A. J. Gaskin, Standard Oil dealer with the franchise for Calhoun, Gulf, and part of Liberty Counties, said, "They came to me and said, 'Get 'em to take all the personal property tax off the rolls—and we mean all—or we'll quit you.'

"I offered to pay part of the tax for them and get some other business men to pay the rest, and Bob Brent said, 'Well, we'll see.' But later he called back and said nothing doing, they didn't owe it and they weren't going to be charged the tax even if we paid it."

R. C. Brent Jr., is a vice president of St. Joe Paper Co.

Several other businessmen said they were similarly approached.

The only tax at issue is the personal property tax which had been levied primarily on the large earth-moving equipment used by the paper company on its timberlands in Calhoun County.

Although the machinery used there by the company is worth at least $100,000, said assessor Bridges, they were down on the tax rolls for only $10,000 when he came into office in 1961.

"St. Joe officials approached me and said they wanted the assessment cut to $4,000." Bridges said "I refused."

Later they wanted it wiped out altogether, he said.

International Paper Co., which owns slightly less land in Calhoun County than St. Joe, pays personal property taxes on equipment assessed at $42,000.

In Calhoun and four adjoining counties, St. Joe owns 636,000 acres of timberland. Its assessment on personal property is $16,000 including the $10,000 in Cahoun. In Gulf County, where the company plants and tends about 170,000 acres of pine trees, no woodland equipment is listed on the tax rolls.

The dispute has been going on for more than two years.

A deposition taken by Attorney Virgil Q. Mayo from Paul W. Groom, 46, forester at Wetapo unit of St. Joe Paper, includes the following:

Question.—Do you know whether you told him (Gaskin) that if something wasn't done, that if he couldn't help you to get something done, that you would take all of St. Joe's business away from him?

Answer.—I don't think I ever told him that specifically. We did do it as far as Wetapo unit was concerned. We discontinued the use of the gasoline.

Question.—That was because, was it not, that Gaskin did not get this particular tax removed, or didn't influence the county commissioners to take it off?

Answer.—No, I don't believe I would put it like that exactly.

Question.—How would you put it? Why did you quit trading with him?

Answer.—The understanding was that if it was not removed, we weren't going to trade with anyone in this county, which we haven't done. Gaskin just happened to be one of them.

St. Joe Paper Co. officials argue that they do not owe personal property taxes in Calhoun County because Groom takes such equipment from Calhoun County to Gulf County for the duration of Jan. 1 each year.

Tax assessments are made on the property in the county as of that date. St. Joe interprets the law to mean that if they take the equipment out of the county on Dec. 31 and bring it back on Jan. 2, they don't owe any taxes.

Groom said Vice President Brent gave him the order to remove the equipment from the county for the first day of each year but "it was used in the normal manner on all days except that day."

He said equipment is also taken out of Bay, Washington, and Jackson Counties and returned to Gulf for that one day.

But Tax Assessor Bridges says he saw a St. Joe bulldozer and tractor in the county on Jan. 1, 1962, and several other witnesses back him up. They remember the date because it was the day of a funeral at a graveyard near the place the equipment was sitting.

"Funerals on January first are unusual," said Bridges. "I wouldn't be mistaken about the day."

That's when he hit St. Joe with the $550 tax. The company defied him. Bridges took it to a jury trial, and won. The case is now sitting in the Third District Court of Appeals.

If Groom takes the equipment back to Gulf County for a brief new year's visit each year, the Gulf County tax rolls do not reflect it, Bridges said.

Groom said St. Joe does not move the equipment to Gulf County to keep from getting it assessed. It was just that "we preferred to have it assessed in Gulf County."

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[From the Miami Herald, May 30, 1965]

CONTROVERSY IN PINELANDS: DU PONT ESTATE RULES PANHANDLE

(By Robert Sherrill)

TALLAHASSEE.—Somewhere down the line, Ed Ball's Du Pont estate decided it could do without good public relations.

Nowhere in Florida—not even along the east coast, where the passenger trains don't run—has Du Pont strategy conquered so much, with so little public approval, as in the Florida Panhandle.

Beginning roughly where the Florida peninsula breaks westward along the mainland thumb, and for the next 140 miles, there is not a county in which the Du Pont estate does not own from 5,000 to 195,000 acres.

The capital of this empire is Port St. Joe in Gulf County—home the of Du Pont-owned St. Joe Paper Co., Du Pont-owned St. Joe Telephone and Telegraph Co., Du Pont-owned St. Joe Dock and Terminal, Du Pont-owned St. Joe Land and Development Co., and southern terminus of the Du Pont-owned Apalachicola Northern Railroad.

Ed Ball's brother-in-law, Alfred I. du Pont, picked up the nucleus of this empire for a reported $600,000 at the bottom of the Great Depression, and Ball's genius has brought it to its present strength.

Genius is the only word for it. After all, here is a man who has made a career of opposing federal edicts, yet he is developing his telephone company with money borrowed from the federal government at 2.5 per cent interest. The Florida Public Utilities Commission has guaranteed him more than six per cent interest return on his investment, so Ball is getting at least four per cent interest off money which the federal government is risking for him.

B. Roy Gibson Jr., vice president of the St. Joe Telephone Co., sees nothing strange about it.

"It has been implied by a few, who persist in looking for intruders in the woodpile, that there is something not quite ethical in a subsidiary of the Alfred I. du Pont Estate

borrowing money at favorable interest rates from the federal government. Such critics appear to be under the impression that the Du Pont interests have money to burn."

With similar maneuverings, the St. Joe Paper Co. has developed into Northwest Florida's most powerful corporation and largest landowner. It is also the most feared and disliked.

In Calhoun County, neighboring St. Joe's headquarters, even county officials will talk proudly of how "seven out of ten fires set around here are set in Ed Ball's timber, 'cause our folks just won't be pushed around." (The State Forest Services denies that fires on Ball land reach this proportion of the total.)

Actually, the company has done a great deal of good for the region. It owns roughly a million acres of pine land, predominantly in Florida, but some in Alabama and Georgia. Most of this, Ed Ball and the Du Pont interests bought for little more than the taxes due on it.

The land had been cut-over, de-forested and left barren as an old scar by previous owners. Ball moved in and reseeded, and today the midlands of the Panhandle are lush with a highly profitable crop of pine trees.

Around this Ball has developed an industry that has given jobs to several thousands. David Gaskin, a banker, said that "during the Depression we only had about $200,000 to $300,000 total in Gulf County. All the money in the county was in our bank, so we know. So St. Joe has meant a lot to us."

Surprising as it may be to the 1,200 strikers who have been frozen out for more than two years by the Florida East Coast Railroad—a subsidiary of St. Joe Paper Co.—the paper company itself pays its union workers well and gives them good vacation terms.

Even the clean-up men at the mill earn $2.10 an hour, which is high pay for a common laborer in this part of the country, and a machine tender earns $4.12 an hour, nothing short of wealth in Gulf County.

Nevertheless, there is a great deal of unhappiness among the people who live in this land, for it is run much as if it were a medieval fief.

One businessman of Gulf County gave this summation to the county's embivalent feelings:

"The people are grateful, but they are offended by Mr. Ball's overbearing attitude. Every one knows Ed Ball would destroy any one of them who got in his way."

In Gulf County, unlike Calhoun County, it is hard to find people who will make such remarks on the record. Too often, either their own income or the income of someone in their family depends on keeping the St. Joe hierarchy pacified.

One outspoken exception is Representative Ben Williams of Port St. Joe, who claims to be Florida's only "full-time legislator," which means he has no other job.

"I've seen babies go without milk on account of that outfit, and you can quote me on that," he said.

Williams was angry over what he considers a gimmick used by the company to cut down output to coincide with market demands, but at the same time avoid paying unemployment insurance.

Florida law provides that unemployment compensation does not have to be paid until a man's income drops below $33 for the calendar week.

"For a long time last year the mill would run seven days, then shut down for a week, then start up again for 10 days, then shut down for nine days, and so on," he said, "but always run enough to pay out the minimum for the calendar week. They did the same thing year before last."

One union official said the mill was closed for more than 17 weeks, off and on, last year.

Critics also contend that Ball has bought up all the good industrial sites and will not sell any of them to other industrialists interested in moving into Gulf.

But usually the complaints have less to do with economic subtleties and more to do with pressure and pettiness. Among the more common ones:

The Gulf County Commission was going to put up a courthouse in Port St. Joe City Park, which was land leased to the city by the Du Ponts, but before it could condemn the land an election came up. Three of the five elected commissioners work for the paper company. Result: The city park will be used as the site for relocating one of the Du Pont banks, not for the courthouse.

Recently there was an election in the county to see if the county seat should be moved from Wewahitchka to Port St. Joe. Du Pont officials talked up the move as a splendid economy measure.

Troy Jones, one of the more outspoken workers at the paper mill, said, "It was put around in the community that the land for re-establishing the courthouse would be contributed by the company to the county." Now that Port St. Joe has won the election, the Du Pont estate is asking more than $80,000 for the site.

St. Joe owns practically all the choice beach land near Port St. Joe. The Legislature passed a bill allowing the county to condemn three public park areas, including a small one on the Du Pont beach. This was quickly tied up in court and it looks like that's where it will stay.

But the most often heard complaint is that Du Pont enterprises do not pay their fair share of the taxes. True, in Gulf County, St. Joe pays half the property taxes the county operates on. But critics point out the company owns three-fourths of the property.

"If they just doubled St. Joe Paper Co's assessed value," said a Gulf County leader, "it would put the county schools in good shape."

To double the assessment would still leave full evaluation as a distant goal. The $80-million paper mill is on the rolls for less than nine million dollars. As for the land, that is on the tax rolls as "wild land"—taxable at between $5 and $7.50 evaluation an acre (averaging 17 cents a year)—whereas it really is farm land (those pines are quite a crop) with the proper evaluation of no less than $25 an acre.

From the beach property, which is actually worth about $75 to $100 a front foot, the county collects an average of 27 cents tax an acre.

St. Joe is also supposed to pay personal property tax on the equipment it uses to farm the pinelands, such as the bulldozers, planters, tractors, and trucks. But in Gulf and Jackson Counties, no woodland equipment is listed on the rolls. In Bay County it pays on only $3,500 evaluation; in Liberty, in $2,500—neither amount representing even a healthy fraction of the cost of a piece of big equipment.

St. Joe guards its tax immunity with a vengeance. When Calhoun County attempted to levy a $550 tax on a bulldozer, the company took the issue into court and held it there for two years.

No ploy is too rough for St. Joe to pull when fighting taxes. Company officials told Calhoun County businessmen that if they did not get the tax assessor to let up, they would take their trade away from them. And they did.

To Calhoun, one of the poorest counties in the state, it was quite a blow. But they stood by their tax assessor.

Not many in the Panhandle will go that far in rebellion.

## SAIGON SHOULD ACCEPT INTERIM ASSEMBLY UNIVERSAL SUFFRAGE

Mr. JAVITS. Mr. President, I ask unanimous consent that I may proceed out of order.

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

Mr. JAVITS. Mr. President, I wish to make a comment on the news this morning regarding free elections in Saigon.

Free elections are the single most important element in the future stability and well-being of South Vietnam. Only by genuinely free elections, and only after these elections produce a genuinely representative and workable government, can a Saigon government gain the legitimacy and acceptance it needs and that the people of South Vietnam want. If every step of this electoral process—from campaigning to the installation of a new government—is not conducted with openness and fairness to all, hope for bringing peace to Vietnam will seriously diminish.

I have, therefore, joined the Senator from Connecticut [Mr. RIBICOFF] the other day in proposing United Nations supervision, and I have also proposed a cease-fire during the 3 weeks of campaigning and elections. The electoral commission of South Vietnam has properly recommended that the constituent assembly should also have legislative power and should be able to transform itself into a full-fledged parliamentary body if the proposed constitution so provides. I am particularly gratified by this proposal, because I have been advocating it myself for some time. On May 19, before the Political Committee of the Liberal Party of New York, I urged the transformation of the constituent assembly into an interim parliamentary assembly, once the work of the constituent assembly in producing a constitution is completed. The interim parliamentary assembly would be authorized to establish a caretaker civilian government until new elections are held under the Constitution.

I would strongly urge the President of the United States to use his good offices to persuade the ruling junta in Saigon to accept this proposal. It would be very unwise for the junta to prolong unduly their own military form of government.

While I am pleased about the proposal which would enable a constituent assembly to become a parliamentary assembly and designate the government, I am concerned about another proposal of which we have just had news. The electoral commission of South Vietnam has apparently advised the military junta that all those who "directly or indirectly work for Communists or neutralists should be excluded from the elections." Exclusion provisions so drawn could be used by local election officials to bar anyone they felt undesirable from either voting or running for office. It is dangerous practice to allow individual regional officials to determine who is in-

cluded in a definition of "Communists and neutralists." The election must be open to all—universal suffrage by secret ballot should be the basis of participation in the September election; otherwise the results of the election might not be truly representative of the feelings of all the South Vietnamese people. As a practical matter, however, we must realize that there are certain areas in South Vietnam in which it may be impossible to have free elections. All of those observing the elections—the United States, the U.N. and other international bodies, and the whole world—will be able to judge whether areas so excluded by the Saigon government will invalidate the essential fairness of the election. The Saigon government must therefore be careful not to exclude such areas in an arbitrary manner, and I hope our Government will make this clear, too.

In short, I believe that the idea of dealing with areas where it is possible to administer fair elections is different from excluding individuals and groups. The latter process is bound to be more capricious and bound to cast doubt on the validity of the whole election.

Second, I urge the President of the United States to persuade the ruling military junta in Saigon that the sooner they end the aribitrary military government, the better for all concerned. The first opportunity for this will be if the constituent assembly can become a parliamentary assembly and designate a government. Then, really, for the first time, we will be off to some kind of representative government in South Vietnam, a project to be devoutly wished for and which will be of tremendous importance to the future of the validity of the struggle there.

Mr. President, I ask unanimous consent to have printed in the RECORD an article published in today's New York Times, written by Charles Mohr, and entitled "Vietnamese Seek Lawmaking Right in New Assembly."

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

[From the New York Times, June 6, 1966]

VIETNAMESE SEEK LAWMAKING RIGHT IN NEW ASSEMBLY—CIVILIANS' ELECTION LAW PLAN ALLOWS CHAMBER TO ACT AS A NATIONAL LEGISLATURE—CLOUD CAST ON KY HOPE—PREMIER'S INTENION TO STAY ON A YEAR MAY BE PERILED IF JUNTA ADOPTS PROPOSAL

(By Charles Mohr)

SAIGON, SOUTH VIETNAM, June 5.—The civilians drawing up a South Vietnamese election law have recommended that a constitution-drafting assembly elected in September be given legislative functions and be allowed to transform itself into a national assembly.

If adopted, this law could end Premier Nguyen Cao Ky's hope to cling to power well into 1967.

The electoral-law drafting commission met until late tonight in Saigon to wind up deliberations which began May 5.

The commission's recommendations are expected to be presented to the military junta Tuesday and at a news conference Wednesday.

The junta, led by Premier Ky and the chief of state, Lieut. Gen. Nguyen Van Thieu, have reserved the right to amend the commission's suggestions, but this would certainly cause political problems.

The South Vietnamese political scene was relatively tranquil today, but the political crisis, nearly three months old, has not been settled.

DEADLINE IS IN DOUBT

The military junta, or directorate, is publicly pledged to increase its number by adding 10 civilians to its 10 generals by tomorrow. But tonight it was difficult to tell whether the junta could meet this deadline or was even trying to do so.

The generals had been conferring with civilian political leaders, asking them to recommend civilians to join the directorate. However, those civilians approached by generals said that no direct invitation to join the directorate had been made.

More important, informed sources said the junta might decide it had no power unilaterally to take in new members and might thus refer the question to a later meeting of the Armed Forces Congress, a body of about 30 officers, including all the senior troop commanders.

The commission drafting an election law has gone ahead with its work even though three Buddhist representatives walked out late last month in protest over Air Vice Marshal Ky's military occupation of the city of Danang.

RECOMMENDATIONS LISTED

The recommendations of the 29 remaining members became known tonight. Among their recommendations were:

The election to the constituent assembly would take place Sept. 11 after a formal campaign of no more than three weeks.

The assembly would have the duty to draft a constitution but would "also have legislative power" and could transform itself into a full-fledged national assembly if the draft constitution so provides.

The assembly would consist of 159 members, 12 of them reserved for such minorities as hill-dwelling Montagnards and people of Cambodian descent.

Each constituency would be made up of 100,000 voters, except that provinces with less population than that would get at least one assemblyman.

Those who "directly or indirectly work for the Communists or neutralists" would be barred from election by provincial and central election councils.

An assemblyman could be deprived of parliamentary immunity from prosecution for remarks made on the floor if the assembly votes by a two-thirds margin that his words are "aimed at making propaganda for Communist or neutralist policies or activities."

Perhaps the key provision in the recommended election laws was that the constitution-drafting body could make laws while it sat and could draft a constitution making itself a full national assembly.

This tended to confirm the opinions expressed by Vietnamese politicians that, once elected, the constituent assembly would insist on taking a hand in South Vietnam's chaotic political problems.

Some observers think it possible the assembly would ask Premier Ky and the junta to serve as an interim government while the assembly sat and until new elections for a national legislature are held.

Many other observers, however, are convinced that the assembly will try to vote either a new interim or permanent government into power to replace Premier Ky. Many Vietnamese politicians, in fact, do not even call the prospective body a constituent assembly but refer to it in conversation as "the national assembly."

Whether Premier Ky will override the electoral-law commission's recommendations next week or whether he would try to resist a move against him by the constituent assembly next fall was not clear.

Privately, Premier Ky has said he plans to try to stay in power at least a year. Publicly, he has said that the constituent assembly can only draft a constitution and not try to govern.

In a move to heal the split in the Unified Buddhist Church, a delegation of senior monks went to the seaside town of Vungtau to try to persuade Thich Tam Chau to rescind his resignation as chairman of the church's Institute of Secular Affairs.

Informed sources indicated that Thich Tam Chau had agreed to withdraw the resignation and would return to Saigon tomorrow.

RIOTS MAY BE RENEWED

Although Thich Tam Chau is a so-called moderate who has tried to reduce Buddhist street agitation for the overthrow of Premier Ky and General Thieu and has tried to find some kind of compromise with the Government, there was a good chance of renewed demonstrations by militant Buddhist elements starting tomorrow.

Thich Tam Chau had ordered an end of street riots until tomorrow to give the Government a chance to show good faith on its promise to expand the directorate.

The problem is made worse by the fact that the Buddhist monks who negotiated with the junta told the Buddhist faithful last week that Premier Ky and General Thieu had promised to submit their continuation in office to an election by the directorate after it is expanded with 10 civilians. The junta denies having made any such pledge. So the compromise value of the offer to expand the directorate has shrunk considerably.

Whether the Buddhists would boycott the prospective elections to a constituent assembly was not clear. The Buddhists are believed to have a chance of winning the largest single bloc of seats in the assembly. But most politicians estimate this bloc at only 30 per cent of the seats.

Many informed sources, however, doubt that the election will take place as scheduled or ever. They feel that either continued civil disorder or second thoughts by the generals will force a cancellation.

## INTER-AMERICAN COUNCIL OF COMMERCE AND PRODUCTION

Mr. JAVITS. Mr. President, I call the Senate's attention to the fine work of the Inter-American Council of Commerce and Production, the most important private enterprise organization of both Americas, North and South.

Since last Wednesday, the Inter-American Council of Commerce and Production—CICYP—has been meeting in Mexico City under the chairmanship of its President, George S. Moore, president of the First National City Bank of New York, to consider some of the basic problems facing the private enterprise system in Latin America.

Last Friday, the plenary session of the council approved the resolution which placed the council in close support of increased Latin American economic integration. The council resolved to work closely with their governments to bring the Latin American free trade area close to reality—this I believe to call for a Latin American common market—to support the modification of the present slow system of tariff changes by introducing an automatic system of tariff reduction and by quickening the process of complete tariff elimination, and to

harmonize among the countries of Latin America tariffs, monetary exchange and fiscal policies, and legislation affecting investment and social welfare.

I know of no quicker way to turn frustration into success, even keeping pace with the population increase, than the development of the Latin American free trade area into a common market, to which the Inter-American Council of Commerce and Production is now committed. Incidentally, for the first time, the council headed by an American, George S. Moore, president of the First National City Bank.

It is also of great importance that Assistant Secretary Lincoln Gordon, who was the principal speaker before the conference, told a press conference last Wednesday that the U.S. Government would carefully consider suggesting preferential treatment for Latin America if the U.S. efforts to persuade Western Europe to drop discriminatory practices in favor of African countries failed.

I ask unanimous consent to have an article that appeared in this morning's edition of the New York Times on the CICYP conference be printed in the RECORD at the conclusion of my remarks.

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

[From the New York Times, June 6, 1966]

BUSINESSMEN ASK LATIN FREE TRADE—MEMBERS OF INTER-AMERICAN COUNCIL VOW TO WORK FOR ACTION BY GOVERNMENTS—GROWTH SPURS SOUGHT—MEXICO CITY MEETING CALLS FOR HARMONY IN FISCAL AND TARIFF POLICIES

(By Henry Giniger)

MEXICO CITY, June 4—The biggest private-enterprise group in the Western Hemisphere is now under commitment to accelerate lagging efforts to integrate Latin America's economy.

Some 400 business leaders from Latin America and the United States resolved yesterday to work closely with their governments to bring the Latin America Free Trade Area closer to reality. This was the most important resolution taken during five days of meetings sponsored by the Inter-American Council for Commerce and Production.

The meeting, according to George S. Moore, president both of the First National City Bank of New York and of the council, represented the largest gathering of private business leaders ever held in the Western Hemisphere. It was called to consider practical ways of quickening the pace of economic development.

POLICY HARMONY SOUGHT

The final declaration calls for a harmonizing among the countries concerned of tariffs, policies and legislation affecting investment and social welfare. It calls for modification in the present slow system of tariff changes by introducing an automatic system of reduction and by quickening the process of complete tariff elimination.

The business leaders in effect called for greater competition among themselves in the interest of raising living standards, but cautiously, and in a spirit of compromise, the declaration called for taking account of current differences in economic development among Latin countries so as not to hurt the smaller, less-developed ones.

The same caution was evident in passages treating reform of large land holdings. Such reforms should be carried out, the declaration said, "with just compensation" and "in an orderly, nonviolent and progressive way." It said the reform should be "selective," taking account of the productive levels of the farms and avoiding the other extreme of very small holdings.

COMPLAINTS ON TRADE

The business leaders complained of trade policies of developed countries that were prejudicial to Latin America.

The declaration called for "the elimination or at least the moderation of the high degree of agricultural protectionism prevailing in Europe and the United States in the form of high import duties, quotas, internal taxes, direct or indirect subsidies to producers, etc."

The United States is now trying to persuade Europe to drop discriminatory practices in favor of Africans. Lincoln Gordon, Assistant Secretary of State for Latin-American Affairs, told the press here Wednesday that his Government would carefully consider suggesting preferential treatment for Latin America if the persuasion effort now being carried out in the Kennedy-round talks in Geneva failed.

The business leaders were careful not to appear in a role hostile to Government action. Instead they called for "permanent and harmonious collaboration." At the same time they sought to assert their role as the prime creators of jobs and to confine official action to furnishing the necessary infrastructure and to creating a favorable atmosphere for private enterprise.

In private, there were many businessmen who lamented that the trend in Latin America was decidedly toward "socialization" and that private initiative was on the defensive at the moment.

The conference also made evident its concern for private enterprise's public image. Mr. Gordon reminded the participants on Wednesday that private enterprise was not looked upon favorably by some important segments of the population.

## INTER-AMERICAN PEACE FORCE

Mr. JAVITS. Mr. President, if there is anything that has been made clear by the crisis that took place in the Dominican Republic last year, it is that the machinery for the maintenance of peace and security in this hemisphere is not effective and that it requires major improvement. In my opinion, while the U.S. intervention in the Dominican Republic was badly handled it was inevitable—in the eyes of the President—due to the OAS' inability to act in time.

The task before us, now that Dominican elections are over and the new legally elected president will take office within the next few weeks, is to consider how we can prevent the reoccurrence of a similar situation elsewhere in Latin America. President-elect Balaguer has already asked the OAS force there, including U.S. contingents, to stay.

Collective responsibility and collective action for the security of the hemisphere is the real alternative to unilateral action. Specifically, I believe that a number of steps could be taken to improve the OAS' peacekeeping machinery:

First. The representatives to the Council of the Organization of American States in Washington should be vested with authority equal to that held by ambassadors to the United Nations. This would allow the representatives to the Council to act with greater authority and dispatch without being forced into inaction while they seek instructions from their respective capitals;

Second. Improved procedures for prompt OAS handling of emergencies should be established;

Third. A representative of the OAS should be posted as an observer in each of the capitals of the American States;

Fourth. Serious efforts should be made to bring Canada into the inter-American system, to give completeness to hemispheric action and to provide an added measure of confidence in the system. In trade, national power, and world responsibility, Canada belongs in the inter-American system, which is not complete without it;

Fifth. The forthcoming OAS Foreign Ministers' Conference and the proposed Summit Conference of Hemisphere Presidents should give careful consideration to how an inter-American peace force could be established on a permanent basis and within the context of the OAS Charter and mutually acceptable to all nations of the hemisphere;

Sixth. The United States, which has so far been but an interested observer at recent Latin American negotiations to establish a nuclear-free zone south of the 30th parallel in this hemisphere, should support such an idea once a common Latin American position has been arrived at;

Seventh. Every attempt should be made at the current discussions of the Inter-American Economic and Social Council here in Washington to find an acceptable compromise over United States-Latin American differences regarding proposed economic and social reforms in the OAS Charter.

We may not be able to resolve in the near future our differences as far as the creation of an inter-American peace force is concerned, but the fact remains that we cannot afford to display tiredness or indifference toward the mammoth problems of the Western Hemisphere. We must continue to press forward in our attempt to find effective solutions to these, our common problems. It seems to me that the problems I referred to should be on the top of the agenda of the next OAS Foreign Ministers Conference this fall and should be considered by a Summit Conference of Hemisphere Presidents before the end of this year.

I ask unanimous consent that an editorial and an article which appeared in this morning's New York Times concerning an inter-American Peace Force be printed in the RECORD at the conclusion of my remarks.

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

[From the New York Times, June 6, 1966]

INTER-AMERICAN PEACE FORCE

Now that the Dominican elections are over and President Balaguer is to take office July 1, the Inter-American Peace Force can be expected to melt away as soon as he decides he can maintain internal peace without foreign help.

The Dominicans want to see the force go and so will most of Latin America. In reality, it was an American force leavened with a contingent of about 1,000 men from the military government in Brazil, and a sprinkling of token detachments from several other countries. Nevertheless, legally it was the representative of the Organization of American States. It carried within its form

the same germ of an ideal that lies behind the United Nations; the hope of humanity is to have a worldwide peace-keeping force. The same hope is valid for the Western Hemisphere and each great region of the world.

However, the original intervention by American marines at the end of April 1965 was made without advising the O.A.S. It was a violation of the treasured non-intervention policy—a throwback to Teddy Roosevelt. The O.A.S. came in by a bare two-thirds majority mainly to end the unilateral character of the United States intervention.

The question now is whether the Latin-American states prefer to risk other such interventions, or whether they can set up a collective, hemispheric peace-keeping machinery. At the Foreign Ministers' meeting last December in Rio de Janeiro the answer was "No." However, Secretary Rusk did put the matter on record for future consideration. There is to be another Foreign Ministers' meeting this summer and President Johnson has proposed a conference of all the hemispheric heads of state.

An Inter-American peace-keeping force will still be in the air—out of reach if present sentiments persist—but it is an idea that is going to be hard to kill. The other states are afraid that the United States will dominate such a force even if it be called "Inter-American." Nationalism is so strong in Latin American that even collective intervention would be feared and resented.

Thus any analysis ends pessimistically for the immediate future but optimistically for some later date when the Latin-American countries are strong enough not to be afraid of the "Colossus of the North."

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[From the New York Times, June 6, 1966]

PEACE-FORCE STAY SEEN BY BALAGUER—DOMINICAN SAYS FOREIGNERS MAY BE REQUIRED AFTER JULY 1 INAUGURATION

SANTO DOMINGO, DOMINICAN REPUBLIC, June 5.—President-elect Joaquin Balaguer said today that he believed foreign troops might have to remain in the country after the installation of his Government July 1.

He said their stay depended on the resolution of such problems as disarmament of the civilian populace and integration of former rebel troops into the regular armed forces.

When the national electoral commission confirms his election, he went on, he will invite the defeated presidential candidate, Juan Bosch of the Dominican Revolutionary party, to collaborate with him in the new government.

The President-elect made his remarks at his home in an interview. He has not yet been confirmed as President.

For this reason, he has not met with the Provisional President, Héctor Garcia Godoy, to discuss the question of the withdrawal of the Inter-American Peace Force and other matters related to the transfer of power.

"I believe the Inter-American Peace Force would have to remain in the country until the problems of civilian disarmament and reintegration of the constitutionalist troops are resolved," Dr. Balaguer said. "It also depends on the situation in general."

The rebel forces in the Dominican civil war of 1965 called themselves constitutionalists on the ground that they were the defenders of the Constitution under which Mr. Bosch was elected in 1962. He was the last elected Dominican President to serve.

Santo Domingo was quiet after a day of sporadic and minor disturbances in which policemen had to fire into the air to disperse teen-age agitators. There were no casualties, the police said.

Speculation continued over what caused a shooting incident Friday night in front of the home of Hector Aristy, a former constitutionalist leader. Two men were killed in a clash with national policemen.

Reliable reports said the army recovered a large cache of arms in the house. Mr. Aristy disappeared after the shooting. American reporters who interviewed him today said he was in Mr. Bosch's suburban home.

Asked if he favored restoration of the constitutionalist soldiers to the armed forces, Dr. Balaguer said: "I don't know the basis of the problem. I have not had access to official studies on the matter. Therefore I don't know what I would do to make an exact judgment."

There are no precise official figures on how many armed forces regulars joined the constitutionalist side. It is believed that at the outset of the revolt at least three battalions, of about 3,500 men, joined the rebel forces. However, many of these quickly returned to their barracks.

FIGURES DISPUTED

Constitutionalist leaders contended that at least 1,500 of their men are eligible for integration. Armed forces leaders have said that their figure is inflated by men who have been discharged or retired or have resigned and that only about 200 are qualified for reintegration.

It is considered possible that reintegration of all former rebels deemed eligible can be accomplished before July 1, but civilian disarmament is a more difficult problem.

Armed forces leaders contend that about 5,000 weapons were taken by the rebels from arsenals at the start of the fighting. The rebels were to have returned them when the zone they held in Santo Domingo was dismantled last fall, but only a few were turned in.

The frequent clashes between troops and civilians late last year and even recently gave evidence that much of the civilian population, particularly leftwing extremists, were adequately armed.

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## BANK HOLDING COMPANY ACT AMENDMENTS OF 1966

The Senate resumed the consideration of the bill (H.R. 7371) to amend the Bank Holding Company Act of 1956.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 85 Leg.]

| | | |
|---|---|---|
| Aiken | Hartke | Monroney |
| Allott | Hickenlooper | Montoya |
| Anderson | Holland | Morse |
| Bayh | Hruska | Moss |
| Bennett | Javits | Nelson |
| Boggs | Jordan, N.C. | Proxmire |
| Burdick | Jordan, Idaho | Ribicoff |
| Cannon | Kennedy, Mass. | Russell, Ga. |
| Church | Kuchel | Simpson |
| Clark | Lausche | Stennis |
| Cooper | Long, Mo. | Talmadge |
| Dominick | Mansfield | Tydings |
| Douglas | McClellan | Yarborough |
| Ervin | McGee | Young, N. Dak. |
| Fulbright | McGovern | Young, Ohio |
| Harris | McIntyre | |
| Hart | Miller | |

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. BASS], the Senator from Nevada [Mr. BIBLE], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Hawaii [Mr. INOUYE], the Senator from Washington [Mr. MAGNUSON], the Senator from Rhode Island [Mr. PASTORE], and the Senator from Rhode Island [Mr. PELL] are absent on official business.

I also announce that the Senator from West Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from New York [Mr. KENNEDY], the Senator from Minnesota [Mr. MONDALE], the Senator from Oregon [Mrs. NEUBERGER], the Senator from West Virginia [Mr. RANDOLPH], the Senator from South Carolina [Mr. RUSSELL], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

Mr. KUCHEL. I announce that the Senator from Nebraska [Mr. CURTIS], the Senator from Hawaii [Mr. FONG], the Senator from Michigan [Mr. GRIFFIN], the Senator from California [Mr. MURPHY], the Senator from Kansas [Mr. PEARSON], and the Senator from Delaware [Mr. WILLIAMS] are necessarily absent.

The PRESIDING OFFICER. A quorum is not present.

Mr. LONG of Louisiana. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

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

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After a little delay, the following Senators entered the Chamber and answered to their names:

| | | |
|---|---|---|
| Bartlett | Hill | Robertson |
| Brewster | Jackson | Saltonstall |
| Byrd, Va. | Long, La. | Scott |
| Carlson | McCarthy | Smith |
| Case | Metcalf | Sparkman |
| Cotton | Morton | Symington |
| Dirksen | Mundt | Thurmond |
| Ellender | Muskie | Tower |
| Fannin | Prouty | Williams, N.J. |

The PRESIDING OFFICER. A quorum is present.

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## FAIR PACKAGING AND LABELING ACT

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which the clerk will state.

The LEGISLATIVE CLERK. A bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

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## BANK HOLDING COMPANY ACT AMENDMENTS OF 1966

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the unfinished business, S. 985, be temporarily laid aside, and that the Senate continue with the consideration of H.R. 7371.

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

Mr. BENNETT. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 11, line 10, after "company" insert the following:

"(A) that is a trust which was established by the will of any person and existed on the effective date of this amendment, or (B)."

Mr. BENNETT. Mr. President, I shall explain the purpose of my amendment in detail, but in effect its purpose is to give to the trustees of the Alfred I. du Pont Trust a period of 12 years, or until December 31, 1978, to make their choice and dispose of either their banking or their nonbanking assets. This is the same period given under the bill for the Financial General Corp. to dispose of its assets, as required by the bill.

These two entities are the only two that would be required to dispose of presently held assets; and while their situations are different, and while, as I shall attempt to explain later, I think in fact the Du Pont Trust should have even a longer time, in the bill as before the Senate, Financial General has until December 31, 1978, and the Du Pont Trust has 5 years after the passage of the bill.

Mr. President, the main purpose of the bill before us is to deny to two groups of banks exclusion from the bank holding company requirements that they now enjoy under the present law. One of these groups, owned by Financial General Corp., would be given 12 years in which to dispose of their banks. The other, the trust created by the estate of Alfred I. du Pont of Florida, would be given 5 years. The purpose of my amendment is to treat both situations the same and extend to the Du Pont Trust the same 12-year period as the bill grants to Financial General.

Of course, the bill contains many other provisions in addition to these two and with many of them I agree, so before talking in detail about what I think is wrong with the bill and, therefore, why I think my amendment is justified, I should like to begin by talking about what I think is right with the bill.

First. The most important thing the Senate bill does, in my opinion, is to correct a major and potentially damaging provision of the House bank holding company bill which would have denied to any holding company the privilege of holding even one bank. In 1956 when the present bank holding company law was passed, this particular problem was studied very carefully and the Congress agreed that to allow a company to hold one bank in addition to other nonbanking assets created no problem. The House struck this down. This bill restores it. In other words, the Senate version of the bill will preserve existing law in this respect and I think this is very important.

Second. Recently we passed a bank merger bill changing the rules governing the merger of independent banks. This bill very properly would apply the same new rules to mergers in which a bank belonging to a bank holding company is involved in the proposed merger. In the interest of uniformity and equity, this feature should be adopted.

Third. This bill also contains a number of necessary technical changes in the present bank holding company law. The need for these changes has become apparent as the regulatory agencies have gained experience through the administration of the present law. As far as I know, everybody involved welcomes them, and so do I.

Fourth. I suppose it could be said that the closing of the loophole which made it possible for Financial General to acquire a chain of banks after the 1956 law was passed could be claimed as a benefit of this bill. At least any possible damage to the stockholders of Financial General has been minimized by the fact that the company has been granted 12 years in which to dispose of its assets, which should make it possible for them to do so without the pressure of a forced sale. Apparently the officers of the company are satisfied with the committee's decision and, therefore, so am I.

If the bill stopped here, I could support it wholeheartedly, but having presented what I think is right with the bill, I must reluctantly turn to discuss what I think is wrong with it and why I am offering this amendment.

When the present bank holding company law was passed in 1956, all personal trusts were excluded. The Du Pont Trust is a personal trust, and it was excluded without question along with the others. Now this bill has been carefully written for the purpose of singling out this one trust and removing that exclusion.

First, let us look briefly at the Du Pont Trust. In 1926 Alfred I. du Pont withdrew from the management of E. I. du Pont de Nemours & Co. and went to Florida where he concentrated his personal investments and continued to do so until his death.

At that time, his principal investment, like those of others in the Du Pont family, was in Du Pont stock, with its then internal holdings of General Motors, which have since been separated. These assets—Du Pont stock and General Motors' stock—represent about three-quarters of the value of the Alfred I. du Pont Trust.

He also acquired many local investments, of which two are important and provided the real motivation for this bill. The trust's investments in each of these two is approximately equal. They are:

First. The St. Joe Paper Co., a manufacturing operation with very large land holdings in northwest Florida, and a number of other subsidiaries, including the Florida East Coast Railway Co.

Second. Holdings of stock in 30 banks in Florida—of these, 8 are State banks, chartered and supervised under Florida law, and 22 are national banks chartered by the Comptroller of the Currency and under his supervision. Dividing them another way, 7 of these bank investments were made before Mr. du Pont died in April 1935 and 23 have been made by the trustees of the estate since.

(At this point Mr. JORDAN of North Carolina took the chair as Presiding Officer.)

Mr. BENNETT. Mr. President, let us talk about the nature of the trust. This is a testamentary trust, and if it were merely that there would be no problem. This trust has lifetime beneficiaries and then becomes a perpetual charitable trust after they are dead, when the income of the trust will go solely to charity and public service.

In anticipation of this, Mrs. du Pont, who is still living at somewhere near 83 or 84 years of age, has for years given large sums of her income from the trust to schools and hospitals.

The present personal trustees include Mrs. du Pont, her brother Edward Ball, Elbert Dent, William Mills, Tom Coldewey, and a corporate trustee, the Florida National Bank of Jacksonville, one of the banks in which the estate holds a major trust.

Mr. Ball is the active manager of the trust. He is a brother of Mrs. du Pont, as I have said. Mr. Ball, to say the least, is a positive and vigorous individualist, for all of his nearly 80 years. This was all known in 1956 when the present bank holding company law was passed and no one was concerned, but the situation that brings about this bill has happened since.

In June 1962, after a threatened strike, the nonoperating railroad brotherhoods obtained a 10-cent-per-hour wage increase from all the Nation's class I railroads except the Florida East Coast Railway which is owned by the St. Joseph Paper Co., which is owned by the Albert I. du Pont Trust.

In January 1963 they began a strike at the Florida East Coast Railway. The Florida East Coast Railway continued to refuse to sign the agreement and pay the 10-cent-per-hour wage increase and since that time has operated with nonunion people through a long period of sabotage, property destruction, customer intimidation, and a lot of other things.

The unions vowed to bring the company to its knees and have used violence, bombing, and other sabotage as well as every available legal proceedings, political pressure, and all the public relations pressure it could bring on Mr. Ball. By the latter means, they have attempted to create an image of him as a personal ogre—with unlimited power—who broods like a diabolically evil cloud over the destinies of Florida. To date, all this has failed. The strike has not been settled on the union's terms.

Somewhere along the line someone, probably a union lawyer, discovered the bank holding company bill and conceived the idea that if the Du Pont Trust could be separated from all others, it could be made to sell out either its banks or its other holdings within 2 years as required by the present law. Obviously, they hoped the trust would keep the banks and sell everything else, particularly the Florida East Coast Railway. Then they would win in the end.

Parenthetically, it is interesting to note that multiple banks owned by unions enjoy exclusion from the bank holding company resolutions and this bill carefully preserves those exclusions so the unions are in a position of denying to the Du Pont Estate a privilege they are anxious to preserve for themselves.

So there you have the first thing that is wrong with the proposed bill. In my opinion the motives of its sponsors are unworthy and inappropriate and the Senate should not stoop to that by approval. Essentially those motives are based on a desire for revenge growing out of frustration because the unions failed to win in a strike. And what is even worse, this whole thing is aimed, not at the Du Pont Trust, but at one man—Mr. Edward Ball. Even the union spokesman at our hearings praised the Du Pont banks and was proud to claim he was a depositor of one of them.

Since when has the Senate allowed itself to be used as a means of personal revenge?

Of course, revenge is not the admitted reason given by those who sponsored the bill. They say the present law gives the trust "too much power" in Florida. They would diminish that power by forcing it to sell half of its local investments—either the banks or the nonbank assets. But, under questioning, their spokesmen clearly said that after such sale, they wanted the money reinvested in Florida. There is so much of it that they do not want to see it go out of the State.

If the power rests on the size of the investment, this policy would change its base, but not its size.

Because ours is the Banking Committee and this is a banking and currency bill, most of the testimony against the Du Ponts was focused on their bank assets. We were not told too much about their other holdings, except about the Florida East Coast Railway and its strike troubles. This produced a curious effect on the committee. If this bill passes, Du Pont must get rid either of its banks or its other assets.

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

Mr. BENNETT. I yield.

Mr. LAUSCHE. If it divests itself of its other assets and retains the holdings in multiple banks will the present bill permit them to have holdings in multiple banks without limitation?

Mr. BENNETT. Without limitation, except that they must be within the State of Florida and receive approval by the appropriate regulatory agency involved.

Mr. LAUSCHE. I thank the Senator.

Mr. BENNETT. The obvious hope of its sponsors must be that the trust will keep the banks and sell the railway. My study of the situation persuades me that it must sell the banks and keep the rest of its assets.

One of the reasons has just been developed in colloquy with the Senator from Ohio [Mr. LAUSCHE]. If this happens, the unions will have lost their main objective and will be left only with the satisfaction of having caused trouble for Mr. Ball, their antagonist, at the risk of having strengthened his determination not to yield to them, and caused more trouble for themselves. Unworthy motives often produce unexpected results.

Why do I believe this will happen? Because a decision to keep the banks would be so limiting as to be self-defeating. It would limit all future investment, in any enterprise in which the trust hopes to have any substantial management power, including the investment of funds realized from the sale of other assets to investment in individual banks in Florida because bank holding companies cannot acquire new banks across State lines. Now, it is true that the trust could invest its money in Treasury bonds or in stocks of other corporations, so long as it did not increase that investment in any given corporation above 5 percent, but this would represent a major change in the policy of the trust which has been to have enough holdings in companies so as to participate in their management.

The decision to sell the banks would permit future investments anywhere, in anything except banks. To me, the logic of the decision is inescapable.

If the union's hope of forcing the trust out of the ownership of the railroad is almost certain to fail, its frustration will not be relieved by this bill, it will be increased—so what should the Senate do?

First. The Senate can strike the Du Pont provisions from the bill in its entirety—and pass it. I realize that this is impossible because the labor organizations have laid their prestige on the line—I think they have demanded support from their friends in the Senate, and I am sure they do not intend to retreat.

Second. We could say that the Du Pont Trust being essentially a testamentary trust, should be treated the same as all other testamentary trusts, and should be made subject to the rule against perpetuity for the purposes of the Bank Holding Company Act. This would permit them—as it permits all other private and testamentary trusts—to hold on to their bank investments until 21 years and 10 months after the death of the last beneficiary who was living—or had a "life in being" on the day of Mr. du Pont's death. But I know that this would not satisfy the Du Pont detractors. The charitable perpetuity feature of this trust is the gimmick on which they have built their whole case and no matter how unfair it is, their pride will not let them give it up. And besides, as I have listened to the testimony in the committee, I am persuaded that their desire is for personal revenge against Mr. Ball who has balked them in their position to settle the union strike for nearly 3 years now. They want him and no one else to have the problems of breaking up the estate and selling off part of its assets.

And it will be a problem to sell off these assets—a bigger problem than that faced by any corporate bank holding company in 1956—when the original act passed, and I include the biggest of them all, Trans America. The reason is simple. These were corporations and they could comply with the law simply by "spinning off" half of their assets, leaving two companies instead of one, but with the same identical stockholders in each.

The only time they needed to solve the problem was time to go through the required legal steps to accomplish the "spinning off."

But a trust cannot "spin off" because it has no stockholders. It must find outside buyers—and if the pending bill is passed, under the pressure of a time limit. With stiff legal penalties for failures to comply, this can mean a forced sale at a potentially great disadvantage to the seller. Moreover, the seller, in this case, would not even be free to make the best deal he could. Eight of these banks are State chartered banks, and the buyers would have to be approved by the State bank commissioner of Florida.

Mr. HOLLAND. Mr. President, will the Senator from Utah yield at that point?

Mr. BENNETT. I am happy to yield to the Senator from Florida.

Mr. HOLLAND. Aside from the manifest difficulties that would be sustained by Mr. Ball and by the Du Pont Estate in disposing of their holdings in the 30 banks in Florida, I wonder whether the Senator believes that it would be helpful or hurtful to Florida, and to Florida's economy in particular, to have what would amount to buyers' sales of the controlling interests in the stocks of the 30 banking institutions in our State in that limited period of time?

Mr. BENNETT. The Senator from Florida has a much better understanding of the situation in his own State, but I believe that this kind of thing would be unfortunate in any State. It would undermine confidence, which is the best asset any bank has. The depositors would wonder who the new owners would be, whether they could be trusted, and whether their management of depositors' money would be prudent. I believe that it would create all kinds of confidence problems.

Mr. HOLLAND. Mr. President, will the Senator from Utah yield further?

Mr. BENNETT. I am happy to yield to the Senator from Florida.

Mr. HOLLAND. Is it not true that anything that strikes at the confidence which people hold in banking institutions strikes at all the people who are doing business or have bank deposits in the communities where these 30 little banks are located?

Mr. BENNETT. I believe that it would create problems in every one of those communities. To me, this is obvious. It requires no long explanation.

Mr. President, let me go back and repeat that eight of these banks are State chartered banks, and the buyers would have to be approved by the State bank commissioner of Florida.

If the State administration in office at the time were as antagonistic to Mr. Ball and the Du Pont Trust as those who sponsored the bill originally, they could delay approval directly or indirectly—and directly or indirectly affect the choice of buyers until the sellers' disadvantage would become so great as to create windfalls for the favored buyers.

Would this hurt Mr. Ball personally? To some limited extent, perhaps, because he is a beneficiary of the trust, but it could materially affect the amounts the trust could distribute to charity 50 years from now and sooner.

It seems to me that the pending bill would put the Du Pont Trust into a

straitjacket and would force them to sell before a definite date and make it possible for their enemies to sharpen up their knives and take advantage of the situation.

Mr. President, to summarize, the problem could be solved to my satisfaction by striking the Du Pont section from the bill. It could be solved by giving to the Du Ponts the same treatment being given to other trusts. But, from the attitude within the committee, it becomes obvious that the hope that these logical solutions can be accepted is a forlorn one.

The next choice is that of amending it to give the Du Pont Trust the same treatment as other trusts. That leaves us with the question: Can we provide the trust with more time in which to carry out this very difficult operation? This brings us to the question of numbers. The bill says 5 years. For Financial General, it says approximately 12 years. Those who want to join in having the Senate punish Mr. Ball say 5 years is a great concession, that it should be 2 years, as existed in the law in 1956. The actual difference is slight. If the Du Pont Trust were required to divest under existing law, it would have 2 years and the possibility of 3 single year exemptions, to a total of 5 years at the discretion of the Federal Reserve Board.

History shows that after the 1956 act was passed, where these extensions were asked for, they were always granted, but when we reach the point of talking about numbers, we have deserted our search for a logical basis and are making an arbitrary decision.

I suppose one could say there is some slight color of equality in the suggestion that if we can logically give Financial General until 1978 to dispose of its banks—we can extend the same privilege to the only other institution caught by this bill, the one it was aimed at originally—the Du Pont Trust.

That is why I have offered the amendment that is before us.

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

Mr. BENNETT. I am happy to yield.

Mr. LAUSCHE. At the beginning, I want to examine the exemptions which are in the existing law and to ascertain their logic and justification.

It is my understanding that, under the 1956 act, application is not made to individuals or partnerships holding bank interests while at the same time holding interests in other institutions. Is that correct?

Mr. BENNETT. That is true. The 1956 law defined bank holding companies subject to the law as corporations, business trusts, associations, or similar organizations. Certain corporations operated for religious, charitable, or educational purposes were exempted, as were all individuals and partnerships.

Mr. LAUSCHE. That is, it provides that corporations shall be subject to the law, but individuals and partnerships shall not?

Mr. BENNETT. That is right.

Mr. LAUSCHE. Even though the ultimate result is the same, whether the holding is by an individual or partnership on the one hand, or a corporate entity on the other?

Mr. BENNETT. Yes.

Parenthetically, I think it is fairly accurate to say that the 1956 law was aimed at one particular corporation, just as this proposed law is aimed at the Du Pont Trust.

Mr. LAUSCHE. The 1956 law did not apply to nonbusiness trusts controlling two or more banks. Is that correct?

Mr. BENNETT. Yes. I have called them testamentary trusts in my comments today, but these are nonbusiness trusts. It did not apply to trusts created by individuals, because the individuals who had the right to own a bank would thereafter have the right to create a trust and continue to hold the bank.

Mr. LAUSCHE. Does the bill that has been submitted change the situation with respect to the right of nonbusiness trusts holding stock in two or more banks and also holding stock in a business enterprise?

Mr. BENNETT. No, it does not, so long as those trusts are subject to the rule against perpetuity, or in other words must terminate within 25 years or not later than 21 years and 10 months after the death of a named beneficiary.

Mr. LAUSCHE. Now my third question. The law also exempted affiliates and companies which had holdings of at least 80 percent in agriculture?

Mr. BENNETT. Section 4(c)(7) of the 1956 act exempted labor, agricultural, or horticultural organizations.

Mr. LAUSCHE. Under the language relating to nonbusiness, the labor unions were exempted? Is that correct?

Mr. BENNETT. No; there was a specific exemption.

Mr. LAUSCHE. Was the language specific that labor unions shall be exempted?

Mr. BENNETT. That is right; and that provision has not been tampered with by either House in the bill.

Mr. LAUSCHE. It means that labor unions are allowed to hold stocks in banks without limitation in number, and are also allowed to hold stock in other businesses without limitation in number?

Mr. BENNETT. That is right.

Mr. LAUSCHE. Does the Senator know why the 1956 act gave the labor unions this authority, while others did not get it?

Mr. BENNETT. Because there were just a few—one or two, so far as I remember—labor unions that were affected. The Amalgamated Clothing Workers of America had two banks, one in New York and one in Chicago. Nobody felt the union should be required to get rid of one of them, so a specific exemption was provided.

Mr. LAUSCHE. The Du Pont Trust was exempted from the 1956 act. Is that correct?

Mr. BENNETT. Yes. It was exempted, I assume, on the assumption that it was a nonbusiness trust.

Mr. LAUSCHE. That is, Mr. Du Pont made a will, gave the life estate to his widow, but created a trust that upon her death it would be used in perpetuity for charitable purposes. Is that correct?

Mr. BENNETT. That is approximately correct. There were other beneficiaries than the wife, but she had by far the greatest share of the trust.

Mr. LAUSCHE. The specific exemption allowing labor unions, agricultural, and horticultural organizations to own stocks in multiple banks or private corporations has not been changed by the bill that is pending before the Senate. Is that correct?

Mr. BENNETT. It has not been changed.

Mr. LAUSCHE. Has there been a denial of exemption included in the bill for any of the exempted entities except Du Pont?

Mr. BENNETT. Just Du Pont and Financial General Corp. The bill that came over from the House would not permit any such corporation to own one bank. The present law, passed in 1956, gave such corporations the right to own one bank. That provision was taken out by the House bill. The bill as reported by the Senate committee restores the original privilege and returns the situation to the present law. But as to Financial General or Du Pont, the exemption has been denied.

Actually the wording in bill does not specify these two entities: The language is general covering religious, charitable, and educational organizations and trust unless by its terms it terminates within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust.

Mr. LAUSCHE. Would not that repeal cover the Du Pont situation, because the Du Pont Trust in the end is a charitable trust?

Mr. BENNETT. Yes, it would.

Mr. LAUSCHE. I am not quite sure.

Mr. BENNETT. My adviser informs me it is considered that they would be covered; that the bill would repeal their exemption.

Mr. LAUSCHE. That is, the Du Pont Trust would be valid because it is an eleemosynary trust, and the language which the Senator from Utah read does now exclude it?

Mr. BENNETT. Yes. It repeals other possible future exemptions also.

Mr. LAUSCHE. So, in the final analysis, the law remains identical as it was in granting exemptions, except it provides that hereafter eleemosynary or charitable trusts, educational, or others of a similar nature, shall not be granted the exemptions?

Mr. BENNETT. The Senator is correct unless the trusts comply with the rule against perpetuity. I had not gone that long way around to arrive at the same result; but the Senator is correct.

Mr. LAUSCHE. What is the argument that is made that these two shall be specifically brought under the law without making it a general operation? Why has the committee picked on these two?

Mr. BENNETT. The language in the bill is general. These two are the only ones actually affected because others do not exist in these general categories. I have tried to explain in some detail the

force behind removing the Du Pont exemption.

Financial General set up its banking-holding arrangement after the law was passed by cleverly using what one might call a loophole in the law. It had a main holding company. Then it set up a whole series of holding companies, and each of the whole series of subsidiary companies held one bank. It was considered desirable to close such a loophole in the act.

Mr. LAUSCHE. To Financial General there has been granted a period of time, up to 1978, to divest?

Mr. BENNETT. That is correct.

Mr. LAUSCHE. And Financial General found this loophole and set up these holdings which controlled banks and private enterprise?

Mr. BENNETT. That is correct.

Mr. LAUSCHE. Financial General has been granted until 1978 to divest. What length of time has been granted to Du Pont?

Mr. BENNETT. Five years after the passage of the bill.

Mr. LAUSCHE. What length of time is provided in the House bill? Is it 2 years?

Mr. BENNETT. Two years, subject to three 1-year extensions.

Mr. LAUSCHE. I thank the Senator.

Mr. BENNETT. Mr. President, I hold no brief for Mr. Ball as a person or as the manager of the Du Pont Trust. I do not remember having met him until the Banking and Currency Committee began its hearings on the bill. However, I value and respect the ideals and traditions of the Senate, which I believe should forbid their use by outsiders as implements of personal revenge.

The bill contains many good technical corrections. I have no objection to closing the Financial General loophole. I believe it is necessary that a bill be passed which will maintain the present one-bank provision of the present Banking Holding Act. In my opinion, the best way to accomplish this would be to remove the Du Pont provision from the bill and pass the remainder.

I know that this will not happen. Therefore, I hope that my amendment, which is of much less value to the Du Ponts and to the future of the banking services that they have been performing for the people of Florida, can be adopted. Unless my amendment is adopted, for all the reasons I have recited, I shall vote against the bill, as I did in committee, as my only remaining way to protest what to me is a grave misuse of the legislative process and the traditions of this body.

Mr. President, I intended to ask for the yeas and nays on my amendment. I shall either request a quorum call now, in order to have a sufficient number of Senators present to justify that, or I shall be glad to delay the quorum call.

I understand that the Senator from Florida [Mr. HOLLAND] and the Senator from South Carolina [Mr. THURMOND] desire to speak. I shall yield the floor and await another opportunity to seek a quorum.

Mr. HOLLAND. Mr. President, I suggest the absence of a quorum. I believe we should consider the question of whether a rollcall shall take place early in the afternoon, so that Senators will have that information. I suggest the absence of a quorum for that purpose alone.

The PRESIDING OFFICER (Mr. BURDICK in the chair). The Secretary will call the roll.

The Secretary (Mr. Emery L. Frazier) proceeded to call the roll.

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

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

Mr. HOLLAND. I now ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOLLAND. Mr. President, first, I express my appreciation to the distinguished Senator from Utah [Mr. BENNETT] for the fine explanation he has made of the bill and of his amendment, of which I am happy to be a cosponsor, because I believe he has shown clearly that the bill is a punitive one, founded in the desire for vengence against Mr. Edward Ball, and without justification as to the reason that lies behind the bill.

The distinguished Senator from Virginia [Mr. ROBERTSON] has admitted, in his original statement, in colloquy with the Senator from Florida, that only two entities are covered by the bill, insofar as being brought out at this time from exemptions which they now enjoy under the Bank Holding Company Act of 1956. The two entities are the Financial General Corp., and the Du Pont Estate.

The Financial General Corp. consists of a general group of properties, including insurance companies, investment companies of one kind or another, and 21 banks, 10 of which are located in the State of Virginia and the others in the District of Columbia and in 4 other States.

The other organization which would be brought out from under the exemption that it now enjoys is the estate of Mr. du Pont, the estate now handled by Mr. Edward Ball, as the principal trustee, but in conjunction with a group of trustees whose names appear in the record.

As the distinguished Senator from Utah has stated, the Du Pont Estate owns some 30 banks in the State of Florida, which means a controlling interest in those banks—25 percent or more. In addition, the Du Pont Estate owns the St. Joe Paper Co., and through the latter company it owns the Florida East Coast Railway Co. The Du Pont Estate also owns other bits of real estate and other important properties within the State of Florida.

To say that the Du Pont Estate is a dominant force in either the economic or political aspects of the State of Florida is a travesty, because that is not so. We have just nominated a governor for the State of Florida, in our recent primary, who was very strong in his opposition to the Du Pont Estate.

Some years ago, when the present speaker was nominated for and elected to the governorship, he was elected over the opposition of the Du Pont Estate. So it is not proper to say, as has been stated in this debate and as has been stated in the RECORD, that the Du Pont Estate dominates either the financial or the political picture in the State of Florida.

The fact is that the Du Pont Estate—or, rather, Mr. Ball, as the principal trustee—is not a uniformly popular figure within the State of Florida. That fact was never more clearly shown than by the results of the recent gubernatorial primary in the State of Florida.

Mr. President, a matter of right or wrong is involved in the bill before us. The Senators from Florida—I speak not only for myself, but also for my colleague, the distinguished junior Senator from Florida [Mr. SMATHERS]—believe that the bill is so clearly founded on punitive motives that we cannot sit idly by and see it passed without explaining very vigorously why we are opposed to its present provisions as they affect the Du Pont Estate.

The Senator from Utah, in his opening remarks on this amendment, has made as good a statement as I could make with respect to the punitive nature of the bill.

I call attention to quotations appearing on page 93 of the printed record of hearings which show the same thing most clearly.

When the witness, Mr. Leighty, who was appearing for all of the railroad unions, had concluded his testimony, the Senator from Utah [Mr. BENNETT] expressed his feelings as to the attitude shown by the railroad labor unions in a couple of comments which I shall read in the RECORD at this time.

In the first statement, speaking to Mr. Leighty, the Senator from Utah said:

> Senator BENNETT. As I read and listened to your statement, it sounds to me as though you are here today to express your frustration at your inability to settle this particular strike, and I don't think that is a worthy motive on which to recommend general legislation, Mr. Leighty.

In a later statement, the Senator from Utah, again expressing his very just resentment, said:

> Senator BENNETT. You state clearly on page 2 of your testimony that you want the exemption now used by Financial General eliminated, because it could be used by the Du Pont estate or other bank holding companies even though the exemption now used by Du Pont were eliminated.
>
> Do you want the Du Pont Co. driven out of Florida?

The witness answered that he did not want the Du Ponts driven out of Florida. He simply wanted to weaken them in the way that would be accomplished by the passage of the pending bill.

I cite this from the printed record to show the feeling of justifiable and understandable resentment that boiled over in the hearings, as expressed so clearly by the distinguished senior Senator from Utah [Mr. BENNETT].

Insofar as the Senators from Florida are concerned, we feel very strongly that we do not want to see the bill passed for a great many reasons that have to do with the essential justice and injustice of the bill.

We also feel that it would be a very great disaster in our State if the controlling interests of 30 banks were thrown on the market, on the buyer's market basis, in this limited period of 5 years as provided for in the bill.

Some statement has been made to the effect that the Du Ponts are being treated very generously by being given a period of 5 years. It is true that they are being treated a little more generously than they would have been under the terms of the existing law or under the terms of the House bill, both of which measures allowed 2 years plus 3 additional years, a year at a time, provided that time was granted by the officers of the Federal Reserve Bank. Therefore, instead of a conditional 5-year period, the bill would provide a certain 5-year period, but without any hope of extension beyond that time. That is the sole extent of the generosity which has been mentioned on the floor of the Senate as being practiced under the bill toward the Du Pont estate.

My distinguished colleague, the junior Senator from Florida, had to be absent because of business elsewhere. He regrets that he cannot be present. However, he does want to be heard in the RECORD and has left with me a speech on this subject. It is an able and very clear speech.

I ask unanimous consent at this time that the statement of my distinguished colleague on the Bank Holding Company Act amendment be printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. BURDICK in the chair). Without objection, it is so ordered.

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

STATEMENT OF SENATOR SMATHERS ON BANK HOLDING COMPANY ACT AMENDMENT

I cannot urge too strongly that the Senate adopt the pending Amendment to H.R. 7371, introduced by very able and distinguished colleague, Mr. HOLLAND, and cosponsored by me and others.

Under the provisions of the bill as reported out by the Senate Banking and Currency Committee, the Alfred I. duPont Estate would be given only five years to divest, whereas the Financial General Corporation would be given a period of twelve years to divest.

Simply stated, the pending amendment would give to the Alfred I. duPont Estate the same twelve-year period to divest itself as the bill would give to the Financial General Corporation for the same purpose. I feel that we should do this in the interest of fairness and equity. In my opinion, there is no rational reason to discriminate against the duPont Estate by granting it less time to divest than that given to the Financial General Corporation. In this respect the pending bill reported by the Senate Banking and Currency Committee is discriminatory and capricious.

Let me point out clearly that the duPont Estate is under handicaps by the pending bill that the Financial General Corporation is not.

The duPont Estate must decide whether to give up its banks or give up its non-banking interests. It can only give up its banking or non-banking interests by selling off the banks or by selling off the St. Joe Paper Company and the Florida East Coast Railroad.

The estate has no stockholders to whom shares of stock in the banks or shares of stock in the Paper Company or shares of stock in the Railroad Company can be spun off.

Let me remind my colleagues in the Senate that it will not be easy for the duPont Estate to sell its banks or its other interests. To require the Estate to do it in such a short period of time would create a grave injustice not only to the Estate itself, but to the best interests of the State of Florida.

Some of the Estate's banks are State Banks. Under Florida law permission must be obtained from the Florida State Banking Commission for such a transaction. In addition, if the duPont Estate tries to sell the banks as a group to a Holding Company, permission must be obtained from the Federal Reserve Board, and this may involve not only long proceedings before the Board, but also the possibility of protracted anti-trust suits.

If the Estate should choose to sell its non-banking interests it could be confronted with equal difficulties. One of the most likely customers for a railroad would be another railroad. Here again a sale of the Florida East Coast Railroad to another railroad would undoubtedly involve long proceedings before the Interstate Commerce Commission and possibly an anti-trust suit.

With respect to the Paper Company, from all the information I can obtain it is not an easy thing to sell. Here again the most likely customer for a paper company would be another paper company. Such a sale would not be easy to arrange in any event and again a sale of this sort could very easily involve long drawn out anti-trust proceedings.

I do not see how anyone can possibly say that the duPont Estate does not need a substantial period of time, at least equal to that given the Financial General Corporation to comply with the divesture requirements of the pending measure. We should eliminate this discriminatory action by adopting the pending Amendment.

I urge strongly that this Amendment be adopted in order to provide equal treatment under the law for all men.

Mr. HOLLAND. Mr. President, it was so clear to me that this matter was based upon injustice, inequities, and the desire for vengeance that I did something that I have never done heretofore on any bill I have ever sponsored in the Senate.

I am very happy to have joined with my distinguished friend, the senior Senator from Utah, as a cosponsor of the amendment. I felt that I should call clearly to the attention of every other Senator the reasons that I felt the time allowed to the Du Pont interests for the liquidation of their interests, either in the banks or other properties, be coequal with the time given to Financial General. Therefore, I addressed a letter to all of my colleagues under date of June 3, 1966, so that it was delivered personally that day by messenger to the office of each Senator.

The letter reads:

JUNE 3, 1966.

DEAR SENATOR: Relative to H.R. 7371, the proposed amendments to the Bank Holding Company Act which will be debated by the Senate on Monday, June 6, I call to your attention the following facts:

(1) The principal purpose of this bill is to amend the present exemption for non-business trusts (and charitable institutions) and the exemption of registered investment companies as contained in the Bank Holding Company Act of 1956. The report makes it clear that the bill relates, for all practical purposes, entirely to two presently exempt entities—the du Pont Estate and the Financial General Corporation.

(2) Relative to the du Pont Estate the report says:

"The principal entity which now receives the benefit of the exemption for long-term trusts and which in the course of time would become a charitable institution is the Alfred I. du Pont trust fund, created under the will of the late Alfred I. du Pont. * * * The du Pont trust controls 30 banks in Florida, together with sizable nonbank businesses."

(3) Relative to Financial General Corporation and the existing exemption of registered companies, the report says:

"The exemption now applies only to the Financial General Corp., an affiliate of the Equity Corp. which is a registered investment company. * * * The Financial General Corp., through subsidiary corporations, owns 25 percent or more of the stock of 21 banks in 5 States and the District of Columbia."

I digress from the letter to state that, of those 21 banks, 10 are in the Commonwealth of Virginia, and the others are divided between the District of Columbia, the State of New York, the State of Maryland, the State of Tennessee, and the State of Georgia.

I continue to read the letter:

"In addition, it controls a number of non-banking businesses, including insurance, financing, and manufacturing companies."

So, it is quite clear that the main purpose of the bill is to terminate the exemption of these two presently exempt entities from the Bank Holding Company Act.

Since the Senate may decide that the termination of these exemptions is wise, I call your attention to a substantial discrimination in treatment between the requirement of divestiture applied to the du Pont Estate and that applied to the Financial General Corporation. In the case of the du Pont Estate a flat five-year period for divestiture is given on the ground that "since a perpetual trust cannot, like ordinary business corporations, spin off its assets to its stockholders but must divest itself by sale, the committee considers it appropriate to permit a flat five-year period for this divestiture in the case of du Pont Estate." This flat five-year period would take the place of the two-year period, plus three additional years, one at a time, in the judgment of the Federal Reserve Bank, as allowed under existing law. Thus it is slightly more generous than the present law. In contrast, Financial General Corporation is given until December 31, 1978, or twelve years, to accomplish divestiture simply because said corporation has "substantial bond issues outstanding secured by the stock issues of its subsidiaries which fall due in 1978."

It seems clear to me that if these two concerns which are presently legally exempted from the Bank Holding Company Act and which are of comparable size should be brought under the Act they should be given equal time to divest themselves of their outside interests or dispose of their banks and that the different treatment given by the bill constitutes substantial discrimination. With other Senators I shall offer an amendment to the proposed bill extending the time of divestiture given the du Pont Estate until December 31, 1978, so as to allow equal treatment to these two entities.

I shall greatly appreciate your careful consideration of the facts above-stated and your careful examination of the bill and the committee report with the hope that you will see fit to support our amendment to allow

equal time for divestiture to the du Pont Estate and to Financial General Corporation.

With kindest regards, I remain

Mr. President, the letter went out last Friday by messenger to every Member of the Senate, in the hope that Senators would see what was involved here, would take some interest in the matter, and would be on the floor, prepared to participate in the just decision of this matter, which affects not merely a great estate—and a very worthy estate, in many respects—but affects also the economic situation in my State, which might be and I think clearly would be adversely affected by a sentence of death as to these 30 banks, by requiring that within 5 years the control of the Du Pont Trust in each of those 30 banks be sold to somebody else.

I do not see how more clearly there could be created a buyer's market, or how more clearly there could be destroyed the confidence which the public should have in banking institutions, and must have if they are to serve to best advantage, than to apply such a drastic rule as this.

Of course, I know it may be said they have the choice, as well, of selling their other assets; but I call attention to the fact, Mr. President, that such a sale would probably be even more distressful to a part of our State which needs consideration in a matter of this kind, and needs it very greatly, because it would require putting on the market of over 1 million acres of West Florida forest land, as well as the St. Joe Paper Co. and other assets that are held in connection with that great operation—which extends over most of west Florida, covering parts of many counties in that area.

Mr. President, I cannot conceive of anything more hurtful to real estate values or to the general economy of those areas than for such a practice to be permitted and in fact forced upon the Du Pont Estate by the passage of this bill; and I am very sure, without having any means at all of knowing what would be the situation of Mr. Ball and his associates, that they would make the choice of divestiture of their bank stocks as the lesser of two evils; and they would be forced to do so precipitately, if this bill is passed and becomes operative as binding Federal law.

Mr. President, not only is this matter discriminatory from the standpoint of the time that would be given, but it is also exceedingly discriminatory from the standpoint of giving unequal treatment to one estate which happens to have a perpetual grant to a charitable trust which follows the grant of benefits to the widow and to some seven or eight other persons who had a right to look to the testator. It seems to me that the treatment applied to other estates by this bill—under which much more time would be given to every other sort of family estate set up by a will of a testator—should also be applied to the Du Pont Estate, and that the refusal to apply it is discrimination of the rankest sort.

I call attention to the fact that under this bill as drawn, other family estates which would be subject to the rule against perpetuities would run for the life or lives of people living at the time of the death of the testator—and that would cover several people still living at this time, as far as the Du Pont Estate is concerned—plus an additional period of 21 years after the death of the last of those persons, plus an additional period of 10 months.

I say it is not giving equal treatment to other large estates, to give this sort of treatment to the Du Ponts, cutting them off, as they are sought to be cut off by the 5-year limitation, whereas, as to other estates, they are not cut off at all except under the rule against perpetuities, which permits them to run during the life or lives of existing people, plus 21 years plus 10 months. There is no equity, there is no equality, there is no justice in making that differentiation between this estate and other estates.

If this action is applied to the Du Pont Estate, in all probability, some of the existing beneficiaries will still be alive at the end of 5 years from now. Of the existing beneficiaries, some are aged and some are not aged at all. Some are in their forties at this time, and it is quite likely that they will be alive at the time that the 5-year limit is reached; and if the same treatment were given to the Du Pont Estate as to other testamentary estates, there would be a similar time allowed: the rest of their lives plus an added 21 years plus an added 10 months. There is no equality in treatment under the pending bill, which cuts off the Du Pont Estate in the way that is described in the measure.

Mr. President, I am happy to note the fact that the American Bankers Association, through their official witness, properly authorized and directed to testify before the committee, called attention to the specific point which I have just mentioned—that this kind of treatment was unequal as between the estates; and furthermore, that it discouraged the setting up of grants by wills to important charities on a perpetual basis, because the only way to defeat the rule against perpetuities is to have the remainder of the estate go over to charities which can carry on substantially forever.

The statement that was made on this matter was made by Mr. Lewellyn A. Jennings, speaking for the American Bankers Association during the course of the hearings on this bill. Mr. Jennings is Chairman of the Board of the Riggs National Bank of Washington, D.C.—which is the largest bank within the District of Columbia—and he is Chairman of the Federal Legislative Committee of the American Bankers Association. He was accompanied by Mr. Charles R. McNeill, the director of the Washington office of the American Bankers Association. Mr. McNeill added some testimony in the course of the remarks of Mr. Jennings.

Under the heading of "Long Term Trusts," Mr. Jennings testified as follows:

The 1956 act now defines "company" to exclude trusts except business trusts. S. 2353 repeals this exclusion except for trusts established for individual beneficiaries and which must terminate within 25 years or not later than the death of a named beneficiary. Elimination of this exemption would bring the Du Pont holdings in Florida under the Bank Holding Company Act and would require divestment within 2 to 5 years after enactment. The Federal Reserve supports this amendment and in its testimony recommends that the bill be amended to exclude from coverage trusts that must terminate within 21 years after the death of individual beneficiaries living when the trusts become effective. The American Bankers Association believes the exemption should be allowed for the life interest of the individual beneficiaries living when the trust become effective even though the trusts are perpetual. This would mean that in the instance of the Du Pont estate the trust exemption under the provisions of the Bank Holding Company Act would terminate upon the passing of living individual beneficiaries. We see no special significance in the fact that such a trust is in perpetuity in its relation to the Bank Holding Company Act.

Senator MUSKIE asked the question:

Now, as I understand it, there were last June 16 surviving annuitants under Mr. Du Pont's will. Their ages range, I think, from 40 to 84. Is it your recommendation that the exemption not terminate until all of these annuitants die?

Mr. Jennings replied:

That is our recommendation. Of course, I have never had the benefit of reading the will, but the Federal Reserve itself has recommended that trusts that are not in perpetuity shall not be subject to the Bank Holding Company Act under the amended provisions until such time as the individual beneficiaries living at the time the trust was created have passed on and 21 years thereafter.

Our position is that we do not see any reason for a distinction as between, let's say, the trust that is not in perpetuity and the trust that is in perpetuity. Where there are individual beneficiaries living at the time the trusts are created, whether the trusts are in perpetuity after the death of the living beneficiaries or whether they would terminate upon the death of the beneficiaries, we believe that both types of trusts should be treated on a similar basis.

We say that if the trust is in perpetuity, let it come under the provisions of the Bank Holding Company Act when the beneficiaries have passed on.

Senator MUSKIE. It doesn't seem to me—and I am certainly not an expert on this Du Pont problem—that it really touches the issue that is involved. It seems to me that the issue that is involved is not the income to beneficiaries but rather the power which the exemption permits the trust to acquire and the trustees to wield. If that is indeed the issue and if it should be decided that it is not wise for the trust to have this power and the trust to wield it, what logic is there to postpone it until the beneficiaries die?

Mr. JENNINGS. Well, the best logic, at least in my mind, is when a man passes on he should have the right to leave his estate to his widow and other designated beneficiaries and that the trust shouldn't be placed in the position, in the event two or more banks are involved, with having to divest itself of its banking and/or nonbanking assets. It would appear that the Federal Reserve Board also uses that same logic: A man should be able to leave his estate in trust for the life of his widow and other beneficiaries plus 21 years, and thereafter it would become affected by any provisions of the Bank Holding Company Act.

We merely say that using that same logic, until the death of the beneficiaries—and we don't say 21 years after that—why then if it comes within the provisions of the Bank Holding Company Act, so be it.

Senator MUSKIE. Would you agree with me in my understanding that what is involved here is whether or not that right which you have described should yield in the face of a public interest consideration. Is this your understanding of the issue that is involved in this legislation? Or at least what some people describe as a public interest.

Mr. JENNINGS. I really don't see where the public interest is really affected by a man leaving his estate to his widow and his other relatives or beneficiaries and knowing that the estate is not going to come under the Bank Holding Company Act at least until these living beneficiaries have passed on. We think that the beneficiaries during their lifetime should be able to receive the benefits that grow out of that estate without being faced with divesture and things of that type.

Senator MUSKIE. Even though that should run counter to what may be considered the public interest consideration to the Bank Holding Company Act?

Mr. JENNINGS. I don't know of any public interest considerations that would cause me to believe that the American Bankers Association position should be different.

Senator MUSKIE. But this is the point that is being urged, it is not?

Mr. JENNINGS. I know of no public interest considerations that are harmed by either our position or the position of the Federal Reserve as to the trusts that are not in perpetuity. We simply don't agree with the Federal Reserve that they should exclude the life interests of beneficiaries of trusts that are in perpetuity. We don't see that there is any reason for distinguishing between the life interest in those two types of trusts.

* * *

Senator DOUGLAS. Are you authorized to speak for the American Bankers Association?

Mr. JENNINGS. Yes, I am. This matter has been covered by the appropriate committees of the American Bankers Assoc. and, in fact, I was directed to take this position.

Mr. President, I also read a letter to Mr. Charles R. McNeill, director, Washington Office of the American Bankers Association, stating to him the names of the trustees at that time, that appears in the hearings on this bill.

Mr. CHARLES R. MCNEILL,
*Director, Washington Office of the ABA, Washington, D.C.*

DEAR MR. MCNEILL: It is our understanding that you have been requested by Senator DOUGLAS to secure the names of the current trustees of the Alfred I. Du Pont testamentary trust.

We are pleased to inform you that they are as follows: Edward Ball, Jessie Ball du Pont, William B. Mills, Tom S. Coldewey, Alfred du Pont Dent, the Florida National Bank of Jacksonville.

Sincerely,

KENNETH E. HAEFELE,
*Vice President and Senior Trust Officer.*

Later in his testimony Mr. Jennings said:

Might I just make one last statement, that the American Bankers Association committees, in considering this whole matter, thought of the literally hundreds of trusts that come into being every year. Of course, a few of them do no doubt give rise to a trusteeship where two or more banks are involved, in the smaller communities. We feel that it is necessary to consider this entire field and what might grow out of it, and not just the Du Pont trust by itself.

I wish to digress to say that there is very much meat in that comment by Mr. Jennings that the American Bankers Association was concerned by the fact that this legislation is general in its effect although it is aimed in this instance at the Du Pont Estate, and that it will affect what they say are "hundreds of trusts that come into being every year." They thought it unwise to go into it at this time in the form indicated.

Mr. Jennings continues:

It is our feeling that the Du Pont trust has been handled very well, the banks have been well run and we don't think the public interest has been harmed in the banking field by the trustees in connection with the management of those financial institutions.

We think actually that it has been something that has been very much in the best interests of Florida.

After all, this trust came into being back in the middle 1930's when the economy was not as good as it is now or as good as it has been for many, many years. And I would say the Florida National group of banks have been an outstanding factor in the sound economic growth of Florida. And I don't see where the public interest has been harmed in that particular situation.

Mr. President, it is noted, of course, that the last point Mr. Jennings made was that not only did he not think it was not a harmful situation to Florida, but he also thought the banks had been well-managed, and the Du Pont Estate well-managed, and that it was a blessing—I do not believe he used that word, but that is what he means—that the Du Pont Estate was there functioning at that time in 1935. Mr. du Pont had been there before that during some of the most stormy years in my State.

I know something of this of my own knowledge. My home town of Bartow, Fla., lost two banks following the collapse of the boom, and every bank in our county, 18 or 20, except one in Lake Wales 18 miles from my home town collapsed, which was our only reliance for any banking facilities there for some 6 or 8 months.

We tried repeatedly in various places to get strong financial groups to come in and organize the banking institutions. We tried in Tampa, we tried in Orlando, and we tried in Jacksonville. Finally, the Du Pont group, headed at that time by Mr. Albert I. du Pont, came in and opened up a bank which has been a beneficent bank and a strong bank in our community since that time.

Not only was this true in our community but it was also true in dozens of other Florida communities. For instance, there was our neighboring community of Lakeland, Fla. It was in exactly the same situation as we were. Mr. du Pont came down and opened the Florida National Bank of Lakeland only a few months before the one that he opened in our town, the Florida National Bank, at Bartow. I want to say that that was the first real light of encouragement, the first real light of a reawakened economy for that part of our State. What I have said about our part of the State, which is an important part, is also true of many other sections of Florida.

I have enough essential gratitude left in my being that I am willing to stand on the floor of the Senate, or anywhere else, to say that Alfred I. du Pont did bring blessings to our part of the State, and to the State generally, by coming in with his great resources and building up institutions of great strength and great resourcefulness at that time, when Florida needed them so badly. These institutions have been serving us ever since.

I believe it would be mighty poor pay for any Senator from Florida, or any Representative from Florida, to stand idly by and watch legislation of this kind pass which in effect would declare that within 5 years they must liquidate the holdings no matter how much sacrifice they must make in the communities in which these 30 banks are located, and that they must do this within 5 years or else be held in contravention and in violation of Federal law.

Mr. President, I will never take such a position. Here I speak my gratitude toward what has been done by the Du Pont Estate and by Mr. du Pont in person.

There is a more salutary solution to this whole matter than any that has come before or will come before the Senate during debate, and that would be to treat the 7 banks which were set up by Du Pont in his lifetime in a different way than the 23 which were set up after his death. We endeavored to have that kind of treatment given in the committee, but, I am sorry to say, my understanding is that we were only able to get a handful of votes in committee, which made a difference.

It seems to me that there is a difference between assets left by a testator when he dies, which he has built up by himself, or which have been built up in response to requests for leadership in communities into which he has gone, such as the great State of Florida, and to say that we will have no feelings of obligation at all toward him for setting up those seven banks in Florida and will not permit him, by his will, to do anything which was more than temporary with reference to those seven banks, is completely wrong.

I invite the attention of the President and Senators to the fact that after the passing of the pending bill, there would be only 5 years, at most, for liquidation of all the banks' assets which were set up during the lifetime of the testator. Either that, or the sacrifice that would be entailed by the selling of other assets of the estate of various kinds which are greatly in excess of the banks' holdings, as I am told, of the Du Pont Estate.

I noted with great interest that the Florida State Chamber of Commerce took a direct stand upon this matter. The secretary of the chamber sent me a copy of a letter which he had sent out to the secretaries of all the State chambers of commerce. In this particular instance, the copy is one addressed to the secretary of the Chamber of Commerce of the State of Vermont, and I ask unanimous consent to have it printed in the RECORD, to show that one of the important business groups within the State, represented by what I believe to be one of the finest State chambers of commerce to be found in all the United States, feels keenly on this matter and feels that the Du Pont estate is not being fairly treated by the proposed legislation. This letter

is dated June 1, 1966, and is addressed to Mr. Edwin Benjamin, Jr., executive vice president, Greater Vermont Association, Montpelier, Vt., by Harold Colee, executive vice president of the Florida State Chamber of Commerce, Jacksonville, Fla.

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

[Written to executive officer of every State chamber of commerce]

FLORIDA STATE CHAMBER OF COMMERCE,
*Jacksonville 11, Fla., June 1, 1966.*

Mr. EDWIN BENJAMIN, Jr.,
*Executive Vice President,*
*Greater Vermont Association,*
*Montpelier, Vt.*

DEAR ED: I respectfully commend to your attention the careful examination of H.R. 7371, an act to amend the Bank Holding Company Act of 1956 as reported out by the Senate Committee on Banking and Currency, being Report No. 1179 (passed by the House) and if you agree with me with respect to the discriminatory, and indeed punitive, provisions of that bill, suggest communication with your Senators, urging further careful study of the bill by appropriate committees.

I refer also and particularly to the impact which this legislation will have on tax exempt foundations which might anticipate becoming beneficiaries of charitable trusts now or in the future.

Under the terms of this act a trust which is created by a testator, providing for certain life annuities, with the remainder going to charities or educational institutions or the like, is discriminated against in comparison with the treatment given trusts that have no charitable remainders.

For example, if such a trust is established, and it happens to own banks which originally were owned by the grantor or testator, this act would require that, within five years of the time the trust is established, it must divest itself either of the banks or of all other non-banking business interests which it owns or controls. But on the other hand, if such a trust is established with the remainder going to an individual or any other non-charitable remainder, no such drastic provision exists. Other trusts without charitable remainders are allowed a period measured by the traditional rule against perpetuities. That is, that may hold both the banking and non-banking businesses for a period of time measured by a life in being plus twenty-one years and ten months.

It would seem probable that such legislation would not encourage the establishment of trusts with charitable remainders.

I mentioned the punitive aspects of this legislation and I refer to them again, summoning to your attention the comment of Senator BENNETT of Utah after hearing the testimony of the Chairman of the Railway Labor Executives Association who supported the bill. Senator BENNETT commented: "It is my personal opinion, based on your statement which naturally mentions railroad problems or deals with the strike against the Florida East Coast Railway; and your answer to my question that you generally limit yourselves to railroad matters, that you would not be here today (a), if the strike had not occurred and (b), if the duPont testamentary trust did not have control of the railroad. . . . it sounds to me as though you are here today to express your frustration at your inability to settle this particular strike, and I don't think that is a worthy motive on which to recommend general legislation, Mr. Leighty."

Also footnoting the punitive character of this legislation is the statement of the Railway Labor Executives Association's chairman to the effect that the only reason the unions wished to see the exemption currently used by Financial General Corporation eliminated was the possibility that it could be used by the duPont Estate even though the exemption now used by that estate were eliminated.

I am urging our Senators HOLLAND and SMATHERS to consider the following recommendations from the Florida State Chamber of Commerce:

(1) That if the Bank Holding Company Act of 1956 is to be amended so as to allow a personal testamentary trust to have a period of time measured by a life or lives in being plus twenty-one years and ten months in which to divest itself of either banks or non-banking interests, then a testamentary trust with a charitable remainder should not be discriminated against because of that fact, but should be allowed the same period of time.

(2) That because of the provisions of this bill which admittedly have to do with monopoly situations, circumstances and possibilities which have not been scrutinized in the hearings before the Banking and Currency Committee, that they urge its referral to the Senate Judiciary Committee for such study.

I hope your highly respected organization, noted for its good judgment in matters of this sort, will agree with ours on the significance and dangerous potentialities inherent both in this legislation and the way it has been contrived and promoted by the railway labor unions.

In the interest of any further enlightenment of this legislation, might I suggest your Senators discuss the matter with Senators HOLLAND and SMATHERS, who are in a position to supply the information.

Should appreciate your sending me copy of any letters or suggestions which you make to your Senators.

With warm personal regards, I am
Sincerely yours

HAROLD COLEE,
*Executive Vice President.*

BC: Senator SPESSARD L. HOLLAND.

Mr. HOLLAND. Mr. President, I believe that this concludes the matters which I intended to state for the RECORD. It seems to me that, in essence, the pending bill is not founded on real, strong, constructive consideration of what the real meaning of the bill should be, down through the years, if it becomes law. The American Banking Association has warned us that hundreds of trusts come into being under facilities of decedents everywhere in this Nation. Some of them will possibly come under one of the other of the aspects and the meanings of this particular bill. It warns against the passage of general legislation of this kind which, in the first place, the ABA feels would be unfair to the decedent, unfair to his desire to take care, in his own way, of those who are succeeding him and who are within their rights and looking to him for some assistance after he passes away.

In the second place, such proposed legislation, the American Bankers Association asserts, would very greatly diminish the opportunity for charitable trusts to be set up—charitable trusts which would mean so much.

Mr. President, before I sit down, I hold in my hand a list of the beneficences accomplished by the Du Pont Estate through the money it has used within Florida in the past 5 years. I ask unanimous consent to have printed in the RECORD the complete list consisting of something over $11 million.

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

*Charitable and educational entities in Florida which have directly or indirectly received funds from the estate of Alfred I. du Pont over the past 5 years*

| | |
|---|---|
| The Nemours Foundation | $6,410,508.57 |
| Florida Crippled Children's Commission | 130,933.03 |
| University of Florida, School of Medicine | 35,000.00 |
| African Methodist Episcopal Church | 50.00 |
| Alfred I. DuPont Awards Foundation | 760,425.00 |
| Alfred I. DuPont Foundation | 1,735,722.80 |
| All Saints Episcopal Church | 10,000.00 |
| American Cancer Society | 1,150.00 |
| Arthritis & Rheumatism Foundation | 9,000.00 |
| Assembly of God, White City | 200.00 |
| Atlantic Boulevard Baptist Church | 20.00 |
| Bach Festival Society of Winter Park | 15.00 |
| Baptist Memorial Hospital | 21,000.00 |
| Bartram Council | 600.00 |
| Beaches Aquatic Pool, Inc | 100.00 |
| Rev. Gordon Bennett, Church of the Good Shepherd | 8,000.00 |
| Bethune-Cookman College | 600.00 |
| Bolles School | 5,000.00 |
| Boy Scouts of America—North Florida Council Number 87 | 15,000.00 |
| Boys Club of America | 25.00 |
| Boys Service Council | 5,400.00 |
| Brewster Methodist Hospital | $32,000.00 |
| Catholic Charities | 80,000.00 |
| Chapel of the Resurrection | 1,000.00 |
| Children's Home Society of Florida | 12,400.00 |
| Christ Church, Ponte Vedra | 12,000.00 |
| Church of Christ, Port St. Joe | 900.00 |
| Church of God, Highland View | 600.00 |
| Church of God and Christ | 800.00 |
| Church of God in Christ | 175.00 |
| Church of the Good Shepherd | 32,100.00 |
| Civic Music Association | 150.00 |
| Clara White Mission | 2,550.00 |
| Community Chest United Fund | 100,000.00 |
| The Community Church | 165.00 |
| Daniel Memorial Home for Needy Children | 42,000.00 |
| Rev. Frank Dearing, Discretionary Fund | 4,000.00 |
| Diocese of Florida | 33,600.00 |
| Diocese of Miami, Coleman F. Carroll, bishop | 121,583.40 |
| duPont Band Boosters | 100.00 |
| Duval County Auxiliary Patrol | 100.00 |
| Duval County Day Nursery Association | 27,000.00 |
| Early Settlers Garden Circle | 240.00 |
| Eccleston-Callahan Hospital | 3,100.00 |
| Edwards Waters College | 200.00 |
| Faith Bible Church, Port St. Joe | 100.00 |
| Family Consultation Service of Jacksonville | 60,000.00 |
| Father Maher Council No. 648, Knights of Columbus | 250.00 |
| First Baptist Church, Port St. Joe | 2,500.00 |
| First Baptist Church, White City | 600.00 |
| First Born Holiness Church, Port St. Joe | 1,000.00 |
| First Church of the Nazarene, Port St. Joe | 900.00 |
| First Free Will Baptist Church, Jacksonville | 50.00 |
| First Methodist Church, Port St. Joe | 2,500.00 |
| First Presbyterian Church, Port St. Joe | 1,500.00 |

*Charitable and educational entities in Florida which have directly or indirectly received funds from the estate of Alfred I. du Pont over the past 5 years*—Continued

| | |
|---|---|
| Florida Blind Workers, Inc. | $200.00 |
| Florida Juvenile Court Foundation | 13,519.50 |
| Florida Sheriffs Boys Ranch | 10,000.00 |
| Florida Southern College | 3,750.00 |
| Florida State University | 2,675.00 |
| Florida Tuberculosis & Respiratory Disease Association | 2,000.00 |
| Foster Drive Baptist Church Jacksonville | 300.00 |
| Fraternal Order of Police, Jacksonville | 400.00 |
| Garden Club of Jacksonville | 5,000.00 |
| Garden Club of Port St. Joe | 2,000.00 |
| Gator Bowl Association | 104.00 |
| Glen Myra Methodist Church | 50.00 |
| Grace Chapel, Jacksonville | 4,000.00 |
| Grace Chapel Church School | 20,000.00 |
| Highland View Assembly of God | 100.00 |
| Highland View Baptist Church | 1,000.00 |
| Highland View Methodist Church | 1,000.00 |
| Hope Haven Foundation | 93,000.00 |
| Humane Society | 35.00 |
| Immaculate Conception Catholic Church | 1,000.00 |
| Jacksonville Art Museum | 54,125.00 |
| Jacksonville Community Foundation | 20,000.00 |
| Jacksonville-Duval County Safety Council | $200.00 |
| Jacksonville Opera and Choral Society | 600.00 |
| Jacksonville Ribault Quadricentennial Celebration Assn | 1,000.00 |
| Jacksonville Symphony Association | 8,502.00 |
| Jacksonville Symphony and Junior League | 250.00 |
| Jacksonville University | 306,264.06 |
| Junior Achievement | 6,000.00 |
| Kings Tabernacle Baptist Church | 50.00 |
| Lakewood Methodist Church | 400.00 |
| Lakewood-San Jose Volunteer Fire Department | 14,000.00 |
| Rev. L. Valentine Lee, Discretionary Fund | 4,000.00 |
| Lions Club Show Fund | 55.00 |
| Little Theatre of Jackson- | 258.50 |
| Long Ave. Baptist Church, Port St. Joe | 2,500.00 |
| Marcus C. "Daddy" Fagg Foundation | 300.00 |
| Mental Health Association of Duval County | 20,000.00 |
| Methodist Church—Jacksonville District | 40,000.00 |
| Mt. Zion A.M.E. Church, Hastings | 25.00 |
| Municipal Hospital, Port St. Joe | 12,000.00 |
| Myrtle B. Wilson Convalescent Home | 100.00 |
| National Juvenile Court Foundation | 4,250.00 |
| National Recreation Association | 500.00 |
| National Society of Colonial Dames of America | 5,000.00 |
| New Bethea Methodist Church, Port St. Joe | 600.00 |
| New Bethel A.M.E. Church, Port St. Joe | 400.00 |
| New Bethel Baptist Church, Port St. Joe | 400.00 |
| Northeast Florida Heart Association | 500.00 |
| Oak Grove Assembly of God | 600.00 |
| Oceanway Volunteer Fire Department | $50.00 |
| Ortega Methodist Church | 8,000.00 |
| Pentecostal Holiness Church, Port St. Joe | 200.00 |
| Peoria Cemetery | 100.00 |
| Rev. J. C. Petri, Discretionary Fund | 400.00 |
| Presbyterian Church, Port St. Joe | 1,000.00 |
| Primitive Baptist Church, Port St. Joe | 1,000.00 |
| Riverside Hospital | 20,000.00 |
| Rollins College | 281,523.75 |
| Rotary Charity Foundation | 30.00 |
| St. Andrew's Episcopal Church | 500.00 |
| St. Andrew's Episcopal Day School | 10,000.00 |
| St. Anthony's Hospital, St. Petersburg | 600.00 |
| St. Augustine Historical Restoration and Preservation Commission | 65,000.00 |
| St. Catherine's Episcopal Church | 5,000.00 |
| St. George's Protestant Episcopal Church | 5,000.00 |
| St. James' Episcopal Church, Port St. Joe | 2,500.00 |
| St. John's Cathedral | 13,600.00 |
| St. Leo Abbey | 1,500.00 |
| St. Luke's Hospital | 17,000.00 |
| St. Mark's Parish, Discretionary Fund | 250.00 |
| St. Mary's Convent | 25.00 |
| St. Nicholas Park Christian Church | 10.00 |
| St. Simon's Church | 50.00 |
| St. Simons on the Sound | 400.00 |
| St. Vincent's Hospital | 37,000.00 |
| Salvation Army | 43,000.00 |
| Senior Centre | 130,000.00 |
| Shiloh Metropolitan Baptist Church | 200.00 |
| South Pinellas Mental Health Chapter | 25.00 |
| Stetson University | 385,842.56 |
| Speech Correction Clinic | 66,000.00 |
| Springfield Baptist Church | 25.00 |
| Stephen Foster Memorial Corporation | 1,000.00 |
| Suncoast Heart Association | 1,000.00 |
| Symphony Guild, St. Petersburg | 200.00 |
| Treaty Oak Park, City of Jacksonville | 49,020.00 |
| University of Florida | 2,300.00 |
| University of Miami | 500.00 |
| Variety Children's Hospital, Miami | 10,000.00 |
| Visiting Nurses Association, Jacksonville | 36,000.00 |
| The Rt. Rev. Hamilton West, Discretionary Fund | 24,000.00 |
| Wewahitchka School Band | 150.00 |
| Women's Club of Jacksonville | 20,000.00 |
| Y.M.C.A., Jacksonville | 110,000.00 |
| Young Life | 10,000.00 |
| Zion Air Baptist Church, Port St. Joe | 1,000.00 |
| Allen Temple A.M.E. Church | 25.00 |
| St. Joseph's Church, Port St. Joe | 2,500.00 |
| Total | 11,751,452.17 |

Mr. HOLLAND. Mr. President, I invite attention to the fact that the first of these items is one of $6,410,000-plus, made payable to the Nemours Foundation. This really goes, in the main, to the State of Delaware, because the State of Delaware received funds, as I understand it, for setting up the Nemours Foundation for a children's charitable hospital in Delaware, and to extend about nine-tenths of that amount there, so that the total is something over $11 million which would have to be subtracted by something like $5.5 million to make allowance for that fact.

Except for that item, I know of no other exception which should be made to gifts which represent, as stated in the title, "Charitable and educational entities in Florida which have directly or indirectly received funds from the estate of Alfred I. du Pont over the past 5 years."

It is put that way because most of these gifts came through Mrs. du Pont, who receives the largest part of the revenue and the income each year from the estate, and has sought to give most of it to charity. But some of these benefits are paid out directly by the estate itself.

I have already placed the entire list in the RECORD, but in order that Senators—and I am sorry there are not more Senators in the Chamber—may realize the nature of these gifts, I am going to read the items over $10,000 in amount into the RECORD at this time.

First, as I have already stated, the Nemours Foundation, in the amount of $6,410,000-plus. I have already stated that nine-tenths of that went to the State of Delaware instead of to Florida, because nine-tenths was paid over immediately to Delaware for the setting up of a charitable hospital for children.

Second, the Florida Crippled Children's Commission, a public agency of the State of Florida, for the care of crippled children, $130,933.

Third, University of Florida, School of Medicine, $35,000.

Fourth, the Alfred I. du Pont Awards Foundation, $760,425, which was paid out for numerous awards to worthwhile and deserving individuals throughout the State who, for some reason or other, were entitled to recognition by the estate.

Next, the Alfred I. du Pont Foundation, $1,735,722.

Next, All Saints Episcopal Church, $10,000.

Next, Baptist Memorial Hospital, $21,000—a large and very fine hospital located in the city of Jacksonville.

Next is Boy Scouts of America, North Florida Council, No. 87, $15,000.

Next is Brewster Methodist Hospital, $32,000.

Next is Catholic Charities, $80,000.

Next is Children's Home Society of Florida, $12,400.

Next is Christ Church, Ponte Vedra, $12,000.

Next is Church of the Good Shepherd, $32,100.

Next is Community Chest United Fund, $100,000.

Next is Daniel Memorial Home for Needy Children—that is for needy colored children in the city of Jacksonville—$42,000.

Next is Diocese of Florida, $33,600.

I do not know whether that means Episcopal Diocese or Catholic Diocese.

Next is Diocese of Miami, Coleman F. Carroll, bishop, $121,583.

That is a Catholic charity, because I happen to know Bishop Carroll.

Next is the Duval County Day Nursery Association, $27,000.

Next is the Family Consultation Service of Jacksonville, in the amount of $60,000.

Next is the Florida Juvenile Court Foundation, in the amount of $13,519.

Next is the Florida Sheriffs Boys Ranch, in the amount of $10,000.

Next is Grace Chapel Church School, in the amount of $20,000.

Next is Hope Haven Foundation, which is a hospital for crippled children, in the amount of $93,000.

Next is Jacksonville Art Museum, in the amount of $54,125.

Next is Jacksonville Community Foundation, in the amount of $20,000.

Next is Jacksonville University, in the amount of $306,264.

Next is the Lakewood-San Jose Volunteer Fire Department, in the amount of $14,000.

Next of the items above $10,000 is Mental Health Association of Duval County, $20,000.

Next is Methodist Church, Jacksonville District, $40,000.

Next is Municipal Hospital, Port St. Joe, $12,000.

Next is Riverside Hospital, $20,000.

Next is Rollins College, in Winter Park, $281,523.

Next is St. Andrew's Episcopal Day School, $10,000.

Next is St. Augustine Historical Restoration and Preservation Commission, $65,000.

Next is St. John's Cathedral, $13,600.

Next is St. Luke's Hospital, $17,000.

Next is St. Vincent's Hospital, $37,000.

Next is Salvation Army, $43,000.

Next is Senior Centre, $130,000.

Next is Stetson University, $385,842.

Next is Speech Correction Clinic, $66,000.

Next is Treaty Oak Park, City of Jacksonville, $49,020.

Next is Variety Children's Hospital, Miami, $10,000.

Next is Visiting Nurses Association, Jacksonville, $36,000.

Next is the Right Reverend Hamilton West, Discretionary Fund, $24,000.

Next is Women's Club of Jacksonville, $20,000.

Next is YMCA, Jacksonville, $110,000.

Next is Young Life, $10,000.

Mr. President, that concludes the reading of the items above $10,000.

I have left unread a large number of items, more than the ones I have read, for less than $10,000 each.

So anyone who thinks that the Du Pont Estate and Mrs. du Pont herself have not been gracious and generous beneficiaries of charitable causes in my State just does not know what he is talking about.

Furthermore, I have seen lists of similar kinds of benevolences in agencies in Delaware and in agencies in the State of Virginia. There are many other agencies in other States which also have received benevolences.

In each case these large and very impressive benevolences have been given either by Mrs. du Pont in person or by her estate.

I think this estate has shown a very considerable degree of responsibility for the fact that it is a trustee for this wealth and that it has been trying to help others better their lives.

So far as I am concerned, I would feel I was an ingrate if I did not speak up for the investment made by Mr. du Pont in his lifetime in restoring the economy of our State and for the contributions that have been made for the benefit of the health and life of children, old people, and all kinds of people, in religious, educational, and charitable activities, either by the estate or by Mrs. du Pont personally.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. THURMOND. Mr. President, the rationale underlying the Bank Holding Company Act is to prevent possible conflicts of interest and discriminatory favoritism between banks and private industries which are held under some form of common ownership. This is a worthy goal and one which is virtually unanimously approved. Having once established the policy and set the pattern, the only difficulty remaining is to apply the principle with justice, fairness, and equity.

The problem arises in simply defining holding companies for the purposes of the law. This problem arose when the initial bank holding company legislation was enacted in 1956. Certain exemptions were written into the law for obvious practical and political reasons. After having established the principle and the policy of applying this law to certain entities, equity dictated the need for treating all so covered in an equal manner.

In the pending bill, some of these exemptions which were written into the law in 1956 are proposed to be repealed. However, the equity which dictated equal treatment in the former case is not so prevalent today, judging from the treatment given to different entities whose exemption is hereby proposed to be repealed.

There are two major concerns involved in H.R. 7371 as amended by the Senate Banking and Currency Committee and reported to the Senate. These are: the exemption for registered investment companies and their affiliates, and the exemption for long-term trusts and religious, charitable, and educational institutions. Each of these exemptions relate solely to one specific case.

In one case, that relating to investment companies and their affiliates, the exemption applies at this time only to the Financial General Corp., an affiliate of the Equity Corp. which is a registered investment company. The Financial General Corp., a Virginia corporation, owns 25 percent or more of the stock of 21 banks in 5 States and the District of Columbia, through subsidiary corporations. In addition, it controls a number of nonbanking businesses, including insurance, financing, and manufacturing companies. This is truly a mammoth financial empire.

The exemption for long-term trusts at the present time applies only to the Alfred I. du Pont Trust, which was created under the will of the late Alfred I. du Pont. The Du Pont Trust exercises controlling interest in 30 banks, all within the confines of the State of Florida. In addition to its banking interests, the Du Pont Trust owns or controls considerable nonbanking assets, including a paper company and two railroads.

In many ways, the two legal entities which qualify for these two exemptions under the Bank Holding Company Act, which are here sought to be repealed, are similar. However, the similarity ends in the type of treatment both are to receive by virtue of the repeal of the exemptions and the requirements for the divestiture of certain of their assets. The Financial General Corp. is to be granted until December 31, 1978, to complete its divestiture under the Bank Holding Company Act. while the Du Pont Estate is given only a 5-year period of time to divest itself of either its banking assets or its nonbanking assets. In my judgment, this is inequitable, and both should be given the longer period of time, in order to avoid the harsh economic effects which could well result from the divestiture requirements. As between the two, the Financial General Corp. is in a much more favorable position to "spin off" its banking assets, since it is a corporate entity. The Du Pont Trust, not having the advantage of a corporate makeup, will be required to seek purchasers on the open market for either its banking assets or its nonbanking assets, and will experience a much more difficult time of disposing of its considerable interests in either of these areas.

Although Congress cannot stipulate which group of its assets must be disposed of—I, as an individual Senator, would not be presumptuous enough to attempt to do so—let us assume for the sake of argument that trustees of the Du Pont Trust conclude that it would be more desirable to dispose of its banking interests than its nonbanking interests. Since the exemption for the one-bank holding companies is still in the bill, the Du Pont Trust will be faced with the necessity of selling, virtually on the open market, 29 banks with assets somewhere in the area of $800 million. For all practical purposes, each of these 29 banks may well have to be sold to a separate company or a separate group of individuals. This is true for a variety of reasons: First, the State of Florida does not allow branch banking; second, no out-of-State bank holding company can purcahse a bank within the State of Florida because of the provisions of the Bank Holding Company Act already on the books; third, although there are seven registered bank holding companies in Florida, the delay and difficulty in obtaining the necessary approval for any of them to purchase any one or more of these banks may well render this an impossibility. It is easy to visualize that attempting to dispose of some 29 banks to interests within the State of Florida will be a monumental task, and placing

a restriction of 5 years for this disposal could make it an impossible task.

A 5-year time restriction on a disposal of these considerable assets is unrealistic, and it could have a serious impact on the stability of these individual banks and upon the economy of the State of Florida. For these reasons, I consider it both equitable and necessary that Congress extend the time for divestiture required of long-term trusts. By doing so, the two major entities affected by the bill will both be treated equally and fairly. I urge that the Senate approve the pending amendment.

Mr. PROXMIRE. Mr. President, I oppose the amendment offered by the Senator from Utah, which would allow long-term trusts and charitable institutions 12 years in which to divest themselves of nonbanking assets. I oppose the amendment for a number of reasons. I believe the divestment requirement, the old Glass-Steagall provision that has been in the law for years is a sound principle. It provides that banks should not be engaged in other business. The conflict of interest is very clear.

William McChesney Martin, Chairman of the Board of Governors, a highly respected expert in this field, showed how this principle applies to the Du Pont Trust when he said this to the committee:

> The next question arises when an individual extends his control over banks beyond his death, as is commonly done through testamentary trusts established for the benefit of a widow or children. The Board sees good reason to exempt the ordinary family trust, which may be regarded as only a temporary extension of the control originally exercised by the individual who established the trust. But when a will creates a trust that is perpetual, with trustees who are not only replaceable but are authorized and indeed obliged to manage the trust's affairs so that it may grow and prosper, the Board believes that the line between control by individuals and control by corporations has been crossed, and that such a trust should be subject to the act just as a corporation should.

If there is any example in the country of a trust that has grown and prospered, it is this Du Pont Estate. The payments from the Alfred I. du Ponte Estate are listed on page 80 of the hearings. In 1936, the first year after Mr. du Pont's death, the payments were $2.4 million. By last year they had grown to $12.1 million. At the time of Mr. du Pont's death, this estate owned eight banks. Now it owns 30 banks. Obviously, this estate has grown and prospered greatly.

In my opinion, the Du Pont Estate falls within Chairman Martin's wise admonition that under these circumstances banks should be required to divest, or they should either sell the banks or the nonbanking properties.

I realize that the divestment problem of a long-term trust or a charitable institution is different from that of a business corporation. A business corporation can spin off its assets to its stockholders. A trust or a charitable institution, having no stockholders, must divest itself by sales.

It was in recognition of this fact that the committee accepted Senator ROBERTSON's amendment to give these trusts and charitable institutions a flat 5 years to dispose of their assets instead of the statutory arrangement for a 2-year period, plus three 1-year extensions at the discretion of the Federal Reserve Board. While the 5-year period probably would not be any longer than the total permitted under the present statute, a flat 5-year period is obviously superior for an institution, because it eliminates the continued pressures resulting from the annual deadlines and the uncertainty as to whether the Federal Reserve Board would or would not grant an extension. Consequently, I agreed to this amendment.

Mr. President, it should be made clear, in the first place, that the Senate bill is more lenient to Du Pont than the House bill. The bill that passed the House provided for a 2-year divestment. It is true that under the bill that passed the House, the Federal Reserve Board could, if it wished, provide for a 3-year and then a 4-year and then a 5-year period.

I discussed with Mr. Ball the impact of the House bill. Mr. Ball is a brilliant man. He presented a convincing exposition to me that if they were required to sell in 2 years, it would be very difficult. He said it would be difficult for them to sell 29 of the banks or the St. Joe Paper Co. and the Florida East Coast Railway in so short a period.

I mentioned the point that the Federal Reserve Board would probably extend the time and permit them 3, 4, or 5 years.

Mr. Ball pointed out that there was a deadline. That was the great problem as far as he was concerned. Therefore, I think that the amendment offered by the senior Senator from Virginia [Mr. ROBERTSON] is a lenient amendment and accommodates the Du Pont interests substantially better than does the other amendment.

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

The PRESIDING OFFICER (Mr. DOUGLAS in the chair). Does the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. LAUSCHE. Mr. President, the argument has been made that there has not been the quality of treatment afforded to these two groups that are specifically involved in the objective of this legislation.

The Du Pont interests have been given 5 years within which to divest themselves. The other group, which is known as the Financial General Corp., has been afforded 12 years, or to 1978.

Will the Senator from Wisconsin justify, according to his understanding, the reason that one group is afforded 12 years and the other is afforded only 5 years within which to divest itself?

Mr. PROXMIRE. I shall be delighted to do that. However, before doing so, I should like to say that I do not agree that these difficulties warrant an extension of the period for divestiture to 12 years. A 12-year period is completely meaningless as far as the Du Pont Estate or any long-term trust or charitable institution is concerned. The Du Pont trust fund has already had an extra 10 years of exemption from the Bank Holding Company Act of 1956, which Transamerica and other holding companies have not had, and I am satisfied that over the next 5 years, it will be possible for the trustees of the Du Pont trust fund to find appropriate purchasers either for their banks or for their paper company and railroad, at prices which will enable the Du Pont trust fund to provide just as much income for the life tenant and the charitable beneficiaries as the assets which will have to be disposed of are now yielding.

To answer the question of the Senator from Ohio [Mr. LAUSCHE] the analogy to the 12 years given to Financial General Corp. is not relevant. That 12-year period was given in recognition of the fact that Financial General Corp. had outstanding large amounts of bonds and debentures—stated on the balance sheet of December 31, 1965—secured by the stock of their banks and other interests. To require the divestment of these stocks would necessarily involve a complete reorganization of the company's corporate setup.

I point out that such a provision would require them to sell some of the securities which are really collateral for the bonds they have outstanding. When they sell them at a capital gain, they will be required to pay a tax which will diminish the value of that collateral. That situation does not apply to Du Pont. Du Pont does not have bonds outstanding for 12 years. They do not have any bonds. Du Pont, being a charitable trust, would not be required to pay a capital gains tax.

There was a serious problem as far as Financial General was concerned. No evidence was provided which indicated that this was necessary or desirable. It should be noted, of course, that the Financial General Corp. would immediately become a registered bank holding company. It would become subject to the act's restrictions on the acquisition of new banks; it would become subject to the act's restrictions on the acquisition of new nonbanking interests; and it would become subject to the act's restrictions on intrasystem transactions.

Financial General Corp. would immediately therefore be subject to certain restrictions. The 12-year figure has a rational and meaningful significance in the case of Financial General Corp. It would have no purpose or meaning except further delay in the case of the Du Pont trust fund.

Since the committee has already given the Du Pont trust fund what is, in my judgment, an entirely adequate time for its divestitures—the flat 5-year period provided by my amendment—I urge the Senate to defeat the motion of the Senator from Florida.

Mr. LAUSCHE. The argument that I have listened to today has been to the effect that, because the debentures do not become due until 1978, it is a legal and practical impossibility for the second group to divest itself.

The Senator from Wisconsin, however, gives a different reason for his support of the 12-year period. He states first that they would have to pay a capital gains tax in the selling of these securities that are pledged to pay the indenture; and, second, that they would become subject to certain restrictions in the existing law.

What about the argument that has been made to the effect that there is a physical and legal impediment to the divestiture before the 12-year period has expired and the bonds become due?

Mr. PROXMIRE. I am not sure how final and definitive that impediment is. It has been maintained, I take it, that that impediment does exist. I am not making that argument. Others may make that argument, but I have no view on that.

I think the position of the committee—and certainly my opinion—is that it is possible that Financial General could have been required under a mandate to make a divestiture, but it would not accomplish any real purpose to do so because they are not permitted to expend their bank holdings, in any event, and to require them to do so would result in a very serious sacrifice on their part. I do not think we can make that case with regard to Du Pont.

I have one other reason. Ten and one-half million dollars of the $12.5 million income or 80 percent of this Du Pont Estate comes from General Motors and Du Pont stock. Under no circumstances would the Du Pont trust be required to divest itself of the sources or that $10 million income.

Du Pont can retain that income because the assets from which it derives represents less than 5 percent of the outstanding stock of Du Pont and General Motors. It would not be a serious hardship as far as the Du Pont Estate is concerned. They would retain the Du Pont and General Motors holdings and could retain either the stock of the paper company and the East Coast Railroad or the 30 banks. In 5 years, they would be able to sell either group of assets without significant loss.

Mr. LAUSCHE. Does the Senator know whether the record contains any testimony as to what conditions are in the indenture dealing with the right of the pledgor to dispose of assets in the face of the fact that they are pledged to the lender?

Mr. PROXMIRE. I think the Senator has asked a legitimate question. I should like to find out from the staff at a later time, perhaps before we vote, whether a corporate reorganization would be required. Such a corporate reorganization might constitute a serious problem. Also, it would impose a burden and a loss on the Financial General Corp.

Mr. LAUSCHE. I have a rather certain feeling that, when the indenture was written, it undoubtedly contained provisions that in the event the borrower decided to dispose of assets that were pledged to pay the bonds, certain things had to be done, approval had to be obtained from the lender, and so forth.

Mr. PROXMIRE. I think that is very possible.

Mr. LAUSCHE. I raise these questions because it seems to me that the second group which the Senator has identified is in a worse position in asking for relief than is Du Pont.

The second group searched around and found a loophole in the law, and, having discovered that loophole, they circumvented the purpose and intention of Congress.

Mr. PROXMIRE. I brought out in the hearings the fact that Financial General did develop certain shell holding companies. Each company would hold one bank, and because it held one bank, the holding company was not subject to the Bank Holding Company Act. They were holding companies. They were not banks. It was a clever device to avoid compliance with the law.

I brought out the fact in the hearings. There is no question about it. But I do not see why we should now impose a harsh and difficult penalty upon Financial General with regard to these debentures which are due in 1978.

Financial General would sustain a substantial loss if we were to require them to divest themselves of these debentures before that time. There might also be the kind of legal complication that the Senator from Ohio is pointing out. None of this is true in the Du Pont case.

Mr. LAUSCHE. I do not propose that a penalty be imposed upon this second group, but I do suggest that we ought not to give it preferential treatment in the disposition of its assets, when it obviously, through its lawyers, searched around for a loophole, found it, and circumvented the sincere and legitimate purpose of the Congress.

May I add that the Du Pont will and testament was made in conformity with the law as it existed at that time; and if there is to be preferential treatment—which I do not believe should be given to either—it ought to go to Du Pont, and not to this second group.

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

Mr. PROXMIRE. I yield to the Senator from Oregon.

Mr. MORSE. The sort of record the Du Pont dynasty has in Florida, where it has been milking the exemption in the Bank Holding Company Act for a long time, should be stopped. The difference is between whether or not we wish to stop this economic mayhem or improve it. We have a chance to right a great economic wrong that the Du Pont dynasty in Florida has committed against the economic welfare of this country for a long time. Five years is plenty of time in which for them to divest the great power they have built up under this so-called charitable trust—which has not been a charitable trust from the beginning. I am not going to keep my eyes off what the Du Pont dynasty has been doing in Florida. It is about time we correct it.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Oregon for his characteristically strong remarks.

Mr. LAUSCHE. That does not refute the argument which the Senator from Ohio has made, that Congress, under similar conditions, should grant similar remedies and similar rights and obligations to all parties.

My argument is that the proper objectives of legislation is to deal equally with all. Over the portals of the Supreme Court Building are engraved the words: "Equal justice under law." All I want to make certain is that the law which we finally pass will be equal in treatment to everyone coming within its purview. That is the only point I am making.

I subscribe fully to the proposal that the domination of these banks through holding companies is not sound, and it should be brought to an end. But I raise the question, can this dignified body, the U.S. Congress, indulge in the impropriety of according unequal treatment to citizens of our country?

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

Mr. PROXMIRE. I yield to the Senator from Oregon.

Mr. MORSE. There is nothing improper about it at all. You take a look at an evil that exists, and you decide what is a reasonable period of time to give this particular charitable trust to divest. Five years is reasonable.

Mr. LAUSCHE. That does not answer the question that 12 years is being given to the second group, and only 5 years to the first group. I think there is strength in what the Senator from Wisconsin has said, that the Du Ponts were affected by the 1956 act, and they have had 10 years.

Mr. PROXMIRE. That would make 15 years altogether.

Mr. LAUSCHE. Fifteen years. But the balance of the argument, that it is a legal impossibility for the second group to divest because their bonds do not become due in 1978, is poppycock. I know enough about law to understand that the fact that you have issued bonds does not prevent you from disposing of your property until such time as the bonds become due.

Mr. PROXMIRE. I say to the Senator from Ohio, I did not make that argument. He knows I did not.

The argument of the Senator from Wisconsin is that there would be an unnecessary hardship so far as Financial General is concerned. But I think that the whole burden of the argument of the Senator from Ohio is that an amendment should be submitted making them both 5 years. I think that is the thrust of his argument.

I say we can make a strong case for making it 2 years for Du Pont. That is what the House did. The Senate Banking Committee made it more lenient, 5 years; and now it is sought to extend it to 12 years, for which a case has simply not been made.

Mr. LAUSCHE. I concur with what the Senator has said, and I have been exploring the advisability of offering an amendment that would make the time equal to both groups, instead of giving one, on its face, 12 years, and the other on its face 5 years.

I know that if I have a piece of property, and I have borrowed on that property and incurred a mortgage payable in 10 years, that does not stop me from selling my property, nor does borrowing under a bond indenture stop the borrower from selling his property, merely because the bonds do not become due until some belated future date.

Mr. MORSE. I think the distinction brought out by the Senator from Wisconsin as to the nature of the securities held—I understood him to point out that the Du Pont Trust, or alleged trust, contains no bonds—should be considered in

determining what is reasonable for Du Pont; but certainly I do not quarrel with the view of the Senator from Ohio that we ought to cut back on the time allowed the other trusts.

I happen to think 2 years would be adequate, but I think 5 years is fair and reasonable for Du Pont, on the basis of securities they hold. I think that puts them in a class by themselves. I think 12 years is too long for the other group. I would have no objection to making that 5 years.

But I shall not take the position that Du Pont should be given more time—there is more reason to give others more—by reason of the difference in the type of securities held. I think the 2 years provided in the House bill is justifiable, but I am perfectly willing for both classes to be limited to 5 years.

Mr. PROXMIRE. I thank the Senator from Oregon.

Mr. LAUSCHE. I agree with the Senator from Oregon. I am sure he will be happy to learn that I agree with at least one negligible part of his argument.

Mr. MORSE. This is a great day.

Mr. PROXMIRE. Mr. President, I yield the floor.

(At this point, Mr. PROXMIRE assumed the chair.)

Mr. MORTON. Mr. President, recently my colleague, the distinguished senior Senator from Kentucky [Mr. COOPER], expressed to the Senate his surprise that the Department of Justice had failed to dismiss its antitrust case against the First Security National Bank & Trust Co., of Lexington, Ky.

I want to add my expression of surprise to that of my colleague. In my view, the Department's failure constitutes blatant disregard of the clear and unambiguous expressions of intent in both the Senate and the House that the Lexington case was to be dismissed after the passage of the Bank Merger Act Amendment.

Mr. President, I cannot believe that the Attorney General would knowingly and wilfully repudiate and reject clear statements of congressional intent. Why, then, has the Lexington case not been dismissed? Senator COOPER has suggested that the reason may be the Antitrust Division's wish to "make new law" with respect to the application of the antitrust laws to bank mergers. After examining the facts I fully agree with Senator COOPER, and if we are correct the Department's action is even more shocking.

First Security has already been used by the Antitrust Division as a guinea pig, and "new law" has been made at its expense. In the Lexington case the Supreme Court for the first time applied the Sherman Act to a bank merger. "New law" was made by this decision. When the bank was on the verge of being torn apart Congress amended the Bank Merger Act and, we thought, granted "forgiveness" to the Lexington merger. Now the Division proposes to resume the case. First Security has had a thorough battering at the Division's hands, and it is incredible to me that the Antitrust Division can now suggest using the Bank as a foil merely to test out some abstract theories of law.

I have due regard for the separation of powers among the various branches of Government. And I fully appreciate that the Antitrust Division has certain discretion in bringing new cases. But there are several factors present in the Lexington case that seem to me to weigh heavily against the Division's action.

First, there is a certain comity that must be recognized between the Executive and Congress. As I propose to show in detail, in amending the Bank Merger Act, Congress was clearly concerned with the disruptive effects of divestitures in the field of bank mergers. The final version of the amendment sought to remove the threat of divestiture for those mergers that had been consummated in reliance on the state of the law prior to the Supreme Court's landmark decision in the Philadelphia case. The Lexington merger was one of these. In this context it seems to me that some respect should be paid to the congressional purpose.

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

Mr. MORTON. I yield.

Mr. MORSE. I do not intend to interrupt the Senator while he is making his speech, other than to make this point. I shall make comments at the conclusion of his speech if he will yield to me when he concludes.

I believe it is important that the point just made be stressed in the RECORD:

> First, there is a certain comity that must be recognized between the Executive and Congress.

There would not appear to be any doubt that the Department of Justice knew what the intent of Congress was in connection with the bill that passed; but it was not spelled out in the specific terms that the Department of Justice thinks it should have been spelled out. Therefore, the Department of Justice feels free to ignore what it well knows was the intention of Congress.

Mr. MORTON. I thank the Senator. The Senator is absolutely correct. The Department of Justice and the Attorney General had every opportunity during the consideration of this bill in both the House of Representatives and the Senate to see that Lexington was not included.

Mr. MORSE. I believe the Senator is correct. I shall have more to say on this matter when the Senator has completed his speech.

Mr. MORTON. Chairman CELLER of the House Judiciary Committee even said it and he is not one who is negligent in his prosecution of the antitrust laws.

Mr. MORSE. I wish to commend the Senator from Kentucky for presenting the matter in the way in which he has:

> First, there is a certain comity that must be recognized between the Executive and Congress.

That comity is being ignored by the Department of Justice in this case. I hope that the executive branch will take into account what the Department of Justice is doing in this case.

I think this is a case—as I shall say later in greater detail—of pure harassment on the part of the Attorney General, and it has to be placed at his door. Mr. Katzenbach is the man who should be held responsible for the harassment involved in the Lexington case.

In my judgment, the two Senators from Kentucky are correct in calling attention to the handling of this case by the Department of Justice.

I shall expand on my views later.

Mr. MORTON. I thank the Senator from Oregon.

Second, if the Division proceeds with the case despite the intent of Congress it seems to me that the Department of Justice has been guilty of an "entrapment" of Congress. Not once in the long course of debate on the Bank Merger Act amendment did the Department reveal its intention to continue to pursue the Lexington case. Even though there were repeated references to the anticipated dismissal of this case the Department never suggested that the case would not be dismissed. Had the Department expressed its intentions specifically with respect to the Lexington case—and there was ample opportunity for the Attorney General to do so—Congress could have taken appropriate steps to insure that its intent would be carried out.

Finally, there is a moral estoppel that should work against the Antitrust Division in a case such as this. First Security has now lived with this lawsuit for 5 years. Its business is banking, not litigating, and it should be permitted to get about its business without this cloud of uncertainty and confusion hanging over its head. Certainly the business of the bank should not be disrupted merely because the Antitrust Division wants to test out the scope of its power under the Bank Merger Act amendment. There will certainly be ample opportunity in the future for the Division to select appropriate vehicles for this purpose.

I believe it would assist Senators in their assessment of the Division's action to have the history of the Lexington case set forth here.

On March 1, 1961, the First National Bank & Trust Co. of Lexington and the Security Trust Co. consummated a merger that had been approved by the Comptroller of the Currency on February 24, 1961. On the same day the merger took effect, the Antitrust Division of the Department of Justice filed a civil antitrust suit against the two banks in Lexington. The suit charged that the merger was a combination in restraint of trade, in violation of section 1 of the Sherman Act. It also charged that the merger was a combination and an attempt to monopolize banking business in Lexington.

In July 1962, after the case had been fully tried in the district court, Judge H. Church Ford handed down his opinion and judgment, holding that the merger did not violate either section 1 or section 2 of the Sherman Act. With respect to the monopolization charge, Judge Ford found as follows:

> No predatory act or conduct on the part of the defendants is shown by the testimony introduced at the trial or by plaintiff's exhibits. On the other hand, the consolidation herein referred to clearly appears to have been the result of a lawful program of expansion on the part of the merging banks rather than an invidious scheme to restrain competition or to secure monopoly in the local field of banking.

The Antitrust Division appealed Judge Ford's decision to the Supreme Court. Without holding that any specific factual findings of Judge Ford were erroneous, the Court in 1964 reversed Judge Ford's judgment. In doing so, however, it based its reversal solely on a conclusion that the merger violated section 1 of the Sherman Act. The Court expressly refrained from making any conclusion on the section 2 monopolization charge.

After the Lexington decision the Senate and the House began consideration of amendatory legislation to clarify the original intent of the Bank Merger Act of 1960. On June 11, 1965, the Senate passed such a bill, S. 1698. As it passed the Senate, S. 1698 would have granted a complete exemption from the antitrust laws for any merger that was consummated prior to the passage of the amendment and that had not been undone by reason of a court decree. During floor consideration of the bill, Senator COOPER asked the distinguished chairman of the Banking and Currency Committee, the Senator from Virginia, [Mr. ROBERTSON], what the effect of the bill would be on the Lexington case. The chairman assured Senator COOPER at that time that the relief provided in the bill would apply to the Lexington case.

It is clear from the committee report on S. 1698 that there were two primary reasons for relieving past mergers from the operations of the antitrust laws:

First. There was a need to "remove the cloud" of uncertainty hanging over past mergers.

Second. It was felt that it was basically unfair to upset mergers that had been consummated prior to the Supreme Court's groundbreaking decisions holding the antitrust laws applicable to bank mergers despite the Bank Merger Act of 1960. As the Senate committee stated—Senate Report No. 299, 89th Congress, 1st session, page 7:

> The committee recognized that the bill would affect cases pending in the courts. Ordinarily the committee would be hesitant to do this. However, in view of the general understanding of the state of the law at the time the Bank Merger Act was passed—an understanding common to the committee, the Congress as a whole and the Justice Department and the banking and legal professions—the committee felt that good faith required that all past bank mergers, whether approved by the appropriate Federal banking authority under the Bank Merger Act or approved by the appropriate Federal or State authority before the enactment of the Bank Merger Act, should be treated equally.

When the House undertook consideration of this legislation it arrived at a slightly different formula for granting relief to past mergers. Our colleagues in the other body provided that all mergers consummated prior to June 17, 1963, the date of the Supreme Court's first decision under the 1960 act, and not split up pursuant to a court decree, shall be conclusively presumed not to have violated any of the antitrust laws other than section 2 of the Sherman Act.

Although the language of the House formula would theoretically allow the Antitrust Division to challenge any past merger it believed to violate section 2 of the Sherman Act, it was the clear intent of the House bill that the three pending pre-Philadelphia cases, including Lexington, would be dismissed. The House, just as the Senate, was concerned with the problem of unscrambling merged banks and with the unfairness of applying the antitrust laws to mergers consummated after passage of the Bank Merger Act of 1960, but before the Philadelphia decision. The House committee stated in its report (H. Rept. No. 1221, 89th Cong., 2d sess, pp. 4–5):

> Under these conditions, your committee took the position that the first three mergers—the "pre-Philadelphia" mergers—should be exempted from section 7 of the Clayton Act and section 1 of the Sherman Act, like all other mergers consummated before the Philadelphia case. These three banks had reasonable grounds to rely on the authority of the banking agencies to approve mergers under the Bank Merger Act of 1960. These three banks, acting in good faith, and their depositors and other customers and their communities should not be required to suffer the confusion, and disruption, and the losses which would result from further efforts to unscramble them.

On the floor of the House, the distinguished and able chairman of the House Banking and Currency Committee, in describing the "forgiveness" section of the House bill stated as follows:

> Another important section of this bill is that dealing with the exemption of previously consummated bank mergers from Justice Department action, as well as judgments already granted under the antitrust laws. This was a difficult problem for your committee. The bank mergers involved can be separated into three groups. One group consists of three merger cases brought by the Justice Department attacking mergers under the Clayton and Sherman Acts prior to the Supreme Court's decision in the Philadelphia National Bank case on June 17, 1963. The second group involved three antitrust actions brought against bank mergers consummated subsequent to the Philadelphia National Bank case decision in June of 1963. The third group involves bank mergers, over 700 since the 1960 act was passed and a total of 2,200 since 1950, which to date have not been attacked by the Justice Department under the antitrust laws. These latter cases under present law are subject to such attack.
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> A majority of your committee felt that the three cases which were brought prior to the Philadelphia National Bank case should be granted exemption from further action by the Justice Department. The belief was that equity demanded further exemption of these mergers from prosecution because there was doubt prior to the Philadelphia case as to whether the antitrust laws applied to banks.

Clearly, Chairman PATMAN was of the view the Lexington case was over. Others on the House Committee expressed the same belief. Representative BROCK, of Tennessee, stated:

> At the same time, those banks which merged under the law of the land should not be split up now because the Supreme Court saw fit to change the ground rules. Under the Supreme Court ruling on the Philadelphia case in 1963, the Justice Department could challenge all bank mergers consummated since 1950 when the Clayton Act was amended. These mergers number more than 2,000.
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> Therefore, I am particularly pleased to see that the bill contains a provision immunizing mergers which took place before 1963 from further prosecution by the Justice Department. To do otherwise—to permit prosecution under new ground rules—would be completely foreign to the sense of fair play entrenched in American society.

During the course of the House debate, an amendment was offered by Representative TODD, of Michigan, which would have removed the "forgiveness" provision relating to the three "pre-Philadelphia" mergers. The sponsor of the amendment stated his view that "these three banks should not be granted exemption from the antitrust laws." He added that to grant such immunity would amount to "condoning monopoly, in the guise of antimonopoly legislation." Chairman PATMAN rose in opposition to the amendment, thus implicitly reaffirming his earlier indication that the three cases should be dismissed. Speaking in opposition to the same amendment, the chairman of the House Judiciary Committee, a vigorous proponent of strong antitrust enforcement, stated:

> I think it would be really fatal to adopt an amendment of this sort. The immunization of these three banks is amply justified by the legislative history. Morally it would be indefensible to adopt this amendment. There is no question about that in my mind.

When the House bill came back to this body as an amendment to S. 1698, the chairman of the Senate Banking and Currency Committee stated clearly and unequivocally the general understanding about the effect of the bill on the "pre-Philadelphia" cases:

> The bill would terminate the three pre-Philadelphia cases now pending in court—in New York City, Lexington, Ky., and Chicago—where mergers were consummated in reliance on the actions of the Congress and the statements of the Justice Department and of leading Senators and Congressmen in connection with the Bank Merger Act of 1960 and its predecessors over the preceding 15 years.

During our consideration of the amended bill, my colleague [Mr. COOPER] expressed his belief that S. 1698 in its amended form would preserve the Lexington bank and more important, would assure the people and the businesses served by this bank that they will have in the future the banking facilities and services in keeping with the growth of their community.

The Antitrust Division's renewed attempt to split up the Lexington bank is based on the charge of monopolization.

The Antitrust Division was well aware of the intent of Congress as to the Lexington case. Indeed, in a pleading filed on April 15, 1966, in the pending Crocker-Anglo case, in California, the Division stated its views as follows:

> The essential purpose behind Section 2(a) (of S. 1698) was to provide relief in the form of "forgiveness" to banks which had consummated mergers, with consequent consolidation and scrambling of assets, during the period of uncertainty in the law prior to the Supreme Court's Philadelphia opinion of June 17, 1963. The fundamental purpose of such forgiveness was to provide relief from the possible burden and pain of unscrambling merged assets.
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> It is thus clear that the Committee's fundamental concern in writing section 2(a) was to create an appropriate legislative device to provide forgiveness not only for the three "pre-Philadelphia" mergers which had become the particular objects of lawsuits, but

also to all others whose mergers had been consummated during the period of legal uncertainty prior to the Philadelphia decision.

The sole intention and effect of Section 2(a) was to provide for "forgiveness" to certain merged banks facing probable divestiture and unscrambling—and to minimize others against the same fate.

* * * * *

Congress in including Section 2(a) in the new Bank Merger Act was concerned with one thing and one thing alone—forgiveness to particular parties from the burden and pain of unscrambling assets.

This is the Department of Justice speaking. I have quoted from the Attorney General who declared that the purpose is to give these three banks forgiveness.

Mr. President, it is incredible to me how the Antitrust Division could on one hand reiterate its clear and correct understanding that Congress intended to save the Lexington merger from the pain and burden of unscrambling assets, and at almost the same time move the court in Lexington to enter an order requiring divestiture. Perhaps the legal wizards in the Division can explain this inconsistency, but I simply cannot understand it.

This subject cannot be closed without some mention of the substance of the Government's case in its present posture.

First. It will be recalled that the Supreme Court did not overturn Judge Ford's finding that the merging banks had not engaged in any predatory act or conduct. On the contrary, the Government conceded that this finding was correct and that there was no anticompetitive purpose behind the merger. The Supreme Court itself expressly stated that there was no predatory purpose in the merger.

Second. Banking competition in Lexington has improved since the merger took effect. As the Comptroller of the Currency pointed out in his testimony on the amendment to the House Banking and Currency Committee, all of the other banks in Lexington have grown at very healthy rates. Competition has flourished, as the Comptroller predicted it would. Two new banks have been chartered in the area and the old banks have been granted a total of six new branches—only one of which went to First Security. While First Security has been better able to serve the needs of a growing industrial community by reason of the merger, it is noteworthy that the merged bank's share of bank deposits and assets in Lexington has decreased since the merger. In short, the woeful predictions made by the Antitrust Division in 1961 have simply not come true.

Finally, it is interesting to look at the merger that the Division chose to pursue in its effort to establish "new law." First Security has total assets of about $130 million. The two other "pre-Philadelphia" mergers that were given immunity by the recent amendment—Manufacturers Hanover and Continental Illinois—have assets of approximately $7.6 billion and $4 billion, respectively. Why has the Antitrust Division chosen to pursue First Security of Lexington—a pigmy compared to the other "pre-Philadelphia" mergers—and allowed two of the country's giants to go free?

Mr. President, I submit there is only one true answer to this question. The Antitrust Division is using the Lexington bank as a pawn in its continuing and unseemly jurisdictional battle with the banking agencies. Since there is no serious antitrust objective to be achieved in Lexington itself, the conclusion reached by my colleague [Mr. COOPER], is inescapable; namely, that the Division is merely attempting to test out the limits of its powers under section 2 of the Sherman Act. The Lexington case is being used for this purpose solely because it is there. Responsible men can certainly have no objection to a good faith attempt by the antitrust authorities to determine the limits of their powers. But they can object—and should object strenuously—to the manner in which the Antitrust Division is attempting to do it in this case.

Mr. President, Congress has clearly spoken its intent that the Lexington case should be dismissed. A proper respect for the will of Congress and sound considerations of public administration dictate that this should be done forthwith.

Mr. MORSE. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. I am happy to yield to the Senator from Oregon.

Mr. MORSE. I wish briefly to supplement the statement of the Senator from Kentucky on this case. I agree with him that his colleague [Mr. COOPER] was completely right in the position he took, as cited by the Senator from Kentucky [Mr. MORTON]. The Senator from Kentucky [Mr. MORTON] has also been completely right from the beginning of this controversy with the Department of Justice.

I have become involved in it because I became convinced that this was a case in which the Department of Justice is violating what I believe to be a precious procedural right which the American people should have protected; namely, that when Congress clearly expresses its intent in a bill it is not for the Department of Justice to reverse Congress.

What the Department of Justice—through Attorney General Katzenbach—is really doing in this case is setting itself up as a super-Congress. The Department of Justice clearly needs to be slapped down. I believe it is important that the legislative history which the Senator from Kentucky [Mr. COOPER] made the other day—and which the Senator from Kentucky [Mr. MORTON] is now making on the floor of the Senate—needs to be made for the use of the Supreme Court, if this case gets back to the Supreme Court, as I believe it will if the Department of Justice persists in the harassing policy in which it is now engaged concerning this case.

I am hoping the Attorney General of the United States will return to good judgment in regard to this matter and advise his legal underlings in the Department of Justice that the matter ought to be dropped. As the Senator from Kentucky has said, there is no question of the legislative intent as expressed by Representative PATMAN, the chairman of the House committee. There is no question as to the legislative intent established by the Senator from Virginia [Mr. ROBERTSON] in the Senate, and the documents I am about to put in the RECORD also will leave no doubt in regard thereto.

I want the RECORD to show that I agree with the two Senators from Kentucky with regard to the position they have taken. On my own I want to say to this administration that it had better look at the practice of its Attorney General in this case. It ought to be told that he too, as was so well pointed out by the Senator from Kentucky in his speech, has an obligation to see to it that a certain comity must be recognized between Congress and the executive.

If that comity breaks down, the whole theory of the separation of powers in the Federal Government breaks down.

So, with the permission of the Senator from Kentucky [Mr. MORTON], I ask unanimous consent to have inserted at this point in the RECORD a telegram of April 18, 1966, which I sent to the Attorney General in behalf of the two Senators from Kentucky [Mr. COOPER and Mr. MORTON], and the Senator from Virginia [Mr. ROBERTSON], and myself, calling for someone assigned on the staff handling the case to attend a breakfast conference in the Senate Dining Room.

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

APRIL 18, 1966.

HON. NICHOLAS DEB. KATZENBACH,
*Attorney General of the United States, Department of Justice, Washington, D.C.:*

Would appreciate very much if you would have someone on your staff advise me as to status of merger of First National Bank & Trust Co. of Lexington and Security Trust Co. into and under the name of First Security National Bank & Trust Company of Lexington.

Am communicating with you in behalf of not only myself but Senators MORTON, COOPER, and ROBERTSON.

Recently while on a speaking engagement in Lexington Ky., this matter was brought to my attention by interested officials of merged bank who assumed that a request for continuation of the proceedings in the district court in Lexington by Department of Justice could mean that Department was considering further proceedings on this merger.

Would appreciate it if you would assign someone on your staff to have a breakfast conference with Senators MORTON, COOPER and myself sometime this week to discuss this matter. Senator ROBERTSON will attend if his schedule permits.

We had considered that it was the intent of Public Law 89–356 that the exemption provided under that law for the Chicago, Lexington and New York bank mergers had resolved these problems and that no further action would be taken on these mergers as a result of the passage of this law.

WAYNE MORSE,
*U.S. Senator.*

Mr. MORSE. The Attorney General advised me that Mr. Donald F. Turner would be assigned to that breakfast conference. The breakfast conference was held.

I ask unanimous consent that a letter I sent to Mr. Turner following that conference, dated April 21, 1966, written in behalf of the two Senators from Kentucky [Mr. COOPER and Mr. MORTON], the Senator from Virginia [Mr. ROBERTSON],

and myself be inserted in the RECORD at this point.

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

APRIL 21, 1966.

Mr. DONALD F. TURNER,
*Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C.*

DEAR MR. TURNER: In behalf of Senators COOPER, MORTON, and ROBERTSON, and in my own behalf, I want to thank you very much for meeting with us at breakfast this morning and briefing us on the status of the case in the Department of Justice involving the issue of the merger of the First National Bank and Trust Company of Lexington and Security Trust Company into and under the name of First Security National Bank and Trust Company of Lexington.

You will recall that I referred in our conversation to certain letters and memoranda that had been submitted to me in connection with the matter. I promised that I would send to you today copies of the material, and I am enclosing the information in the form of the following items:

1. A letter of April 14, 1966, addressed to me and written by Senator A. WILLIS ROBERTSON, Chairman of the Senate Banking and Currency Committee.

2. A copy of a memorandum sent to me by Mr. Will Haley, a member of Senator COOPER'S staff, from which I read at the breakfast meeting this morning.

3. A memorandum entitled, "Merger of First National Bank and Trust Company of Lexington and Security Trust Company into and under the name of First Security National Bank and Trust Company of Lexington," submitted to me by the Administrative Assistant to Senator MORTON.

4. A letter I received from Mr. Fred Wachs, publisher of the Lexington Herald-Leader Company, and a member of the Board of Directors of the banks concerned, enclosing a newspaper clipping that Senator MORTON referred to this morning.

As I am sure you concluded from your conference with us this morning, Senators COOPER, MORTON, ROBERTSON and I are of the opinion that under all of the circumstances surrounding the history of this case and the legislation passed by the Congress, the Department of Justice, in the interest of justice, should not continue litigation of this particular case. We are satisfied that it was the intent of Congress, when both the Senate and House bills were passed, that the Lexington bank merger case, along with other cases in the same category, would be considered exempt from further litigation. Granted that the Department of Justice is interested in having a juridical clarification in respect to the Section 2 charge, I think that Senator ROBERTSON'S letter of April 14 carries great weight in respect to his discussion of Congressional intent of the bill which he introduced.

Although I recognize that there are many dissimilarities, nevertheless, by way of argument by analogy, I think there is some similarity in this legal conundrum to the case in which a defendant has been acquitted on a felony charge or the judge has dismissed it, and then the prosecutor with the same set of facts, seeks to prosecute him on a misdemeanor charge.

Yours respectfully,

WAYNE MORSE.

Enclosures.

cc: Senator A. WILLIS ROBERTSON, Senator JOHN S. COOPER, Senator THRUSTON B. MORTON.

Mr. MORSE. Mr. President, I ask unanimous consent to have inserted in the RECORD at this point a letter I received from the Senator from Virginia [Mr. ROBERTSON], chairman of the Senate committee, under date of April 14, 1966, which leaves no room for doubt as to the legislative intent of the chairman of the Senate committee, which was the same intent expressed on the floor of the Senate during the debate.

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

APRIL 14, 1966.

Hon. WAYNE MORSE,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR MORSE: At the time the Bank Merger Act was passed in 1960, everyone assumed, on the best of advice including Chairman CELLAR and the Department of Justice, that section 6 of the Clayton Act did not apply to bank mergers and that sections 1 and 2 of the Sherman Act, if they applied to bank mergers, were ineffective. At least in the 70 years since the enactment of the Sherman Act, no bank merger had been held to violate either section 1 or section 2 of the Sherman Act.

After the passage of the Bank Merger Act, the two banks in Lexington merged, with the approval of the Comptroller of the Currency, who found that the merger was in the public interest. The Justice Department sued, alleging violations of section 1 and section 2 of the Sherman Act. The District Court held that the merger did not violate either section. Thereafter, the Supreme Court in the Philadelphia and Lexington cases held, first, that section 6 of the Clayton Act applied to bank mergers, and, second, that the Lexington merger violated section 1 of the Sherman Act. The Supreme Court did not rule on the section 2 charge.

After the consequences of the Philadelphia and Lexington decisions and the Manufacturers Hanover District Court decision in New York became known, I introduced a bill which would have exempted all bank mergers, past or future, from section 6 of the Clayton Act and from sections 1 and 2 of the Sherman Act. Without going into the long history of S. 1698, which was only enacted early this year, it is enough to say that the bill which passed—drafted by Congressman ASHLEY in the House and accepted by the Senate at my recommendation—exempted the three pre-Philadelphia mergers—mergers consummated before the announcement of the Philadelphia decision—from section 6 of the Clayton Act and section 1 of the Sherman Act. The Manufacturers Hanover and the Continental Illinois suits were promptly terminated. The Lexington case, I understand, has been kept open by the Department of Justice on the theory that they may wish to revive the old section 2 charge, which the District Court ruled against and which the Supreme Court did not consider.

While it was clear that the House-passed bill did not exempt any mergers, including the Lexington merger, from section 2 of the Sherman Act, I think it would be a real surprise to virtually every member of the Senate and House to know that the Department of Justice was resurrecting the old section 2 anti-monopoly charge against the Lexington bank in spite of the District Court decision. I think all of us were convinced that the effect of the bill was to give complete acquittance to all banks which had merged in good faith under the Bank Merger Act before the announcement of the Philadelphia decision.

I am, myself, a little surprised to learn that the Department of Justice is intending to proceed against the Lexington bank on the ground that the merger was a violation of the anti-monopoly provisions of section 2 of the Sherman Act. In my opinion, all that would be accomplished would be to put the bank to a lot of trouble and expense and to make the stockholders of the bank uneasy about their investment until the litigation is finally ended. The Department of Justice knows full well that money flows across State lines as fully and as freely as gasoline or any other commodity in interstate trade. Every small bank has a connection with a larger bank which is always willing to participate in any loan too large for the smaller bank to handle, and practically every bank in the United States is in actual competition with the concentration of banking funds in New York City. The three largest banks in New York City, one of which is the second largest in the nation, are all merged banks. All of them do business in every State of the Union.

You could, therefore, with great propriety say to the Attorney General that you know the facts of the Lexington case and are interested in the welfare of a bank which, among other things, is trying to finance coal mining in Kentucky, that you can see no justification for his trying to overrule the clear intent of Congress to approve the merger in the Lexington case, which was clearly our intent in spite of the absence of an exemption from section 2 of the Sherman Act, and, I would think, as a lawyer, you can tell him that you can see no favorable prospects whatever for success in his effort to harass the Lexington bank further.

With kindest personal regards, I am

Sincerely yours,

A. WILLIS ROBERTSON,
*Chairman.*

Mr. MORSE. Mr. President, I ask unanimous consent that a certain memorandum prepared at my request by able counsel, entitled "Re Merger of First National Bank & Trust Co. of Lexington and Security Trust Co. Into and Under the Name of First Security National Bank & Trust Co. of Lexington," be inserted in the RECORD at this point, along with a letter dated April 8, 1966, addressed to Mr. Victor Kramer, a lawyer involved in the case, and signed by Mr. Gayle A. Mohney.

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

MEMORANDUM RE MERGER OF FIRST NATIONAL BANK & TRUST CO. OF LEXINGTON AND SECURITY TRUST CO. INTO AND UNDER THE NAME OF FIRST SECURITY NATIONAL BANK & TRUST CO. OF LEXINGTON

The merger of the two banks was approved by the Comptroller of the Currency February 24, 1961, and the formal merger proceedings were completed on March 1, 1961. The same day, suit was filed in the District Court at Lexington by the Department of Justice alleging a violation of Sections 1 and 2 of the Sherman Act.

Historically, First National was organized in 1865 as a national banking association and as of October 3, 1960, it had a capital of $1,250,000 divided into 100,000 shares of common stock, each of $12.50 par value, surplus of $1,250,000 and undivided profits including capital reserves of $2,502,251.18. Prior to March 1, 1961, it has had no mergers, reorganizations or acquisitions since 1930 when, at the request of the Comptroller of the Currency, as an emergency matter, it took over the assets and assumed the liabilities of Fayette National Bank. It has operated in Lexington, Kentucky, continuously since 1865 as a national bank, developed a substantial commercial business, a secondary trust business, and at the time of the merger with Security Trust had an inadequate capitalization.

Security was a state banking association organized in 1886 as a trust company under the name of Security Trust & Safety Vault

Company. On October 3, 1960, it had a capital of $1,000,000 divided into 40,000 shares of common stock, each of $25.00 par value, surplus of $1,200,000 and undivided profits, including capital reserves of $772,087.58. Prior to the merger with First National it had effected no mergers, reorganizations or acquisitions in its history and for many years provided the only trust services in the Lexington area. In fact, the officers of the other banks in Lexington were instrumental in organizing the old Security Trust & Safety Vault Company as a trust company and some of them served on its Board of Directors, as the other banks did not offer trust services. Only in recent years was Security Trust authorized to engage in commercial banking, and as a result at the time of the merger it had a substantial trust business, a secondary commercial business and an abundant capitalization.

The fact that the Security Trust Company was the only bank in the Lexington area for many years which specialized in trust services accounts for the fact that the merged bank had a substantial part of the corporate trust business in the area. It was not until 1940 that First National employed a special trust officer and established a separate trust department, and the other three banks in the city at that time handled their trust business as a special service to their own customers through officers in the bank whose duties were primarily of a commercial nature.

The truth of the matter is that it has only been since the merger that the other banks have made any real, honest effort in the trust field. Proof was offered (and not denied) that competition in the trust field is not over the assets which the given bank already holds—it is for future business that has not yet been obtained by any bank. In the 20-year period from 1940 through 1960, proof was introduced from the actual records in the probate court in Fayette County, Kentucky, that a greater volume of probate business—both estates and trusts—went to individuals, who qualified as executors or trustees, than all local banks combined held as of the end of 1960.

Since the merger on March 1, 1961, the other four full service banks in the Lexington Metropolitan area have gone after the trust business through the reorganization of their own internal affairs and the establishment of separate trust departments, with specially trained trust officers in charge, and extensive advertising campaigns, most of which are directed at attempting to get some of the business that is presently going to individuals.

The significance of the trust business, however, is relatively small. Recent statistics published for the Fourth Federal Reserve District show that less than three percent of the gross income of the banks is produced by the trust business.

Since the merger the Bank of Commerce has changed its name to "Bank of Commerce & Trust Company" and the Central Bank has been granted trust powers and is now known as "Central Bank and Trust Company." The Bank of Commerce also is in the process of building a new main bank building, which it proudly states is the first new main banking office to be built in Lexington in the past fifty years.

Statistics from the call reports show that over the five year period since the merger all of the other banks have grown at a greater rate percentagewise than the merged bank, and all are getting their fair share of the business.

Of even greater significance is the fact that a new bank, to be known as "Bank of Lexington," has been chartered, its stock oversubscribed, and has in the past two weeks received approval of the Federal Deposit Insurance Corporation for insurance. This organization is in the process of building a new structure on Main Street to house its banking facilities.

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STOLL, KEENON & PARK,
*Lexington, Ky., April 8, 1966.*

Mr. VICTOR KRAMER,
ARNOLD, FORTAS & PORTER,
*Washington, D.C.*

DEAR VIC: Some time ago I sent you information concerning the organization of a sixth bank in Lexington to be known as "Bank of Lexington." All legal requirements for its organization and operation have been completed, including approval for FDIC insurance, and work is proceeding rapidly in the construction of a banking house on East Main Street to house the new banking enterprise.

In the meantime, the morning paper carries a report of the organization of yet another new bank—the seventh in the city—to be known as "Kentucky Bank & Trust Company, Lexington, Kentucky," which the incorporators say (according to the story) will be in operation by January 1, 1967. In addition to commercial banking, the articles of incorporation authorize the company "to operate, conduct and carry on a general trust company business." I am enclosing the newspaper story and a copy of the articles of incorporation.

Unfortunately, we are unable to obtain information with respect to the progress of the trust departments of the other banks in the city, inasmuch as this does not appear in the published statements and of course we do not have access to the examinations of the trust departments made by the Comptroller. However, Second National Bank and Trust Company, Citizens Union National Bank and Trust Company, and Central Bank and Trust Company are continuing to advertise extensively both in the newspapers and by direct mail.

I have been interested in following the Second National Bank and Trust Company as it is expanding its activities rapidly, as you may infer from the full page advertisement appearing in the April 1 edition of the Lexington Leader, a copy of which is enclosed. At the time of the merger this bank had only its main office on Cheapside, but in the five years which has elapsed it has opened three rather elaborate branches and has advertised its trust services extensively.

It is interesting to note that the Government, in its brief in the Supreme Court, stated at page 12: "There was also testimony that this consolidation might cause additional mergers. There had been ten banks in the county in 1929, seven in 1938, six in 1960, and after the merger there would be five (DX 38, R. 1058). No new bank has been established in the county since 1938 (ibid.)."

Government counsel, at the oral argument, said at page 14 of the transcript: "Now the testimony went beyond this, however, because all of these witnesses, these three bank officials testified that the size of Security Trust now gives it such an advantage that the other banks might well have to consider a merger in order to be able to compete effectively against the economic power of Security Trust. In this market, the number of banks has dropped. In 1929, there were ten banks in the area. At the time of this merger, there were only five, as a result of this merger; and thus we have, it seems to us, in this small city in central Kentucky, a confirmation of the broad trend toward concentration in banking which this Court noted last term in the Philadelphia Bank Case, and indeed there's dramatic evidence in this case of the danger which they think this merger poses in terms of further accretions of concentration."

The facts are that there have been no additional mergers, nor rumors of mergers, and it appears that two additional banks—making a total of seven—will be in operation before the end of the year. In the meantime, as shown by the published call reports which I sent you, the other banks are getting their fair share of the business: in fact, more percentagewise than First Security.

With kindest personal regards, I am

Sincerely yours,

GAYLE A. MOHNEY.

Mr. MORSE. Mr. President, I ask unanimous consent that a memorandum dated April 18, 1966, sent to me, prepared by an able staff member assigned to this case, be inserted in the RECORD at this point.

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

APRIL 18, 1966.

Memo to: Senator MORSE.
From: Will Haley.
Subject: Public Law 89-356 and the Lexington Bank Merger.

1. On July 27, 1962, Judge Ford of the U.S. District Court for Eastern Kentucky handed down his decision in the U.S. v. First Security National Bank & Trust Company of Lexington. In that decision, Judge Ford made the following findings and conclusions of law:

a. The Court has jurisdiction of the parties and the subject matter of this action.

b. The merger of First National Bank and Trust Company and Security Trust Company does not constitute a combination in unreasonable restraint of interstate trade or commerce in the field of commercial banking and does not violate Section 1 of the Sherman Act.

c. The merger of First National Bank and Trust Company and Security Trust Company is not an unlawful combination to monopolize, or an unlawful attempt to monopolize, interstate trade or commerce in the field of commercial banking in violation of Section 2 of the Sherman Act.

d. For the reasons indicated, judgment should be entered for the defendants dismissing the complaint.

2. The appeal of the Justice Department to the Supreme Court was on the grounds that the merger constituted a combination and restraint of trade and commerce in violation of Section 1 of the Sherman Act, and a combination and attempt to monopolize trade and commerce in violation of Section 2 of that Act.

3. On April 6, 1964, the majority opinion delivered by Justice Douglas, the Court found that the merger constituted a violation of Section 1 of the Sherman Act and went on to say that "in view of our conclusion under Section 1 of the Sherman Act, we do not reach the questions posed under Section 2." Thus it was not necessary that the Court make any findings or reach any conclusions of law under Section 2 when the majority of the Court had found a violation of Section 1.

4. The Senate bill, S. 1698, exempted from Section 7 of the Clayton Act and both Sections 1 and 2 of the Sherman Act all mergers consummated prior to its enactment. The language of the Senate bill states that any merger . . . which was consummated prior to the enactment of this amendment . . . shall be exempt from anti trust laws, including the Sherman Anti Trust Act and the Clayton Act.

5. In accepting the House bill, however, the Senate accepted the language of Section 2(a) of the bill which provided that mergers consummated prior to June 17, 1963 . . . "shall be conclusively presumed to have not been in violation of any anti trust laws other than Section 2 of the Sherman Anti-Trust Act."

6. In pursuing the Section 2 aspect of the bank merger, the Justice Department would have to appeal now in 1966 the decision of

July 27, 1962, of Judge Ford, which held that the consummated merger did not violate Section 2 of the Sherman Act.

7. Although the House passed bill did not exempt any merger, including the Lexington bank merger, from the application of Section 2 of the Sherman Act, I believe it can be argued persuasively that in the floor debates in both the House and the Senate, it was the intent of Congress to exempt the Chicago, New York, and Lexington bank mergers.

8. The Department of Justice has asked for a 30-day continuance in the U. S. District Court so as to have additional time to determine whether or not the Department will appeal Judge Ford's decision of 1962 that no violation exists under Section 2 of the Sherman Act.

Mr. MORSE. Mr. President, I ask unanimous consent that a letter, together with a newspaper clipping attached thereto, which I received from Mr. Fred B. Wachs, be inserted in the RECORD at this point.

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

LEXINGTON HERALD-LEADER CO.,
*Lexington, Ky., April 8, 1966.*

Senator WAYNE MORSE,
*Senate Office Building,*
*Washington, D.C.*

DEAR WAYNE: Attached is a clipping from this morning's Herald entitled, "New Lexington Bank Files Incorporation Articles." This is the second new bank that has been incorporated in Lexington since the Supreme Court decided we had to separate.

Now Lexington has more banks than they had before we consolidated, and all of the banks are much stronger than they were at the time we consolidated. This should have some bearing on our present position.

I thought maybe I'd better furnish you with this to add to the informal statement that was sent to you by Senator MORTON'S office.

With good wishes,
Cordially,

FRED B. WACHS.

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NEW LEXINGTON BANK FILES INCORPORATION ARTICLES

Commonwealth Trust and Title Insurance Co. field incorporation articles with the Fayette County Clerk yesterday to carry on the business of banking.

One of the 14 incorporators of the organization predicted that Lexington would have a new bank, "probably within the next year." The spokesman said the firm would have to be approved first by the state banking commission.

The company, capitalized at $200,000, was granted a charter Wednesday by the secretary of state in Frankfort.

Another incorporator was heard to remark more than a week ago that a new bank would start business before January 1, 1967.

The articles stated that the company also will operate a general trust business and act as a title insurer, to certify and guarantee title to real estate.

Incorporators are R. E. Curtin, R. M. Bartella, W. E. Kingsley, T. C. Quisenberry, Thomas Ryburn, R. W. Crabtree, Ralph G. Worster, Carl Banks, Donald J. Horton, J. B. Watters, John A. Palumbo, Stanley E. Wilson, C. E. Hall, and Montjoy Trimble.

Mr. Worster was named process agent. The registered office was designated as 138 North Upper Street.

The authorized capital stock of the bank, according to the articles will be $200,000 consisting of 20,000 shares of common stock with a par value of $10.

The bank will commence business with the capital stock fully paid and an additional paid in surplus of $40,000, it was stated.

A managing board of directors of five to fifteen members will be elected at the first stockholders meeting and the board, at its first meeting, will elect officers, according to the articles.

Mr. MORSE. Finally, Mr. President, I ask unanimous consent that a letter sent to me by the Senator from Virginia [Mr. ROBERTSON] under date of April 29, 1966 be inserted in the RECORD at this point.

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

U.S. SENATE,
COMMITTEE ON BANKING AND CURRENCY,
*April 29, 1966.*

Hon. WAYNE MORSE,
*U.S. Senate,*
*Washington, D.C.*

DEAR WAYNE: Just a note to call to your attention, the inconsistency of the Justice Department on the subject of mergers.

In 1960, the Congress attempted to pass a bill to treat bank mergers in the same way that railroad mergers were being treated, namely, subject to the decision of the Federal regulatory agencies. The Justice Department induced the Court, to the great surprise of all constitutional lawyers, to upset that law and then it proceeded to attack four bank mergers, one of which was the very relatively small merger in Lexington, Kentucky.

Compare that with the apparent complacency of the Justice Department when two of the biggest railroads in the East, both of which furnished the principal competition in the same area, are being merged and the Justice Department voices no word of complaint about violating the antitrust laws. Unless the Department of Justice agrees to drop the Lexington suit, I think it would be most appropriate for you to ask the Department the basis on which it draws a distinction between bank mergers and competition in banking is now nationwide, and railroad mergers when competition is still largely of an area character.

In view of the repeated statement by Justice Department officials that I rushed the Bank Merger Bill through the Senate with nobody knowing what was in it, I shall put in the record next week a statement showing every Member of the Senate was written a letter fully explaining what was in the bill and inviting his careful study of those provisions before it came to a vote.

Sincerely yours,

A. WILLIS ROBERTSON.

Mr. MORSE. Mr. President, in closing, let me say I think the speech of the junior Senator from Kentucky [Mr. MORTON] and the speech of the senior Senator from Kentucky [Mr. COOPER], referred to by Senator MORTON in his speech—Senator COOPER'S speech was delivered just a few days ago—along with the exhibits I have inserted in the RECORD, leave not the slightest room for doubt that the Justice Department is engaging in an inexcusable harassment, and if the Attorney General does not tell his legal underlings to drop the case, I hope the matter is brought to the attention of the President of the United States and that he will see to it that the Attorney General drops the case.

BENNETT-HOLLAND AMENDMENT WOULD GRANT TOTAL OF 22 YEARS OF UNWARRANTED EXEMPTION

Mr. DOUGLAS. Mr. President, the amendment offered by the Senator from Utah [Mr. BENNETT] and the Senator from Florida [Mr. HOLLAND] should be defeated. The Bennett-Holland amendment would give extra consideration to the Du Pont Estate in Florida by extending to 12 years the period allowed for it to divest its nonbanking interests.

The Du Pont Estate has not only been allowed already an unjustified exemption from the Banking Holding Company Act for 10 years, but the Bennett-Holland amendment in effect would now grant it an additional exemption from the divestment requirements of the act for another 12 years.

It is charged that this bill is punitive legislation. However, in 1956, when the original Bank Holding Act was passed, I was a member of the Banking and Currency Committee. I know what occurred in the executive meetings of the committee when we marked up the bill. Someone—I will not say who, and I am not able precisely to identify the person—assured us solemnly that the Du Pont Estate had been made into a completely charitable trust, and that all the revenues were to go to charity and were going to charity.

That was not necessarily the sole issue involved, because concentration of power was an issue, as well as the use of income. However, on the basis of this assurance, I, for example, did not oppose the exemption of the Du Pont Estate, which otherwise I would most surely have done.

ONLY 12 PERCENT TO CHARITY

The facts are that only 12 percent of the income to the estate has been devoted to charity, and 87 or 88 percent has gone to private parties—virtually all of it to Mrs. du Pont.

I placed in the RECORD this afternoon a statement of the income payments from the Alfred I. du Pont Estate. My good friend, the senior Senator from Florida, read a long list of relatively small contributions from the estate to various charitable and good causes. But permit me to furnish the details.

In the 31 years, inclusive, from 1935 to 1965, over $119 million went to Mrs. du Pont, just short of $15 million went to the Nemours Foundation, and other annuitants received $2.4 million. The overwhelming weight of the income did not go to charity, but instead went to Mrs. du Pont.

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

Mr. DOUGLAS. I yield.

Mr. HOLLAND. Does the Senator know that Mrs. du Pont has consistently given most of her part of the income to charity?

Mr. DOUGLAS. That is something else again. But on this ground, anything could be justified. I cannot agree that any person should be exempt from the laws of the land, simply on the ground that he would use his income for charitable purposes.

Mr. HOLLAND. What is shown by the lists that I inserted in the RECORD, indicating over $11 million of gifts and benevolences in the 5-year period covered, was carefully stated to be directly or indirectly from the estate. I was very clear in my statement that much

of that amount came from Mrs. du Pont, and I wish to make that very clear again.

The same is true with reference to gifts given in Delaware and in Virginia and in many other States. She has consistently given the larger part of her income to charitable causes. As a matter of fact, the whole of the income, after the death of the beneficiaries, will go to the charitable cause which the Senator well knows is the remainderman under the will, the Nemours Foundation.

Mr. DOUGLAS. I was speaking of the payments from the Alfred I. du Pont estate.

When we were marking up the Bank Holding Company Act of 1956, the representation was made to us that all this money went to charity. On that assumption, I agreed to the Du Pont exemption. Then I discovered that the information that had been given us was erroneous, and that the exemption should not have been granted.

So, the Du Pont Estate has already had 10 years, which they should not have had at all. Now we are going to give them 5 years more. But the Senator from Florida and the Senator from Utah do not believe that is enough. The Senator from Florida and the Senator from Utah say that we should give them 12 years, that we should give them a total of 22 years. I say 15 years should be enough.

REPEAL OF DU PONT EXEMPTION MAY BENEFIT FLORIDA

The representation has been made that this is a punitive act and that there will be great financial losses involved. I hold in my hand an article from the Miami Herald of Wednesday, April 13, 1966, which contains the report of an interview with Congressman CHARLES E. BENNETT of Florida. I quote from the second column:

> BENNETT predicted that separating banking and nonbanking duPont interests would have the effect of a second great land boom for the State with economic benefits for both the du Pont interests and the general public.
>
> He said the 30 banks owned by the du Ponts would be better off financially "and the people will not be threatened by conflict of interests and monopoly."

Congressman BENNETT is quoted as saying:

> "My research into the divesting of banking and nonbanking businesses as required by the Bank Holding Company Act shows clearly that when divestment comes it is almost certainly very beneficial to the stockholders concerned and to the public interest."

I do not know whether the Senator from Florida has seen the article.

Mr. HOLLAND. I have seen the article, and I wonder whether the Senator from Illinois got the same impression that I had—that my esteemed colleague, Congressman BENNETT, was assuming that the Du Pont Estate would liquidate its other assets and hold onto its banks.

Is that the assumption that the Senator from Illinois drew?

Mr. DOUGLAS. He speaks of selling the land, and I thought that was the assumption of the senior Senator from Florida.

Mr. HOLLAND. No. The senior Senator from Florida has been of the assumption all along that the land would not be sold, and that it would be a greater disaster for the land to be sold rather than the bank assets.

Mr. DOUGLAS. Then, the fear about the sale of the paper company and the railway and the million acres of land, and so forth, is fictitious, because in your judgement that would not be so.

Mr. HOLLAND. Yes. I believe the Senator from Florida has a good deal of personal knowledge of these facts.

When the Senator from Florida speaks of a million acres being sold—it is over a million acres, as a matter of fact—in that part of west Florida where it lies, if it were sold in a buyer's market, in which it surely would have to be sold, it would be a disaster for everybody else who holds any assets in that area, and it would be a disaster to a part of our State that can ill afford it.

Aside from that aspect, it is my belief that the value of those assets and the value of the other assets, in addition to lands and the paper company, which are held by the estate—it is only my judgment, and my judgment may be entirely wrong—is so much greater than the control of the various banks—after all, we are not talking about total ownership of the banks; we are talking about the ownership of 25 percent or more of the controlling stock in the banks—that the estate would surely divest itself of the banks and not of its other great holdings.

However, that is simply a matter of opinion which the Senator from Florida has stated on the floor. But if it should prove not to be true, the Senator from Florida desires to make clear that he is quite sure that this would be the greatest disaster ever visited upon that part of west Florida—that great mass of land being thrown on a buyer's market at one time.

Mr. DOUGLAS. I simply brought this matter out to indicate that an able and highly conscientious Congressman from the State of Florida believes the State of Florida would benefit by these properties being split up and divested.

DIVESTITURE OF BANKING OR NONBANKING INTERESTS WILL NOT REDUCE ESTATE'S INCOME

Mr. President, the Senator from Wisconsin pointed out a very essential point, also—namely, that the vast proportion of the income from the Du Pont Estate is not drawn either from the banks or the industrial properties in Florida, but from the holdings of General Motors and Du Pont Corp. stock. I have introduced material into the RECORD which indicates this.

Very roughly, in 1965, about $10 million of the estate's total income—out of $12.5 million—came from General Motors and the Du Pont Corp.

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

Mr. DOUGLAS. I yield, but first, may I finish the statement? This property does not have to be divested under the pending bill.

I yield.

Mr. HOLLAND. Mr. President, I am glad that the Senator finished his statement with the last few words. That was exactly what I was going to bring out. I thought it was assumed, was stated, and was a fact all the way through that the language means that the property, the stockholdings, do not have to be sold because they constitute less than 5 percent of the total stock of the corporations in question.

Mr. DOUGLAS. The Senator is correct.

Mr. HOLLAND. It is not the Du Pont Estate that will be the principal sufferer from this provision at all. The Senator from Florida sincerely believes that the sufferers will be the communities in which the banks are located, and the people who do business therein, in the event that the banks are divested of a piece of land. The counties in which the land, the paper mill, and the other assets are located will suffer if divestiture is required.

I think the Senator has aided in making one point very clear, that the principal sufferer from the drastic provisions of the bill would be others than the Du Pont Estate. That helps to explain the reason that the two Senators from Florida feel so keenly about this matter.

Mr. DOUGLAS. The Senator from Florida certainly errs when he states that I bring out very clearly the fact that the people in Florida would be injured. Quite the contrary.

My point is that the Du Pont people would not be injured. Moreover, Representative BENNETT believes that there would be no injury to any economic interest in Florida. The Representative from Florida is a young, alert, vigorous, careful, conservative, and honorable man. He would not make that statement, I am sure, unless there was a solid reason for making it.

Mr. HOLLAND. The Senator from Florida would be the first to agree with the distinguished senior Senator from Illinois that Representative BENNETT is of the type that is suggested. However, I think that my point of view is worth something in this matter. I point out that, having served as Governor of my State and having served as State senator of my State for 8 years, I know a great deal about the economy of western Florida, which is the part of Florida which has not kept up in prosperity with the remainder of the State. It has lagged very greatly in growth.

I think I am in a better position to make a statement about what would happen in the event this great land empire had to be thrown on the market at one time. I think it would be a capital disaster for that group of 15 or more counties if that empire were thrown on the market at one time. Great damage would be done to all of that vast area of land, all of it being land that is being reforested and that is of little value except for reforestation.

Mr. DOUGLAS. I read what Mr. J. A. Maloney, editor and publisher of the Apalachicola Times, Apalachicola, Fla., states about the effect of divestment on the western part of Florida which is where the land holdings of the Du Pont group are located.

I read from page 291 of the transcript of hearing as follows:

Such a split would not in itself solve our problems in the Big Bend area of Florida, but I believe it would definitely help us. The Big Bend area is rich in natural resources. It is a sleeping economic giant, anesthetized by the power of the Du Pont Estate. Abraham Lincoln said that this Nation could not survive half slave and half free. It is my feeling that the part of Florida where I live cannot free itself and prosper behind Mr. Ball's pine curtain.

Mr. HOLLAND. Mr. President, I wish that the distinguished Senator knew as well as I know the source which he has quoted and the fact that it carries no weight at all in that part of Florida to which he has referred.

Mr. DOUGLAS. I merely point out that Mr. Maloney is the publisher of the Apalachicola Times. He also served as a commander in the U.S. Navy, from which he retired in 1953 because of physical disability. His testimony impressed me as being that of a very conscientious and honorable man, a man with enough courage to stand up against the Ball group.

I do not see anything that is really punitive in this measure. The estate and the Ball group have already been given 10 years, which they should not have had. The Senate committee now proposes to give them an additional 5 years before divestiture must be accomplished. It is said that this is discriminating because we are giving 12 years to Financial General and only 5 years to the Ball group. It is argued that equal treatment calls for giving both the groups 12 years. It may be that equal treatment would call for giving them each 5 years.

But there are certain essential differences with respect to the public interest in repealing the exemptions as between Financial General and the Du Pont Estate, which I think need to be pointed out.

The original Bank Holding Company Act had two purposes. One purpose was to prohibit the concentration of banking along with industrial or agricultural interests. The act required banks or bank-owning groups to divest themselves of these other properties. We are trying to provide for the Du Pont Estate the same application of the law. The other purpose of the act was to prevent monopoly and to promote competition in banking.

Financial General did avoid—if, in my judgment, not evade—the purposes of the Banking Holding Company Act by putting up shell holding companies, one for each newly acquired bank. Because they were affiliates of a group registered under the Investment Act of 1940 they technically escaped being placed under the Bank Holding Company Act and under the supervision of the Federal Reserve Board.

We remove that exemption in this act. We label Financial General as a bank holding company and they can no longer acquire additional banks without the approval of the Federal Reserve Board, and they are immediately subject to important restrictions on transactions within a bank holding company system. We forcefully and immediately deal with Financial General on the point on which it most needs to be dealt with; namely forcing it to be controlled as a bank holding company, and that is done here.

We also deal with the Du Pont Estate on the point on which it most needs to be dealt with; namely, the requirement of the 1956 act that a bank holding company must divest its nonbanking assets if it holds more than 5 percent of the voting shares of a nonbanking corporation.

Since the principal aims of the bill in the two cases are different, and the circumstances lying behind each are different, there is no discrimination in applying a different rule on divestment to them.

Now the 5-year rule does not apply just to the Du Pont Estate. There is another foundation which we discovered has banks in my own State of Illinois. That is the Charles Stewart Mott Foundation. It controls the Lake View Trust & Savings Bank in Chicago, which is a large bank. It also controls a Champaign, Ill., bank and a bank in Royal Oak, Mich.

They are under exactly the same rule as is the Du Pont Estate. No added favor is given to them which is not given to Du Pont, and vice versa.

The point is that institutions comparable to the Du Pont Estate receive the same treatment. In a different situation, as in the case of Financial General, the company is given a greater number of years to divest.

The holding companies which existed in 1956 had to conform to the 2-year provision. But the Du Pont Estate already has been given a special privilege exemption for 10 years. The bill would give them 5 years more. I think, therefore, that since the original exemption was granted under misapprehension and, in my judgment, misrepresentation, we should not further prolong this exemption by granting it 12 more years, or a total of 22 years.

Mr. MORSE. Mr. President, on August 16, 1965, I introduced S. 2418, an amendment to the Bank Holding Company Act of 1956, designed to close the gaping loophole in the 1956 act which has permitted extensive commercial business to be exempted from the Bank Holding Company Act under the guise of a charitable trust.

This is only one of many facets of charitable trusts which should be brought under greater surveillance by Congress. In fact, I think that, in due course of time, Congress needs to go into the whole question of charitable trusts as an example of subterfuge and escape from legitimate taxation.

I believe that the people of this country are entitled to have stopped this escape from taxes which ought to be paid into the U.S. Treasury by charitable trusts. In my State—and it is true in other States as well—I can point out instances where, under the guise of charitable trusts, religious organizations operate major businesses in competition with private enterprise. I do not believe, Mr. President, that that can be justified as a matter of sound public policy. I believe that charitable trusts should be brought under much stricter control than at present, insofar as they are set up as a gimmick for escaping taxation on properties and earnings that should be taxed.

The charitable trust is also, may I say, one of the subterfuges being used by the rich of this country to make themselves richer, while the rest grow poorer. I make this comment in regard to the pending matter because I think there is involved here a charitable trust which has needed for a long time to be brought under check.

The enterprise that section of my bill would immediately have affected was the Alfred I. du Pont Estate, which controls 31 banks in Florida with over $785 million in assets at the end of 1964. The Du Pont Estate also controls, through 75-percent ownership, a large paper manufacturing company, over a million acres of timberland, valuable city real estate, a small railroad, and a small telephone company. The estate further controls a class I railroad, the Florida East Coast, and owns General Motors and Du Pont Co. stock valued at over $240 million. All told, the Du Pont Estate rules a commercial and financial empire with a value of well over a billion dollars.

Yet because the will of Alfred I. du Pont was written to provide that upon the death of his wife, the proceeds of the estate should go to Nemours Foundation for crippled children, the estate has been exempted from the Bank Holding Company Act. The act itself sought to bring bank holding companies under the same antimonopoly limits as banks themselves, and to require divestment of their nonbanking activities. An exemption was extended to long-term trusts and religious, charitable, and educational institutions. Under this provision, the Du Pont Estate has perpetuated the very kind of billion-dollar empire of banks and industries that the 1956 act was designed to break up.

A second provision in my bill went to the exemption in the 1956 act under which the Financial General Corp. has avoided regulation. This exemption was for what the act called "investment companies." The Senate Banking Committee was led to believe in 1956 that the one investment company known to be affected would still be controlled under the Investment Company Act of 1940.

This proved not to be the case, simply because Financial General took advantage of the language of the law which requires regulation where a holding company "directly" controls two or more banks. By creating a series of "shell" holding companies, Financial General avoids controlling any banks directly. For 9 years, it has been free to acquire new banks, to hold and acquire outside industries, to cross State lines, without any of the restrictions imposed on other bank holding companies. It owns 25 percent or more of the stock of 21 banks in 5 States and the District of Columbia, and it controls a number of non-banking businesses including insurance, financing and manufacturing companies.

I am highly gratified that the substitute committee bill embodies both these provisions from S. 2418. As the committee report notes, the purpose of the bank holding company legislation was to

apply in the field of banking and bank holding companies the general purposes of the antitrust laws—to promote competition, prevent monopoly, and to prevent unduly extensive connections between banking and other businesses. The exemptions I have noted were made on the basis of what I feel were misleading representations. It is right that after experience has shown these exemptions to have led to undesired results, the Committee should recommend their repeal.

In the case of the charitable exemption, the committee report states:

Short-term trusts and the usual personal trusts which do not violate the rule against perpetuities would continue to be exempt from the Act. Other trusts, however, and religious, charitable, and education institutions would no longer be exempt. If such a trust or institution should control two or more banks, it would not be permitted to retain direct or indirect ownership or control of any voting shares of any company which is not a bank or a bank holding company or engage in any business other than that of banking, subject to limited exceptions specifically provided in the Act, such as holding less than 5 percent of the voting share of a business concern. The long-term trust or religious, charitable, or educational institution, would of course, not be required to cease its exclusively religious, charitable, or educational activities. Such activities—for example, the operation of a tax-exempt charitable hospital or a tax-exempt educational institution—would not constitute engaging in a business for the purposes of the Bank Holding Company Act, and no divestiture or such activity would be required.

The principal entity which now receives the benefit of the exemption of long-term trusts and which in the course of time would become a charitable institution is the Alfred I. DuPont trust fund. . . . The Committee recommends repeal of this exemption. The basis for special consideration of religious, educational, and charitable institutions—for example, the considerable measure of tax exemption granted to them—does not, in the committee's judgment, provide such a basis for exempting such institutions or the corporations they may control from such basic public policy statutes as the Bank Holding Company Act any more than it would support such an exemption from the antitrust laws, the Bank Merger Act, or the Interstate Commerce Act.

In the case of the nonbanking activities of the Du Pont Estate, the committee permits up to 5 years for divestiture of these assets to be completed. Under the committee bill, any bank holding company subject to this 5-year limitation must endeavor to divest itself promptly, and it must report its progress to the Federal Reserve Board 2 years after repeal of the exemption and annually thereafter.

In the case of Financial General, or other companies similarly situated, the committee postponed the required divestiture date to December 31, 1978. It believed that earlier divestiture would be impractical in light of the corporate structure of the company. However, as soon as the law is passed, Financial General will become a bank holding company under the law, and subject to all the restrictions on intersystem transactions. It will be forbidden to acquire nonbanking interests in excess of 5 percent of such a company's stock, or to acquire control of another bank without permission from the Federal Reserve Board.

Because of my longtime interest in this subject, and my sponsorship of S. 2418, I have followed the Banking Committee's consideration of these measures with interest and much approval. I feel the committee has done a fair and reasonable job in eliminating these unfortunate exemptions which it allowed to creep into the 1956 act, and I express my deep appreciation to the committee, and to the individual committee members who joined in sponsoring S. 2418, the essence of which is included in the pending bill.

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

Mr. MORSE. I yield.

Mr. DOUGLAS. I wish to thank the Senator from Oregon for the way in which through the years he has kept this issue alive. I think we owe to him the spading out of the fact that the estate was not a charitable trust in fact, but that seven-eighths of the revenue went to Mrs. du Pont for such disposition as she might make of it.

The senior Senator from Oregon has been a driving force in this legislation, as he sees the essential features of his bill, in which I had the honor to join, incorporated in the measure now before us.

I would like to ask the Senator if he does not think it would be great error if the Holland-Bennett amendment were to be adopted?

Mr. MORSE. I think it would be a great mistake. I shall oppose the amendment.

Mr. DOUGLAS. I thank the Senator.

Mr. MORSE. The Senator from Illinois was very kind in his reference to me. In my judgment we would not be where we are today if the Senator from Illinois had not had the courage and objectivity to stand on the floor of the Senate and do what too few Senators, I have noticed in my years in the Senate, are willing to do: To say publicly to the Senate and to the country that they went along with the measure when the case first was presented before the committee but discovered later the facts did not bear out the case. The Senator was not aware of the nature of the so-called charitable trust. When he discovered the facts were somewhat different than he had believed them to be, he was courageous and forthright enough to change his opinion, which is typical of him in his many years of dedicated service in the Senate.

Mr. DOUGLAS. I thank the Senator. I felt in slang language, "I had been had," and I could not continue in the position of giving my approval to a measure which I had been deluded into supporting.

Mr. MORSE. The Senator made that very clear. I compliment the Senator for that courage. Whatever transpired in the objective judgment reached by the Senator from Illinois, the accumulative objective nature of it is very clear. The Senator had the courage to stand up and to go on record, so to speak, to make it clear how it happened.

Mr. HOLLAND. Mr. President, a few moments ago my distinguished friend, the Senator from Illinois [Mr. DOUGLAS] reported some statements made by a Mr. Maloney, a newcomer to Florida, who publishes a little paper called the Apalachicola Times, in Apalachicola, Fla., which is in the heart of the west Florida area.

I would like to have the RECORD show at this time that there are five other statements in the record—and perhaps a good many more because I was not privileged to attend all of the hearings—which are much more weighty on the value of the Du Pont Estate to west Florida than the statements of Mr. Maloney, no matter how well intentioned he may have been.

One of those witnesses was Ray M. Gidney, former comptroller of the State of Florida, who stated in so many words, as comptroller and one familiar with the regulation of State banks, that he thought he knew what the situation was; that there had been no misuse of power; and that to the contrary, although now a competitor of the Du Pont system of banks, he wanted the record to show this punitive legislation against Du Pont should not pass.

The second witness was, Mr. Clarence M. Gay, formerly and prior to the incumbency of Mr. Green, Comptroller of the State of Florida, and having jurisdiction of the State banks of our State. He is also a present competitor of the Du Pont banks. He stated in no uncertain words, as shown by the record, that he thought the Du Pont banks had been well conducted; that the influence of the Du Pont Estate had been good; and that he found no justification for this punitive approach. He included correspondence he had with an official of the railroad union calling attention to the fact that he thought their tack was very inappropriate and misguided.

The third witness was a Mr. David Johnson of Pensacola, a director of another bank in Pensacola. He made a very telling and pleasing appeal to the committee not to go through with this punitive legislation, and not to bring the wrath of Congress to bear against the Du Pont Estate and the Du Pont bank assemblies because of the attitude of the railway unions who did not like it because Mr. Ball had been able to make the Florida East Coast Railway operate profitably in spite of the fact that he was operating in violation of the strike by the railroad union and operating without their cooperation in any way.

The fourth of those witnesses was former Gov. Millard F. Caldwell, now a member of the Supreme Court of Florida. Before he became Governor, he came from the county of Santa Rosa, another west Florida county. He lived in Tallahassee. He is a banker and the director of a bank in Tallahassee. Perhaps he is a director of several banks. His testimony is to the same effect. He thought that the Du Pont Estate had been a blessing to Florida rather than otherwise, and that the kind of punitive approach taken by the bill was mistaken. He said so in so many words.

The fifth witness was Representative SIKES, who represents the west Florida district. Well intentioned as the dis-

tinguished Member of Congress from the Jacksonville district, Representative BENNETT, may be, he does not live in west Florida. He does not live near the more than 1 million acres of land that belong to the Du Pont Estate. He does not know of the relative measure of prosperity that has followed the bankruptcy that existed at the time the Du Ponts came into that area and bought up the land there. But Representative SIKES testified strongly in support of the position taken by the Senator from Utah [Mr. BENNETT], the Senators from Florida, the Senator from South Carolina [Mr. THURMOND], and all the other Senators who joined in offering the amendment now pending.

I invite attention to these facts, because it is so clear that here we have five witnesses, all of them much closer to base, all of them knowing a great deal more about what is going on in west Florida than does anyone else who testified in this case to the contrary, and all of whom charge in unmistakable words that the net effect of the activities of the Du Pont Estate has been good and that they have been a good servant of prosperity and progress in Florida.

Mr. President, I thought the RECORD should clearly show these facts because before such evidence as I have just cited, the testimony of Mr. Maloney and even that of Representative BENNETT would have to fall very flat.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah. The yeas and nays have been ordered——

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent—if the Senator will bear with me—that there be a quorum call not to exceed the time of 5 o'clock and 25 minutes p.m., when voting will begin.

Mr. HOLLAND. Mr. President, I object.

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

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

The question is on agreeing to the amendment of the Senator from Utah.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the junior Senator from Florida [Mr. SMATHERS]. If present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. BASS], the Senator from Nevada [Mr. BIBLE], the Senator from Maryland [Mr. BREWSTER], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Hawaii [Mr. INOUYE], the Senator from Washington [Mr. MAGNUSON], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Wyoming [Mr. MCGEE], the Senator from New Mexico [Mr. MONTOYA], the Senator from Rhode Island [Mr. PASTORE], the Senator from Rhode Island [Mr. PELL], and the Senator from Georgia [Mr. TALMADGE] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from West Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from New York [Mr. KENNEDY], the Senator from Minnesota [Mr. MONDALE], the Senator from Oregon [Mrs. NEUBERGER], the Senator from West Virginia [Mr. RANDOLPH], the Senator from South Carolina [Mr. RUSSELL], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

I further announce that, if present and voting, the Senator from New York [Mr. KENNEDY], the Senator from Minnesota [Mr. MONDALE], and the Senator from New Mexico [Mr. MONTOYA] would each vote "nay."

On this vote, the Senator from Alaska [Mr. BARTLETT] is paired with the Senator from Wyoming [Mr. MCGEE]. If present and voting, the Senator from Alaska would vote "yea," and the Senator from Wyoming would note "nay."

On this vote, the Senator from Mississippi [Mr. EASTLAND] is paired with the Senator from Alaska [Mr. GRUENING]. If present and voting, the Senator from Mississippi would vote "yea," and the Senator from Alaska would vote "nay."

On this vote, the Senator from West Virginia [Mr. RANDOLPH] is paired with the Senator from South Carolina [Mr. RUSSELL]. If present and voting, the Senator from West Virginia would vote "nay," and the Senator from South Carolina would vote "yea."

Mr. KUCHEL. I announce that the Senator from Nebraska [Mr. CURTIS], the Senator from Hawaii [Mr. FONG], the Senator from Michigan [Mr. GRIFFIN], the Senator from California [Mr. MURPHY], the Senator from Kansas [Mr. PEARSON], and the Senator from Vermont [Mr. PROUTY] are necessarily absent.

The Senator from Wyoming [Mr. SIMPSON] is detained on official business.

If present and voting, the Senator from Nebraska [Mr. CURTIS], the Senator from California [Mr. MURPHY], the Senator from Kansas [Mr. PEARSON], and the Senator from Wyoming [Mr. SIMPSON] would each vote "yea."

The result was announced—yeas 31, nays 37, as follows:

[No. 86 Leg.]

YEAS—31

| | | |
|---|---|---|
| Aiken | Hill | Russell, Ga. |
| Allott | Holland | Saltonstall |
| Bennett | Hruska | Scott |
| Boggs | Jordan, N.C. | Sparkman |
| Carlson | Jordan, Idaho | Stennis |
| Cotton | Kuchel | Thurmond |
| Dirksen | Lausche | Tower |
| Dominick | McClellan | Williams, Del. |
| Ervin | Miller | Young, N. Dak. |
| Fannin | Morton | |
| Hickenlooper | Mundt | |

NAYS—37

| | | |
|---|---|---|
| Anderson | Hart | Muskie |
| Bayh | Hartke | Nelson |
| Burdick | Jackson | Proxmire |
| Byrd, Va. | Javits | Ribicoff |
| Cannon | Kennedy, Mass. | Robertson |
| Case | Long, Mo. | Smith |
| Church | Long, La. | Symington |
| Clark | McGovern | Tydings |
| Cooper | McIntyre | Williams, N.J. |
| Douglas | Metcalf | Yarborough |
| Ellender | Monroney | Young, Ohio |
| Fulbright | Morse | |
| Harris | Moss | |

NOT VOTING—32

| | | |
|---|---|---|
| Bartlett | Gruening | Neuberger |
| Bass | Hayden | Pastore |
| Bible | Inouye | Pearson |
| Brewster | Kennedy, N.Y. | Pell |
| Byrd, W. Va. | Magnuson | Prouty |
| Curtis | Mansfield | Randolph |
| Dodd | McCarthy | Russell, S.C. |
| Eastland | McGee | Simpson |
| Fong | Mondale | Smathers |
| Gore | Montoya | Talmadge |
| Griffin | Murphy | |

So Mr. BENNETT's amendment was rejected.

Mr. DOUGLAS. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 585

Mr. LAUSCHE. Mr. President, I offer the amendment which I send to the desk. The substance of the amendment is that both Du Pont and the second group shall be treated equally by law. The amendment provides that each group shall be given 7 years within which to divest itself of its holdings in banks. At present, the bill allows one group 12 years, and the other group 5 years. My amendment provides that equal treatment shall be given to both groups under circumstances which demand that equal treatment be given. The facts upon which the bill is predicated assume that there is a difference in circumstances. In my opinion, this view is not supported by the facts.

Mr. DOUGLAS. Mr. President, would the Senator from Ohio have both for 5 years or both for 12 years?

Mr. LAUSCHE. No; both for 7 years.

The PRESIDING OFFICER (Mr. PROXMIRE in the chair). The amendment will be stated.

The legislative clerk read as follows:

On page 11, on lines 14 and 15, strike "December 31, 1978" and insert "June 30, 1973."

On page 15, on line 14, strike "five" and insert "seven"; and on line 17, strike "five-year" and insert "seven-year".

Mr. LAUSCHE. Mr. President, on this amendment I ask for the yeas and nays.

The yeas and nays were ordered.

## OREGON PRELATE HONORED ON 60TH ANNIVERSARY OF PRIESTHOOD

Mr. MORSE. Mr. President, I would like to call your attention to a very interesting and moving article concerning a great and respected Catholic, the Most Reverend Archbishop Edward D. Howard, head of the archdiocese of Portland. This article appears in the May 20 issue of the Catholic Sentinel, the diocesan newspaper of Portland, Oreg.

This outstanding Oregonian was honored May 25 in ceremonies marking his 60th anniversary as a priest and his 40th year as archbishop of Portland, at which 10 Northwest bishops and abbots were joined by Protestant, Orthodox, Jewish, and civic representatives.

The 89-year-old archbishop has received many honors in his long and service-filled life. In 1959 he received the annual Brotherhood Award of the B'nai B'rith in recognition of outstanding leadership in work for Negroes and other minority groups in western Oregon. He met Pope John in Rome when he was there for the first session of the Second Vatican Council.

In the past 2 years Archbishop Howard has enlisted the archdiocese behind the national war on poverty and has promoted many other worthy causes. Portland and the State of Oregon have every reason to be proud of this eminent, hard-working churchman, who in spite of his high office and many accomplishments, embodies the spirit of kindness and humility.

I wish to personally give testimony to the influence of this great man on the senior Senator from Oregon, for he has inspired me time and time again and has intensified my dedication to a basic tenet of my philosophy. After all, the thing that counts most is to see to it that we do what we can to promote the human values. This is the kind of great spiritual leader that Archbishop Howard has been. He has inspired many people in our State because of his dedication to the promotion of human values.

I ask unanimous consent that the Catholic Sentinel article be printed in the RECORD at this point in my remarks.

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

SPIRITUAL FATHER TO 240,000 IN WESTERN OREGON, HE HAS MADE A "PARISH" OF HIS VAST ARCHDIOCESE

(By Thomas Albright)

The man had chatted warmly with the elderly, but deceptively youthful priest he had greeted on a street corner as "Father."

Only as they parted had he noticed a large cross hanging from the clerical collar.

"Whaddya know," he exclaimed, recounting the incident. "He must have been a bishop."

In fact, he was an archbishop, senior archbishop of the United States and spiritual shepherd of the country's second oldest see. Eighty-eight years old last Nov. 5, Archbiship Edward Daniel Howard celebrates on Wednesday, May 25, his 60th anniversary as a priest, his 40th as head of the archdiocese of Portland.

Often he is known as simply "Father," not just by strangers but by people who have seen him daily over many years—drivers of the bus he still rides almost every morning from his residence in Northwest Portland to his office in the Chancery, waitresses in the nearby blue-plate special businessman's cafe where he sometimes lunches on working days.

By his priests and people, Archbishop Howard is called "His Grace." The term was replaced by "Excellency" seven years after his consecration, and he is the only U.S. prelate left who is entitled to still use it. It seems more than just a title, conveying in a concise way the dominant characteristic of the man, as persistence of the anonymous "Father" reflects the simple concept of the pastoral priest which Archbishop Howard has carried on throughout his life's work as an administrator and member of the hierarchy.

You are impressed first with the keenness and vitality of this man who has been celebrating daily Mass, reciting Divine Office and fulfilling the other priestly duties for more than half a century, since before the San Francisco earthquake, before all but the very first motor cars.

He speaks with the clear, ringing voice of a man much younger, the response to questions is unhesitant, his conversation decisive, yet reflective, a path traced fluidly through personal observations, recollections, quotations from a favorite author or poet.

He considers walking "the perfect exercise" and in good weather will still sometimes walk to work, a distance of more than two miles along Portland's automobile and Skid roads, across the Williamette river. He made the trip afoot more frequently before the Chancery office was moved from a westside location some three years ago.

Age is one of the most frequent topics of a ready sense of humor. Archbishop Howard likes to recall a meeting with Pope John XXIII in an audience for U.S. bishops when he was in Rome for the first session of the Second Vatican Council.

"Bravo! You are older than myself," the 81-year-old Pope told Archbishop Howard, who was then 85.

You are impressed perhaps most lastingly by the archbishop's graciousness. Callers, often overawed at being in the presence of an archbishop, are quickly put to ease by his natural manner, a witty observation followed by a hearty laugh.

During Brotherhood Week two years ago, two different banquets had been scheduled for the same evening, at one of which Archbishop Howard was to be an honored guest. Through a misunderstanding on the part of the layman who was driving him, the archbishop ended up at the wrong banquet, sat at a hastily improvised place at a table in a remote corner.

Next morning, the layman came to his office to explain what had happened and apologize.

"That's perfectly all right. I knew what had happened when we arrived, but I didn't want to say anything and upset you," the archbishop said.

Primarily, of course, Archbishop Howard is a man of God. As spiritual Father to some 240,000 Catholics in Western Oregon he has made a parish of his vast diocese. His appointment schedule is jammed with callers, and every day he sees as many other people as possible, some whose problems might have been directed elsewhere. People from certain Latin countries have remarked that Archbishop Howard is more accessible than were their parish priests back home.

"It is a part of my duty and responsibility," the archbishop says, simply. "And I learn a great deal, too."

Weekly, he attends as many meetings as possible, including those of the many civic and charitable organizations with which he is associated. For years, he has held faithfully to the policy of visiting every parish in the 21,398 square-mile archdiocese at least once a year, flying whenever possible to save time.

Virtually every child to be confirmed in the archdiocese over the last 40 years has been confirmed by Archbishop Howard, and the same is true for Sisters who have been professed, priests who have been ordained.

Through a round of social activities that might tire much younger men, the Archbishop keeps close to his people—women who flock to a seminary benefit tea at his residence each year, homeless children whom the Archbishop, wearing a panama hat and eating hotdogs, joins for an annual outing at Oaks Amusement Park.

If some bishops are builders, some are politicians, it is primarily as a pastor that Archbishop Howard has administered his see for the past 40 years.

He came, in 1926, to an archdiocese that was already rich in history, becoming its fifth ordinary following the death of Archbishop Alexander Christie.

He had been consecrated two years before as an auxiliary bishop of Davenport, Ia., after having served two years as president of the college—St. Joseph (now Loras)—he had attended as a student.

Consecration came as climax to the decision Edward Howard had made at the age of 12 to follow in the footsteps of the parish priest of the small town of Cresco, Ia., where he was born Nov. 5, 1877.

His father, John Howard, a Civil War veteran, died when his son was just a little over 13. Archbishop Howard attended both parochial and public schools at Cresco before entering St. Joseph college in Dubuque in 1896. He went there for three years, and then completed a classical course at St. Mary's, Kansas, in 1900.

The same year he entered St. Paul seminary. He was ordained there on June 12, 1906, by Archbishop John Ireland.

He returned to St. Joseph, beginning his career as an educator teaching Latin and Greek in the high school and college departments. He became disciplinarian, then dean, and in 1921 was appointed college president.

In 1923, after staging the Golden Jubilee celebration of the college and at the age of 46, the then Father Howard was appointed auxiliary bishop of Davenport. He was consecrated April 8, 1924, at St. Raphael cathedral in Dubuque.

On April 30, 1926, he was appointed to the Archdiocese of Oregon City, which had in fact 64 years before had become centered in Portland. It was officially changed to that name two years later.

Characteristically, the new archbishop sent a letter to archdiocesan officials who awaited his coming, saying "the more quiet and unostentatious the reception for me, the more pleasing it will be for me."

He arrived in Portland via a private car provided by the president of the Spokane, Portland and Seattle railway on the 7 a.m. train Aug. 26. He was accompanied by his mother.

He was installed the same day at the Portland cathedral. Bishop Daniel M. Gorman of Boise, Ida., who had preached at the Archbishop's first Mass 20 years before, delivered the sermon. He also became head of the Portland province, which until after World War II included the Vicariate Apostolic of Alaska and the dioceses of Seattle and Spokane, in addition to the diocese of Baker City, Great Falls, Helena and Boise, which it still embraces.

It was a different Church that is portrayed in editions of the Catholic Sentinel of that year. A columnist worried about "the jazz spirit * * * getting hold of many Catholics today," but headlines focused on the persecutions in revolutionary Mexico, condemnation of "all suggestive advertising, scandal and crime news," the "wet and dry hearings in congress." "Prejudice" still meant anti-Catholic, largely activities carried out both locally and nationally by a vociferous Ku Klux Klan. Three thousand Portlanders turned out for beginning of a lecture series sponsored by the Catholic Truth Society at the public auditorium on "Is One Religion As Good As Another?"

From the first years of his administration, Archbishop Howard worked quietly but with a shrewd business judgment to consolidate and streamline the heritage left by his predecessors. Finding many churches carrying burdensome building debts while other congregations were inadequately housed, he set up a revolving fund to help equalize obli-

gations and provide for future development. He named a superintendent to give the central direction needed for growth of the archdiocesan school system and created a central organization, Catholic Charities, Inc., to coordinate overlapping efforts of the Church's charitable organizations.

Faced with a critical shortage of priests, Archbishop Howard personally fostered development of Central Catholic high school for boys in Portland, recognizing the value of a Catholic high school education in stimulating priestly vocations. He also encouraged religious orders to expand their educational work among both boys and girls.

He was confronted with some thorny obstacles. Shortly after his arrival, the Benedictine-operated seminary at Mt. Angel, training ground for archdiocesan priests, was burned to the ground; the archdiocese contributed substantially toward its rebuilding. The drive for funds to establish Central Catholic was launched on the eve of the depression; it was 1939 before the school was finally completed.

In 1930, the Portland City Council attempted to block construction of a school on property belonging to the archdiocese in All Saints parish. Archbishop Howard filed a suit charging the council with discrimination against Catholics. The archdiocese won the zoning battle in a 1932 Oregon Supreme Court decision.

For the most part, though, his work formed a steady, unspectacular effort, providing the foundation for mushrooming expansion of the Church in Oregon that followed the Second World War.

As teacher and spiritual leader, Archbishop Howard, throughout his 40 years has conveyed to Catholics the moral and social pronouncements of the official Church, with certain persistent overtones that are his own: Need for "harmony and good will among all classes of citizens;" the identity of interests of Church and State; "education of the whole man" for "the spread of true culture and Christian civilization."

It has likewise been a quiet, steady effort, making few headlines, issuing largely from annual Lenten pastoral letters, talks to various Catholic and civic organizations.

Many statements from his early speeches and pastoral letters have a distinctly contemporary flavor.

In 1928, when relations between Catholics and Protestants were still fraught with hostility and defensiveness, the Archbishop was reminding his people that "there are very many others among our non-Catholic brethren who are sincere, just, broadminded; who do not wish to do us injury by misjudging us." It was a doctrine he put into practice from his earliest years, calling upon Catholics to work with Protestants and other community leaders for welfare of the larger community through taking part in such activities as the annual Community Chest drive.

The same year, at a Catholic Action Day in Salem, Archbishop Howard called for a "reform of society based on Christian teaching." In 1929, he launched the campaign to establish Central Catholic high school "to give to society an educated Catholic laity." In 1932, he joined Jewish and Protestant leaders at the public auditorium to speak on behalf of the Geneva World Disarmament conference. Citing "elementary morals and common sense," he deplored "perverted patriotism," the "baneful spirit of lawless Nationalism" and the "blind and destructive arbitrament of war," stating that "all races, nations and states are equal in the sight of God." In 1935, Archbishop Howard established archdiocesan study clubs with the goal of creating an "active, enthusiastic * * * lay apostolate."

He also issued pastoral letters on more traditional matters: Temperance ("one of the numerous evils wrought by the fanaticism of Prohibition was the decline of temperance") preoccupation with material things ("a huge synthesis of humbug" leading to "existence without meaning * * * philosophical pessimism.") He emphasized the Church's position against divorce and birth control, and against communism—although the same year instituting a study club course on capital and labor as stated in the papal encyclicals.

Archbishop Howard issued a key pastoral letter during Lent of 1945 on "The Social Implications of Our Religion." To the charge that Christianity has failed he replied "men and nations have rebelled against Christianity . . . and in its place have fashioned a Christianity to their own liking . . . a mass of dead Christianity without the spirit of Christ."

He condemned both socialism and capitalism as "departures and exaggerations—in opposite directions—from the correct mean of the reconciliation of individual liberty with social solidarity." He then called for "an international institution capable of ensuring peace" and "organic reconstruction of the social order" to "promote the common good, avoid the dangers of naturalist individualism . . . and its by-product, collectivist totalitarianism."

With special reference to Negroes, he urged treatment of minorities in accord with what "natural science and revelation alike tells us that the human race is one, that all men belong to the same family . . . Let us make the painful admission, how many Catholics there are who, while thoroughly disapproving of persecution directed against themselves, somehow achieve somewhat less than indignation if persecution and injustice find other victims. On the other hand, it not infrequently happens that men and women with a purely naturalist concept will, through an undefined sense of natural justice, rise to determined activity in these spheres of social relations . . . though . . . it can, of itself, produce no lasting result. The time is opportune for an examination of our social conscience."

With the same consistency, Archbishop Howard has in more recent years promptly implemented so-called modern Church regulations approved by the Vatican, including decrees of the Vatican Council.

Even before the Council, the archdiocese was in the forefront of the liturgical movement; demonstration Masses with priests facing the people were being held in the Cathedral in 1944. After a National Liturgical conference here in 1947, Archbishop Howard signed its recommendation that English be permitted in certain portions of the Mass.

When the National Liturgical Week conference returned to Portland last year, Archbishop Howard could see the success of such pioneering efforts. But he chose to address the gathering on a future challenge—"the great, sad fact that confronts us . . . the lack of Christian unity."

To give direction to the various new movements in the Church, Archbishop Howard has been early to name diocesan commissions to concentrate on the specialized areas: liturgy, sacred art, sacred music, ecumenism. A consistent supporter of a Catholic Press dedicated to leadership in furthering social justice, he appointed a commission eight years ago to make use of the new potentials of religious television. In these, as in older branches of archdiocesan administration—education, church building, the archdiocesan tribunal—he has demonstrated a remarkable ability for selecting directors who are expert, dedicated, most up-to-date in their fields.

In the past two years, Archbishop Howard has enlisted the archdiocese behind the national "War on Poverty" through naming an archdiocesan coordinating committee for antipoverty efforts, with laymen taking a dominant part in its direction. He has appointed an archdiocesan director for the Confraternity of Christian Doctrine program, which long before had reached every archdiocesan parish. Similarly he has promoted, with his own funds, the growing Newman Apostolate on the campuses of Oregon secular colleges and universities.

Such actions have led many persons to associate Archbishop Howard with the "liberal" or "progressive" movement within the Church. It would be more correct to say, however, that current developments within Catholicism simply parallel the predominantly pastoral emphasis—the "elementary morals and common sense"—that Archbishop Howard has held to throughout his 40 years as the archdiocese's spiritual leader.

Similarly, growth of the archdiocese under Archbishop Howard is reflected impressively in terms of brick and mortar. At the time of his Golden Jubilee 10 years ago, a list of new structures—churches, schools, hospitals—built during his administration filled four typewritten pages; many more have been built since. There were 81 parishes when he first came in 1926. Now there are 108. In 1926, there were 174 priests, 80 diocesan and 94 belonging to religious orders. Today there are 440 priests, including 199 diocesan and 241 religious.

This, too, however, is a monument, not to a builder but a pastor—one who has recognized the physical, as well as spiritual, needs of his people, and has done his best to meet them.

Behind both innovation and physical expansion, the guiding force remains similar to what it was 39 years ago, when the new archbishop dedicated a mobile chapel unit designed by the Catholic Truth Society to reach Catholics in Oregon's sparsely populated hinterlands. A two-ton truck with altar and furnishings, movie projector and stereopticon, plus an attached tent auditorium, it was an oddity, to judge by an old picture in the Sentinel.

"At first sight, this may seem to be an extraordinary means of preaching the gospel," Archbishop Howard said in a dedicatory address. "But upon reflection, it appears to be the most obvious and natural thing for us to do. Because for the work of God, no effort on our part is too great."

Now, 40 years later, only a few weeks before the round of modest ceremonies planned to mark his 60-year jubilee, you sit across the desk from the elderly pastor, this Man of God, feeling that somehow his portrait is still incomplete. He has been interviewed by a series of newspaper and TV reporters in recent days, and he begins by saying how glad he'll be when the jubilee is over, although you can see he feels gratified. He reminisces over the other jubilees, and you think of still other honors that he doesn't mention: His appointment as assistant at the Pontifical Throne by Pope Pius XII in 1939, the annual Brotherhood Award presented him in 1959 by B'nai B'rith, in recognition of outstanding leadership in work for Negroes and other minority groups in western Oregon.

His hands clasp restlessly as he answers your question about changes in the Church, in society in general, over the past 60 years.

"Of course, there have been many changes, all very decidedly for the better. It is gratifying to see the growth, difficult sometimes to keep pace with it. There have been no changes whatever in the fundamental doctrine. Our Divine Savior established the teaching of the Church very definitely. But we are using modern facilities in helping to make the teachings of the Church better known. Naturally, there is some confusion, but I am pleased the people in general have accepted the changes and seem to appreciate them. The whole purpose is to draw people into more active participation; we appreciate anything in proportion as we know and understand it. If we could only bring

to the people a realization that every member of the Church is an apostle, in a restricted sense. It is every member's duty to help make the teachings of the Church better known."

Gradually, the archbishop becomes more at ease. He laughs after a bright comment, awaits the next question.

"The only teaching worthy of the name is personal example," he says. "One could do a great deal of talking, but unless he lives as he says, his talking has no influence. Every member of the Church has a definite responsibility to live as a Christian. Our Divine Savior never taught a single thing he did not live in his daily life."

He pauses, letting you reflect upon his point before continuing.

"I have often said the great danger in the world today is the breakdown in personal responsibility," he says. "God had a special plan when He created each one of us—He does nothing in vain. He has given to each person all the means, the faculties necessary to fulfill his mission. We can't delegate this personal mission to others.

"Parents delegate too much responsibility to the schools and other places—they should cooperate with those who are teaching their children, don't you think so? It is the same in legislative matters—we ought to support our legislators a little more and not blame them for everything when we don't pay attention. In industrial problems, there should be better understanding between labor and capital; certain principles of justice and charity should appeal to both sides. In international relations, we ought to take more interest in the United Nations and their programs, and give whatever assistance we can in working out a program for peace. No organization can do that alone.

"All of our people should be more interested . . . we all have to criticize ourselves in that respect. Our own effectiveness depends on the stability of our government. A strong nation is the result of strong people."

The archbishop's manner radiates a quiet, serene assurance; you are struck by the frequency of the words "of course," "naturally" in his conversation.

You are not surprised when he answers a question about changing relations between Catholics and Protestants by referring to Pope John XXIII.

"It is amazing how Pope John grasped the situation, how universally he was admired," the archbishop said, and he quoted a column by Walter Lippmann after Pope John's death which had hailed him as "a modern miracle."

"Pope John felt that in every individual there is an element of good—sometimes you have to go pretty deep," the archbishop added, and laughed. "He seemed to understand human nature as well as it is possible, I suppose. He saw the good in everybody."

You ask Archbishop Howard, as a former teacher, about today's students, about folk music, jazz and today's youth.

"I don't think fundamentally students have changed. Naturally, there are different temperaments, in dealing with youth as well as people of all ages."

"Of course, I don't like it myself," he said of current teenage music. "Folksongs, properly understood, I think can serve a useful place in the Mass. But jazz has no place in the liturgy. It can, I think, be a harmful influence on youth, who are liable to run to extremes, if they get to a hilarious stage." He laughed again.

"The responsibility of parents and teachers has increased because of developments in recent years," he said. "Transportation has facilitated contact among people over great distances. Youths can drive miles to parties. They have direct associations with many more people—but this could be helpful or harmful.

"If young people scatter their energies too much, if they get worn out in the desire for pleasure—or for very serious work . . . Human nature needs a certain amount of rest and recreation, and then you are able to give the proper evaluation to things."

The Archbishop declined to answer one question: The writers, thinkers, poets, who have most shaped his own thinking. "There have been so many. I wouldn't want to leave anyone out. There are many men, and women too, and they continue to do so much good."

He laughs softly when you question him about recent articles in news weeklies on the thesis, "God Is Dead."

"I suppose they do disturb some people," he says. "But of course these are simply opinions of the writers."

He talks on, but gradually the meaning of his words become absorbed in a more diffuse, more intimate impression. It is a feeling both of autumn and spring, the quiet wisdom of an old man, assured even in his knowledge of the questions that don't have answers, and the cheerful optimism of youth, drawn together in a radiant balance that has no season and obliterates temporal distinctions.

Now he spoke reflectively.

"Life is a serious thing for all of us, isn't it? You always have to keep God's aim in mind. If we would keep the Ten Commandments in mind, we would discover the law of peace. By fulfilling our obligations to God and our fellow man. We each are to try to do our duty."

"We never reach a stage when we can't make further progress, I suppose," he added. "No organization ever stands still—you either go ahead or you fall back. This is true of any business organization. It is also true of our daily lives. Every day we should make a little advance."

He smiles again, as you ask him about the future.

"The late Pope John was most optimistic—he felt that Providence was leading us into a new order of human relationships, directing us toward a fulfillment of God's law," he said. "Pope John had no time at all for pessimists—he said they act as if they learn nothing at all from history. He always had the greatest optimism about the future of the Church and the future of mankind. That ought to be the attitude of all of us."

You ask the archbishop how he feels now about himself, if in some ways his life has been a lonely one—although by now, knowing how he probably will answer.

The first question he answers by a quotation from John Greenleaf Whittier's poem, "Snowbound:" "How strange it seems, with so much gone/of life and love, to still live on."

"I can say in all sincerity that I have thoroughly enjoyed my experience in life," he adds. "There have been many problems naturally. But problems are good for us, you know—if you meet them and try to solve them as best you can, honestly and fairly."

As you get up to go, he stops you.

"When you write the story, don't be laudatory," he says. "Be factual. Be calm."

Outside his office, you feel that somehow your portrait of Archbishop Howard has at last been finished, given the intangible force that draws together all the various details. It seems fitting that this could come only by personally communicating, on a level beyond meaning, with a man who believes so fully in the primacy of personal example.

You realize, finally, that in seeking to "define" the Archbishop, you have perhaps reached too far, overlooking the obvious fundamental. Pastor, administrator, builder, "progressive" churchman, humble man—he is all these things. But basically you have sensed the simple presence of a "good man," a "gentleman" in the old-fashioned sense of these words.

Today, they often have an almost contemptuous meaning, not because the standards which they represent have changed, but because so many people who supposedly were both have failed to live up to them. You think of Archbishop Howard, then of Pope John, and then finally of the full meaning of the archbishop's words: "The only teaching worthy of the name is personal example. Every member of the Church has a definite responsibility to live as a Christian."

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### Archbishop Howard To Celebrate Jubilee Mass of Thanksgiving

Ten northwest bishops and three abbots will join Protestant, Orthodox, Jewish and civic representatives in honoring Archbishop Edward D. Howard this Wednesday, May 25, in ceremonies marking his 60th anniversary as a priest and his 40th year as Archbishop of Portland.

Ceremonies will begin at 10 a.m., when a Mass of Thanksgiving will be concelebrated by Archbishop Howard with his diocesan consultors in the Cathedral. Bishop Joseph Daugherty of Yakima will preach the sermon.

The Mass will be followed by a banquet at the Hilton hotel, attended by priests and members of the hierarchy of the Portland and Seattle provinces, British Columbia and Alaska. Speaking will be Bishop Francis P. Leipzig of Baker and former State Supreme Court Justice Hall S. Lusk of Salem. Other state and civic leaders will join Protestant, Jewish and Orthodox representatives as special guests.

Besides Bishop Daugherty and Bishop Leipzig, members of the hierarchy planning to attend the ceremonies include Archbishop Martin Michel Johnson of Vancouver, B.C.; Bishop Remi J. DeRoo of Victoria, B.C.; Bishop Thomas E. Gill, auxiliary bishop of Seattle; Bishop Raymond G. Hunthausen of Helena, Mont.; Bishop Dermot O'Flanagan of Juneau, Alaska; Bishop Eldon Bernard Schuster, auxiliary bishop of Great Falls, Mont.; Bishop Sylvester W. Treinen of Boise, Ida.; and Bishop Bernard J. Topel, Spokane, Wash.

Abbots include Abbot M. Columban Hawkins, OCSO, of the Our Lady of Guadalupe Trappist monastery in Lafayette; Abbot Damian Jentges, OSB, of Mt. Angel abbey; and Abbot Raphael Heider, OSB, of St. Martin's abbey in Olympia, Wash.

Representing other churches will be Episcopal Bishop Hal R. Gross of Portland; Dr. William B. Cate, executive secretary of the Greater Portland Council of Churches; Rabbi Emanuel Rose of Temple Beth Israel and the Rev. George Harb, Syrian Orthodox church of Portland.

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## WATER POLLUTION FROM PLEASURE BOATS

Mr. MUSKIE. Mr. President, refuse and sewage from small pleasure boats contribute proportionately little to the pollution problem in our rivers, lakes, and coastal water. Still, with the Nation facing a water supply crisis in just 14 years, it is important that every user of our water resources play a responsible part in controlling pollution.

In the June issue of Boating magazine, Mr. Anthony Anable, Jr., an associate editor, discusses the problem of pollution from pleasure boats. He quotes Dr. J. B. Askew, chairman of the San Diego Regional Water Pollution Control Board No. 9, as warning:

Sooner or later, when things get bad enough, enforcement programs with real teeth in them must begin.

Mr. Anable responds:

We believe that the time has arrived—right now. If boatmen are being charged with contributing to water pollution, let us admit it is so, however small the degree. Let us also be realistic and admit that the only way to stop our contribution to pollution of waterways is to stop pumping sewage, untreated or treated, over the side.

He recommends that States adopt laws requiring holding tank toilets which would be pumped out at marinas.

Mr. Anable's article, titled "Let's Take the Panic Out of Pollution—What Boatmen Can Do To Ease the Problem," is timely and an in-depth analysis of the problem of pollution from pleasure boats. 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:

LET'S TAKE THE PANIC OUT OF POLLUTION—WHAT BOATMEN CAN DO TO EASE THE PROBLEM

(By Antony Anable, Jr.)

Pollution has become a dirty, dirty word.

Contamination of the nation's waterways has become a national disgrace; so much so that an aroused and irate public will no longer condone it. They are demanding state and federal legislation to outlaw further desecration of the streams, rivers, lakes and oceans that afford them endless hours of recreation. They are also demanding—perhaps somewhat naively—that these bodies of water be returned to their original pristine condition. In some cases, their accusations are unfounded and blame is laid at the wrong doorsteps. But you cannot blame them; they have read the facts of water pollution and the facts—as might be expected—are appalling:

Fishes that rely mainly on their chemical senses for finding food will feed less efficiently in waters persistently carrying around 0.5 parts per million of detergents. They may also become weakened and more susceptible to disease than normal fish.—*Study by Michigan University School of Natural Resources*

Lake Erie is polluted by a daily flow of 1.6 billion gallons of industrial and municipal wastes from the Detroit River. Some 7 million pounds of alien chemicals are contained in this flow. Similar situations in Ohio, Pennsylvania and New York threaten to rob the shallow lake of its oxygen and turn it into a vast, noxious swamp.—*Michigan Water Resources Commission*

In the summer of 1964 a group of Harlem youths fished a floating watermelon out of New York's Hudson River at the 125th St. pier. They rinsed it off, divided it up and ate it. Within a few days, eight of them came down with typhoid fever. Several were hospitalized.—*New York World-Telegram and Sun*

In 1964, the Public Health Service received 485 official reports of fish kills occurring in various fresh and marine waters of the United States. This was by far the largest number of reports ever received and the number of fish killed was also the largest, an estimated 18,387,000. Industrial pollution in 193 incidents accounted for the largest number (12,715,000) of the fish killed. Municipal wastes (4,100,000 fish) and toxic substances from agricultural operations (1,522,000) followed in second and third places. Out of the 485 separate kills, 15 were major disasters, involving more than 100,000 fish each.—*U.S. Dept. of Health, Education and Welfare*

Driftwood and floating debris in New York Harbor caused $8 million worth of damage to commercial and pleasure boats in 1962. Approximately 200,000 pleasure boats cruise the waters of the New York-New Jersey area. Over 5,000 of these comparatively thin-hulled craft incurred damage by collision with drift. Total direct and indirect cost as a result of damage to these boats amounted to $4.3 million.—*Survey by Port of New York Authority*

Almost as appalling as the facts of pollution is the scatter of effort expended by individuals, state and federal agencies, private citizens groups, and national organizations to stem the flow of pollution into the nation's waterways. While entirely commendable, these anti-pollution proponents somewhat resemble Stephen Leacock's hero who jumped on his horse and rode off in all directions.

United States Senator GAYLORD NELSON (Wis.), in introducing legislation to strike at pollution of the Great Lakes and other navigable waters by ships and marine terminals, stated: "There are already six federal agencies empowered to deal with vessel pollution under 12 different laws but none of them attacks the problem directly and enforcement is so cumbersome as to be almost meaningless."

The situation was aptly summarized in a 1965 bulletin of the Sport Fishing Institute: "A major need in strengthening water pollution control programs is strong federal authority to define adequate water quality criteria as goals for water cleanliness that must be met, at least on interstate waters."

Fortunately this need was finally recognized by the federal government last year. On October 2, President Johnson signed into law the Federal Water Quality Act of 1965. In brief, this act proposes "to enhance the quality and value of our water resources and to establish a national policy for the prevention, control, and abatement of water pollution."

In signing this new act, President Johnson declared: "This moment marks a very proud beginning for the United States of America. Today, we proclaim our refusal to be strangled by the wastes of civilization. Today, we begin to be masters of our environment. But we must act, and act swiftly. The hour is late, the damage is large."

Even as President Johnson poised his pen over federal parchment, state solons continued their long-standing practice of scrambling around in confused circles, waving bills and proclaiming the horror of their states' dirty water. Their constituents demanded action, and action they'd get, by Jupiter!

Unfortunately, most of these well-intentioned senators and representatives have searched for, and found, an ideal scapegoat for their proclamations—the pleasure boatman. With splendid bureaucratic astigmatism, these learned legislators have overlooked the major causes of water pollution—municipalities and industry—and waggled their accusing fingers at the idle, rich, and vulnerable boatman who, quite obviously, dumped his filth directly into crystal clear waters throughout their states. They have found him the perfect target for their anti-pollution efforts.

No matter that their waters were far from crystal clear; no matter that boatmen contributed but a minute fraction of wastes to total water pollution; boatmen used their heads while on board, and heads had to go.

The resulting legislation, rushed through by many states in haphazard fashion, has required the boatmen to adhere to one or more of four options. He can—indeed, *must*—(a) completely stop pumping his head, and seal off his discharge opening; or (b) macerate and chlorinate his wastes before discharge; or (c) hold his wastes in a tank until they can be pumped into a shoreside sewerage system or overboard if far enough out to sea; or (d) incinerate his wastes before discharge.

An impartial examination of the three existing systems of anti-pollution devices reveals the following advantages and disadvantages:

CHLORINATORS

Chlorinators are devices designed to hold sewage for a least a nominal period of time to permit introduction of dosages of disinfectants to kill bacteria in the sewage. To meet any reasonable health standard, such units must be equipped with a macerator or with some other type of agitator that will cause the breakup of solids to permit disinfection and to inhibit settling of solids in the chlorinator.

Chlorinators are perhaps the most prevalent devices used to date. They generally employ household chlorine, easily obtained at marinas, marine supply houses, and supermarkets. A given amount of chlorine is metered into the device to perform the desired operation of rendering the effluent nontoxic to humans, fish, or wildlife.

In a report prepared for the New York State Department of Health in 1962 by Syracuse University, it was noted that chlorination devices must retain the waste materials for a minimum period of time to assure adequate treatment by the disinfectant. Persons unfamiliar with the device could therefore keep it from doing its job if they operated the discharge mechanism in less than the required time. Also, should the boat owner allow the supply of disinfectant to run out, there is no way the unit can be designed to continue to hold the wastes until a disinfectant is introduced.

Chlorination devices also are designed to work with or without the introduction of the disinfectant. Frequently, it is without, for no way exists to force a boatowner to replace an empty container of disinfectant. A personal inspection, by this reporter, of a number of cabin cruisers on New Hampshire's Lake Winnipesaukee revealed that many installations were inoperative or that the chlorine containers were empty and obviously had been for some time. The owners of two of Winnipesaukee's largest marinas confirmed these personal observations.

INCINERATORS

These units are designed to trap the waste material, generally in a previously inserted bag, and to hold the wastes until the device is activated. Upon activation, the bag with the sewage is dropped into a burning chamber where it is consumed by a burner ignited by turning the burning control as prescribed. These units are usually provided with exhaust fans to remove odors from the area to overboard vents. Generally, appropriate controls are provided to assure that the device cannot be activated when the toilet is in use.

The principal objections to units of this kind relate to their size and to the fact that most use propane gas as fuel. In other respects, they are considered to be the most effective anti-pollution device because they destroy the wastes entirely.

HOLDING TANKS

A holding tank is simply a waste tank placed on board the vessel and attached to the marine toilet so that all materials are pumped from the toilet into the tank. Such devices can be emptied in one of two ways: the first through a pump attachment which empties the tank into a shoreside sewer system or septic tank; the second by pumping the materials directly into the waters of the lake or ocean.

If holding tanks are to be pumped ashore, relatively expensive sewer installations at marinas are required. Holding tanks also require considerable space on board boats, where space, regardless of the size of the boat, is always limited.

With three anti-pollution systems available to boatmen, and with each system being represented by a number of manufacturers supplying various models of their devices,

legislators had a golden opportunity to display their individuality. That they have succeeded is evidenced by a cursory inspection of existing—or pending—anti-polluton laws. No two are alike.

The State of New Hampshire, which pioneered anti-pollution laws by enacting legislation as early as 1958, requires maceration and chlorination of wastes. But holding tanks are also approved, and officials will tell you—off the record—that they favor tanks over chlorinators. Boat owners and marina operators on the state's large system of lakes also seem to favor holding tanks.

This summer, most attention in the country will be focused on the states of Minnesota and Wisconsin, both of which have enacted boat pollution legislation. Minnesota approves two chlorinator types, although officials of the Minnesota State Water Pollution Control Board will tell you confidentially that they see little value in the chlorinators they have approved. Most officials readily agree that a holding, or retention, system is the only workable solution.

In Wisconsin, only retention systems are approved. Tremendous pressure has been applied to this state to also approve chlorinators, but they have stood their ground. The Wisconsin State Health Department feels that all treatment devices are worthless.

Since Minnesota and Wisconsin share the waters of the St. Croix River, most owners in the two-state area are installing retention systems. To accommodate these holding systems, pumpout stations are being set up at major marinas throughout the two-state area. It will be interesting to see, however, if chlorinator-equipped boats from Minnesota will be forbidden use of Wisconsin's part of the St. Croix River.

In California, local laws forbid the discharge of any matter, treated or untreated, into the water. There is no state legislation regarding any of the three available systems.

In Mississippi, on the Ross Barnett Reservoir, every boat must have its through-hull fitting sealed, thereby approving only holding tank systems.

In Illinois, on the Chain-O-Lakes, all boats with toilets must have their through-hull fittings sealed.

Colorado prohibits the discharge of any wastes, treated or untreated, into its waters.

Alabama has no legislation pertaining to pollution, but is contemplating an anti-pollution act in the near future.

Nebraska's anti-pollution law is rather vague, simply stating that toilets "shall handle and treat solid and liquid wastes in a manner that will prevent water pollution." However, the regulation continues: "No wastes or container of such wastes shall be placed, left, or discharged in or near any waters of this state." By inference, the state only approves holding tank devices.

Montana permits devices that discharge an effluent to acceptable standards. The state also accepts holding tanks, but recommends neither device.

States without specific legislation pertaining to marine toilets and treatment or holding devices, frequently rely on a general law that prohibits the discharge of litter, garbage, sewage, refuse or other contaminants. Most often the law is ignored because it lacks teeth to bite violators. The boat owner is allowed to flush his toilet directly into inland waterways without a specific law stopping him.

Other states have held off enacting anti-pollution laws for an all too common reason: lack of funds. In a letter we received from Roy M. Harris, Director of the Washington State Pollution Control Commission, he aptly states the case: "We have held a number of discussions relative to proposing legislation on this subject (marine toilets) but no final decision has yet been made. The futility of passing such legislation without sufficient budget appropriations for adequate enforcement is obvious, and to date there has not been sufficient public demand for action of this nature to assure success."

In an effort to determine the nature and extent of pollution of the nation's waters by recreational watercraft and to make recommendations relative thereto, in 1963 the National Association of State Boating Law Administrators (NASBLA) appointed an investigative committee. Its report, delivered on November 8, 1965, is probably the most thorough survey yet made of water pollution as related to pleasure boats. It represents thousands of man-hours and the review of millions of legislative words.

Included in the report is a somewhat controversial model anti-pollution act that will undoubtedly influence many states not yet carrying such acts on their law books. In fact, numerous states have postponed anti-pollution legislation until they have had a chance to thoroughly study the report. On the other hand, a survey by this magazine revealed that many state agencies are not aware of the report or even of the association that prepared it.

### LEGISLATION VARIES

A brief summary of the highlights of the NASBLA committee report reveals no particularly startling information. More important, perhaps, the report points out the general inconsistency of anti-pollution legislation, and the facts, figures and administrative thinking relating thereto.

At the time data for the report were being collected, a total of 23 states had already adopted legislation controlling the discharge of sewage into the individual state's waterways. This legislation, however, was notable for its divergence, the laws of one state having little or no resemblance to those adopted by others. The picture was further complicated by the propensity of a state to select one type of antipollution device and to permit only its use in that state. Whether this was done deliberately or in ignorance of the existence of other devices is not known. However, the NASBLA committee remarked, such arbitrary selection of devices further complicated the mobility of boats cruising on the waters of more than one state.

Expecting to find that many states had made surveys on the extent of pollution of waters by recreational watercraft, the committee was able to locate only two. One report dealt with the effect of pollution from houseboats in the vicinity of Portland, Ore., and was prepared by the Oregon State Sanitary Authority. The second report, entitled "Survey of Marina and Watercraft Use in Relation to the Public Health Aspects," was jointly prepared by the Macomb County Health Department and the Michigan Department of Health.

With little information at hand, the committee prepared its own questionnaire, which it sent out to some 200 state and federal agencies, including public health departments, water pollution control boards or commissions, state boating law administrators, and virtually every federal agency having any connection with waters used for recreation. More than 90 replies were received, representing one or more agency in every state.

An analysis of the two available reports and the questionnaires returned to the committee established the fact that very few officials believed that pollution attributable to recreational watercraft was much of a problem. It was concluded that a maximum of 10% of the recreational watercraft of any one state contained marine toilets, and that the national average would be probably less than 5%. It was found that only a very few watercraft were used for any extensive periods of time as dwellings, and that most use was concentrated on weekends, holidays, and summer vacations. Further, the boating season of most states was found to be rather limited with the exception of the southern, southwestern, and western states.

Based on the assessment of the committee of the total boating population in this country with marine toilets, the patterns of use of such craft, and the total days per year they are in operation, it was the opinion of the committee that the pollution of the Detroit River (1.6 billion gallons per day flows into it and then to Lake Erie) caused by municipalities and industries is of greater national concern than such pollution as is caused to the nation's waterways by the total recreational boating fleet of the *entire country*.

### WHAT TO DO?

Predicting that legislation prohibiting entirely the discharge of marine toilets on the waters of a given state will continue to be passed in the future as it has in some instances been in the past, the committee was then faced with a choice of action. Should it oppose each and every attempt to curb pollution caused by recreational boating, even though it represents a minute fraction in the total pollution picture? Should it advocate a total program to correct all pollution as an alternative to regulations covering boating alone? Or should the NASBLA continually refer to its report and its conclusions in hopes that this alone would reduce legislative activity in this field?

Opposition, naturally, to anti-pollution laws was out of the question. The committee didn't wish to be keelhauled. Regulations would continue; they would undoubtedly vary from state to state; many, if not a majority, would completely prohibit discharge of wastes in any form, treated or not, from marine toilets; and such non-uniform regulations would be injurious to the interstate mobility of recreational boating that the committee was trying to promote.

The solution suggested, and adopted, by the committee was the preparation of a model anti-pollution law designed to avoid the shortcomings of present regulations and still alleviate the problem of the discharge of untreated wastes from recreational watercraft.

Having provided a highly commendable and frequently provocative survey on pollution in the light of pleasure boating, the committee unfortunately chose the easy way out in drawing up its model act. It concluded, perhaps in a rush to finish up the job, "that suitable and adequate devices are presently available for installation aboard recreational watercraft that will treat sewage to a standard acceptable to most health officials."

Despite an impartial survey of chlorinators, incinerators, and holding tanks—which pointed out the numerous disadvantages of each system—the committee hedged again by stating: "Since any of the three units above are acceptable treatment devices, and since the selection of one of the three by a boat owner will be based on personal considerations, it is recommended that a model law permit the use of any of the three devices."

If, as the committee states in its report, "many, if not a majority, (of states) would completely prohibit discharge of wastes in any form, treated or not, from marine toilets . . ." then its conclusion and its sanction of all the available devices is not only naive but ill-advised.

### WHY NOT FACE IT?

It is the considered editorial opinion of this magazine that if pleasure boat owners are to be required to cease even their miniscule contribution to the pollution of our nation's waterways, there is only one way to achieve success—*stop pumping effluents over the side.*

Anything thrown, poured or pumped over the side of a boat contributes to pollution. Most visually evident, of course, is litter: milk cartons, glass bottles, plastic bottles, and the like. Even a beer can, carefully punctured at both ends and sunk with a satisfying glug-glug, indirectly contributes its share of pollution. It may be out of sight, but its process of rusting deprives the water of a certain amount of oxygen. Fish and plant life need oxygen to live. Take away enough oxygen from the water and you'll eventually kill fish and plant life.

A report to the White House recently released by the National Academy of Sciences predicts that by 1980 the discharge of sewage and other organic wastes will be sufficient in volume to purge the oxygen from all 22 of the nation's chief rivers during their dry-season flow.

Pour enough oil, gasoline, detergent or acids into a river or lake and you'll wind up with an uninviting sludge that will eventually contaminate shallow waters and beaches to the extent that they must be closed to swimmers.

Pump enough raw sewage into the water and the effects are both obvious and unsavory. Pump even the most carefully treated sewage into the water and the *effects are basically the same.* Boatmen, manufacturers, and anti-pollution proponents should not delude themselves by thinking treated sewage does not contribute its share to pollution. *It does.*

Even the most efficient marine toilet chlorinating device, operated according to its manufacturer's instructions, and producing an effluent acceptable to present health department standards, contributes to pollution. Chlorine may render the effluent theoretically non-toxic to humans, fish, and wildlife, but its eventual disintegration robs the water of oxygen and nutrients vital to the support of such life. Even the most thoroughly macerated effluent is reduced to only the approximate size of a pea, and this effluent either sinks to the bottom or is washed ashore to beaches, riverbanks, or lakeshores where it effectively mucks up the waterside or clogs and kills plantlife.

The above observations—nay, truths—presuppose that chlorinating devices are properly operated by the boatowner. In point of fact, however, many of them are not. The device—as noted—may run out of chlorine or other disinfectant, and nothing in the device automatically stops it from pumping raw sewage over the side. The effectiveness of chlorinating devices is in direct proportion to the conscientiousness of the boatowner. And, for all practical and financial purposes, there is no way to enforce a boatowner to operate a chlorinator in the prescribed manner.

Incinerating devices are, theoretically, the best marine toilet attachments. They completely consume wastes on board and nothing need be deposited over the side. Unfortunately, they require tremendous heat (2100° F.), produce a high (200°–450°F.) flue temperature, and require the use of propane gas. The uncertainty, and possible danger of operating gas devices on board a boat cannot be recommended.

THE ONLY SOLUTION

Holding tanks, therefore—even with the drawbacks already noted—seem to be the only solution.

Retention tanks are generally available in two models: those that must be pumped out only into a shoreside facility; and those that may be pumped out either at a facility or overboard. Obviously, the former model, and only the former model, should be installed on boats plying the inland waterways.

But what about the boatowner who occasionally takes his boat ten or more miles offshore? Can he legitimately pump his tank overboard? We believe he can. He represents a fraction of the boating public, and generally speaking, very few skippers with boats under 30' take their craft beyond three or four miles offshore. Those skippers who do not normally venture out beyond ten miles should be required to equip their boats with retention tanks that may be pumped only to shoreside facilities.

We would suggest, therefore, that the criterion of whether a boat may be equipped with an offshore pumping device for the retention tank be the length of the boat. Admittedly, this criterion has some loopholes, but we believe they will be insignificant.

Holding tanks have their disadvantages, too. Until recently, most tanks required considerable space for installation. Now, one manufacturer, Monogram Industries, Inc., 8525 Stellar Drive, Culver City, Calif. 90231, has come up with a marine toilet with a self-contained tank that is only slightly larger than the standard marine head. Monogram has pioneered in the field of holding tanks, having developed and supplied most of the major airlines with their in-flight toilet facilities. At present Monogram is the only manufacturer supplying holding tanks specifically for the marine trade. There are, however, some 25 firms that make tanks for the trailer industry and these may be modified for marine use.

Some marina operators will undoubtedly raise objections to any law requiring them to install the necessary pumping-out equipment, even though such equipment currently may be installed for an average of $500. But, we ask, which would they prefer—the installation of pumping-out equipment or eventual legislation completely barring any boat with an overboard discharging head, which would ultimately reduce the number of pleasure craft upon inland waterways?

Dr. J. B. Askew, Director of the San Diego City and County Department of Public Health and Chairman of the San Diego Regional Water Pollution Control Board No. 9 has prophesied; "Sooner or later, when things get bad enough, enforcement programs with real teeth in them must begin."

We believe that the time has arrived—*right now.* If boatmen are being charged with contributing to water pollution, let us admit it is so, however small the degree. Let us also be realistic and admit that the only way to stop our contribution to pollution of waterways is to stop pumping sewage, untreated or treated, over the side.

Is there truly any other solution?

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## LATIN AMERICANS MOVE WISELY TO CURB DROPOUTS

Mr. TOWER. Mr. President, I wish to call to the attention of the Senate and ask that there be printed in the RECORD an editorial and an article from recent issues of the Abilene Reporter-News.

These items describe the local efforts being made there to retain in school students who otherwise might become dropouts. It is clear to me that despite all the Federal programs and national speeches on the subject, the final responsibility and the best opportunity for helping potential dropouts rests on the local level with their neighbors and friends.

I am proud that this Texas community has taken on this project. As a former teacher I know full well that the future of our Nation rests on the education of our children. Abilene, Tex., and the Nation will benefit from these wise moves to ameliorate the dropout problem.

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

[From the Abilene (Tex.) Reporter-News, May 29, 1966]

LATIN-AMERICANS MOVE WISELY TO CURB DROPOUTS

Latin-American leaders are showing commendable initiative and a constructive approach in trying to show the way to young people of their community to prepare themselves for the future.

The 21 Club and the GI Forum are pushing an effort to prevent children of Latin-American families from becoming school dropouts.

A meeting for this purpose was held at Mann Junior High School last week. On June 3, another meeting of junior and senior high school Latin-American students of the city will be held at Sears Recreation Center.

Ben Aguirre, who with Frank Rodriques and Manuel Hernandez conducted the meeting with Mann Junior High Latin-American students, gave this very wise advice:

"You will be making the biggest decision of your life this summer when you decide whether to come back to school in the fall."

Aguirre and his associates are trying to intercept the dropouts at an appropriate time. Many quit school after junior high.

Aguirre urges them not only to finish high school, but go on to college. "In this day and time," he told the students, there are many ways all of you can go to college, and we solemnly promise you we will do everything humanly possible for those of you who want to take this step."

He urged the youngsters to think positively, to participate in school activities to "earn the admiration and respect of your teammates and teachers."

Aguirre challenged the students in conclusion:

"Three years from now, I expect graduation invitations from all of you."

Here is an admirable program, initiated by the people most concerned with the problem, which merits not only the support of Latin-Americans, but of every facet of the Abilene community.

Abilene has enough service clubs, fraternal organizations, women's clubs and veterans' groups to fill a good sized directory. Here is an opportunity for service that can be seized by many of these, with unmeasured good to result for the efforts.

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[From the Abilene (Tex.) Reporter-News, May 26, 1966]

EARN RESPECT, DON'T DROP OUT, LATIN STUDENTS HERE URGED

"You will be making the biggest decision of your life this summer when you decide whether to come back to school in the fall," Ben Aguirre told Latin American students at Mann Junior High School Tuesday.

The talk by Aguirre is part of a drive by Latin American leaders aimed at stemming the high rate of school drop-outs. Clubs leading in the drive are the 21 Club and the GI Forum.

Joining Aguirre at the school event were Frank Rodriques and Manuel Hernandez.

"We hope to influence you into going ahead and finishing high school and going to college," Aguirre said. "In this day and time there are many ways all of you can go to college, and we solemnly promise you we will do everything humanly possible for those of you who want to take this step.

"We have got to think positive," he told them. "A good way to learn to think positive is to participate in all you can in school—be it football, basketball, baseball or ping pong.

"Earn the admiration and respect of your teammates and teachers," he admonished them.

"They are all for you, not against you.

"You have one of the finest groups of teachers and coaches in the world," he reminded them. "Try to respect them like you would expect to be respected."

Aguirre also encouraged the girls to go on to high school and perhaps college so that they can better train themselves to be good wives and mothers.

"Look around you," he said. "See your own brothers and sisters married in their prime, now tied down with two or three children. Do you want your children to be drop-outs?"

"Three years from now," he concluded, "I expect graduation invitations from all of you."

Recognized as National Honor Society members at Mann were John Padilla, George Solis and Eunice Flores. Aguirre praised them for their achievements and named other Mann students who have been outstanding students: Mary De la Garza, Richard Tolentino, Mary Alva, Sylvia Padilla, Tony Lopez, Angelina Gonzales, Frances Moncibaiz, Joel Loya, Rosa Gonzalez, Manual Jimenez, Robert Garcia and Carlos Rodriquez.

Virginia Lopez, Abilene GI Forum Junior Queen, also participated in the program.

Aguirre said the next phase of the program will be a June 3 meeting of all junior and senior high school Latin American students at the Sears Recreation Center.

## TRIBUTE TO THE SOUTHERN STATES PROBATION AND PAROLE CONFERENCE—RESOLUTION OF THE OKLAHOMA LEGISLATURE

Mr. HARRIS. Mr. President, we in Oklahoma are proud that the Southern States Probation and Parole Conference is holding its annual conference in Oklahoma City, Okla., on June 5, 6, 7, and 8, 1966.

The Oklahoma Legislature last session recognized this fine group and made note of the fact that the State of Oklahoma was honored by the selection of Charles C. Chesnut, of Miami, as president of the Southern States Probation and Parole Conference.

Mr. President, I ask unanimous consent that a copy of that resolution, Enrolled House Concurrent Resolution 564, be printed in the RECORD.

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

ENROLLED HOUSE CONCURRENT RESOLUTION No. 564

A resolution extending a cordial welcome to the representatives of other States attending the Southern Probation and Parole Conference

(By Mountford of the House and Gee of the Senate)

Whereas, the Southern States Probation and Parole Conference in conjunction with the Southern States Prison Association, have voted to hold the annual Conference at Oklahoma City, Oklahoma on June 5, 6, 7 and 8, 1966, at the Skirvin Hotel; and

Whereas, Oklahoma is honored by the selection of a citizen of this State, the Honorable Charles C. Chesnut, of Miami, as President of the Southern States Probation and Parole Conference; and

Whereas, Governor Bellmon has heretofore extended a warm invitation to these groups to come to the nation's most cosmopolitan area, situated in the heart of America, where the North embraces the South land, and the customs of the East blend with the traditions of the West: Now, therefore, be it

*Resolved by the House of Representatives of the Thirtieth Session of the Oklahoma Legislature, the Senate concurring therein:*

SECTION 1. All officials, employees and agents connected with the State government, as well as all citizens of Oklahoma, are urged to cooperate in making this conference a success and demonstrate the unequaled genuine hospitality and warm friendship of the State of Oklahoma.

SECTION 2. That Oklahoma extend a cordial welcome to the official representatives of the great states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia and West Virginia.

Adopted by the House of Representatives the 7th day of July 1965.

J. D. MCCARTY,
*Speaker of the House of Representatives.*

Adopted by the Senate the 12th day of July 1965.

LEON FIELD,
*Acting President of the Senate.*

## THE JOHN BIRCH SOCIETY

Mr. McINTYRE. Mr. President, on May 24, 1966, I inserted a newspaper editorial which had been printed in the Rochester (N.H.) Courier, in the CONGRESSIONAL RECORD. The editorial was, in my opinion, a well balanced, rational, dispassionate analysis of the John Birch Society, and it concluded that the John Birch Society was a threat to our American way of life.

Last week, I received a letter from a Mr. Thomas J. Davis, whose title appears to be "Reg. Mgr., Public Relations" of the John Birch Society, Inc.

Mr. Davis described the editorial which I had inserted in the CONGRESSIONAL RECORD as a "scurrilous newspaper article." In his words:

Apparently, due to your personal disagreement with the Society, you are willing to go to extremes in attempts to discredit us.

Now, Mr. President, I wish to completely disavow the allegations made by Mr. Davis. I am not willing to go to extremes in attempts to discredit the John Birch Society. I see no need to go to extremes to discredit the John Birch Society. The John Birch Society, in my opinion, is perfectly capable of discrediting itself without any attempts, extreme or otherwise, from me.

Mr. Davis apparently agrees with me—knowingly or not, for he enclosed with his letter to me a copy of a letter addressed to the editor of the Rochester Courier. The text of this letter amply discredits the John Birch Society, without any attempt on my part—extreme or otherwise—to contribute to the result.

I would like to make it clear that I am not violating any confidences by requesting that this letter to the editor be printed in the CONGRESSIONAL RECORD. I do not wish to be accused of publishing this letter from Mr. Davis in an extreme maneuver to discredit the John Birch Society. I would like to make it clear that, in his covering letter to me, after describing the article which I inserted in the RECORD last month as "scurrilous," and after accusing me of personal extremism, Mr. Davis requested that his reply to the Rochester Courier be inserted in the RECORD. In his words:

It would only seem fair that we be allowed honest representation of our views.

Therefore, Mr. President, I ask unanimous consent that a copy of the letter from Thomas J. Davis, regional manager, public relations, the John Birch Society, to the editor of the Rochester Courier, be printed at this point in the RECORD.

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

JUNE 1, 1966.

EDITOR, ROCHESTER, COURIER,
*Rochester, N.H.*

DEAR SIR: Your newspaper editorialized on May 12, 1966, that The John Birch Society was seeking to establish a "dictatorship" in this country. The basis for your editorial was a feature article which appeared in the Press-Herald, Portland, Maine on May 5th.

In an interview with Mr. William Langley of the Press-Herald, I said The John Birch Society believes that, "Our own American Constitutional Republic was the finest form of government yet devised by man."

My reference to a "benevolent dictatorship" was simply that if and when Almighty God came down to rule this earth, that would be the best form of government for man, but we did not anticipate that happy circumstance. A benevolent dictatorship clearly implies complete justice and complete freedom and is as far removed from the injustices and terror of the Nazi rule and Communist slavery as your editorial is from a truthful representation of what The John Birch Society had to say in Portland, Maine.

I would greatly appreciate your printing this letter so that the confusion you have created, will be dissipated.

Sincerely,

THOMAS J. DAVIS,
*Regional Manager,*
*Public Relations.*

(cc: Hon. THOMAS J. MCINTYRE; Hon. NORRIS COTTON; Hon. John H. Rousselot; Dr. Francis X. Gannon; Mr. Arnold Forster, ADL; WCBS-Radio N.Y.C., Mr. Ed Joyce.)

Mr. McINTYRE. Mr. President, this letter is a masterpiece of discredit for the John Birch Society. It masks itself in words and phrases which all Americans respect and revere. It speaks of our Nation, and of Almighty God. But hidden behind this phoney hypocritical front can be seen the real philosophy of the John Birch Society. I quote:

A benevolent dictatorship clearly implies complete justice and complete freedom.

Mr. President, what a completely discreditable thing to say. What a shabby parody of the lessons of two centuries of American history. What a callous disregard for the notion that freedom and justice are arrived at by a government of, by and for the people, and not by some sort of "benevolent dictatorship."

Mr. Davis, however, the spokesman for the John Birch Society, sticks to his guns. His mind is clear. The implications of dictatorship are clear. I repeat what he has written:

A benevolent dictatorship clearly implies complete justice and complete freedom.

Mr. President, I have tried to stick to the precise words which Mr. Davis used. I do not wish to be accused of extreme attempts to discredit the John Birch Society. Nevertheless, I am willing to stand accused of moderate, middle-of-the road attempts to help the John Birch Society discredit itself. And so I would like to speculate a bit that perhaps Mr.

Davis did not really mean to have his praise of dictatorship taken at face value.

I would imagine that the key factor in the decision whether the John Birch Society approves of a dictatorship lies in who is doing the dictating.

For example, I am quite certain that the John Birch Society would not place its stamp of approval on any person who presently holds elective office or cabinet office in the U.S. Government. No man who could get the vote of the American people would, I imagine, qualify for the Birch Society's endorsement. None of our recent past Presidents, Kennedy, Eisenhower, Truman, or Roosevelt would obtain the seal of approval.

It is my impression that the sort of benevolent dictatorship which the John Birch Society has in mind would be one headed by some right-minded citizen, preferably a member of the society. Then and only then would the society feel secure about proclaiming its creed, in the words of Mr. Davis, that—

A benevolent dictatorship clearly implies complete justice and complete freedom.

Now, Mr. President, there are some people who really believe that the John Birch Society is made up of great American patriots. There are some Americans who really believe that complete justice and complete freedom will come about through a dictatorship. But before the Senate gets too alarmed about this phenomenon, I would hasten to point out that there are many people who believe in Santa Claus, Superman, and Snow White and the Seven Dwarfs.

## VIETNAM LETTER BY A U.S. MARINE COMBAT CORRESPONDENT

Mr. TOWER. Mr. President, a U.S. Marine combat correspondent, Sgt. Greg Pearson, has written a most touching and inspiring letter containing his thoughts on the Vietnam situation. This letter, printed in the Denton Record-Chronicle in Texas, shows the commendable spirit and motivation of our fighting boys in this war. I ask unanimous consent that this revealing letter be printed at this point in the RECORD.

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

PATIENCE NEEDED IN WAR—"FEAR MUST NOT PARALYZE"

(EDITOR'S NOTE.—The following is a portion of a letter from Viet Nam, written by a U.S. Marine combat correspondent, Sgt. Greg Pearson of Denver. Sgt. Pearson is assigned to the Marine combat news unit at Da Nang. The letter was written to Wick Fowler, after Fowler returned home from reporting the Vietnamese war for the Denton Record-Chronicle.)

"We have been greatly heartened by the B–52 bombing raid over North Viet Nam. We've just got to be tough. Not recklessly so, for that will only lead to greater troubles, but courageously so.

"I still don't think the North Vietnamese believe that our government really has the will to win this thing. I'm sure they study our Gallup Polls, realize the implications of the upcoming general elections in the States, they know that the American people are becoming impatient and that we don't like hardship, and they think we may pull out, or settle for something far less than we should.

"However, if we get firm, if we start knocking hell out of them, they may see the light. They may realize that we really are here to win. They know we have the resources to win. Now we have to convince them that we have the will to.

"The American people are going to have to learn to be patient, that's all there is to it. We cannot pull out of Viet Nam, for if we do, we give up all of Asia. And I'm not one of those who believes the Occidental has no right in Asia. We have as much right here as we do in Europe, no matter what De Gaulle must think.

"We must grow thicker skin. We should not worry so much about what our critics say. In a way, we must become like the Russians. If we need to do something, if we feel it is right for our way of life, then we must do it regardless of world opinion.

"Patience and fortitude and guts are what we need. If we pull out, then we have wasted the lives of hundreds of American youngsters. If we stay and win—as we can in the long years ahead—then they will not have suffered and died in vain.

"I have always felt that the only hope for this country of South Viet Nam lies with the very young. We must provide them with security from fear and oppression. We must provide them with educational opportunities, with better health facilities. We must provide them with hope for a better life, which only they can forge, but which we can initiate.

"When the youngsters, now 5 and 10 years old, come of age, I think we will see that we have been justified. For I am convinced, deeply, that most men appreciate freedom and independence and self-betterment. They want a better life for their children.

"The children are the hope of the world, and that isn't a trite belief on my part. I hold to it dearly. For every day I begin to lose patience, every time I start getting disgruntled and fed up and pesimistic, my hope is rekindled by the children.

"We can do it. But we must not shirk our responsibilities, nor must we seek the easy way out, nor must we shrink from hardship and suffering.

"The American people must learn that we are not here for the sake of the Vietnamese alone. We are here for our own sake, too. We have a great personal stake here. Others realize this. The Philippine government has authorized the sending of a 2,000-man combat engineer battalion to Viet Nam. The Koreans are sending another 20,000 troops. The Australians are contributing heavily. They realize their stake in this thing.

"Sometimes—and this is very personal—I wonder about getting seriously wounded, or even killed. It's not a pleasant thing to consider. It does frighten me. But if we become paralyzed by fear, we have given up life.

"Life is a constant struggle. When, and if, this battle is ever over there will be another. And another. This is what the American people must be cognizant of. This is why we must always be strong. This is why we must be ready to take suffering and hardship and even death.

"The alternative is to lock ourselves within our homes and stagnate, to quit living. I want my children to have courage. I want them to make sacrifices.

"But what kind of men and women would they become if they saw that their daddy lacked the guts to be the same way? I taught for two years. I learned that you can talk until you're blue, and still never make a lasting impression. But if you DO the things that you preach, then you teach.

"God knows, I have had my fill of Viet Nam. But I'm not trying to get out of it. I believe we should be here; therefore I must do my part.

"How can we expect the Vietnamese people to be unanimously united in this struggle? How can we expect them to rule properly, when they have never had the opportunity to rule before? How can we expect them to do things the right way, when they don't know what the right way is? How can we expect them to be more open in their support, when they have the constant fear of Viet Cong retaliation?

"I'm convinced that once we take away the fear, we will get on the right road.

"During the height of the demonstrations in Da Nang, we were on an operation near Chu Lai. Early one hot, miserable day we came to a village along Route One.

"There was an old man trudging down the road with one of those crossbars over his shoulder, carrying things. He was carrying two large sacks with grain. The sacks had the American shield and the clasped hands of friendship on them. They said something to this effect: 'This is a gift of the people of the United States to their friends in Viet Nam.'

"And there were children walking to school. And they were carrying boxes of crayolas and spiral notepads which they had just received from a junior high school in Santa Barbara, Calif.

"And the people smiled at us, the kids waved to us, and the old man nodded to us.

"We can win if we have patience. The Asians have an abundance of patience. The Communists have an abundance of patience And now it's time for the American people to begin to adopt patience by the bucketful.

"If we pursue this thing diligently, if the American people shed their near-sightedness and their constant need of soft living, if they get back a little of their innate hardness, we can do it."

## RURAL ELECTRIFICATION—WINNING ESSAYS

Mr. MORTON. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Nebraska [Mr. CURTIS] and five winning essays dealing with the value of rural electrification.

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

STATEMENT BY SENATOR CURTIS

The Nebraska Rural Electric Association has sponsored a youth tour to Washington for a number of years. The group is made up of those boys and girls who have been the winners of essay contests sponsored by their individual Nebraska rural power systems in cooperation with the Nebraska Rural Electric Association.

I am privileged to include five of these winning essays in my remarks.

WINNING ESSAYS

INFORMATION

*My name:* Barbara Ann Geisler.
*Age:* 16.
*Grade:* Junior.
*School:* Pleasanton High School.
*Name of Father:* Gerald Geisler, Riverdale Nebraska.

Contestant sponsored by the Dawson Public Power District, Lexington, Nebraska, in cooperation with the Nebraska Rural Electric Association.

THE VALUE OF RURAL ELECTRIFICATION TO MY COMMUNITY

Since its discovery during colonial times, electricity has profited and benefited the American family more than any other single invention. Electricity is responsible for most of the labor saving devices that have been developed to make man's life pleasant and his work more efficient. In our rural community, one can constantly see such improvements. With the help of electricity, farmers

can produce more and better farm products which greatly contributes to the fact that the standard of living in the United States is among the highest in the world.

To the farmer, electricity means fresh water every day for his stock and crops. Years ago he had to depend completely on nature; counting on the wind to turn the windmills and rain to satisfy the needs of thirsty crops. If nature failed him in any way, his chances for an annual profit were ruined. If nature provided sufficient water, it had to be stored and often became stale and full of disease germs before being used. Today, clean fresh water makes livestock healthier, faster growing, and more disease free. Thus, making a greater profit for the farmers and a higher quality product available to the consumer.

Once crops have been harvested, the power of electricity provides the storage and care essential to keep the grain from spoiling. The grain in the large bins and other storage equipment can be cooled and aired by electric fans as necessary until ready for feeding or selling.

Examples of labor and time being saved for the farmer by electric power tools are numerous. What the electric saw can do in a few hours in building and repairing could not be accomplished with the same accuracy, by hand labor in several days. The electric welder and other tools enable the farmers to repair machinery; saving himself both time and money.

In the homes of today, many of the family activities are centered around electricity. As one walks into a home, he can easily adjust the lights, heat, or air conditioning for his comfort. These conveniences are available with a "mere flick of a switch."

Rural electricity has given the homemaker the privilege of using all the modern appliances to maintain a better home. These appliances assure her of providing a tasty and large variety of foods for her family. Electric freezers, stoves, and broilers make it possible to store and prepare these foods safely and easily. The hot water heater, washing machine, clothes dryer, vacuum cleaner, and bathroom facilities enable the farm family to have tidy homes and clothes. To those members of the family who are students, electric typewriters, recorders and musical instruments have made learning more enjoyable. Much of the recreation enjoyed by families today is provided by electricity as televisions, stereos, and radios, can be found in almost every home.

Thank you, rural electricity for making farm life easier, more comfortable and much safer and for your constant efforts for new improvements.

INFORMATION

*My Name:* Linda Taylor.
*Age:* 18.
*Grade:* Senior.
*School:* Broken Bow High School.
*Name of Father:* Burrel Taylor, Broken Bow, Nebraska.

Contestant sponsored by the Custer Public Power District, Broken Bow, Nebraska, in cooperation with the Nebraska Rural Electric Association.

DEVELOPMENT OF RURAL ELECTRIFICATION IN MY AREA

The depression years of the 1930's saw the birth of the AAA, CCA, PWA, WPA and a host of other relief projects, but probably none influenced rural development in America as greatly as did the REA.

In 1935, when the Rural Electrification Administration was created as a relief project, only 7 out of every 100 farms in Nebraska had electric service. In Central Nebraska, the area now served by Custer Public Power District, the ratio was even lower. The Rural Electrification Administration offered government loans to private power companies to build power lines in rural areas. Most power companies felt that farmers could not afford electric service, so little interest was shown. It took the Rural Electrification Act of 1936, co-sponsored by Nebraska's Senator George Norris, to provide the stimulus to get rural electrification underway. Various specified types of organizations were authorized to finance construction of generation plants and electric transmission and distribution lines to provide service in rural areas.

Realizing that if rural electrification was ever to be a reality they must provide it themselves, farmers all over the nation tackled the job in earnest.

By 1963, less than two decades later, 97.5 per cent of Nebraska's farms were electrified. Thirty-one public power districts and three rural electric cooperatives with headquarters in Nebraska provide most of Nebraska's service today. Custer Public Power District, formed in 1945, and serving in ten counties is one of these public power districts.

With an initial government loan of $283,000, work on the Custer Public Power District was begun. Little more than a year later, the "A" section, near Weissert, was energized. Twenty years later, as a result of $7,000,000 in government financing, careful study, practical planning and a sound business operations on the part of the management, approximately 281 miles of high voltage transmission lines and 3,813 miles of primary distribution lines carry service to over 98 per cent of the eligible users within the area served by the district.

In 1945, forty kilowatt hours and $3.75 represented minimum service. Today the figures have risen to eighty-three kilowatt hours and $7, but few customers pay only the minimum.

Direct employment by Custer Public Power District have grown from fifteen employees in 1945 to sixty-five employees today. There is no way of calculating the indirect employment that rural electrification has created by way of industrial development. A whole new market has been created for the grocer—products for refrigerators and home freezers. The hardware dealer has been called upon to meet an ever increasing demand for items ranging from drills, saws, welders, and various power tools, to major farm equipment such as electric pumps, elevators, grinders, milking machines and only an ingenious farmer knows what else. The appliance dealer has found a ready market among modern housewives for the endless flow of labor saving devices that make modern homes as efficient and beautiful as their modern counterparts in the city.

Games, radios, record players and television, powered by electricity, provide both education and entertainment. Leisure hours of both rural and city folks are often spent at parks, lakes, and public recreation areas serviced by rural electrification.

Great as has been the change that rural electrification has brought in the development of urban and industrial life, even greater has been the change that it has brought in the development of agricultural life. Rural electrification has brought beauty, ease, efficiency and dignity to farm living. It is the key that will unlock the potential of the nation's agricultural economy.

INFORMATION

*My Name:* Larry Anderson.
*Age:* 16.
*Grade:* Sophomore.
*School:* Elgin Public High School.
*Name of Father:* Leslie Anderson, Clearwater, Nebraska.

Contestant sponsored by the Elkhorn Rural Public Power District, Battle Creek, Nebraska, in cooperation with the Nebraska Rural Electric Association.

DEVELOPMENT OF RURAL ELECTRIFICATION IN MY AREA

According to Webster, development means: to make more useable; to go through a growth process. These definitions apply to the word development as it is used in the story of growth of rural electrification in my area. In describing the growth of anything, one must begin with its formation. Most assuredly, we must give credit to Benjamin Franklin for the discovery of electricity.

A prime instigator in bringing electricity to rural America was Nebraska's Senator Norris. He sponsored the bill giving Congressional approval to lend $40,000,000 annually to promote rural electrification. In 1935, President Roosevelt signed the bill creating the Rural Electrification Administration; opening the door to provide electricity to even the most remote farm.

It was hoped that private power companies would utilize the availability of government money to extend power lines to rural Nebraska. But feeling this would be a poor risk, they refused.

So the determined Nebraskans banded together and organized their own power district. It would be impossible to mention the names of all the men responsible for developing REA in the Elkhorn Valley; and unfair, lest some deserving name by omitted. These farmers and businessmen worked together to turn dollars and dreams into miles of lines generating electricity. Nebraska is the only state served by electric systems owned and operated by its citizens.

Another major obstacle was the time . . . "The Dirty Thirties," 1934 and 1936 were dry and farmers' funds were limited. But they were determined to emerge from their life in the "Dark Ages." They wanted the conveniences of electric lights and appliances. Thus it was by their undaunted efforts that they continued and were successful in this great project. Countless meetings and individual effort finally accomplished the preliminary work. Maps and plans were drawn, appointments made, contracts let . . . and the dream of rural electrification began to take shape.

April 29, 1940, was a big day; for the first line was energized, 116 miles serving 148 consumers.

Further development was hampered by World War II. After the war, progress resumed. The network of lines spread into six counties . . . all of Antelope, Madison, and Pierce and portions of Holt, Boone, and Wheeler.

Growth of the Elkhorn Rural Public Power District is evident by these figures. In 1940, three employees operated the first line of 116 miles and one substation. In 1956, the 1,813 miles of line served 3,325 customers in five counties. Now, 26 years old, the District has 1,915 miles of line with eight substations serving 33,552 consumers in six counties. The organization has seventeen people on the payroll with its main office in Battle Creek and a branch office in Neligh. The organization, directed by a board of nine elected men, plan for the provision of electricity for present and future needs.

Besides bringing electricity to remote areas at reasonable rates, this power is being used to develop new industries . . . thus expanding Nebraska both economically and socially.

INFORMATION

*My Name:* Tom Emerton.
*Age:* 17.
*Grade:* Junior.
*School:* Loup County High School.
*Name of Father:* Herbert Emerton, Sargent, Nebraska.

Contestant sponsored by the Custer Public Power District, Broken Bow, Nebraska, in cooperation with the Nebraska Rural Electric Association.

WHAT RURAL ELECTRIFICATION MEANS TO ME AND MY COMMUNITY

When rural electrification was born into this area by the Custer Public Power District and funds from the federally organized R.E.A., it found a region usurped by the ten-hour day: a country of industrious citizenry

who were struggling to complete their daily work during the daylight hours. Farmers and ranchers were unable to understand that they could profit enough from electricity to pay the monthly charges let alone the initial cost of wiring.

Today, Willie the Wirehead and his magic current have transformed this area into a prosperous, modern part of Nebraska. Electric power has replaced muscle power. It has eased the backbreaking labor of the farmer, rancher, and businessmen. Modern conveniences, run by electricity, have lessened the load for everyone. Today rural electrification aids in harvesting crops, drying grain and running dairy farms. It irrigates pasture and crop land, feeds cattle and warns the farmer and rancher of storms in this area. Electricity is leading the farmers and ranchers to what was once believed an imaginary fairyland of push-button agriculture.

In the home, modern electric appliances have replaced the clothes line, ice box, the wood and coal stove, and the kerosene lamp.

In the towns and villages of this area rural electricity has also become a way of life. It is aiding the business man in storing his products, heating his buildings, advertising his goods and keeping his records.

Rural electrification has provided this area with more recreation. Theaters, bowling lanes, lighted parks, and athletic fields have given us something to do in our leisure time which is also a direct result of electrification.

Electricity furnished by our local district has aided in supplying us with communications which are just as modern as any in the world. It has led us to better educations by providing us with electrically powered audio and visual aids. It has also led the still young educational television into our schools.

Yes, we in this area have come to depend on electricity so much that stand-by power plants to generate electricity have become a convenience and even a necessity for many farmers, ranchers, and businessmen. It has become a necessity because of the many operations that depend on electricity for power. Electric equipment supplied by electric energy is the most satisfactory from every angle. We rely on it and depend on an abundant supply. If it fails, we find ourselves in a strange world—a world of a generation ago, a world suddenly become cumbersome again. But this change has only lasted for a short time because power failures in Nebraska and especially in this area have remained at a minimum.

Man is constantly motivated to do better, to improve conditions, to add to his material and spiritual assets and to leave a better world behind him—better than the one he entered. Thus, we have the reasons for the tremendous progress of rural electric power, for the purpose of rural electrification is to improve all rural and urban America.

INFORMATION

*My Name:* Richard Psota.

*Age:* 16.

*Grade:* Junior.

*School:* Ord High School.

*Name of Father:* Edward Psota, North Loup, Nebraska.

Contestant sponsored by the Loup Valleys Rural Public Power District, Ord, Nebraska, in cooperation with the Nebraska Rural Electric Association.

LIFE BEGINS WITH REA

God commanded, "Let there be light" in the beginning. Since then, it has echoed and reechoed down the halls of time, picking up new meaning and importance with each reverberation.

Ever since the beginning of man, there has been a source of light. In the beginning, man was afraid of lightning and the harm it could do. As the years passed, man began to gain more knowledge, through trial and error, and by chance.

These early days were not pleasant ones. It was racked by fear, doubt and superstition, the height of which was reached each day when the sun went down and left him alone in the dark. The next step in his progress came with his accidental discovery of fire. Perhaps it was a bolt of lightning or the lava from a volcano that revealed this secret to man, but at any rate he now controlled light for the first time. With it he could see at night and cook his food. As time passed and man experimented with fire, he used it to cure hides, form weapons, sterilize wounds and use it in many ways to improve his life on earth.

It was not until the Renaissance (16th Century) that the first form of electricity was noted, namely static electricity. Then man discovered that lightning was a form of static electricity and saw the tremendous potential energy in it. Following years of experimentation and theorizing, electricity was harnessed and the reins were in the man's hands. A mountain of applied uses appeared for the mysterious "white coal." Among them were the light bulb and electric motor. These two inventions alone rejuvenated life—in the cities that is.

While urban people were enjoying lighted streets and household appliances powered by electric energy, the inhabitants of the rural sections of America saw no change in their standard of living. Did not anyone care about the rural population whose task it was to feed the entire nation? Were they to advance no further than their ancestors before them while town dwellers lived in comparative luxury and ease?

There were men who cared. In Washington, D.C. Sam Rayburn and Senator George Norris realized that the effect of electricity on the farm would be widespread and beneficial not only to the farmers whose lot it would improve but also to the entire nation as well. The work that they put into passing the bill for rural electricity was finally rewarded on May 11, 1935, when the Rural Electrification Administration was created by a Presidential order. The long sought dream was a reality. The farms of the nation were going to receive electricity.

It is hard to estimate the benefits that Nebraska received after twenty years of public power. The work and money brought into the state during the depression years greatly benefited the economy. Now, REA lines can be seen everywhere.

The future looks brighter than ever and thanks to God and curiosity, we have seen the light.

## SELF-EMPLOYMENT FOR THE HANDICAPPED THROUGH CBSA

Mr. HARTKE. Mr. President, recently a citizen of Indiana began a new business. On the surface, such an event is not one which would receive special notice. However, in this case, the gentleman was handicapped.

Mr. Claude Flint, of Kendallville, Ind., is a victim of multiple sclerosis, and has only limited mobility. He begins this month a new business which holds promise for thousands of other handicapped individuals.

The promise of self-employment to thousands of these people was announced at the recent session of the President's Committee on Employment of the Handicapped. New hope was held out through a unique business organization known as Community Business Services Associates—CBSA.

The program, originated by 3M Co., St. Paul, Minn., is based on cooperation of the U.S. Vocational Rehabilitation Administration, State agencies for vocational rehabilitation and 3M Co., in establishing handicapped individuals in their own business. They would offer copying, shortrun duplicating, mailing, and other business services, many of which are not presently available in most communities.

The program currently is operating in 10 States and will soon add CBSA centers in 15 more. It is my understanding that plans call for expansion into most other States by the end of the year.

A local CBSA is established by State vocational rehabilitation counselors and a 3M representative working together in a community. Candidates for owner-operators are recommended by the division of vocational rehabilitation counselors. The community under consideration is also studied to make sure it offers adequate business potential.

The appropriate State agency establishes the man in his business. A 3M representative gives the new owner-operator an intensive business training program, and also organizes the community behind the new business. The State, usually, provides the new business equipment and an initial inventory of supplies.

Mr. President, I commend the farsighted community action program conceived and implemented by the 3M Co. It is through such programs that handicapped men and women become productive members of their communities, making worthwhile contributions.

## VICE PRESIDENT HONORED AT HURON COLLEGE

Mr. McGOVERN. Mr. President, on May 31, Huron College at Huron, S. Dak., honored Vice President and Mrs. Hubert Humphrey, bestowing on them honorary doctor's degrees. This represented a unique, but justly deserved dual recognition of two of America's greatest citizens, HUBERT and Muriel Humphrey, South Dakota's most distinguished native daughter and son.

In his address on the occasion, the Vice President delivered an eloquent plea to the graduating class to seek a world at peace through aid to the impoverished peoples of the world—aid with food and fiber, health and education.

Our goal should be nothing less than this—

The Vice President said—

that, in the family of man, each child might be able to look ahead to a future where hunger was not an everyday companion.

There are those who say it can't be done. I say—with our skill and determination; with equal commitment by the other rich nations of the world; with perseverance and courage by those who lead the poor nations—that it can be done.

I agree wholeheartedly with the Vice President that we can end want in the world, and that it is essential to peace that we be about this vital task.

Mr. President, no American has spoken with greater force and eloquence over the years in behalf of food for peace and food for freedom than our distinguished Vice President.

I ask unanimous consent that his inspiring address be printed at this point in the RECORD.

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

REMARKS OF VICE PRESIDENT HUBERT HUMPHREY, HURON COLLEGE, S. DAK., MAY 31, 1966

The author Thomas Wolfe wrote: "You can't go home again."

He meant that you can never find things as they were in the place of your youth—that "home," in that sense, can never be found again.

For Mrs. Humphrey and myself, this is a homecoming nevertheless.

The South Dakota in which we grew up was a land of friends and family, of warmth and friendship that can never be recreated.

But it was, too, in our young years, a land in which the winds blew * * * in which homes and farms and businesses were lost * * * in which good men worked and fought to no avail * * * in which heartbreak and despair became a part of everyday life * * * in which dreams were literally turned to dust.

To come home today is far better than to return to what we knew then. To come home today is to live the good new days.

And thank God for it.

This country needs no more days like the old days of the 1930's.

Today, in our nation of well-being and abundance, it is hard to recreate in our minds what it was really like in those times. It is almost impossible for your generation to know the heartaches, the dashed hopes of the American Depression.

In the same sense, it is difficult for both our generations to come to the realization of what life is like today in two-thirds of the world around us.

The fact is that our life in the Depression years was far better than the life today of most of the people on earth.

Over much of the world a typical human being is one who struggles to exist on an income of little more than a dollar a week.

And this is why my text today—my text to you who will be responsible for tomorrow—is the same as President Truman's when he launched the Point Four program 14 years ago. President Truman said:

"I hate war. War destroys individuals and whole generations. It throws civilization into the dark ages.

"But there is only one kind of war the American people have any stomach for. That is war against hunger and pestilence and disease.

"Much as we have contributed to industrial and economic development, we have gotten even greater know-how in the saving and prolonging of human lives."

America, President Truman said, "could do much to clear the way for self-development of nations now being held back by hunger and disease."

We have done much.

But—as the late Pope John so often said—where there is constant want, there is no peace. And that is why, lest the peace be lost, we must do much more.

The desperate need of the world today is to narrow the widening gap between the rich and poor nations of the world.

Today there are families spending their last day on earth because they haven't the strength or health to keep going.

But those who remain—and you can be sure of this—those who remain will take to the streets—they will turn to any master—they will tear the fabric of peace to shreds, unless they have some reason to believe that there is hope for life and hope for justice.

President Johnson has made, in these past months, three historic proposals designed to help provide the developing nations with the three first essentials of nation-building: I mean education, health, and food.

While my subject today is food, I must point out that all three are interrelated. Progress in any one of the three aids the others.

Shortcomings in any of the three retard the others. And this must be recognized.

We have made it a matter of national priority—and must do so on an increasing scale—to help the developing nations obtain food: Not just food for survival but food of a quantity and quality and so distributed as to release the energies needed for sustained economic growth.

Our food aid programs, over the past 10 years, have brought over 140 million tons of food to hungry people.

Hunger, malnutrition and famine have been averted.

Schools and hospitals have been built.

Seventy million children today receive American food in school lunch and family and child-feeding programs.

But, despite these efforts, the world is hungrier today than it was 10 years ago.

The world population explosion continues. *If current trends continue, world population could double in the next 35 years.*

And the explosion is greatest in the nations already the hungriest.

Over the world, people receive more than half their calories by eating grain—and, of course, indirect consumption of grain in meat, milk and eggs accounts for a good deal more. In Communist China, for instance, as much as 80 per cent of food energy comes from direct consumption of grain products.

It is estimated that by 1980 the developing nations may need as much as 750 million tons of grain each year. This is 300 million tons more than they required in 1960. *It is equal to the entire present grain production of North America and Europe combined.*

President Johnson said in his Food for Freedom message to the Congress that ". . . The time is not far off when all the combined production, on all of the acres, of all of the agriculturally productive nations, will not meet the food needs of the developing nations—unless present trends are changed."

And he said this at a time when it was not yet clear that crop reports for this year would indicate shortfalls in expected world production of cereal grains, vegetable oils, and proteins.

Lack of protein is an especially serious problem for children. A fact of life in our world is this: The minds of hundreds of millions of children are today being dulled and stunted, by lack of protein, before those children even reach school age.

Obviously, we must think more in terms of helping people to produce their own food and fiber.

I believe our goal should be nothing less than this: That, in the family of man, each child might be able to look ahead to a future where hunger was not an everyday companion.

There are those who say it can't be done. I say—with our skill and determination; with equal commitment by the other rich nations of the world; with perseverance and courage by those who lead the poor nations—that it can be done.

It is, in fact, being done today even under handicaps, as in Vietnam.

The South Vietnamese people have since 1954 doubled their production of rice, their most important crop.

In the same period of time, production of pigs has gone up by more than 75 per cent and of sugar cane more than 100 per cent.

New crops have been introduced, as well as improved strains of traditional crops.

Modern agriculture is being introduced to Vietnam, and the people benefit. The primary credit for this achievement, of course, belongs to the Vietnamese peasants and their hard work and initiative. They learn quickly. They are a vital people.

But we have helped.

We have expanded shipments of food to Vietnam, provided guidance on reorganization of Vietnamese agriculture, and we are presently recruiting county extension agents to go to Vietnam to do the same work there.

We have taken initiative, too, toward development of the whole Mekong River delta—development which would benefit many millions of people and several nations.

In India food supply this year is precarious.

More lives may be saved in India this year by American food than the total populations of North and South Vietnam together. We are currently shipping over a million tons of good grain a month to India.

In addition, we are helping the Government of India to take hard, practical steps of self-assistance: To develop a price incentive program for food grains, a long-range soil and water conservation program, and agricultural research, among other things.

Throughout the world, Americans are at work helping to build more self-sustaining agricultural economies in nations without them.

And this includes everything from building rural schools, roads and clinics . . . to helping rid Africa of the tsetse fly . . . to developing new strains of wheat . . . to introducing basic conservation and fertilization techniques to peasants who have never known them before.

Every year about 5,000 foreign technicians, scientists, teachers, and other agriculturally oriented people come to the United States for training—training particularly related to their own countries.

We do not, and cannot, attempt to conquer hunger alone.

Hunger is a world problem. It must be dealt with by the world.

We must encourage a truly international effort to combat hunger and modernize agriculture.

We shall work to strengthen the Food and Agriculture Organization of the United Nations. The efforts of the multilateral lending organizations, and of the United Nations Development Program should be expanded—particularly in food and agriculture.

We are prepared to increase our participation in regional as well as world-wide multilateral efforts, wherever they provide efficient technical assistance and make real contributions to increasing the food-growing capacities of the developing nations. For example, we will undertake a greatly increased effort to assist improvements in rice yields in the rice-eating less developed countries, as part of our cooperation with FAO during this International Rice Year.

People will not forever die quietly in this troubled world. Twenty centuries ago the Roman philosopher, Seneca, observed that "a hungry people listens not to reason, nor cares for justice."

No one nation or region of the world can live in plenty, callous to the needs of others that are in grave want, without moving further toward the destruction of peace.

This world cannot rest upon a base of hungry, needy, ignorant, and despairing people without sooner or later experiencing a violent explosion.

Let us, then, who share in this miracle of American abundance, work—and I mean really work—to give full impetus to a new world of hope and peace. One person with belief is worth 99 who have only interest. Let us have belief.

Dante said: "The hottest places in Hell are reserved for those who, in a period of moral crisis, maintain their neutrality."

We cannot, in a world of deprivation and hunger, remain neutral.

Let the word go forth that America is a life-giving nation, not a life-taking nation.

Peace is more than a wish or speech or treaty. Peace is food and fiber. It is health and education.

Peace can be found in fertile fields and pastures, in productive peasants and farmers, in workers, teachers, businessmen, soldiers, and servants of the people who have the vision of a better day and are not afraid to devote their lives to it.

In the years ahead, as citizens of the richest and most powerful nation on earth, yours will be the responsibility, in seeking the peace, of leadership.

In closing, may I say a word about the nature of that responsibility.

Leadership for peace requires far more than a large stock of gunboats and a hard fist at the conference table.

Leadership for peace requires more than the ability to go-it-alone—although we must not be afraid to do so when necessary.

Leadership for peace requires understanding of the problems we face . . . of the resources at hand . . . and of the objectives we seek.

It requires the ability, perhaps even more, to lead and inspire others—to lead and inspire in a sense of common enterprise.

This, then, is the test of ourselves: Not to march alone, but to march in such a way that others will wish to join us.

I will add one caveat: In none of this should we expect either friendship or gratitude.

We have already eaten breakfast to the accompaniment, in our morning newspapers, of too many "Yankee Go Home" signs . . . too many riots . . . too many denunciations of ourselves to believe that leadership, even in the cause of peace, can reward us with international laurel wreaths.

I think the most we can expect is this: That in the world there may be no doubt that we Americans have the vision, the endurance and the courage to stand and see it through for what we believe in.

So Mrs. Humphrey and I have come home today.

The blessing of our generation has been to see a nation deep in poverty and dust rise to become a nation of abundance, of hope, of increasing social justice, and of international leadership.

May the blessing of your generation be the opportunity to help build a world in which men may dwell in homes of light, in valleys green with nature's bounty, in nations ruled by laws of justice, and in the knowledge that, for their children, there lie ahead uplands of opportunity and freedom for the human spirit.

## DAY OF AFFIRMATION

Mr. McGOVERN. Mr. President, today the distinguished junior Senator from New York [Mr. KENNEDY], is delivering an historic address to the students of the University of Capetown. I have had the privilege of reading an advanced text of the Senator's statement. Although he has made a number of remarkable statements during the year and a half since he first came to the Senate, the Senator from New York has, in my judgment, reached a new high in eloquence and inspiration in his South African remarks.

His address today manifests a breadth of intellectual vision and a depth of spirit that are rare in public speech. Our colleague has taken the occasion of his Capetown appearance to challenge the young people not only of Africa, but of all the world, to a higher concept of political and moral responsibility:

I think that we could agree on what kind of a world we want to build—

He said—

it would be a world of independent nations, moving toward international community, each of which protected and respected basic human freedoms. It would be a world which demanded of each government that it accept its responsibility to insure social justice. It would be a world of constantly accelerating economic progress—not material welfare as an end in itself, but as a means to liberate the capacity of each human being to pursue his talents and his hopes. It would, in short, be a world we would be proud to have built.

Recognizing the challenges of our swiftly changing world, Senator Kennedy told his Capetown audience:

Our answer is the world's hope; it is to rely on youth. The cruelties and obstacles of this swiftly changing planet will not yield to obsolete dogmas and outworn slogans. It cannot be moved by those who cling to a present which is already dying, who prefer the illusion of security to the excitement of danger. It demands the qualities of youth: not a time of life but a state of mind, a temper of the will, a quality of the imagination, a predominance of courage over timidity, of the appetite for adventure over the love of ease. As I have seen, and as I have said—in Europe, in Asia, in Latin America, and now in South Africa—it is a revolutionary world we live in; and thus, I have said in Latin America, in Asia, in Europe, and in the United States, it is young people who must take the lead. Thus you, and your young compatriots everywhere have had thrust upon you a greater burden of responsibility than any generation that has ever lived.

Mr. President, the late President Kennedy once described himself as "an idealist without illusions." It is this capacity to combine a sturdy idealism with a realistic view of the world as it is which gave force all over the world to the message and the personality of John Kennedy. I see that same capacity reflected in the eloquent address of our distinguished colleague from New York, Senator ROBERT KENNEDY. I ask unanimous consent that this superb challenge to the young people of our time be printed at this point in the RECORD.

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

DAY OF AFFIRMATION

(Address of Senator ROBERT F. KENNEDY, University of Capetown, June 6, 1966)

This is a Day of Affirmation—a celebration of liberty.

We stand here in the name of freedom.

At the heart of that western freedom and democracy is the belief that the individual man, the child of God, is the touchstone of value, and all society, groups, the state, exist for his benefit. Therefore the enlargement of liberty for individual human beings must be the supreme goal and the abiding practice of any western society.

The first element of this individual liberty is the freedom of speech.

The right to express and communicate ideas, to set oneself apart from the dumb beasts of field and forest; to recall governments to their duties and obligations; above all, the right to affirm one's membership and allegiance to the body politic—to society—to the men with whom we share our land, our heritage and our children's future.

Hand in hand with freedom of speech goes the power to be heard—to share in the decisions of government which shape men's lives. Everything that makes life worthwhile—family, work, education, a place to rear one's children and a place to rest one's head—all this rests on decisions of government; all can be swept away by a government which does not heed the demands of its people. Therefore, the essential humanity of men can be protected and preserved only where government must answer—not just to the wealthy; not just to those of a particular religion, or a particular race; but to all its people.

And even government by the consent of the governed, as in our own Constitution, must be limited in its power to act against its people: so that there may be no interference with the right to worship, or with the security of the home; no arbitrary imposition of pains or penalties by officials high or low; no restriction on the freedom of men to seek education or work or opportunity of any kind, so that each man may become all he is capable of becoming.

These are the sacred rights of western society. These are the essential differences between us and Nazi Germany as they were between Athens and Persia.

They are the essence of our difference with communism today. I am inalterably opposed to communism because it exalts the State over the individual and the family, and because of the lack of freedom of speech, of protest, of religion and of the press, which is characteristic of totalitarian states. The way of opposition to communism is not to imitate its dictatorship, but to enlarge individual human freedom—in our own countries and all over the globe. There are those in every land who would label as "communist" every threat to their privilege. But as I have seen on my travels in all sections of the world, reform is not communism. And the denial of freedom, in whatever name, only strengthens the very communism it claims to oppose.

Many nations have set forth their own definitions and declarations of these principles. And there have often been wide and tragic gaps between promise and performance, ideal and reality. Yet the great ideals have constantly recalled us to our duties. And—with painful slowness—we have extended and enlarged the meaning and the practice of freedom for all our people.

For two centuries, my own country has struggled to overcome the self-imposed handicap of prejudice and discrimination based on nationality, social class or race—discrimination profoundly repugnant to the theory and command of our Constitution. Even as my father grew up in Boston, signs told him that "No Irish need apply." Two generations later President Kennedy became the first Catholic to head the nation; but how many men of ability had, before 1961, been denied the opportunity to contribute to the nation's progress because they were Catholic, or Irish extraction? How many sons of Italian or Jewish or Polish parents slumbered in slums—untaught, unlearned, their potential lost forever to the nation and the human race? Even today, what price will we pay before we have assured full opportunity to millions of Negro Americans?

In the last five years, the winds of change have blown as fiercely in the United States as anywhere in the world. But they will not—they cannot—abate.

For there are millions of Negroes untrained for the simplest of jobs, and thousands every day denied their full equal rights under the law; and the violence of the disinherited, the insulted and injured, looms over the streets of Harlem and Watts and Southside Chicago.

But a Negro American trains as an astronaut, one of mankind's first explorers into outer space; another is the chief barrister of the United States government, and dozens sit on the benches of court; and another, Dr. Martin Luther King, is the second man of African descent to win the Nobel Peace Prize for his non-violent efforts for social justice between the races.

We have passed laws prohibiting discrimination in education, in employment, in housing; but these laws alone cannot overcome

the heritage of centuries—of broken families and stunted children, and poverty and degradation and pain.

So the road toward equality of freedom is not easy, and great cost and danger march alongside us. But even in the turbulence of change is greater hope for the future, as men learn to claim and achieve for themselves the rights formerly petitioned from others.

And most important of all, all the panoply of government power has been committed to the goal of equality before the law—as we are now committing ourselves to the achievement of equal opportunity in fact.

We must recognize the full human equality of all our people—before God, before the law, and in the councils of government. We must do this, not because it is economically advantageous—although it is; not because the laws of God and man command it—although they do command it; not because people in other lands wish it so. We must do it for the single and fundamental reason that it is the right thing to do.

And this must be our commitment outside our borders as it is within.

In a few hours, the plane that brought me to this country crossed over oceans and countries which have been a crucible of human history. In minutes we traced the migrations of men over thousands of years; seconds, the briefest glimpse, and we passed battlefields on which millions of men once struggled and died. We could see no national boundaries, no vast gulfs or high walls dividing people from people; only nature and the works of man—homes and factories and farms—everywhere, reflecting man's common effort to enrich his life. Everywhere new technology and communications bring men and nations closer together, the concerns of one inevitably becoming the concerns of all. And our new closeness as stripping away the false masks, the illusion of difference which is at the root of injustice and hate and war. Only earthbound man still clings to the dark and poisoning superstitution that his world is bounded by the nearest hill, his universe ended at river shore, his common humanity enclosed in the tight circle of those who share his town and views and the color of his skin.

It is your job, the task of the young people of this world to strip the last remnants of that ancient, cruel belief from the civilization of man.

Each nation has different obstacles and different goals, shaped by the vagaries of history and experience. Yet as I talk to young people around the world I am impressed not by diversity but by the closeness of their goals, their desires and concerns and hope for the future. There is discrimination in New York, apartheid in South Africa and serfdom in the mountains of Peru. People starve in the streets of India; intellectuals go to jail in Russia; thousands are slaughtered in Indonesia; wealth is lavished on armaments everywhere. These are differing evils; but they are the common works of man. They reflect the imperfection of human justice, the inadequacy of human compassion, the defectiveness of our sensibility toward the sufferings of our fellows; they mark the limit of our ability to use knowledge for the well-being of others. And therefore they call upon common qualities of conscience and of indignation, a shared determination to wipe away the unnecessary sufferings of our fellow human beings at home and particularly around the world.

It is these qualities which make of youth today the only true international community. More than this I think that we could agree on what kind of world we want to build. It would be a world of independent nations, moving toward international community, each of which protected and respected basis human freedoms. It would be a world which demanded of each government that it accept its responsibility to insure social justice. It would be a world of constantly accelerating economic progress—not material welfare as an end in itself, but as a means to liberate the capacity of each human being to pursue his talents and his hopes. It would, in short, be a world we would be proud to have built.

Just to the North here are lands of challenge and opportunity—rich in natural resources, land and minerals and people. Yet they are also lands confronted by the greatest odds—overwhelming ignorance, internal tensions and strife, and an often destructive and hostile nature. Many of these nations, as colonies, were oppressed and exploited. Yet they have not estranged themselves from the broad traditions of the West; they are hoping and gambling their progress and stability on the chance that we will meet our responsibilities to help them overcome their poverty.

In another world, cleansed of hate and fear and artificial barriers, South Africa could play an outstanding role in that effort. This is without question a preeminent repository of the wealth and knowledge and skill of the continent. Here are the greater part of Africa's research and scientists and steel production, most of its reservoirs of coal and electric power. Professor Jackson and Dr. Philips are only two of the many South Africans who have made enduring contributions to African technical development; and the names of Pitchford and Ross and Annacke are known wherever men seek to eliminate the ravages of tropical disease and pestilence. In your faculties and councils, here in this very audience, are hundreds and thousands of men who could transform the lives of millions for all time to come.

But that help cannot be accepted if we—within our own countries or in our relations with others—deny individual integrity and the common humanity of man.

Our answer is the world's hope; it is to rely on youth. The cruelties and obstacles of this swiftly changing planet will not yield to obsolete dogmas and outworn slogans. It cannot be moved by those who cling to a present which is already dying, who prefer the illusion of security to the excitement of danger. It demands the qualities of youth: not a time of life but a state of mind, a temper of the will, a quality of the imagination, a predominance of courage over timidity, of the appetite for adventure over the love of ease. As I have seen, and as I have said—in Europe, in Asia, in Latin America, and now in South Africa—it is a revolutionary world we live in; and thus, I have said in Latin America, in Asia, in Europe, and in the United States, it is young people who must take the lead. Thus you, and your young compatriots everywhere have had thrust upon you a greater burden of responsibility than any generation that has ever lived.

"There is," said an Italian philosopher, "nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success than to take the lead in the introduction of a new order of things." Yet this is the measure of the task of your generation and the road is strewn with many dangers.

First, is the dangers of futility; the belief there is nothing one man or one woman can do against the enormous array of the world's ills—against misery and ignorance, injustice and violence. Yet many of the world's great movements, of thought and action, have flowed from the work of a single man. A young monk began the Protestant reformation, a young general extended an empire from Macedonia to the borders of the earth, and a young woman reclaimed the territory of France. It was a young Italian explorer who discovered the New World, and the 32 year old Thomas Jefferson who proclaimed that all men are created equal. "Give me a place to stand," said Archimedes, "and I will move the world." These men moved the world, and so can we all. Few will have the greatness to bend history itself; but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation. Thousands of Peace Corps volunteers are making a difference in isolated villages and city slums in dozens of countries. Thousands of unknown men and women in Europe resisted the occupation of the Nazis and many died, but all added to the ultimate strength and freedom of their countries. It is from numberless diverse acts of courage and belief that human history is shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightiest walls of oppression and resistance.

"If Athens shall appear great to you," said Pericles, "consider then that her glories were purchased by valiant men, and by men who learned their duty." That is the source of all greatness in all societies, and it is the key to progress in our time.

The second danger is that of practicality; of those who say that hopes and beliefs must bend before immediate necessities. Of course if we would act effectively we must deal with the world as it is. We must get things done. But if there was one thing President Kennedy stood for that touched the most profound feeling of young people across the world, it was the belief that idealism, high aspirations and deep convictions are not incompatible with the most practical and efficient of programs—that there is no basic inconsistency between ideals and realistic possibilities—no separation between the deepest desires of heart and mind and the rational application of human effort to human problems. It is not realistic or hard-headed to solve problems and take action unguided by ultimate moral aims and values. It is thoughtless folly. For it ignores the realities of human faith and passion and belief; forces ultimately more powerful than all the calculations of economists or generals. Of course to adhere to standards, to idealism, to vision in the face of immediate dangers takes great courage and self-confidence. But we also know that only those who dare to fail greatly, can ever achieve greatly.

It is this new idealism which is also, I believe, the common heritage of a generation which has learned that while efficiency can lead to the camps at Auschwitz, only the ideals of humanity and love can climb the hill to the Acropolis.

A third danger is timidity. For every ten men who are willing to face the guns of an enemy there is only one willing to brave the disapproval of his fellows, the censure of his colleagues, the wrath of his society. Moral courage is a rarer commodity than bravery in battle or great intelligence. Yet it is the one essential, vital quality for those who seek to change a world which yields most painfully to change. Aristotle tells us that "At the Olympic games it is not the finest and the strongest men who are crowned, but they who enter the lists . . . So too in the life of the honorable and the good it is they who act rightly who win the prize." I believe that in this generation those with the courage to enter the moral conflict will find themselves with companions in every corner of the world.

For the fortunate among us, the fourth danger is comfort; the temptation to follow the easy and familiar paths of personal ambition and financial success so grandly spread before those who have the privilege of education. But that is not the road his-

tory has marked out for us. There is a Chinese curse which says "May he live in interesting times." Like it or not we live in interesting times. They are times of danger and uncertainty; but they are also more open to the creative energy of men than any other time in history. And everyone here will ultimately be judged—will ultimately judge himself—on the effort he has contributed to building a new world society and the extent to which his ideals and goals have shaped that effort.

So we part, I to my country and you to remain. We are—if a man of forty can claim that privilege—fellow members of the world's largest younger generation. Each of us have our own work to do. I know at times you must feel very alone with your problems and difficulties. But I want to say how impressed I am with what you stand for and the effort you are making; and I say this not just for myself, but for men and women everywhere. And I hope you will often take heart from the knowledge that you are joined with fellow young people in every land, they struggling with their problems and you with yours, but all joined in a common purpose; that, like the young people of my own country and of every country I have visited, you are in many ways more closely united to these brothers of your time than to the older generations in your nation; determined to build a better future; that you know, as President Kennedy said to the youth of my country, that "The energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it—and the glow from that fire can truly light the world."

He was speaking to American youth, but his words are uniquely suitable to this audience: "With a good conscience our own sure reward, with history the final judge of our deeds, let us go forth to lead the land we love, asking His blessing and His help, but knowing that here on earth God's work must truly be our own."

## PLANTATHON INSTANT PARK PROJECT—PARAMUS, N.J.

Mr. WILLIAMS of New Jersey. Mr. President, I would like to commend the citizens of Paramus, N.J., for their civic pride and initiative in carrying out the Plantathon Instant Park Project. More than 500 residents aided by members of the Shade Tree Commission voluntarily planted 482 trees and shrubs in Petruska Park at a planting party.

Supt. Kenneth Gregory, of the Shade Tree Commission, who first dreamed up the idea last year, estimates that the borough saved $6,000 by not having the trees professionally planted.

The tree-planting is but the first of several projects that the "Keep Paramus Beautiful" Committee will undertake this year.

At a time that our recreation areas are in danger of being swallowed up by the growing urban-suburban complex, it behooves us to follow Paramus' example in preserving the beauty of their parks and recreation areas through volunteer labor.

Mr. President, I ask unanimous consent to have printed in the RECORD, the article on this tree planting project from the Bergen County Record of April 23, 1966.

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

[From the Bergen County Record, Apr. 23, 1966]

HUNDREDS OF VOLUNTEERS BUILD AN INSTANT PARK—YOUNG AND OLD PITCH IN TO PLANT 482 TREES, SHRUBS IN CIVIC PROJECT

PARAMUS.—The adults began to arrive after an early dinner, but schoolchildren had begun digging right after classes ended yesterday afternoon.

By 8 P. M., more than 500 residents had gathered at Petruska Park off Farview Avenue here to begin planting 482 trees and shrubs before morning.

By 10 P. M., the Plantathon Instant Park, the name given to the project by the Keep Paramus Beautiful Committee, was in full swing. Each with his own shovel, residents continued to filter into the Park to report for work and begin digging under the glare of arc lights permanently mounted around the ball fields and portable floodlights provided and manned by Civil Defense-Disaster Control volunteers.

EQUIPMENT

Weaving through the crowds of men in their working clothes and women in their slacks, five bucket loaders and backhoes performed a graceful ballet, their exhausts almost drowning out the rock and roll music on the public address system.

With four or five grinding swipes of the backhoe, a hole large enough to plant a tree was created. Another bucket loader behind the first followed with the correct tree. Then the volunteers, guided by workers from the Shade Tree Commission, set the tree in the ground, filled around it, and drove a supporting stake alongside each tree.

Close behind, one of the Fire Department's pump trucks passed from trees to tree, supplying the water to give each tree a good start in its new home.

Arbor Day had arrived a week early in Paramus. Shade Tree Commission superintendent Kenneth Gregory, who dreamed up the all-night planting party over 1 year ago, estimates that the Borough saved over $6,000 over the cost of having the trees professionally planted. To insure that the results were as professional as possible, many of Gregory's men from the Commission volunteered to supervise last night without pay.

In addition to bucket loaders belonging to the Shade Tree Commission and the Road Department, several local contractors and driveway paving concerns loaned equipment and operators to help out. Caterers supplied coffee and refreshments, and delivered both already made to the site.

BIG TURNOUT

Under the original park plan, drawn up by Gregory, the area was to be divided up into 15 sections and planted section by section. But the tremendous turnout last night forced Gregory to direct the planting of virtually the whole park at one time. More than 100 of the trees were in the ground at 9 P.M. last night, Gregory said.

A plan to have volunteers work in 3-hour shifts was also pleasantly doomed by the enthusiasm of volunteers. They were all there early and many said they planned to work all night—or as long as their backs held out.

Even the plan to begin at 5 P.M. was overcome by enthusiasm. Police Chief Carl W. Jockish told of a group of 30 elementary school youngsters who were planting lilacs under his direction during the hours after school closed.

"I'll never forget one of those kids. She was about 8 years old. She marched in and looked at me and asked, 'Who are you?'," Jockish said.

"I told her to call me Uncle Carl. Then she said 'Okay, Uncle Carl, tell me what to do. I'm ready.' "

Also in the afternoon, a troop of Girl Scouts put on their boots and cleaned the debris from the brook which runs along the northern edge of the park.

The tree-planting project is the K.P.B.'s first major program of the year. Their entry in the national paint-up, fix-up, clean-up competition last year won a first prize in class, but this year, they are aiming for the top over-all prize nationally, the Trigg Trophy.

Summing up his reaction to the project last night, Mayor Robert J. Inglima said: "We all owe the Committee, all those connected with it, and especially Ken Gregory, a tremendous amount of recognition for giving the people of this Borough a mode of expression for their civic pride. And the people are to be congratulated also. We asked for an instant park and we got an instant response."

## TRIBUTE TO THOMAS J. COONEY, NEWARK, N.J.

Mr. WILLIAMS of New Jersey. Mr. President, I would like to pay tribute to Thomas J. Cooney who resides at 84 Green Street, Newark, N.J. Only 28, Mr. Cooney was named Man of the Year in 1965 by the West Hudson Chapter of Jaycees and in September 1965, New Jersey Gov. Richard J. Hughes capped the honors with a Presidential citation. These are unusual honors for one so young. And when the recipient of these honors is a handicapped person, the honor becomes extraordinary. Due to an infection which developed following a tonsillectomy, Thomas J. Cooney has been totally deaf since the age of 7. Since then, Tom Cooney has never looked back or indulged in self-pity. At 11, he learned the entire sign language course in 2 weeks. A graduate of the New Jersey College for the Deaf he has also attended Gallaudet College in Washington, D.C.

Since graduation, Tom Cooney has divided his time between his Newark job as an IBM data processor with Blue Cross and Blue Shield and his more than 20 hours a week spent helping other deaf people.

Through his efforts to help those who share his affliction, Cooney has become amazingly adept at lipreading. Becoming interested in the problems that beset deaf people in court, Cooney offered his services to whoever needed them. He has interpreted formal court trials, bookings on all sorts of charges, preliminary hearings, license and motor vehicle violations and police interrogation. His work has taken him into courtrooms in New York, Pennsylvania, Connecticut and 8 other States besides New Jersey. In recognition of this services, Cooney was made a special deputy sheriff for Essex County, N.J., probably the only deaf person in the country to hold such an office. And he is a working sheriff, according to Essex County Sheriff LeRoy J. D'Aloia:

The fact that Cooney's services are available to us is like money in the bank. When we need an interpreter, we need him in a hurry. He is a very dedicated person.

Cooney says of his work:

When I am interpreting, I feel a sense of pride much like when a ballplayer puts on a Yankee uniform.

Spurred by President Kennedy's candidacy, Tom Cooney began meeting groups of deaf persons to explain Kennedy's views and ideas. This project has now grown into a full-fledged one man information service for deaf voters in all campaigns down to the local level. After a time, the deaf have dubbed him the "Young Man in a Hurry" because of his many duties and responsibilities.

One of Cooney's current projects is trying to convince a television network to show once-a-week newscasts in the language of signs for the benefit of deaf viewers. So far he has not succeeded, but he has no intention of giving up.

One of the legacies that President Kennedy left to his country was the kindling of interest in politics in people who had not been previously concerned. President Kennedy said in his inaugural speech:

Ask not what your country can do for you—ask what you can do for your country.

It is a pleasure to know that in the case of Tom Cooney this call did not fall on barren gound.

## TWENTIETH ANNIVERSARY OF THE ITALIAN REPUBLIC

Mr. WILLIAMS of New Jersey. Mr. President, June 2 marked the 20th anniversary of the Republic of Italy. At the close of the last war, the Italian nation was prostrate and in ruins after the long nightmare of Mussolini's crushing dictatorship which had brought Italy to bloody defeat. However, the strength and courage of the Italian people was undaunted by this tragedy. They turned to the reconstruction of their historic land and created a free and democratic republic. Under the inspired leadership of such great men as Alcide de Gasperi, the Italians survived the vicissitudes of the chaotic postwar years, defeated the efforts of communism to capture their country, and built a strong and prosperous economy on firm democratic foundations. Today, Italy is an honored ally in NATO and has returned to her traditional friendship with the United States.

The bonds which link Italy and America are strong and human. Italy has made many great contributions to the civilization of the world. We think of the great works of art of the Rennaissance, many of which now can be seen in our own National Gallery of Art, and we think of the poetry of Dante and the other great artists and writers who have flourished in this great and beautiful land. The story of Garibaldi and his unification of Italy is one of the great epics of Western history. The millions of Italo-Americans who have come to this country have made a profound and vital contribution to our land. I call to mind the work of the physicist, Enrico Fermi, and his contribution to the development of the atom bomb, the great music of Gian Carlo Menotti, and the courageous political leadership of Fiorello La Guardia, New York City's beloved "Little Flower."

The saga of Italy and her people, dating from the foundation of the Roman Republic, will always be one of the glowing and inspiring chapters in the history of mankind. On this proud occasion I pay tribute to the nation of Italy and the sons and daughters she has so generously contributed to our own United States. May we always remain friends and partners in the march toward a free and prosperous world for all mankind.

## BANK HOLDING COMPANY ACT AMENDMENTS OF 1966

The Senate resumed the consideration of the bill (H.R. 7371) to amend the Bank Holding Company Act of 1956.

ORDER OF BUSINESS—ORDER FOR ADJOURNMENT TO 11 A.M. TOMORROW

Mr. DIRKSEN. Mr. President, I wish to inquire of the distinguished majority leader about the plans of the day, and also about tomorrow, as to whether he has an estimate of the situation.

Mr. MANSFIELD. Mr. President, a number of Senators have inquired whether there would be any more votes tonight, and the answer has been "No."

I have spoken with Senators who have amendments to offer—at least, as far as I know. I have also spoken with the chairman of the committee, the distinguished Senator from Virginia [Mr. ROBERTSON], and the ranking minority member of the committee, the distinguished Senator from Utah [Mr. BENNETT].

With their approval, and I hope with the approval of the Senate, I ask unanimous consent that when the Senate completes its business tonight, it stand in adjournment until 11 o'clock tomorrow morning.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on all amendments to be offered—as of now I know of only three—there be a time limitation of 1 hour, the time to be equally divided between the proponent of the amendment and the chairman of the committee, the Senator from Virginia [Mr. ROBERTSON].

Mr. KENNEDY of Massachusetts. Mr. President, I reserve the right to object. Hearings on the proposed civil rights legislation are to begin tomorrow. The Attorney General is scheduled to appear at a meeting of the Committee on the Judiciary, and I want to make certain there will be no objection to his appearance at the meeting.

COMMITTEE MEETINGS AUTHORIZED UNTIL 12 O'LOCK NOON TOMORROW

Mr. MANSFIELD. Mr. President, the Senator from Massachusetts knows that during the morning hour committees are, under the rule, allowed to meet. I ask unanimous consent that all committees may meet tomorrow morning until 12 o'clock.

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

Mr. BENNETT. Reserving the right to object, I wish to inquire of the majority leader whether he intends to put any time limit on consideration of the bill itself.

Mr. MANSFIELD. I am glad the Senator from Utah has raised that question.

Mr. RUSSELL of Georgia. Mr. President, the other matter has not been been agreed to, has it?

I ask the Senator from Montana to bring the germaneness into the unanimous-consent request. I was prepared to object. Amendments to the bill should be germane.

Mr. MANSFIELD. I thought that was understood.

Mr. President, I will change my request to include that, and also to add, in addition, 1 hour on each amendment to be equally divided, 2 hours on the bill, with the approval of the Senator from Utah.

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

The unanimous-consent agreement reduced to writing is as follows:

UNANIMOUS-CONSENT AGREEMENT

*Ordered*, That, effective on Tuesday, June 7, 1966, at the conclusion of routine morning business, during the further consideration of the bill H.R. 7371, to amend the Bank Holding Company Act of 1956, debate on any amendment, motion, or appeal, except a motion to lay on the table, shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment or motion and the Senator from Virginia, Mr. ROBERTSON: *Provided*, That no amendment that is not germane to the provisions of the said bill shall be received.

*Ordered further*, That on the question of the final passage of the said bill debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the majority and minority leaders or their designees: *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.

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.

Mr. HART. Mr. President, I had not anticipated the offering of an amendment by the able senior Senator from Ohio. I had anticipated that before we adjourned tonight I would ask that the pending business for tomorrow be an amendment which has the effect of striking section 11 of the bill before us. It occurs to me that while we have agreed that debate on all of the amendments shall be limited to one hour, I might be able to reduce the time consumed in the discussion of the amendment tomorrow by making a brief explanation tonight of the reach of the amendment and the reasons for offering it.

If there is no objection, I ask that the section in question, section 11, be made a part of the RECORD at this point in my remarks.

There being no objection, section 11 was ordered to be printed in the RECORD, as follows:

SEC. 11. Section 11 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 (note)) is amended by inserting "(a)" after "SEC. 11."; by inserting a comma and "except as specifically provided in this section" before the period at the end thereof; and by adding at the end thereof the following new subsections:

"(b) The Board shall immediately notify the Attorney General of any approval by it pursuant to this Act of a proposed acquisition, merger, or consolidation transaction, and such transaction may not be consummated before the thirtieth calendar day after the date of approval by the Board. Any action brough under the antitrust laws arising out of an acquisition, merger, or consolidation transaction shall be commenced within such thirty-day period. The commencement of such an action shall stay the effectiveness of the Board's approval unless the court shall otherwise specifically order. In any such action, the court shall review de novo the isues presented. In any judicial proceeding attacking any acquisition, merger, or consolidation transaction approved pursuant to this Act on the ground that such transaction alone and of itself constituted a violation of any antitrust laws other than section 2 of the Act of July 2, 1890 (section 2 of the Sherman Antitrust Act, 15 U.S.C. 2), the standards applied by the court shall be identical with those that the Board is directed to apply under section 3 of this Act. Upon the consummation of an acquisition, merger, or consolidation transaction in compliance with this Act and after the termination of any antitrust litigation commenced within the period prescribed in this section, or upon the termination of such period if no such litigation is commenced therein, the transaction may not thereafter be attacked in any judical proceeding on the ground that it alone and of itself constituted a violation of any antitrust laws other than section 2 of the Act of July 22, 1890 (section 2 of the Sherman Antitrust Act, 15 U.S.C. 2), but nothing in this Act shall exempt any bank holding company involved in such a transaction from complying with the antitrust laws after the consummation of such transaction.

"(c) In any action brought under the antitrust laws arising out of any acquisition, merger, or consolidation transaction approved by the Board pursuant to this Act, the Board and any State banking supervisory agency having jurisdiction within the State involved, may appear as a party of its own motion and as of right, and be represented by its counsel.

"(d) Any acquisition, merger, or consolidation of the kind described in section 3(a) of this Act which was consummated at any time prior or subsequent to May 9, 1956, and as to which no litigation was initiated by the Attorney General prior to the date of enactment of this amendment, shall be conclusively presumed not to have been in violation of any antitrust laws other than section 2 of the Act of July 2, 1890 (section 2 of the Sherman Antitrust Act, 15 U.S.C. 2).

"(e) Any court having pending before it on or after the date of enactment of this amendment any litigation initiated under the antitrust laws by the Attorney General with respect to any acquisition, merger, or consolidation of the kind described in section 3(a) of this Act shall apply the substantive rule of law set forth in section 3 of this Act.

"(f) For the purposes of this section, the term 'antitrust laws' means the Act of July 2, 1890 (the Sherman Antitrust Act, 15 U.S.C. 1–7), the Act of October 15, 1914 (the Clayton Act, 15 U.S.C. 12–27), and any other Acts in pari materia."

Mr. HART. Mr. President, among the country's most powerful corporations are the bank holding companies—financial institutions which own hundreds of banks and possess billions of dollars in deposits. Given their wealth and geographic scope of operations, what these holding companies do—the acquisitions they make—can vitally affect the competitive character of the economy. It is for this reason that in passing the Bank Holding Company Act of 1956 Congress explicitly provided that they be governed by the antitrust laws just as are other corporations.

It would be well to recall that when bills were introduced last year to amend the 1956 act, they had nothing to do with antitrust. Rather they sought simply to narrow its exemptions, with the specific purpose of subjecting two large holding company systems to the law. When the House passed amending legislation, it did not modify the application of the antitrust laws to bank holding companies. But then a fundamental change took place. When the bill finally was acted upon by the Senate Banking and Currency Committee—after hearings were concluded—the original purpose was drastically altered and the bill took on a distinctly new function—namely, to curtail sharply the application of the antitrust laws to all bank holding companies.

As a result, the unqualified application of the antitrust laws to bank holding company acquisitions is now to be changed if H.R. 7371 is passed in its present form. Section 11 of this bill would immunize past bank holding company acquisitions from the antitrust laws and subject their future mergers to a special, 30-day statute of limitations. The effect of these changes would be to shield dozens of powerful bank holding companies from the antitrust laws, thereby conferring upon them special treatment that is denied to virtually every other type of corporation. In my view this proposed change in the law is most unwise. Its desirability has not been demonstrated. Indeed, to the contrary; this provision could seriously interfere with the antitrust laws and impede our efforts to preserve a competitive economy.

Before taking a closer look at the antitrust aspects of this proposed legislation, it would be well to remind ourselves of the great power possessed by the bank holding companies. Few legislators are experts in this field, but even a cursory look at the evidence demonstrates that the registered bank holding companies possess enormous economic power, easily capable of being used in a way which could impair competition. At the end of 1964 registered holding companies held $20 billion in deposits. But that is only one index of their significance. In many areas of the country holding companies dominate the banking scene. According to one report, a single holding company controls over half of the bank deposits in central Ohio; in Atlanta three holding companies control nearly half of all bank deposits; in Milwaukee three holding companies control more than half of all deposits. In the Great Plains and Midwest large holding company systems, operating in a number of States, are the dominant financial interests. In the Far West, in the South, in New York State, and in many other parts of the Nation, bank holding companies are considerably more important than banks themselves. Given this fact, the acquisitions made by the holding companies are of obvious interest to those who are concerned with the maintenance of a competitive order. Without competition in banking it is most unlikely that we can have competition in other sectors of the economy.

In view of the tremendous power held by the bank holding companies, it is not surprising that Congress, in adopting the Bank Holding Company Act of 1956, provided for the continued unqualified application of the antitrust laws to the holding companies. In the succeeding 10 years there has been no serious dispute over the wisdom of that provision. When bills were introduced in 1965 to amend the 1956 act, they contained no provision that would have changed the role which the antitrust laws have always played with respect to the bank holding companies. The bill introduced by the chairman of the House Banking and Currency Committee contained no new antitrust provision; nor was there any such provision contained in the bill offered by the able Senator from Virginia, the chairman of the Senate committee.

Now, however, we are confronted with a bill which, in section 11, contains language that radically changes the way in which the antitrust laws apply to the bank holding companies. This provision was added in committee after hearings had been concluded.

What explains this proposed change in law? The principal reason, it is argued, is that since a new antitrust standard was created this years in the Bank Merger Act, a comparable provision should be inserted for the bank holding companies. On the face of it, this argument has some appeal, but when you dig into the matter, you find that the two cases are not comparable at all. In the case of bank mergers, the 1960 act contained what, in the opinion of many Members of Congress, amounted to a different standard for bank mergers than for other types of industrial acquisitions. In 1963, in the Philadelphia National Bank decision, the Supreme Court held the 1960 act did not alter the application to bank mergers of either section 7 of the Clayton Act or of the Sherman Act. To many people this ruling came as a surprise. It was, at least in part, to correct what some legislators felt was a judicial misinterpretation of congressional intent that the 1966 Bank Merger Act was adopted. While I opposed the 1966 act, I thought that the proponents

were not without some merit in their position. If, as has been argued, the courts went awry in their interpretation of the 1960 act, some correction was in order.

Contrast, though, the situation as it applies to the Bank Merger Act with that which pertains to the Bank Holding Company Act. In the latter case there has always been a clear understanding that all bank holding company acquisitions are governed by the antitrust laws. Congress itself affirmed this in 1956. Thus, we have completely different facts than those with which we were faced in dealing with bank mergers. Accordingly, I am not persuaded by the effort to justify the addition of section 11 to H.R. 7371 by drawing an analogy to bank merger legislation. The two are simply poles apart. The problems which section 11 creates are serious and have not been fully explored by committees in either House. This section would severely modify the reach of the antitrust laws and immunize some of the most powerful financial institutions in the country from the full thrust antitrust laws. Quite rightly, the Justice Department has announced its "strong opposition" to section 11 on the ground that it could "unwarrantedly weaken" the antitrust laws.

A radical legislative change of the sort incorporated in section 11 of this bill should not be adopted without the closest consideration. That kind of attention has not been accorded section 11. It would be imprudent, therefore, for us to adopt, at this time, any such legislative provision.

Accordingly, I move to amend H.R. 7371 by striking section 11 from the bill. I hope that as Senators read this RECORD overnight, they may be persuaded to support the amendment which would strike section 11.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. LONG of Louisiana. Is the Senator from Michigan fearful that section 11, while it contains language which would seem to militate against monopoly, might make possible the growth of monopoly in the banking field?

Mr. HART. That is my feeling, Mr. President. I am aware of the sensitivity of the able Senator from Louisiana on this subject, and I do not wish to overstate my reply.

The primary concern is that language has been added which leaves in great doubt the test which ultimately should be applied to a merger of a bank holding company. As the Senator from Louisiana will note, the language that is the basis for this statement is found in section 3 of the basic act. Section 3 of the basic act describes those mergers which shall not be approved. One of the tests is that the Board shall not approve a merger which may substantially lessen competition or create a monopoly. That is section 7 of the Clayton Act.

It continues:

> Or which would in any other manner be in restraint of trade unless it finds that the anti-competitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

At that point, one pays his money and takes his choice. It is not a test to which any other antitrust issue finds application, except in the bank merger bill which passed the Senate a few months ago. Over the opposition of the Senator from Louisiana and me, if the Senator recalls the discussion on the floor, the identical language was added.

The argument was that since we did it for the bank merger bill, we should treat the holding companies in the same way.

The Senator from Louisiana and I thought that it was a mistake to treat the bank merger bill in that fashion, and we do not want to compound the mistake.

Mr. LONG of Louisiana. Mr. President, it listed the banks having these holding companies, so that they were not directly to acquire another bank. That being the case, they would set up a holding company to acquire a bank which could not have been acquired directly.

Mr. HART. I think the statement is correct. In 1956, Congress sought by the Bank Holding Company Act to bring them within reach. We are now backing and filling over the same issue.

Mr. LONG of Louisiana. The point is that the Senator would seek to keep us from opening loopholes in the antitrust laws by this device. I take it the Senator thinks that this section really should have a great deal more study and detail.

Mr. HART. The Senator is correct. It ought to have more study. There has been no tender of proof made—of which I am aware—that would justify Congress at this point in treating bank holding companies so gently with respect to the antitrust laws.

Mr. LONG of Louisiana. Mr. President, did the Senator have a letter from the Department of Justice on this subject?

Mr. HART. Mr. President, I believe in the committee report there is a letter which bespeaks the deep concern of the Department of Justice, which voiced strong opposition.

In fairness, it should be added that, following receipt of that letter, and before the Committee on Banking and Currency took final action in executive session, there was some modification in the proposed antitrust standard, modified, as I indicated earlier, to conform to the treatment given the Bank Merger Act some months ago.

At that time the Department of Justice voiced opposition to that treatment, so that clearly we have from the Department of Justice not an expression of some vague concern or minimal interest, but very sharp concern.

I think, and hope, that Congress will not see fit to give this extraordinary antitrust treatment to bank holding companies.

Mr. LONG of Louisiana. Perhaps many Senators are not very much concerned about the problem. I must say that, as one who has been on the Antimonopoly Subcommittee of the Committee on Small Business for a number of years, the problem has bothered me.

The other day someone made the statement that the studies indicate that, at the rate we are going, by the year 1975 practically all production and commerce in this country will be in the hands of 200 large corporations. I should hope that that prediction will not be correct.

Mr. HART. That prediction will not be correct if the Senator from Louisiana has anything to do with it, and I hope that I shall be able to contribute something to the effort also.

Mr. LONG of Louisiana. The Senator from Michigan has certainly made an effort to preserve competition. It does seem to me that competition is the lifeblood of American industry and of the American competitive system It is not always popular with the fellow on the receiving end, but it tends to be a good thing for the public. I believe that, in the long run, it is a much better thing for business than business likes to realize.

I salute the Senator for raising the question.

Mr. HART. I thank the Senator very much and am very grateful to him.

## ADJOURNMENT TO 11 A.M. TOMORROW

Mr. LONG of Louisiana. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand adjourned until 11 o'clock a.m. tomorrow.

The motion was agreed to; and (at 5 o'clock and 55 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, June 7, 1966, at 11 o'clock a.m.

## NOMINATIONS

Executive nominations received by the Senate June 6, 1966:

ADMINISTRATOR FOR ECONOMIC DEVELOPMENT

Ross D. Davis, of New York, to be Administrator for Economic Development.

OFFICE OF EMERGENCY PLANNING

Myron R. Bles, of Florida, to be Deputy Director of the Office of Emergency Planning, vice Franklin B. Dryden, resigned.

DEPARTMENT OF DEFENSE

Robert Alan Frosch, of Maryland, to be an Assistant Secretary of the Navy, vice Robert W. Morse, resigned.

U.S. ATTORNEY

Louis C. LaCour, of Louisiana, to be U.S. attorney for the eastern district of Louisiana for the term of 4 years. (Reappointment.)

## CONFIRMATIONS

Executive nominations confirmed by the Senate June 6, 1966;

DEPARTMENT OF LABOR

Stanley H. Ruttenberg, of Maryland, to be an Assistant Secretary of Labor.

OFFICE OF ECONOMIC OPPORTUNITY

Bertrand M. Harding, of Virginia, to be Deputy Director of the Office of Economic Opportunity.

IN THE PUBLIC HEALTH SERVICE

The nominations beginning J. Carter Wright, to be senior surgeon, and ending Bert L. Murphy, to be senior assistant health services officer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 23, 1966.