and the face-to-face confrontation with the demonstrators was remarkable. They swallowed humiliation and never once lost their composure.

As I mingled amongst the dissenters I have never seen such a group of confused, selfish, and malicious young people. They were a real dedicated bunch of draft dodgers.

After leaving this disgusting scene I talked to bushy-haired Jerry Rubin, a codirector for the march and Peking-oriented leader of the Progressive Labor Party. Rubin, who has been active in violent protest demonstrations throughout the country, told me that a "revolution has begun and no power can stop it."

I witnessed the military warn the protesters that the agreed time for the march to end had arrived. The protesters, who had previously agreed to the terms of the march, refused to leave. It was necessary to carry them bodily from the steps to awaiting police vans to be arrested.

The entire group represented a real waste of humanity—young derelicts with no purpose or direction—a ship without a rudder.

While we as a free people, and as a government, will continue to jealously guard and protect the right of every American to dissent—the fact remains that these misled young followers have provided incriminating propaganda to Communist countries. Their demonstrations are not patriotic, nor do they provide the morale needed in Vietnam. Instead it is aiding and abetting the enemy. Make no mistake how the Communists will interpret this demonstration. They see it as a weakening of America's attitude toward the war.

It behooves us as citizens of our country to act immediately to correct a condition that may very well give seed to our own destruction as a free country.

The financial cost of handling this pro-Vietcong rally held last week was estimated at over $1 million. This does not include the value of the large amount of planning and staff time by the Government that went into preparing for the 2-day demonstration, nor does it include the cost, estimated at $350,000, of the military man-days of the Federal troops that defended the Pentagon.

The cost of this demonstration to our Nation's security is indeterminable.

SENATE

MONDAY, OCTOBER 30, 1967

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

Rev. Benedetto Pascale, pastor, Silver Lake Baptist Church, Belleville, N.J., offered the following prayer:

Eternal God, our Father, Creator of heaven and earth, from whom all blessings flow, and in whom we live, move, and have our being: we give Thee thanks for Thy goodness, love, and truth revealed to us. Grant us clear vision of our task and deep devotion to service. No one can flee from Thy presence or escape from personal responsibility. Thou livest in our midst and within us all. We seek Thy discipline, Thy correction, and Thy guidance. Thou hast been our guide in ages past, and Thou art our hope for years to come. Thee we acknowledge and call for help in this perplexed hour in which we live.

Bless the Members of this august Senate; give each one divine inspiration, wisdom, and steadfastness; for whatever is legislated here affects the individual citizen, the Nation, and the world.

Bless our Nation, O God, and help us to bear each other's burdens; giving a helping hand rather than pointing a finger. Our fathers trusted in Thee and were rewarded. Help us to value so great a heritage entrusted to us, that we may bring it to greater heights of glory.

We pray for peace on earth and good will among all men. In Jesus' name. Amen.

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.

EXECUTIVE MESSAGES REFERRED

As in executive session,

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.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the House had passed a bill (H.R. 13510) to increase the basic pay for members of the uniformed services, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 1160) to amend the Communications Act of 1934 by extending and improving the provisions thereof relating to grants for construction of educational television broadcasting facilities, by authorizing assistance in the construction of noncommercial educational radio broadcasting facilities, by establishing a nonprofit corporation to assist in establishing innovative educational programs, to facilitate educational program availability, and to aid the operation of educational broadcasting facilities; and to authorize a comprehensive study of instructional television and radio; and for other purposes, and it was signed by the Acting President pro tempore.

HOUSE BILL REFERRED

The bill (H.R. 13510) to increase the basic pay for members of the uniformed services, and for other purposes, was read twice by its title and referred to the Committee on Armed Services.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, October 27, 1967, be dispensed with.

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

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

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

ORDER FOR RECOGNITION OF SENATOR HARRIS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the transaction of routine morning business, the distinguished Senator from Oklahoma [Mr. HARRIS] be recognized for up to 30 minutes.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER (Mr. SPONG in the chair). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT—ENROLLED BILLS SIGNED

Under authority of the order of the Senate of October 27, 1967,

The Secretary of the Senate, on October 27, 1967, received the following message from the House of Representatives:

That the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President pro tempore:

H.R. 1499. An act to provide for the striking of medals in commemoration of the

300th anniversary of the explorations of Father Jacques Marquette in what is now the United States of America;

H.R. 5894. An act to amend titles 10, 32, and 37, United States Code, to remove restrictions on the careers of female officers in the Army, Navy, Air Force, and Marine Corps, and for other purposes;

H.R. 10105. An act to provide for the striking of medals in commemoration of the 150th anniversary of the founding of the State of Mississippi;

H.R. 10160. An act to provide for the striking of medals in commemoration of the 50th anniversary of the founding of the American Legion;

H.R. 10196. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1968, and for other purposes; and

H.R. 13212. An act to provide for the striking of medals in commemoration of the 200th anniversary of the founding of San Diego.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

PLANS FOR WORKS OF IMPROVEMENT UNDER PROVISIONS OF WATERSHED PROTECTION AND FLOOD PREVENTION ACT

A letter from the Secretary, Department of Agriculture, transmitting, pursuant to law, plans for works of improvement which have been prepared under the provisions of the Watershed Protection and Flood Prevention Act, as amended; (with accompanying papers) to the Committee on Agriculture and Forestry.

PROPOSED AUTHORIZATION FOR THE DEPARTMENT OF COMMERCE TO MAKE SPECIAL STUDIES, PROVIDE SERVICES, ENGAGE IN JOINT PRACTICES, ET CETERA

A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to authorize the Department of Commerce to make special studies, to provide services, and to engage in joint projects, and for other purposes (with an accompanying paper); to the Committee on Commerce.

PROPOSED AMENDMENT OF ACT TO PROVIDE BETTER FACILITIES FOR THE ENFORCEMENT OF CUSTOMS AND IMMIGRATION LAWS

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the act entitled "An act to provide better facilities for the enforcement of the customs and immigration laws," to increase the amount authorized to be expended, and for other purposes (with accompanying papers); to the Committee on Finance.

ANNUAL REPORT OF CIVIL AIR PATROL

A letter from the commander, Civil Air Patrol, Department of the Air Force, transmitting, pursuant to law, the Annual Report of the Civil Air Patrol for the calendar year 1966 (with an accompanying report); to the Committee on the Judiciary.

PLANS FOR WORKS OF IMPROVEMENT UNDER WATERSHED PROTECTION AND FLOOD PREVENTION ACT

A letter from the Secretary of Agriculture, transmitting, pursuant to law, plans for works of improvement which have been prepared under the provisions of the Watershed Protection and Flood Prevention Act, as amended (with accompanying papers); to the Committee on Public Works.

PETITIONS AND MEMORIALS

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

By the PRESIDING OFFICER:

A resolution adopted by the City Council of the City of Tustin, Calif., remonstrating, against the principle of Federal tax sharing; to the Committee on Finance.

A resolution adopted by the Inter-American Federation for Democracy in Greece, New York City, N.Y., relating to the restoration of democracy and freedom in Greece; to the Committee on Foreign Relations.

A resolution adopted by the board of supervisors of San Bernardino County, Calif., praying for action by the Congress to take action to clarify the intent of the Congress relating to the Common Varities Act; to the Committee on Interior and Insular Affairs.

BILLS INTRODUCED

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

By Mr. DIRKSEN:

S. 2597. A bill for the promotion of the progress of useful arts by the general revision of the Patent Laws, titles 35 of the United States Code, and for other purposes; to the Committee on the Judiciary.

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

By Mr. KENNEDY of Massachusetts:

S. 2598. A bill to amend the National Science Foundation Act of 1950, making changes and improvements in the organization and operation of the Foundation, and for other purposes; to the Committee on Labor and Public Welfare.

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

PROMOTION OF THE PROGRESS OF THE USEFUL ARTS BY THE GENERAL REVISION OF THE PATENT LAWS

Mr. DIRKSEN. Mr. President, I introduce, for appropriate reference, a bill for the promotion of the progress of the useful arts by the general revision of the patent laws—that is title 35 of the United States Code—and for other purposes.

This bill updates and renovates our patent laws while preserving essential features of the U.S. patent system which provide incentives to individuals and to businesses, large and small, to promote the progress of the useful arts. Underlying our patent system is the equitable principle that a patent should be granted to the person who first makes the invention as distinguished from the expedient used in most foreign countries of granting the patent to the first person who files an application. A second, and interrelated, feature of the U.S. patent system is the period of 1 year which is accorded an inventor to apply for a patent after public use or publication of the invention. Together, these two unique features of the U.S. patent system permit and encourage many desirable activities to take place before filing the patent application, including:

First. Inventors may exchange information with others;

Second. Inventions may be published;

Third. Development of inventions may be completed;

Fourth. Inventors may obtain advice on technical, marketing, and other problems;

Fifth. The invention may be publicly tested;

Sixth. The invention may be exploited commercially; and

Seventh. Patent applications may be carefully and completely prepared for those inventions which are considered worth while.

Unlike most foreign countries, the vast majority of the patents issued in the United States are issued to citizens of this country, and it is the interests of our citizens which are paramount in any consideration of revision of the patent laws.

This bill preserves the unique features of the American patent system which enable individuals and small businesses to compete with international industrial giants in developing and exploiting inventions according to the basic American tradition of free enterprise. At the same time, this bill revises the patent laws in a manner to improve and strengthen the U.S. patent system.

To improve the quality and reliability of patents, this bill eliminates some of the uncertainties concerning patents by defining more precisely the "prior art" against which the patentability of an invention must be measure. Also, before a patent is issued, any interested person may present evidence affecting the patentability of the invention, thereby reducing the possibility that a patent may subsequently be found to be invalid. Uniform interpretation of the standards of patentability will result from the consolidation of all review of Patent Office decisions in the Court of Customs and Patent Appeals.

Many provisions of this bill streamline rigid and technical requirements of the present law to reduce the time and expense of issuing patents. So the Patent Office may more expeditiously ascertain the "prior art" pertinent to an application for patent, this bill provides for a research program to improve and expedite storage and retrieval of patents and other scientific and technical information. Strict provisions of the present statute are relaxed to permit owners, as well as inventors, to file applications. Provisions concerning joint inventors have been liberalized. Signatory requirement for certain related applications are eliminated.

Computation of the term of a patent from its filing date rather than its issue date will encourage applicants to act promptly; any dilatory practice by an applicant will, in effect, curtail the life of the patent. Interferences between pending patent applications are eliminated, as are civil actions based upon Patent Office decisions in inter partes cases. Unnecessary examination of many applications will be avoided by provision for voluntary publication and abandonment of applications without loss of effective filing dates or other rights.

In *Sperry* v. *State of Florida*, 373 U.S. 388, 83 S. Ct. 1322 (1963), the Supreme Court reiterated its earlier holding that the preparation and prosecution of patent applications before the Patent Office involves the practice of law in its most intricate and complex sense. But the Court also found that the Congress, by the present patent statute, has au-

thorized nonlawyers to engage in such legal practice before the Patent Office, so the States cannot interfere with what would otherwise be the unauthorized practice of law. To correct this undesirable situation, this bill will limit practice before the Patent Office to members of the bar, with appropriate safeguards for nonlawyers who have already been admitted to practice before the Patent Office.

Without affecting the security of the United States in any way, some rigid requirements with respect to licenses for filing in foreign countries have been relaxed and provisions for granting retroactive licenses liberalized; courts are given the power to grant retroactive licenses or declare patents invalid for failure to comply with the licensing provisions.

To avoid different interpretations by a variety of courts of the application of antitrust laws to the use of patent property, this bill defines certain activities in which a patent owner may engage without jeopardizing his patent rights. Provision is made for preventing the importation of products made abroad by a process patented in the United States and for recovery of damages for unauthorized use of an invention after the patent application is published. Uncertainties resulting from the issuance of two or more patents on related inventions can be eliminated where the patents expire on the same date rather than risk the present inequitable situation where both patents may be held invalid.

In conjunction with the enlargement of the jurisdiction of the Court of Customs and Patent Appeals, provision is made for the employment of additional judges, at least some of whom are to be qualified in patent law. Such appointments will provide a nucleus of experienced patent judges who will be available, upon request, to assist other courts in handling the heavy load of complex and frequently protracted patent cases. Rather than propose legislation especially applicable to the trial of patent cases, it is believed the time and expense necessary for the trial of patent cases will likely be reduced as a result of the continuing review and revision of the Federal Rules of Civil Procedure and the continuing development of pretrial techniques in the Federal courts.

In summary, this bill is offered as a compromise between S. 1042 and S. 1691 of the 90th Congress, because it modernizes our patent laws without destroying the proven principles upon which the U.S. patent system is based solely for the sake of international standardization of inferior patent systems used in other countries.

Mr. President, this is a very considerable revision of our patent code. It has the approval of the American Bar Association, and, very particularly, the patent section of the association. I think it would be in the public interest if the bill were set out in full in the RECORD, because lawyers all over the country will be saved the trouble of sending to the document room for a copy, when it is available in the RECORD in their local libraries. I ask unanimous consent, therefore, that the bill be printed in the RECORD.

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

The bill (S. 2597) for the promotion of the progress of the useful arts by the general revision of the patent laws, title 35 of the United States Code, and for other purposes, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 2597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 35 of the United States Code, entitled "Patents", is hereby amended in its entirety to read as follows:

"TITLE 35—PATENTS

"CHAPTER 1.—ESTABLISHMENT, OFFICERS, FUNCTIONS

"§ 1. Establishment

"The Patent Office shall be an Office in the Department of Commerce, where records, books, drawings, specifications, and other papers and things pertaining to patents and to trademark registrations shall be kept and preserved, except as otherwise provided by law.

"§ 2. Seal

"The Patent Office shall have a seal with which letters patent, certificates of trademark registrations, and papers issued from the Office shall be authenticated.

"§ 3. Officers and employees

"(a) A Commissioner of Patents, one first assistant commissioner, two other assistant commissioners, and not more than twenty-four examiners-in-chief shall be appointed by the President, by and with the advice and consent of the Senate. The assistant commissioners shall perform the duties pertaining to the office of Commissioner assigned to them or by the Commissioner. The first assistant commissioner, or, in the event of a vacancy in that office, the assistant commissioner senior in date of appointment, shall fill the office of Commissioner during a vacancy in that office until a Commissioner is appointed and takes office. The Secretary of Commerce, upon the nomination of the Commissioner in accordance with law, shall appoint all other officers and employees.

"(b) The Secretary of Commerce is authorized to fix the per annum rate of basic compensation of each examiner-in-chief in the Patent Office at not in excess of the maximum scheduled rate provided for positions in grade 17 of the General Schedule of positions referred to in section 5104 of title 5, United States Code, and of the assistant commissioners at not in excess of the rate provided for positions in grade 18.

"§ 4. Restriction on officers and employees as to interest in patents

"Officers and employees of the Patent Office shall be incapable, during the period of their appointments and for one year thereafter, of applying for a patent and of acquiring, directly or indirectly, except by inheritance or bequest, any patent or any right or interest in any patent, issued or to be issued by the Office. In patents applied for thereafter, they shall not be entitled to any priority date earlier than one year after the termination of their appointment.

"§ 5. Bond of Commissioner and other officers

"The Commissioners and such other officers as he designates, before entering upon their duties, shall severally give bond, with sureties, the former in the sum of $10,000, and the latter in sums prescribed by the Commissioner, conditioned for the faithful discharge of their respective duties and that they shall render to the proper officers of the Treasury a true account of all money received by virtue of their offices.

"§6. Duties of Commissioner

"The Commissioner, under the direction of the Secretary of Commerce, shall superintend or perform all duties required by law respecting the granting and issuing of patents and the registration of trademarks; and he shall have charge of property belonging to the Patent Office. He may establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.

"§ 7. Board of Appeals

"(a) The Commissioner, the assistant commissioners, and the examiners-in-chief shall consttiute a Board of Appeals in the Patent Office. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability.

"(b) The Board of Appeals shall:

"(1) Review adverse decisions of the examiners upon applications for patents as provided in section 134 of this title.

"(2) Review or consider actions arising under sections 136 and 137 of this title in accordance with regulations established for such purpose.

"(3) Perform the functions specified as being performed by a Board of Patent Interferences in Public Law 593, Eighty-second Congress (ch. 950, 66 Stat. 792, section 1), and in other Acts of Congress and when performing said function shall constitute a Board of Patent Interferences.

"(c) Each appeal or other action shall be heard or considered by at least three members of the Board of Appeals. The Board of Appeals has sole power to grant rehearings.

"(d) Whenever the Commissioner considers it necessary to maintain the work of the Board of Appeals current, he may designate any patent examiner of the primary examiner grade or higher having the requisite ability, to serve as acting examiner-in-chief for periods not exceeding six months each. An examiner so designated shall be qualified to act as a member of the Board of Appeals. Not more than one acting examiner-in-chief shall be a member of the Board of Appeals hearing an appeal or considering a case. The Secretary of Commerce is authorized to fix the per annum rate of basic compensation of each acting examiner-in-chief in the Patent Office at not in excess of the maximum scheduled rate provided for positions in grade 16 of the General Schedule of positions referred to in section 5104 of title 5, United States Code. The per annum rate of basic compensation of each acting examiner-in-chief shall be adjusted, at the close of the period for which he was designated to act as examiner-in-chief, to the per an-

num rate of basic compensation which he would have been receiving at the close of such period if such designation had not been made.

"§ 8. Library

"The Commissioner shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Patent Office to aid the officers in the discharge of their duties.

"§ 9. Classification of patents

"The Commissioner shall maintain a classification by subject matter of published specifications of United States patents and applications and of such other patents and applications and other scientific and technical information as may be necessary or practicable, for the purpose of determining with readiness and accuracy the novelty of inventions for which applications for patent are filed.

"§ 10. Certified copies of record

"The Commissioner may, upon payment of the prescribed fee, furnish certified copies of records of the Patent Office to persons entitled thereto.

"§ 11. Publications

"(a) The Commissioner may publish, or cause to be published, in such format as he shall determine to be suitable under applicable laws and regulations, the following:

"(1) Patent applications and parts thereof, subject to the provisions of this title, patent abstracts and patents, including specifications and drawings, together with copies of the same.

"(2) Certificates of trademark registrations, including statements and drawings, together with copies of the same.

"(3) The Official Gazette of the United States Patent Office.

"(4) Annual indices of patents and patentees, published applications and applicants, and of trademarks and registrants.

"(5) Annual volumes of decisions in patent and trademark cases.

"(6) Classification manuals and indices of the classifications of patents.

"(7) Pamphlet copies of the patent laws and rules of practice, laws and rules relating to trademarks and circulars or other publications relating to the business of the Office.

"(b) The Patent Office may print the headings of the drawings for patents for the purpose of photolithography.

"§ 12. Research and studies

"(a) The Commissioner shall conduct a program of research and development to improve and expedite the handling, classification, storage and retrieval of patents and other scientific and technical information.

"(b) The Commissioner shall conduct and sponsor studies to aid in analyzing the contemporary needs of the patent system and in evaluating the effectiveness of the patent system in serving the public interest.

"CHAPTER 2.—PROCEEDINGS IN THE PATENT OFFICE

"Sec.
"21. Day for taking action falling on Saturday, Sunday, or holiday.
"22. Printing of papers filed.
"23. Testimony in Patent Office cases.
"24. Subpenas, witnesses.
"25. Oath; declaration in lieu of oath.
"26. Effect of defective execution.

"§ 21. Day for taking action falling on Saturday, Sunday, or holiday

"When the day, or the last day, for taking any action or paying any fee in the United States Patent Office falls on Saturday, Sunday, or a holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding secular or business day.

"§ 22. Printing of papers filed

"The Commissioner may by regulation prescribe the form, and manner of reproduction, of papers filed in the Patent Office.

"§ 23. Testimony in Patent Office cases

"The Commissioner may establish rules for taking affidavits and depositions required in cases in the Patent Office. Any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where he resides, may take such affidavits and depositions.

"§ 24. Subpenas, witnesses

"The clerk of any United States court for the district wherein testimony is to be taken for use in any contested case in the Patent Office, shall, upon the application of any party thereto, issue a subpena for any witness residing or being within such district, commanding him to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of the witnesses and to the production of documents and things shall apply to contested cases in the Patent Office.

"Every witness subpenaed and in attendance shall be allowed the fees and traveling expenses allowed to witnesses attending the United States district courts.

"A judge of a court whose clerk issued a subpena may enforce obedience to the process or punish disobedience as in other like cases, on proof that a witness, served with such subpena, neglected or refused to appear or to testify. No witness shall be deemed guilty of contempt for disobeying such subpena unless his fees and traveling expenses in going to, and returning from, and one day's attendance at the place of examination, are paid or tendered to him at the time of the service of the subpena; nor for refusing to disclose any secret matter except upon appropriate order of the court which issued the subpena.

"§ 25. Oath; declaration in lieu of oath

"(a) An oath to be filed in the Patent Office may be made before any person within the United States authorized by law to administer oaths, or, when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any officer authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by certificate of a diplomatic or consular officer of the United States, and such oath shall be valid if it complies with the laws of the state or country where made.

"(b) The Commissioner may by rule prescribe that any document to be filed in the Patent Office and which is required by any law, rule, or other regulation to be under oath may be subscribed to by a written declaration in such form as the Commissioner may prescribe, such declaration to be in lieu of the oath otherwise required.

"(c) Whenever such written declaration is used, the document must warn the declarant that willful false statements and the like are subject to punishment including fine or imprisonment, or both.

"§ 26. Effect of defective execution

"Any document to be filed in the Patent Office and which is required by any law, rule, or other regulation to be executed in a specified manner may be provisionally accepted by the Commissioner despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed.

"CHAPTER 3.—PRACTICE BEFORE PATENT OFFICE

"Sec.
"31. Regulations for agents and attorneys.
"32. Suspension or exclusion from practice.
"33. Unauthorized representation as practitioner.

"§ 31. Regulations for agents and attorneys

"The Commissioner may prescribe regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Patent Office, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office. Only members of the bar of a State, Territory, District, Commonwealth or Possession of the United States may be recognized as representatives of applicants, or practice before the Patent Office, except those representatives recognized prior to the effective date of this Act.

"§ 32. Suspension or exclusion from practice

"The Commissioner may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Patent Office, any person, agent, or attorney shown to be incompetent or disreputable, or guilty of gross misconduct, or who does not comply with the regulations established under section 31 of this title, or who shall, by word, circular, letter, or advertising, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant, or other person having immediate or prospective business before the Office. The reasons for any such suspension or exclusion shall be duly recorded. The United States District Court for the District of Columbia, under such conditions and upon such proceedings as it by its rules determines, may review the action of the Commissioner upon the petition of the person so suspended or excluded.

"§ 33. Unauthorized representation as practitioner

"Whoever, not being recognized to practice before the Patent Office, holds himself out or permits himself to be held out as so recognized, or as being qualified to prepare or prosecute applications for patent, shall be fined not more than $1,000 for each offense.

"CHAPTER 4.—PATENT FEES

"Sec.
"41. Patent fees.
"42. Payment of patent fees; return of excess amounts.

"§ 41. Patent fees

"(a) The Commissoner shall charge the following fees:

"(1) On filing each application for an original patent, except in design cases, $65; in addition, of filing or on presentation at any other time, $10 for each claim in independent form which is in excess of one, and $2 for each claim (whether independent or dependent) which is in excess of ten. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.

"(2) For publishing under section 123 of this title each application for an original or reissue patent, $50; in addition, $10 for each page or portion thereof) of specification as printed, and $2 for each sheet of drawing.

"(3) For publishing under section 151 of this title each application for an original or reissue patent which was not previously published under section 123 of this title, $50; in addition, $10 for each page (or portion thereof) of specification as printed, and $2 for each sheet of drawing.

"(4) For publishing under section 151 of this title any changes in an application previously published under section 123 of this title, $10 for each page (or portion thereof) of changed specification as printed, and $2 for each sheet of changed drawing.

"(5) For issuing each original or reissue patent, except in design cases, $50.

"(6) In design cases:

"a. On filing each design application, $20.

"b. On issuing each design patent: For three years and six months, $10; for seven years, $20; and for fourteen years, $30.

"(7) On filing each application for the reissue of a patent, $65; in addition, on filing or on presentation at any other time, $10 for each claim in independent form which is in excess of the number of independent claims of the original patent, and $2 for each claim (whether independent or dependent) which is in excess of ten and also in excess of the number of claims of the original patent. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.

"(8) On filing each disclaimer, $15.

"(9) On appeal for the first time from the examiner to the Board of Appeals, $50; in addition, on filing a brief in support of the appeal, $50.

"(10) On filing each petition for the revival of an abandoned application for a patent or for the delayed payment of the fee for issuing each patent, $15.

"(11) For certificate under section 255 or under section 256 of this title, $15.

"(12) As available and if in print: For uncertified printed copies of specifications and drawings of published applications and patents (except design patents), 50 cents per copy; for design patents, 20 cents per copy; the Commissioner may establish a charge not to exceed $1 per copy for published applications and patents in excess of twenty-five pages of drawings and specifications and for plant patents printed in color; special rates for public libraries in the United States which maintain copies of patents for use of the public, $50 for patents issued in one year. The Commissioner may, without charge, provide applicants with copies of specifications and drawings of published applications and patents when referred to in a notice under section 132.

"(13) For recording every assignment, agreement, or other paper relating to the property in a patent or application, $20; where the document relates to more than one patent or application, $3 for each additional item.

"(14) For each certificate, $1.

"(15) For delayed payment pursuant to section 151(d) of this title, $25.

"(b) The Commissioner may establish charges for copies of records, publications, or services furnished by the Patent Office, not specified above.

"(c) The fees prescribed by or under this section shall apply to any other Government department or agency, or officer thereof, except that the Commissioner may waive the payment of any fee for services or materials in cases of occasional or incidental requests by a Government department or agency, or officer thereof.

"(d) The Commissioner shall prescribe by regulations, consistent with the provisions of this title, the time for payment of the fees to be paid under this title. If payment of the fees in connection with the examination, publication or issuance of a patent application are not timely made, the application shall be regarded as abandoned. An applicant shall be given at least thirty days following notice of a fee due pursuant to section 123 or 151 of this title in which to pay the fee.

"(e) The Commissioner may prescribe by regulations when copies of Patent Office records and publications may be provided without charge or in exchange for records or publications of foreign countries.

"§ 42. Payment of fees; return of excess amounts

"All fees shall be paid to the Commissioner, who shall deposit the same in the Treasury of the United States in such manner as the Secretary of the Treasury directs, and the Commissioner may refund any sum paid by mistake or in excess of the fee required.

"PART II—PATENTABILITY OF INVENTIONS AND GRANT OF PATENTS

"CHAPTER 10.—PATENTABILITY OF INVENTIONS

"§ 100. Definitions

"When used in this title unless the context otherwise indicates—

"(a) The term "invention" means invention or discovery.

"(b) The term "process" means process, art or method and includes a new use of a known process, machine, manufacture, composition of matter, or material.

"(c) The terms "United States" and "this country" means the United States of America, its territories and possessions, and the Commonwealth of Puerto Rico.

"(d)) The term "applicant" means any person who has filed or who owns an application for patent as provided in this title.

"(e) The term "patentee" includes not only the person to whom the patent was issued but also the successors in title to such person.

"(f) The term "effective filing date," when used in reference to an application for patent, includes the filing date to which such application, or the subject matter of any claim thereof, may be entitled under the provisions of section 119 or 120 of this title. An application or the resulting patent may contain separate claims for subject matter having different effective filing dates.

"(g) The term "useful" shall include, but shall not be limited to, utility in agriculture, commerce, industry, health, or research.

"(h) The term "prior art" means:

"(1) A published United States patent application or United States patent of another which has an actual filing date in the United States before the invention thereof by the inventor named in the applicant's application; or

"(2) Subject matter known or used by others in this country before the invention thereof by the inventor named in the applicant's application; or

"(3) A patent or publication in this or a foreign country reasonably available before the invention by the inventor named in the applicant's application, or more than one year prior to the effective filing date of the application for patent in the United States; or

"(4) Subject matter sold or in public use in this country more than one year prior to the effective filing date of the application for patent in the United States.

"§ 101. Right to patent: inventions patentable

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, or his successor in title, may obtain a patent therefor, subject to the conditions and requirements of this title.

"§ 102. Conditions for patentability; novelty and loss of right to patent

"An applicant shall be entitled to a patent unless:

"(a) The invention sought to be patented is identically disclosed or described by the prior art; or

"(b) The applicant has abandoned the invention; or

"(c) The invention was first patented or caused to be patented by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application filed more than twelve months before the filing of the application in the United States; or

"(d) The inventor named in the applicant's application did not himself invent the subject matter sought to be patented; or

"(e) Before the invention thereof by the inventor named in the applicant's application, the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

"§ 103. Conditions for patentability; non-obvious subject matter

"A patent may not be obtained though the invention is not identically disclosed or described in the prior art if the differences between the subject matter sought to be patented and the prior art are such that said subject matter as a whole would have been obvious at the time the invention was made, or more than one year prior to the effective filing date of the application, to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

"§ 104. Invention made abroad

"In proceedings in the Patent Office and in the courts, an applicant for a patent, or a patentee, may not establish a date of invention by reference to knowledge or use thereof, or other activity with respect thereto, in a foreign country, except as provided in section 119 of this title. Where an invention was made by a person, civil or military, while domiciled in the United States and serving in a foreign country in connection with operations by or on behalf of the United States, he shall be entitled to the same rights of priority with respect to such invention as if the same had been made in the United States.

"§ 107. Abandonment of invention

"(a) Abandonment of an application for patent does not of itself establish abandonment of an invention disclosed therein.

"(b) Publication of an application under the provisions of section 123 or 151 of this title refutes any inference that an invention disclosed therein was abandoned after the effective filing date thereof.

CHAPTER 11.—APPLICATION FOR PATENT

"§ 111. Application for patent

"(a) An application for patent may be filed by either the inventor or the owner of the invention sought to be patented. The application shall be made in writing to the Commissioner, shall be signed by the applicant and shall include or be amended to include the name of each person believed to have made an inventive contribution, and shall be accompanied by the prescribed fee. An application filed by a person not the inventor shall include, at the time of filing, a statement of the facts supporting the allegation of owner-

ship of the invention, which statement may be amended.

"(b) For purposes of filing a patent application and securing a filing date, an application may be signed by an agent of the inventor or owner provided the application is ratified by the signature of the inventor or owner within six months thereafter.

"(c) When the application is signed by the owner or his agent, the owner, within ten days after filing an application for patent, shall serve a copy of the application on the inventor; service may be effected by mailing a copy of the application, first class mail, to the last known address of the inventor.

"(d) An application for patent shall include:

"(1) A specification as prescribed by section 112 of this title;

"(2) A drawing as prescribed by section 113 of this title; and

"(3) An oath prescribed by section 115 of this title.

"(e) In an application, omission of an inventor's name or inclusion of the name of one not an inventor, without deceptive intent, may be corrected at any time, in accordance with regulations established by the Commissioner.

"(f) When the Commissioner requires or publishes an abstract of the technical disclosure of an application, such abstract shall not be used either in the Patent Office or after the issuance of a patent to determine or interpret the scope of the invention claimed.

"§ 112. Specification

"(a) The specification shall contain a written description of the invention, and of the manner and process of making it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the same, and shall set forth the best mode contemplated by the applicant of carrying out the invention. The specification shall also indicate the use of said invention.

"(b) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant desires to secure by letters patent. A claim may be written in independent or dependent form, and if in dependent form, it shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim.

"(c) An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

"§ 113. Drawings

"When the nature of the case admits, the applicant shall furnish a drawing.

"§ 114. Models, specimens

"The Commissioner may require the applicant to furnish a model or specimen of convenient size to exhibit advantageously the several parts of his invention.

"When the invention is related to a composition of matter, the Commissioner may require the applicant to furnish specimens or ingredients for the purpose of inspection or experiment.

"§ 115. Oath of applicant

"(a) The applicant, if he is the inventor, shall make oath that he believes himself to be the original and first inventor of the subject matter sought to be patented and shall state of what country he is a citizen.

"(b) The applicant, if he is not the inventor, shall make an oath that he believes the named inventor to be the original and first inventor of the subject matter sought to be patented and shall state of what country the named inventor is a citizen; such oath shall verify the statement of facts supporting the allegation of ownership of the invention.

"(c) The applicant of an application filed pursuant to section 117 of this title may make the oath required by subsection (b) of this section, so varied in form that it can be made by him.

"§ 116. Joint inventors

"(a) When two or more persons have made inventive contributions to subject matter claimed in an application, they shall apply for a patent jointly and each sign the application and make required oath, or, if the application is filed by some other person having the right to do so, they shall be named as the inventors.

"(b) In an application for patent for a joint invention, it shall not be necessary for each person named as joint inventor to be a joint inventor of the invention asserted in each claim.

"(c) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself and the omitted inventor. The Commissioner, on proof of the pertinent facts and after such notice to the omitted inventor as he prescribes, may publish the application and grant a patent to the inventor making the application, subject to the same rights which the omitted inventor would have had if he had been joined. The omitted inventor may subsequently join in the application.

"§ 117. Death or incapacity of inventor

"Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

"§ 119. Benefit of earlier filing date in foreign country; right of priority

"(a) An application for patent for an invention filed in this country by any person who has, or whose predecessor or successor in title has, previously regularly filed an application for a patent for the same invention by the same inventor in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, shall have the same effect as the same application would have if filed in the United States on the date on which the application for patent for the same invention was first filed in any such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed.

"(b) No application shall be entitled to a right of priority under this section, unless the applicant makes a claim therefor at the time the application is filed and complies with such requirements as the Commissioner may prescribe by regulations; amendment of such claim may be made during examination or reexamination of the application as provided in Chapter 12 of this title.

"(c) In like manner and subject to the same conditions and requirements, the right provided in this section may be based upon a subsequent regularly filed application in the same foreign country instead of the first filed foreign application, provided that any foreign application filed prior to such subsequent application has been withdrawn, abandoned, or otherwise disposed of, without having been laid open to public inspection and without leaving any rights outstanding, and has not served, nor thereafter shall serve, as a basis for claiming a right of priority.

"§ 120. Benefit of earlier filing date in the United States

"(a) An application for patent for an invention shall have the same effect as to such invention as though filed on the date a prior application was filed, or the date to which a prior application is directly or indirectly entitled under this subsection (a) or under section 119 of this title, if:

"(1) The two applications have the same applicant;

"(2) The invention is disclosed in the prior application in the manner provided by the first paragraph of section 112 of this title;

"(3) The later application is filed before the abandonment of, or the issuance of a patent on, the prior application, and

"(4) The applicant specifically claims the benefit of such date for subject matter claimed in the later application at the time of filing the later application, or by amendment thereof.

"(b) The Commissioner may by regulation dispense with signing and execution in the case of an application directed solely to subject matter described in a prior application of the same applicant.

"§ 121. Divisional applications

"(a) If two or more independent and distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of them. A requirement for an election of species is a requirement for restriction and, in the event of such requirement, each separate species shall be considered a separate and distinct invention.

"(b) The validity of a patent may not be questioned for failure of the Commissioner to require the application to be restricted under subsection (a) of this section, nor may the validity of either of two or more patents resulting from and in accordance with a requirement under said subsection (a) be questioned solely because of the existence of several patents, if the subsequent application is filed in accordance with the provisions of section 120 of this chapter.

"§ 122. Confidential status of applications

"Applications for patents shall be kept in confidence by the Patent Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner.

"§ 123. Publication

"(a) An applicant may, upon the payment of the prescribed fee, request publication of his pending application and publication of the pending application shall occur as soon as practicable after the request.

"(b) Before publication of an application under this section, the applicant may be required, subject to sections 132 and 133 of this title, to place the application in proper form for publication.

"CHAPTER 12.—EXAMINATION OF APPLICATION

"Sec.
"131. Examination of application.
"132. Notice of rejection; reexamination.
"133. Time for prosecuting application.
"134. Appeal to the Board of Appeals.
"136. Reexamination after publication.
"137. Priority of invention.

"§ 131. Examination of application

"The Commissioner shall cause an examination to be made of the application and the alleged new invention; and if on such examination it is determined that the applicant is entitled to a patent under the law, the Commissioner shall issue a patent therefor as hereinafter provided. The granting of a patent shall not be refused solely on the ground that if it occurred there would then exist more than one patent for the same invention where the patents will expire on the same date as a result of filing on the same date or as a result of a terminal disclaimer pursuant to section 253 of this title, so long as the right to sue for infringement of said patents is in the same legal entity. Insofar as reasonably feasible, the examination shall be in the order of the application's earliest effective filing date.

"§ 132. Notice of rejection; reexamination

"Whenever, on examination, any claim of an application is rejected, or any objection

or requirement made, the Commissioner shall notify the applicant thereof, stating the reasons therefor, together with such information and references as may be useful in judging the propriety of continuing the prosecution of the application; and if after receiving such notice, the applicant requests reexamination, with or without amendment, the application shall be reexamined. No amendment shall introduce new matter into the disclosure of the invention.

"§ 133. Time for prosecuting application

"Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

"§ 134. Appeal to the Board of Appeals

"An applicant for a patent, any of whose claims has been finally or twice rejected, may appeal from the decision of the primary examiner to the Board of Appeals, having once paid the fee for such appeal.

"§ 136. Reexamination after publication

"(a) Any person may notify the Commissioner of patents or publications which may have a bearing on the patentability of a published application, and the Commissioner may cause the application to be examined or reexamined in the light thereof.

"(b) If such notification explains in writing the pertinency of the patents or publications cited and is received within three months, or within such longer time as the Commissioner appoints but not more than six months, after publication of the application under section 151 of this title, the citations shall be considered by the Patent Office; such consideration shall be an examination in accordance with sections 131 and 132 hereof.

"(c) The identity of the person making the citations under subsection (a) or (b) of this section shall be kept in confidence by the Patent Office, and no information concerning the same shall be given without the authority of such person, unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Commissioner.

"(d) Any person may notify the Commissioner within such time as the Commissioner appoints, not less than three months nor more than six months after publication of an application under section 151 of this title, that:

"(1) Subject matter had been sold or was in public use in the United States which disclosed the invention claimed in such application more than one year prior to the effective filing date of the application; or

"(2) The inventor named in such application did not himself invent the subject matter sought to be patented; or

"(3) Before the invention thereof by the inventor named in the application, the invention was made in this country by another who had not abandoned, suppressed or concealed it.

If such person within the time specified above makes a prima facie showing and offers to present evidence in support of such showing, the matter shall be determined in such proceedings as the Commissioner shall establish by regulations. Such regulations shall require consideration or review by the Board of Appeals and shall prescribe for matters under subsections (d)(2) and (d)(3) of this section the same kind of proceeding.

"(e) A refusal of the Commissioner to reject any claim of an application on the basis of a notification under this section shall not be subject to direct judicial review, except that an applicant claiming the same subject matter as that involved in a proceeding under subsection (d)(2) or (d)(3) of this section may include such refusal on appeal under section 134 of this title and when seeking review under Chapter 13 of this title.

"(f) Whether or not any person chooses to proceed in accordance with the provisions of this section, he shall not be foreclosed or in any way prejudiced with respect to asserting comparable grounds in defense of an infringement suit or as a basis of affirmative relief under declaratory judgment proceedings.

"§ 137. Priority of invention

"(a) Whenever a claim of an otherwise allowable application is for the same invention as a claim of an issued patent, or for the substance thereof, and the applicant makes a prima facie showing that before the effective filing date of the application for said patent, the inventor named in the said application made the invention in the United States and has not abandoned, suppressed or concealed it, and the applicant offers to present evidence in support of such showing, the matter of priority of invention under section 102(e) of this title shall be determined in such proceedings as the Commissioner shall establish by regulation pursuant to section 136(d) of this Chapter.

"(b) A claim for the same subject matter as a claim of an issued patent, or for the substance thereof, may not be made in any application unless such claim is made prior to six months after the date on which the patent was granted.

"CHAPTER 13.—REVIEW OF PATENT OFFICE DECISIONS

"Sec.
"141. Appeal to Court of Customs and Patent Appeals.
"142. Notice of appeal.
"143. Proceedings on appeal.
"144. Decision on appeal.
"145. Civil action.

"§ 141. Appeal to Court of Customs and Patent Appeals

"(a) An applicant, or his successor in title, dissatisfied with the decision of the Board of Appeals refusing a patent or any claim, may appeal to the United States Court of Customs and Patent Appeals, thereby waiving his right to proceed under section 145 of this title.

"(b) An applicant, or his successor in title, dissatisfied with the decision of the Board of Appeals in a proceeding involving another applicant under section 136(d)(2), 136(d)(3), or 137 of this title, may appeal to the United States Court of Customs and Patent Appeals.

"§ 142. Notice of appeal

"When an appeal is taken to the United States Court of Customs and Patent Appeals, the appellant shall file in the Patent Office a written notice of appeal directed to the Commissioner, within such time after the date of the decision appealed from, not less than sixty days, as the Commissioner appoints.

"§ 143. Proceedings on appeal

"The Patent Office shall transmit to the United States Court of Customs and Patent Appeals certified copies of all the necessary papers and evidence designated by the appellant and any additional papers and evidence designated by the Commissioner or the appellee. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties thereto.

"§ 144. Decision on appeal

"The United States Court of Customs and Patent Appeals shall hear and determine such appeal on the evidence produced before the Patent Office and transmitted to the court under the provisions of section 143 of this title. Upon its determination, the court shall return to the Commissioner a certificate of its proceedings and decision, which shall be entered of record in the Patent Office and govern the further proceedings in the case.

"§ 145. Civil action

"An applicant, or his successor in title, dissastisfied with the decision of the Board of Appeals refusing a patent or any claim, may, unless appeal has been taken to the United States Court of Customs and Patent Appeals under section 141 of this title, have remedy by civil action against the Commissioner in the United States Court of Customs and Patent Appeals if commenced within such time after such decision, not less than sixty days, as the Commissioner appoints. The court may adjudge that such applicant is entitled to receive a patent for his invention, as specified in any of his claims involved in the decision of the Board of Appeals, as the facts in the case may appear, and such adjudication shall be entered of record in the Patent Office and govern further proceedings in the case.

"CHAPTER 14—ISSUE OF PATENT

"Sec.
"151. Publication and issue of patents.
"153. How issued.
"154. Contents and term of patent.

"§ 151. Publication and issue of patent

"(a) If it is determined that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a publication fee and an issue fee; upon payment of the publication fee within the time established, the application shall be published.

"(b) Applications which have been published under section 123 of this title need not be published in full under this section, but in lieu thereof a notice that the application has been allowed together with any changes may be published.

"(c) If no action under section 136 of this title has been taken, and provided the fee prescribed for issuance of a patent has been paid within the time established, the Commissioner shall issue the patent. If an action under section 136 of this title has been commenced, the patent shall be issued after the conclusion of the proceedings if then warranted.

"(d) If any payment required by this section is not timely made, but is submitted with the fee for delayed payment within three months after the due date and sufficient cause is shown for the late payment, it may be accepted by the Commissioner as though no abandonment or lapse had ever occurred.

"§ 153. How issued

"Patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Commissioner or have his signature placed thereon, and shall be recorded in the Patent Office.

"§ 154. Contents and term of patent

"(a) Every patent shall contain a grant to the applicant, his heirs or assigns, of the right, during the term of the patent to exclude others from making, using, or selling the invention throughout the United States, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

"(b) The term of a patent shall expire twenty years from the date of filing the application in the United States or, if the benefit of the filing date in the United States of a prior application is claimed, from the earliest such prior date claimed. In determining the term of the patent, the date of filing any application in a foreign country which may be claimed by the applicant shall not be taken into consideration.

"CHAPTER 15.—PLANT PATENTS

"Sec.
"161. Patents for plants.
"162. Description, claim.
"163. Grant.

"§ 181. Secrecy of certain inventions and withholding of patent

"(a) Whenever publication or disclosure of an invention in which the Government has a property interest might, in the opinion of the head of an interested Government agency, be detrimental to the national security, the Commissioner upon being so notified shall order that the invention be kept secret and shall withhold publication thereof and the grant of a patent under the condition set forth hereinafter.

"(b) Whenever the publication or disclosure of an invention in which the Government does not have a property interest, might, in the opinion of the Commissioner, be detrimental to the national security, he shall make the application for patent in which such invention is disclosed available for inspection to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

"(c) Each individual to whom the application is disclosed shall sign a dated acknowledgment thereof, which acknowledgment shall be entered in the file of the application. If, in the opinion of the Atomic Energy Commission, the Secretary of a Defense Department, or the chief officer of another department or agency so designated, the publication or disclosure of the invention would be detrimental to the national security, the Atomic Energy Commission, the Secretary of a Defense Department, or such other chief officer shall notify the Commissioner and the Commissioner shall order that the invention be kept secret and shall withhold publication and the grant of a patent for such period as the national interest requires, and notify the applicant thereof. Upon proper showing by the head of the department or agency who caused the secrecy order to be issued that the examination of the application might jeopardize the national interest, the Commissioner shall thereupon maintain the application in a sealed condition and notify the applicant thereof. The applicant whose application has been placed under a secrecy order shall have a right to appeal from the order to the Secretary of Commerce under rules prescribed by him.

"(d) An invention shall not be ordered kept secret and publication withheld for a period of more than a year. The Commissioner shall renew the order at the end thereof, or at the end of any renewal period, for additional periods of one year upon notification by the head of the department or the chief officer of the agency who caused the order to be issued that an affirmative determination has been made that the national interest continues so to require. An order in effect, or issued, during a time when the United States is at war shall remain in effect for the duration of hostilities and one year following cessation of hostilities. An order in effect, or issued, during a national emergency declared by the President shall remain in effect for the duration of the national emergency and six months thereafter. The Commissioner may rescind any order upon notification by the heads of the departments and the chief officers of the agencies who caused the order to be issued that the publication or disclosure of the invention is no longer deemed detrimental to the national security.

"§ 182. Abandonment of invention for unauthorized disclosure

"The invention disclosed in an application for patent subject to an order made pursuant to section 181 of this title may be held abandoned upon its being established by the Commissioner that in violation of said order the invention has been published or disclosed or that an application for a patent therefor has been filed in a foreign country by the inventor, his successors, assigns, or legal representatives, or anyone in privity with him or them, without the consent of the Commissioner. The abandonment shall be held to have occurred as of the time of violation. The consent of the Commissioner shall not be given without the concurrence of the heads of the departments and the chief officers of the agencies who caused the order to be issued. A holding of abandonment shall constitute forfeiture by the applicant, his successors, assigns, or legal representatives, or anyone in privity with him or them, of all claims against the United States based upon such invention.

"§ 183. Right to compensation

"An applicant, his successors, assigns, or legal representatives, whose patent is withheld as herein provided, shall have the right, beginning at the date the applicant is notified that, except for such order, his application is otherwise in condition for allowance, or February 1, 1952, whichever is later, and ending six years after a patent is issued thereon, to apply to the head of any department or agency who caused the order to be issued for compensation for the damage caused by the order of secrecy and/or for the use of the invention by the Government, resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. The head of the department or agency is authorized, upon the presentation of a claim, to enter into an agreement with the applicant, his successors, assigns, or legal representatives, in full settlement for the damage and/or use. This settlement agreement shall be conclusive for all purposes notwithstanding any other provision of law to the contrary. If full settlement of the claim cannot be effected, the head of the department or agency may award and pay to such applicant, his successors, assigns, or legal representatives, a sum not exceeding 75 per centum of the sum which the head of the department or agency considers just compensation for the damage and/or use. A claimant may bring suit against the United States in the Court of Claims or in the District Court of the United States for the district in which such claimant is a resident for an amount which when added to the award shall constitute just compensation for the damage and/or use of the invention by the Government. The owner of any patent issued upon an application that was subject to a secrecy order issued pursuant to section 181 of this title, who did not apply for compensation as above provided, shall have the right, after the date of issuance of such patent, to bring suit in the Court of Claims for just compensation for the damage caused by reason of the order of secrecy and/or use by the Government of the invention resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. In a suit under the provisions of this section the United States may avail itself of all defenses it may plead in an action under section 1498 of title 28. This section shall not confer a right of action on anyone or his successors, assigns, or legal representatives who, while in the full-time employment or service of the United States, discovered, invented, or developed the invention on which the claim is based.

"§ 184. Filing of application in foreign country

"(a) Except when authorized by a license obtained from, or a general license established by, the Commissioner, a person shall not file or cause or authorize to be filed in any foreign country an application for patent or for the registration of a utility model, industrial design or model in respect of an invention made in this country prior to six months after filing an application for patent on the same invention under section 111 of

this title, or prior to four months after filing an application for patent on the same ornamental design under section 171 of this title. The Patent Office is hereby established as the sole governmental agency to grant a license or establish a general license. A license shall not be granted with respect to an invention subject to an order issued by the Commissioner pursuant to section 181 of this title without the concurrence of the heads of the departments and the chief officers of the agencies who caused the order to be issued. Upon compliance with regulations established by the Commissioner, a license shall be granted retroactively where an application has been filed abroad and the application does not disclose an invention within the scope of section 181 of this title.

"(b) The term 'application' when used in this Chapter includes applications and any modifications, amendments, or supplements thereto, or divisions thereof.

"(c) No license shall be required subsequent to the filing of a foreign application for any modifications, amendments or supplements to that foreign application, or divisions thereof, which do not alter the nature of the invention originally disclosed, which are within the scope of the invention originally disclosed, and where the filing of the foreign application originally complied with the provisions of this section.

"(d) A retroactive license may be granted at any time notwithstanding the fact that a corresponding United States application has matured into a patent. Such license shall have the same force and effect as if granted during the pendency of the application.

"§ 185. Patent barred for filing without license

"Notwithstanding any other provisions of law any person, and his successors, assigns, or legal representatives, shall not receive a United States patent for an invention if that person, or his successors, assigns, or legal representatives shall, without procuring the license prescribed in section 184 of this title, have made, or consented to or assisted another's making, application in a foreign country for a patent or for the registration of a utility model, industrial design, or model in respect of the invention. A United States patent issued to such person, his successors, assigns, or legal representatives may be held invalid by a court of competent jurisdiction, or such court may order the issuance of a retroactive license under section 184 of this title.

"§ 186. Penalty

"Whoever, during the period or periods of time an invention has been ordered to be kept secret and the grant of a patent thereon withheld pursuant to section 181 of this title, shall, with knowledge of such order and without due authorization, wilfully publish or disclose or authorize or cause to be published or disclosed the invention, or material information with respect thereto, or whoever, in violation of the provisions of section 184 of this title, shall file or cause or authorize to be filed in any foreign country an application for patent or for the registration of a utility model, industrial design, or model in respect of any invention made in the United States, shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than two years, or both.

"§ 187. Nonapplicability to certain persons

"The prohibitions and penalties of this Chapter shall not apply to any officer or agent of the United States acting within the scope of his authority, nor to any person acting upon his written instructions or permission.

"§ 188. Rules and regulations, delegation of power

"The Atomic Energy Commission, the Secretary of a Defense Department, the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States, and the Secretary of Commerce, may separately issue rules and regulations to enable the respective department or agency to carry out the provisions of this Chapter, and may delegate any power conferred by this Chapter.

"PART III—PATENTS AND PROTECTION OF PATENT RIGHTS

"CHAPTER 25.—AMENDMENT AND CORRECTION OF PATENTS

"§ 251. Reissue of defective patents

"(a) Whenever any patent is, through error without any deceptive intention, deemed wholly or partly inoperative or invalid, by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than he had a right to claim in the patent, the Commissioner shall, on the surrender of such patent and the payment of the fee required by law, reissue the patent for the invention disclosed in the original patent, and in accordance with a new and amended application, for the unexpired part of the term of the original patent. No new matter shall be introduced into the application for reissue.

"(b) The provisions of Chapters 12, 13 and 14 of this title relating to applications for patent shall be applicable to applications for reissue of a patent.

"(c) No reissued patent shall be granted enlarging the scope of the claims of the original patent, unless applied for within one year from the grant of the original patent, except to claim the same subject matter as a claim of an issued patent pursuant to section 137 of this title.

"§ 252. Effect of reissue

"(a) The surrender of the original patent shall take effect upon the issue of the reissued patent, and every reissued patent shall have the same effect and operation in law, on the trial of actions for causes thereafter arising, as if the same had been originally granted in such amended form, but insofar as the claims of the original and reissued patents are identical, such surrender shall not affect any action then pending nor abate any cause of action then existing, and the reissued patent, to the extent that its claims are identical with the original patent, shall constitute a continuation thereof and have effect continuously from the date of the original patent.

"(b) No reissued patent shall abridge or affect the right of any person or his successors in business who made, purchased or used prior to the grant of a reissue anything patented by the reissued patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased or used, unless the making, using or selling of such thing infringes a valid claim of the reissued patent which was in the original patent. The court before which such matter is in question may provide for the continued manufacture, use or sale of the thing made, purchased or used as specified, or for the manufacture, use or sale of which substantial preparation was made before the grant of the reissue, and it may also provide for the continued practice of any process patented by the reissue, practiced, or for the practice of which substantial preparation was made, prior to the grant of the reissue, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant of the reissue.

"§ 253. Disclaimer

"(a) Whenever, without any deceptive intention, a claim of a patent is invalid the remaining claims shall not thereby be rendered invalid. A patentee, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of any complete claim, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing and recorded in the Patent Office; and it shall thereafter be considered as part of the original patent to the extent of the interest possessed by the disclaimant and by those claiming under him.

"(b) In like manner any patentee or applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted or to be granted.

"§ 254. Certificate of correction of Patent Office mistake

"Whenever a mistake in a patent, incurred through the fault of the Patent Office, is clearly disclosed by the records of the Office, the Commissioner may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. A printed copy thereof shall be attached to each printed copy of the patent, and such certificate shall be considered as part of the original patent. Every such patent, together with such certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. The Commissioner may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction.

"§ 255. Certificate of correction of applicant's mistake

"Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would require reexamination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions of causes thereafter arising as if the same had been originally issued in such corrected form.

"§ 256. Correction of named inventor

"Omission of an inventor's name or inclusion of the name of a person not an inventor, without deceptive intent shall not affect validity of a patent, and may be corrected at any time by the Commissioner in accordance with regulations established by him or upon order of a Federal court before which the matter is called in question. Upon such correction the Commissioner shall issue a certificate accordingly.

"CHAPTER 26.—OWNERSHIP AND ASSIGNMENT

"§ 261. Ownership; assignment

"(a) Subject to the provisions of this title, patents shall have the attributes of personal property.

"(b) Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

"(c) A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or, in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant or conveyance of a patent or application for patent.

"(d) An assignment, grant or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from its date or prior to the date of such subsequent purchase or mortgage.

"§ 262. Joint owners

"In the absence of any agreement to the contrary, each of the joint owners of a patent may make, use or sell the patented invention without the consent of and without accounting to the other owners.

"§ 263. Transferable nature of patent rights

"(a) Applications for patent, patents, or any interests therein may be licensed in any specified territory, in the whole, or in any specified part, of the field of use to which the subject matter of the claims of the patent are directly applicable, and

"(b) A patent owner shall not be deemed guilty of patent misuse because he agreed to contractual provisions or imposed conditions on a licensee or an assignee which have:

"(1) A direct relation to the disclosure and claims of the patent, and

"(2) The performance of which is reasonable under the circumstances to secure to the patent owner the full benefit of his invention and patent grant.

"(c) In determining the reasonableness of such provisions or conditions under this section, the courts shall, in each case, consider all factors involved in the exploitation of the patented invention and the economic effect of such provisions or conditions.

"CHAPTER 27.—GOVERNMENT INTEREST IN PATENTS

"Sec.
"267. Time for taking action in Government applications.

"§ 267. Time for taking action in Government applications

"Notwithstanding the provisions of sections 133 and 151 of this title, the Commissioner may extend the time for taking any action to three years, when an application has become the property of the United States and the head of the appropriate department or agency of the Government has certified to the Commissioner that the invention disclosed therein is important to the armament of defense of the United States.

"CHAPTER 28.—INFRINGEMENT OF PATENTS

"Sec.
"271. Infringement of patent.
"272. Temporary presence in the United States.

"§ 271. Infringement of patent

"(a) Except as otherwise provided in this title, whoever without authority makes, uses or sells any patented invention, within the United States during the term of the patent therefor, infringes the patent.

"(b) Whoever, without authority of the patentee, imports into the United States a product made in another country by a process patented in the United States shall be liable as an infringer.

"(c) Whoever actively induces infringement of a patent shall be liable as an infringer.

"(d) Whoever sells a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.

"(e) No patent owner otherwise entitled to relief for infringement or contributory infringement of a patent shall be denied relief or deemed guilty of misuse or illegal extension of the patent right by reason of his having done one or more of the following: (1) derived revenue from acts which if performed by another without his consent would constitute contributory infringement of the patent; (2) licensed or authorized another to perform acts which if performed without his consent would constitute contributory infringement of the patent; (3) sought to enforce his patent rights against infringement or contributory infringement.

"(f) Whoever, during the interim period after publication of an application and before grant of a patent, performs an act which would make him liable for infringement of a valid claim of the patent shall be liable as an infringer if a like claim appears in the application for the patent.

"§ 272. Temporary presence in the United States

"The use of any invention in any vessel, aircraft or vehicle of any country which affords similar privileges to vessels, aircraft or vehicles of the United States, entering the United States temporarily or accidentally, shall not constitute infringement of any patent, if the invention is used exclusively for the needs of the vessel, aircraft or vehicle and is not sold in or used for the manufacture of anything to be sold in or exported from the United States.

"CHAPTER 29.—REMEDIES FOR INFRINGEMENT OF PATENT AND OTHER ACTIONS

"Sec.
"281. Remedy for infringement of patent.
"282. Presumption of validity; defenses.
"283. Injunction.
"284. Damages.
"285. Attorney fees.
"286. Time limitation on damages.
"287. Limitation on damages; marking and notice.
"288. Action for infringement of a patent containing an invalid claim.
"289. Additional remedy for infringement of design patent.
"290. Notice of patent suits.
"292. False marking.
"293. Nonresident patentee, service and notice.

"§ 281. Remedy for infringement of patent

"A patentee shall have remedy by civil action for infringement of his patent.

"§ 282. Presumption of validity; defenses

"(a) A patent shall be presumed valid. Each claim of a patent (whether in independent or dependent form) shall be presumed valid independently of the validity of other claims; dependent claims shall be presumed valid even though dependent upon an invalid claim. The burden of establishing invalidity of a patent or any claim thereof shall rest on the party asserting it.

"(b) The following shall be defenses in any action involving the validity or infringement of a patent and shall be pleaded:

"(1) Noninfringement, absence of liability for infringement, or unenforceability.

"(2) Invalidity of the patent or any claim in suit on any ground specified in Part II of this title as a condition for patentability, provided, however, that the validity of a patent may not be questioned solely because of the existence of two or more patents where said patents will expire on the same date as a result of filing on the same date or as a result of a terminal disclaimer pursuant to section 253 of this title so long as the right to sue for infringement of said patents is maintained in the same legal entity.

"(3) Invalidity of the patent or any claim in suit for failure to comply with any requirement of section 112 or 251 of this title.

"(4) Any other fact or act made a defense by this title.

"(c) In actions involving the validity or infringement of a patent, the party asserting invalidity or noninfringement shall give notice in the pleadings or otherwise in writing to the adverse party at least thirty days before the trial, of the country, number, date, and name of the patentee of any patent, the title, date, and page numbers of any publication to be relied upon as anticipation of the patent in suit or, except in actions in the United States Court of Claims, as showing the state of the art, and the name and address of any person who may be relied upon as the prior inventor or as having prior knowledge of or as having previously used or sold the invention of the patent in suit. In the absence of such notice, proof of the said matters may not be made at the trial except on such terms as the court requires.

"§ 283. Injunction

"(a) The several courts having jurisdiction of cases under this title may grant injunctions in accordance with the principles of equity to prevent the violation of any right secured by patent, on such terms as the court deems reasonable.

"(b) No injunction shall be granted with respect to subsequent use or sale of machines, manufactures, or compositions of matter made prior to grant of the patent and for which damages are awarded under section 284(b) of this title.

"§ 284. Damages

"(a) Upon finding for the claimant, the court shall award the claimant damages adequate to compensate for the infringement but in no event less than the infringer's profits attributable to the infringement, or less than a reasonable royalty for the use made of the invention by the infringer, whichever shall be greater, together with interest and costs as fixed by the court.

"(b) Damages for acts set forth in section 271(f) of this title shall be awarded only for acts occurring after actual notice to the infringer stating how his acts are considered to infringe a claim of a published application and shall be limited to royalties reasonable in the circumstances.

"(c) When the damages are not found by a jury, the court shall assess them. In either event the court may increase the damages up to three times the amount found or assessed.

"(d) The court may receive expert testimony as an aid to the determination of damages or of what royalty would be reasonable under the circumstances.

"§ 285. Attorney fees

"The court in exceptional cases may award reasonable attorney fees to the prevailing party.

"§ 286. Time limitation on damages

"(a) Except as otherwise provided by law, no recovery shall be had for any infringement committed more than six years prior to the filing of the complaint or counterclaim for infringement in the action.

"(b) In the case of claims against the United States Government for use of a patented invention, the period before bringing suit, up to six years, between the date of receipt of a written claim for compensation by the department or agency of the Government having authority to settle such claim, and the date of mailing by the Government of a notice to the claimant that his claim has been denied shall not be counted as part of the period referred to in the preceding paragraph.

"§ 287. Limitation on damages; marking and notice

"Patentees, and persons making or selling any patented article for or under them, may give notice to the public that the same is patented, either by fixing thereon the

word "patent" or the abbreviation "pat.", together with the number of the patent, or when, from the character of the article, this cannot be done, by fixing to it, or to the package wherein one or more of them is contained, a label containing a like notice. In the event of failure so to mark, no damages shall be recovered by the patentee in any action for infringement, except on proof that the infringer was notified of the infringement and continued to infringe thereafter, in which event damages may be recovered only for infringement occurring after such notice. Filing of an action for infringement shall constitute such notice.

"§ 288. Action for infringement of a patent containing an invalid claim

"Whenever, without deceptive intention, a claim of a patent is invalid, an action may be maintained for the infringement of a claim of the patent which may be valid. The patentee shall recover no costs unless a disclaimer of the invalid claim has been entered at the Patent Office before the commencement of the suit.

"§ 289. Additional remedy for infringement of a design patent

"(a) Whoever during the term of a patent for a design, without license of the owner, (1) applies the patented design, or any colorable imitation thereof, to any article of manufacture for the purpose of sale, or (2) sells or exposes for sale any article of manufacture to which such design or colorable imitation has been applied shall be liable to the owner to the extent of his total profit, but not less than $250, recoverable in any United States district court having jurisdiction of the parties.

"(b) Nothing in this section shall prevent, lessen, or impeach any other remedy which an owner of an infringed patent has under the provisions of this title, but he shall not twice recover the profit made from the infringement.

"§ 290. Notice of patent suits

"The clerks of the courts of the United States, within one month after the filing of an action under this title, shall give notice thereof in writing to the Commissioner, setting forth so far as known the names and addresses of the parties, name of the inventor, and the designating number of the patent upon which the action has been brought. If any other patent is subsequently included in the action he shall give like notice thereof. Within one month after the decision is rendered or a judgment issued the clerk of the court shall give notice thereof to the Commissioner. The Commissioner shall, on receipt of such notices, enter the same in the file of such patent.

"§ 292. False marking

"(a) Whoever, without the consent of the patentee, marks upon, or affixes to, or uses in advertising in connection with anything made, used, or sold by him, the name or any imitation of the name of the patentee, the patent number, or the words 'patent,' 'patentee,' or the like, with the intent of counterfeiting or imitating the mark of the patentee, or of deceiving the public and inducing them to believe that the thing was made or sold by or with the consent of the patentee; or

"Whoever marks upon, or affixes to, or uses in advertising in connection with any unpatented article, the word 'patent' or any word or number importing that the same is patented, for the purpose of deceiving the public; or

"Whoever marks upon, or affixes to, or uses in advertising in connection with any article, the words 'patent applied for,' 'patent pending,' or any word importing that an application for patent has been made, when no application for patent has been made, or if made, is not pending, for the purpose of deceiving the public—

"Shall be fined not more than $500 for every such offense.

"(b) Any person may sue for the penalty, in which event one-half shall go to the person suing and the other to the use of the United States.

"§ 293. Nonresident patentee; service and notice

"Every patentee not residing in the United States may file in the Patent Office a written designation stating the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the patent or rights thereunder. If the person designated cannot be found at the address given in the last designation, or if no person has been designated, the United States District Court for the District of Columbia shall have jurisdiction and summons shall be served by publication or otherwise as the court directs. The court shall have the same jurisdiction to take any action respecting the patent or rights thereunder that it would have if the patentee were personally within the jurisdiction of the court."

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

SEC. 2. (a) Chapter 9 of title 28, United States Code, Judicial Code and Judiciary, is amended to read as follows:

"CHAPTER 9.—COURT OF CUSTOMS AND PATENT APPEALS

"Sec.
"211. Appointment and number of judges.
"212. Duties of chief judge; precedence of judges.
"213. Tenure and salaries of judges.
"214. Sessions.
"215. Divisions; powers and assignments.
"216. Publication of decisions.

"§ 211. Appointment and number of judges

"The President shall appoint, by and with the advice and consent of the Senate, a chief judge and eight associate judges who shall constitute a court of record known as the United States Court of Customs and Patent Appeals. At least six judges of the Court of Customs and Patent Appeals shall be specially qualified in the law of patents. Such court is hereby declared to be a court established under Article III of the Constitution of the United States.

"§ 212. Duties of chief judge; precedence of judges

"The chief judge of the Court of Customs and Patent Appeals, with the approval of the court, shall supervise the fiscal affairs and clerical force of the court. The chief judge shall assign or reassign, under rules of the court, any case for trial, hearing, or determination; and promulgate dockets.

"The chief judge shall have precedence and preside at any session of the court which he attends. If he is temporarily unable to perform his duties as such, they shall be performed by the judge in active service, who is present, able and qualified to act, and next in precedence.

"The associate judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

"§ 213. Tenure and salaries of judges

"Judges of the Court of Customs and Patent Appeals shall hold office during good behavior; each shall receive a salary of $33,000 a year.

"§ 214. Sessions

"The Court of Customs and Patent Appeals may hold court at such times and places as it may fix by rule.

"§ 215. Divisions; powers and assignments

"(a) Judges of the Court of Customs and Patent Appeals shall sit on the court and its divisions in such order and at such times as the court directs.

"(b) The Court of Customs and Patent Appeals shall have an appellate part to hear and determine matters within the appellate jurisdiction of the court; in such appellate part, the Court of Customs and Patent Appeals may authorize the hearing and determination of cases and controversies by separate divisions, each consisting of three judges. A hearing or rehearing of any matter within the appellate jurisdiction of the court may be ordered by a majority of the judges of the Court of Customs and Patent Appeals in regular, active service. The court en banc shall consist of the judges of the Court of Customs and Patent Appeals in regular, active service. A judge of the Court of Customs and Patent Appeals who has retired from regular service shall also be competent to sit as a judge of the court en banc in the rehearing of a matter if he sat on the court or division at the original hearing thereof.

"(c) The Court of Customs and Patent Appeals shall have a trial part to hear and determine matters within the original jurisdiction of the Court of Customs and Patent Appeals; business of the trial part of the Court of Customs and Patent Appeals shall be divided among the judges as provided by the rules and orders of the court. The chief judge shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rules and orders do not otherwise prescribe.

"(d) The chief judge may sit in any division of the appellate part or as a judge of the trial part. He may, when necessary, assign other judges to any division of the appellate part or to sit as a judge of the trial part.

"§ 216. Publication of decisions

"All decisions of the Court of Customs and Patent Appeals shall be preserved and open to inspection. The Court shall forward copies of each decision to the Commissioner of Patents who shall publish weekly such decisions as he or the court may designate and abstracts of all other decisions."

(b) Section 832 of title 28, United States Code, Judicial Code and Judiciary, is amended to read as follows:

"§ 832. Marshal

"The Court of Customs and Patent Appeals may appoint a marshal and deputy marshals, who shall serve within the District of Columbia and shall be subject to removal by the court.

"The marshal and his deputies shall attend the court at its sessions, and shall serve and execute all processes and orders issuing from it, and exercise the powers and perform the duties concerning all matters within such court's jurisdiction assigned to them by the court. The marshal shall purchase books and supplies, supervise the library and perform such other duties as the court may direct. Under regulations prescribed by the Director of the Administrative Office of the United States Courts, the marshal shall pay the salaries of judges, officers, and employees of the court and disburse funds appropriated for the expenses of the court.

"United States marshals for other districts where sessions of the court are held shall serve as marshals of the court."

(c) Section 833 of title 28, United States Code, Judicial Code and Judiciary, is amended by adding the following paragraph at the end thereof:

"(d) The court shall appoint one or more court reporters to attend at each session of the trial part of the court. The number and qualifications and all other matters concerning such court reporters shall be determined in accordance with section 753 of this title."

(d) Section 1256 of title 28, United States Code, Judicial Code and Judiciary, is amended to read as follows:

"§ 1256. Court of Customs and Patent Appeals; certiorari; certified questions

"Cases in the Court of Customs and Patent Appeals may be reviewed by the Supreme Court by the following methods:

"(1) By writ of certiorari;

"(2) By certification of any question of law by the Court of Customs and Patent Appeals in any case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions on such questions."

(e) Section 1338 of title 28, United States Code, Judicial Code and Judiciary, is amended to read as follows:

"§ 1338. Patents, copyrights, trade-marks and unfair competition

"(a) Except as provided in Chapter 93 hereof, the district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to patents, copyright and trade-marks. Such jurisdiction shall be exclusive of the courts of the states in patent and copyright cases.

"(b) The district courts shall have original jurisdiction of any civil action asserting a claim of unfair competition when joined with a substantial and related claim under the copyright, patent or trade-marks laws."

(f) Chapter 93 of title 28, United States Code, Judicial Code and Judiciary, is amended to read as follows:

"CHAPTER 93.—COURT OF CUSTOMS AND PATENT APPEALS

"Sec.
"1541. Powers generally.
"1542. Customs Court decisions.
"1543. Patent Office decisions.
"1544. Tariff Commission decisions.

"§ 1541. Powers generally

"The Court of Customs and Patent Appeals and each judge thereof shall possess all the powers of a district court of the United States for preserving order, compelling the attendance of witnesses and the production of evidence.

"§ 1542. Customs Court decisions

"The Court of Customs and Patent Appeals shall have jurisdiction to review by appeal final decisions of the Customs Court in all cases as to the construction of the law and the facts respecting the classification of merchandise, the rate of duty imposed thereon under such classifications, and the fees and charges connected therewith, and all appealable questions as to the jurisdiction of the Customs Court and as to the laws and regulations governing the collection of the customs revenues.

"§ 1543. Patent Office decisions

"(a) The Court of Customs and Patent Appeals shall have original jurisdiction of all civil actions arising under section 145 of title 35. Such jurisdiction shall be known as the trial jurisdiction of the court.

"(b) The Court of Customs and Patent Appeals shall have jurisdiction of:

"(1) Appeals from all final decisions of the trial part of the Court of Customs and Patent Appeals;

"(2) Appeals from decisions of the Board of Appeals of the Patent Office as to patent applications and patents as provided in Chapter 13 of title 35, Patents, United States Code;

"(3) Appeals from decisions of the Commissioner of Patents and the Trademark Trial and Appeal Board as to trademark applications and proceedings as provided in section 1071 of title 15.

"§ 1544. Tariff Commission decisions

"The Court of Customs and Patent Appeals shall have jurisdiction to review, by appeal on questions of law only, the findings of the United States Tariff Commission as to unfair practices in import trade, made under section 1337 of title 19."

(g) Title 28, United States Code, Judicial Code and Judiciary, is amended by adding new section 2603, reading as follows:

"§ 2603. Patent Office cases

"Federal Rules of Civil Procedure for the United States district courts shall govern the procedure in all cases within the trial jurisdiction of the Court of Customs and Patent Appeals arising under section 145 of title 35."

(h) The section analysis of Chapter 167—Court of Customs and Patent Appeals Procedure, of title 28, United States Code, Judicial Code and Judiciary, preceding section 2601 is amended by adding the following line:

"2603. Patent Office cases."

SEC. 3. If any provision of title 35 Patents, United States Code, as amended by this Act, or any other provision of this Act, is declared unconstitutional or is held invalid, the validity of the remaining provisions shall not be affected.

SEC. 4. (a) This Act shall take effect on the day six months after enactment.

(b) Applications for patent actually filed in the United States prior to the effective date of this Act shall continue to be governed by the provisions of title 35 in effect immediately prior to the effective date, except that any such application may be published by the Commissioner in accordance with the provisions of section 123 of title 35 as enacted by this Act.

(c) Applications for patent actually filed in the United States within one year after the effective date of this Act and not relying on a prior application shall continue to be governed by the provisions of Chapter 10 and by the provisions relating to interferences in Chapters 12 and 13, of title 35 in effect immediately prior to the effective date.

(d) The amendment of title 35, United States Code, by this Act, shall not affect any rights or liabilities existing under title 35 in effect immediately prior to the effective date of this Act.

SEC. 5. This Act may be cited as "The Patent Act of 1967."

NATIONAL SCIENCE FOUNDATION ACT AMENDMENTS OF 1967

Mr. KENNEDY of Massachusetts. Mr. President, for 2 consecutive years the House of Representatives has overwhelmingly approved a bill amending the National Science Foundation Act of 1950. The bill would make changes in four basic areas:

First, it would give added force to the Foundation's basic missions and give statutory authority to several of the reorganization plans affecting the Foundation;

Second, it would strengthen the National Science Board, the governing body of the Foundation, and add several functions to it;

Third, it would unify and supplement the operating authority of the Director of the National Science Foundation; and

Fourth, it would modify and modernize the structure and organization of the Foundation.

At the conclusion of my remarks today, I will introduce a bill somewhat similar to H.R. 5404, the bill which passed the House on April 12, 1967, by a 391-to-22 record vote. The bill I will introduce adopts certain changes in H.R. 5404 suggested by the various Federal departments and agencies, and it is my hope that it will stimulate a wide-ranging discussion of the reasons for the differences.

Also, I am happy to announce that on Wednesday, November 1, and Thursday, November 2, a subcommittee of the Senate Labor and Public Welfare Committee will hold hearings on these two bills. I have the honor of being the chairman of the subcommittee holding these hearings. Serving with me on the subcommittee are the junior Senator from Rhode Island [Mr. PELL] and the junior Senator from Michigan [Mr. GRIFFIN].

As witnesses, we will, of course, hear from the Director of the National Science Foundation, Dr. Leland J. Haworth, and the Chairman of the National Science Board, Dr. Philip Handler. We have extended invitations as well to Senator FRED HARRIS, the chairman of the Senate Subcommittee on Government Research, and Congressman EMILIO DADDARIO, the chairman of the House Subcommittee on Science, Research, and Development. Both of these distinguished legislators have done much to advance the cause of a coherent national policy for federally aided scientific research, and I look forward to hearing their views and recommendations.

We have also invited the Director of the Office of Science and Technology in the Executive Office of the President, Dr. Donald F. Hornig, and the President of the National Academy of Sciences, Dr. Frederick Seitz. Dr. Harvey Brooks, a member of the National Science Board, will also appear.

I am confident that these witnesses will give the subcommittee a full range of opinion on the various suggested amendments to the National Science Foundation Act.

The National Science Foundation has a proud and distinguished history. Dr. Vannevar Bush, the Director of the Office of Scientific Research and Development during World War II, submitted a report to President Truman in 1945 titled "Science, the Endless Frontier." The report was originally requested by President Roosevelt, who was concerned that the unrivaled scientific research organizations developed in World War II would be dissipated without some strong Federal effort to preserve them.

The principal recommendation of the report was that a new agency, to be called the National Research Foundation, be organized to carry out the scientific advances begun under Dr. Bush's leadership during the war.

As finally passed and approved in 1950, the legislation established a National Science Board, with broad autonomy for determining research policies, and a National Science Foundation, to actually carry out these policies. Both the members of the Board and the Director of the Foundation are appointed by the President and confirmed by the Senate.

The National Science Foundation Act sets out eight separate functions to be performed by the Foundation. These eight items can, I think, be reduced to a single phrase: a national program for enhancing the health of basic American science and science education. In carrying out its responsibilities, the National Science Foundation has had a profound impact upon this country's scientific and engineering community, whether it be in

government, on campus, or in industry. It is important, I think, that its support for the sciences has extended to all parts of the country, to all aspects of industry, and to all forms of higher education.

There are five principal mechanisms through which the National Science Foundation supports the sciences.

First, through basic research. The National Science Foundation supports individual scientists who are pursuing basic research projects, and in fiscal 1967 awarded 3,647 separate grants totaling over $173 million. About 50 percent of this research takes place in universities; the remainder in industrial, nonprofit or Federal laboratories. The National Science Foundation also supports national research programs, usually through consortiums of varying types. An example would be the ocean sediment coring program. Finally, the National Science Foundation supports national research facilities, such as the Kitt Peak National Observatory in Arizona, which is operated by an independent, nonprofit corporation composed of a number of universities.

Second, through science education. Support of basic research assures the health of U.S. science, while support of science education assures a continuing supply of topflight scientists. This science education support takes three forms: to assist qualified individuals to pursue their scientific training, to improve the quality of teaching materials and methods, and to improve the teachers of science. Included among the specific activities are fellowships and traineeships, teacher training, course improvement, research participation, and instructional equipment. In fiscal 1967, the National Science Foundation allocated $121.6 million for support of science education.

Third, through institutional development. Under this program, the National Science Foundation carries out two complementary efforts: assisting institutions of higher learning to upgrade their scientific research programs and science education capabilities; and assisting other institutions to maintain their strength in the sciences where it already exists. The National Science Foundation obligated $111.7 million for institutional development in fiscal 1967.

Fourth, through science information. Progress in science depends in part on a prompt and effective information exchange, as this avoids duplicative efforts and stimulates more rapid pursuit of research projects. The National Science Foundation has sponsored pioneering research into the process of information transfer, methods of abstracting, electronic compilation of statistical material, and so forth. It has committed $10.8 million for this science information function in fiscal 1967.

Fifth, through a number of other activities, including the National Sea Grant College program, planning and policy studies, and international scientific cooperation activities. Obligations in fiscal 1967 totaled about $4.6 million for these three National Science Foundation functions.

In sum, these activities give the National Science Foundation a primary role in support of the basic sciences in the United States. It is a primary role, however, not because of the funds appropriated to the National Science Foundation, but because of how the funds are directed. To illustrate, more than 40 agencies of the Government support scientific education and research, and this support in fiscal 1966 totaled about $9.7 billion. Of this amount, only $480 million, or 5 percent, was appropriated to the National Science Foundation. Federal funds for the conduct of basic research totaled $1.9 billion in fiscal 1966, of which $250 million, or 13 percent, was appropriated to the National Science Foundation.

Consequently, it is not the aggregate of funds which makes the National Science Foundation so important. Rather, it is because these funds are directed to the very heart of the science development process: science education improvement and science research project support. There is not, and never will be, any substitute for this support if the United States is to continue its technological advance.

The amendments to the National Science Foundation Act which the House bill and the bill I introduce today would make are needed to strengthen the activities of the Foundation. There has been, since the Foundation was established in 1950, no thorough examination by both Houses of Congress of the basic legislation, and that is why I consider Senate action this session so important.

There are a number of questions raised by the two bills, which the hearings must help us resolve. Among these questions are the authorization of applied research, the relationship between the NSF and the Department of State in international science activities, and the role of the National Science Board in policymaking.

Let me conclude by reaffirming my support for the important role the National Science Foundation has played in the advancement of science in this country. There are some who criticize a few of the specific projects supported by the NSF. To those, let me say that a scientific breakthrough such as a cancer cure, a laser, a communications satellite, a chemical synthesis, or any of thousands more—each breakthrough is like a jigsaw puzzle, made up of many pieces. The omission of one piece is sufficient to prevent completion of the puzzle.

Mr. President, I introduce, for appropriate reference, a bill to amend the National Science Foundation Act of 1950, and I ask that it be printed at this point in the RECORD.

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

The bill (S. 2598) to amend the National Science Foundation Act of 1950, making changes and improvements in the organization and operation of the Foundation, and for other purposes, introduced by Mr. KENNEDY of Massachusetts, 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. 2598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be known as the "National Science Foundation Act Amendments of 1967."

SEC. 2. Section 3 of the National Science Foundation Act of 1950 is amended to read as follows:

"FUNCTIONS OF THE FOUNDATION

"SEC. 3. (a) The Foundation is authorized and directed

"(1) to initiate and support basic scientific research and programs to strengthen scientific research potential in the mathematical, physical, medical, biological, engineering, social, and other sciences, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific activities and to appraise the impact of research upon industrial development and upon the general welfare;

"(2) to award, as provided in section 10, scholarships and graduate fellowships in the mathematical, physical, medical, biological, engineering, social, and other sciences;

"(3) to foster the interchange of scientific informaton among scientists in the United States and foreign countries;

"(4) to evaluate the status and needs of the various sciences as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups, employing by grant or contract such consulting services as it may deem necessary for the purpose of such evaluations; and to take into consideration the results of such evaluations in correlating the research and educational programs undertaken or supported by the Foundation with programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups;

"(5) to maintain a current register of scientific and technical personnel, and in other ways to provide a central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and technical resources in the United States, and to provide a source of information for policy formulation by other agencies of the Federal Government; and

"(6) to initiate and maintain a program for the determination of the total amount of money for scientific research, including money allocated for the construction of the facilities wherein such research is conducted, received by each educational institution and appropriate nonprofit organization in the United States, by grant, contract, or other arrangement from agencies of the Federal Government, and to report annually thereon to the President and the Congress.

"(b) When requested by the Secretary of State or the Secretary of Defense, the Foundation is authorized to initiate and support specific scientific activities in connection with matters relating to international cooperation or national security by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such scientific activities.

"(c) In addition to the authority contained in subsection (a) and (b), the Foundation is authorized to initiate and support scientific research, including applied research, at academic and other nonprofit institutions. When so directed by the President, the Foundation is further authorized to support, through other appropriate organizations, applied scientific research relevant to national problems involving the public interest. In exercising the authority con-

tained in this subsection, the Foundation may employ by grant or contract such consulting services as it deems necessary, and shall coordinate and correlate its activities with respect to any such problem with other agencies of the Federal Government undertaking similar programs in that field.

"(d) The Board and the Director shall recommend and encourage the pursuit of national policies for the promotion of basic research and education in the sciences.

"(e) In exercising the authority and discharging the functions referred to in the foregoing subsections, it shall be one of the objectives of the Foundation to strengthen research and education in the sciences, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education.

"(f) The Foundation shall render an annual report to the President for submission on or before the 15th day of January of each year to the Congress, summarizing the activities of the Foundation and making such recommendations as it may deem appropriate. Such report shall include information as to the acquisition and disposition by the Foundation of any patents and patent rights."

SEC. 3. Section 4 of the National Science Foundation Act of 1950 is amended to read as follows:

"NATIONAL SCIENCE BOARD

"SEC. 4. (a) The Board shall consist of twenty-four members to be appointed by the President, by and with the advice and consent of the Senate, and of the Director ex officio. In addition to any powers and functions otherwise granted to it by this Act, the Board shall establish policies to guide the Foundation.

"(b) The Board shall have an Executive Committee as provided in section 6, and may delegate to it or to the Director or both such of the powers and functions granted to the Board by this Act as it deems appropriate.

"(c) The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of the basic, medical, or social sciences, engineering, agriculture, education, or public affairs; (2) shall be selected solely on the basis of established records of distinguished service; and (3) shall be so selected as to provide representation of the views of scientific leaders in all areas of the Nation. The President is requested, in the making of nominations of persons for appointment as members, to give due consideration to any recommendations for nomination which may be submitted to him by the National Academy of Sciences, the National Association of State Universities and Land Grant Colleges, the Association of American Universities, the Association of American Colleges, or by other scientific or educational organizations.

"(d) The term of office of each member of the Board shall be six years; except that 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. Any person, other than the Director, who has been a member of the Board for twelve consecutive years shall thereafter be ineligible for appointment during the two-year period following the expiration of such twelfth year.

"(e) The Board shall meet annually on the third Monday in May unless, prior to May 10 in any year, the Chairman has set the annual meeting for a day in May other than the third Monday, and at such other times as the Chairman may determine, but he shall also call a meeting whenever one-third of the members so request in writing. A majority of the members of the Board shall constitute a quorum. Each member shall be given notice, by registered mail or certified mail mailed to his last known address of record not less than fifteen days prior to any meeting, of the call of such meeting.

"(f) The election of the Chairman and Vice Chairman of the Board shall take place at each annual meeting occurring in an even-numbered year. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Board shall elect a member to fill such vacancy.

"(g) The Board shall render an annual report to the President, for submission on or before the 31st day of January of each year to the Congress, on the status and health of science and its various disciplines. Such report shall include an assessment of such matters as national scientific resources and trained manpower, progress in selected areas of basic scientific research, and an indication of those aspects of such progress which might be applied to the needs of American society. The report may include such recommendations as the Board may deem timely and appropriate.

"(h) The Board is authorized to establish such special commissions as it may from time to time deem necessary for the purposes of this Act.

"(i) The Board is so authorized to appoint from among its members such committees as it deems necessary, and to assign to committees so appointed such survey and advisory functions as the Board deems appropriate to assist it in exercising its powers and functions under this Act."

SEC. 4. Section 5 of the National Science Foundation Act of 1950 is amended to read as follows:

"DIRECTOR OF THE FOUNDATION

"SEC. 5. (a) The Director of the Foundation (referred to in this Act as the 'Director') shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as Director, the President shall afford the Board an opportunity to make recommendations to him with respect to such appointment. The Director shall receive basic pay at the rate provided for level II of the Executive Schedule under section 5313 of title V, United States Code.

"(b) Except as otherwise specifically provided in this Act (1) the Director shall exercise all of the authority granted to the Foundation by this Act (including any powers and functions which may be delegated to him by the Board), and (2) all actions taken by the Director pursuant to the provisions of this Act (or pursuant to the terms of a delegation from the Board) shall be final and binding upon the Foundation.

"(c) The Director may from time to time make such provisions as he deems appropriate authorizing the performance by any other officer, agency, or employee of the Foundation of any of his functions under this Act, including functions delegated to him by the Board; except that the Director may not redelegate policymaking functions delegated to him by the Board.

"(d) The formulation of programs in conformance with the policies of the Foundation shall be carried out by the Director in consultation with the Board.

"(e) The Director shall not make or revoke any contract, grant, or other arrangement pursuant to section 11(c) without the prior approval of the Board, if, in his opinion, such action involves a policy determination of the nature reserved to the Board.

"(f) The Director, in his capacity as ex-officio member of the Board, shall, except with respect to compensation and tenure, be coordinate with the other members of the Board. He shall be a voting member of the Board and shall be eligible for election by the Board as Chairman or Vice Chairman of the Board."

SEC. 5. The National Science Foundation Act of 1950 is further amended by striking out section 8, by redesignating sections 6 and 7 as sections 7 and 8, respectively, and by inserting after section 5 the following new section:

"DEPUTY DIRECTOR AND ASSISTANT DIRECTOR

"SEC. 6. (a) There shall be a Deputy Director of the Foundation (referred to in this Act as the 'Deputy Director'), who shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as Deputy Director, the President shall afford the Board and the Director an opportunity to make recommendations to him with respect to such appointment. The Deputy Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and shall perform such duties and exercise such powers as the Director may prescribe. The Deputy Director shall act for, and exercise the powers of, the Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

"(b) There shall be four Assistant Directors of the Foundation (each referred to in this Act as an 'Assistant Director'). Each Assistant Director shall receive basic pay at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers as the Director may prescribe."

SEC. 6. The section of the National Science Foundation Act of 1950 redesignated as section 7 by section 5 of this Act is amended to read as follows:

"EXECUTIVE COMMITTEE

"SEC. 7. (a) There shall be an Executive Committee of the Board (referred to in this Act as the 'Executive Committee'), which shall be composed of five members and shall exercise such powers and functions as may be delegated to it by the Board. Four of the members shall be elected as provided in subsection (b), and the Director ex officio shall be the fifth member and the chairman of the Executive Committee.

"(b) At each of its annual meetings the Board shall elect two of its members as members of the Executive Committee, and the Executive Committee members so elected shall hold office for two years from the date of their election. Any person, other than the Director, who has been a member of the Executive Committee for six consecutive years shall thereafter be ineligible for service as a member thereof during the two-year period following the expiration of such sixth year. For the purposes of this subsection the period between any two consecutive annual meetings of the Board shall be deemed to be one year.

"(c) Any person elected as a member of the Executive Committee to fill a vacancy occurring prior to the expiration of the term for which his predecessor was elected shall be elected for the remainder of such term.

"(d) The Executive Committee shall render an annual report to the Board, and such other reports as it may deem necessary, summarizing its activities and making such recommendations as it may deem appropriate. Minority views and recommendations, if any, of members of the Executive Committee shall be included in such reports."

SEC. 7. The section of the National Science Foundation Act of 1950 redesignated as section 8 by section 5 of this Act is amended to read as follows:

"DIVISIONS WITHIN THE FOUNDATION

"SEC. 8. There shall be within the Foundation such Divisions as the Director, in consultation with the Board, may from time to time determine."

SEC. 8. Section 9(a) of the National Science Foundation Act of 1950 is amended

by striking out "section 3(a)(7)" and inserting in lieu thereof "section 4(h)".

SEC. 9. Section 10 of the National Science Foundation Act of 1950 is amended.

(1) by striking out "section 17" and inserting in lieu thereof "section 16";

(2) by inserting "social," after "engineering,"; and

(3) by striking out "among the States, Territories, possessions, and the District of Columbia" and inserting in lieu thereof "throughout the United States".

SEC. 10. (a) Section 11(c) of the National Science Foundation Act of 1950 is amended

(1) by striking out "basic";

(2) by striking out "research" each place it appears;

(3) by inserting "Secretary of State or" before Secretary of Defense"; and

(4) by striking out "the national defense" and inserting in lieu thereof "international cooperation or national security".

(b) Section 11(d) of such Act is amended by striking out "research" and inserting in lieu thereof "activities".

(c) Section 11(h) of such Act is amended by striking out "section 5 of the Act of August 2, 1946 (5 U.S.C. 73b–2)" and inserting in lieu thereof "section 5703 of title 5, United States Code,".

(d) Section 11 of such Act is further amended by the addition of a new subsection (j) as follows:

"(j) to arrange with and reimburse the heads of other Federal agencies for the performance of any activity which the Foundation is authorized to conduct."

SEC. 11. Section 13(a) of the National Science Foundation Act of 1950 is amended

(1) by striking out ", with the approval of the Board, "; and

(2) by striking out "section 16(d)(2)" and inserting in lieu thereof "section 15(d)(2)".

SEC. 12. Section 14 of the National Science Foundation Act of 1950 is repealed.

SEC. 13. (a) Section 15 of the National Science Foundation Act of 1950 is redesignated as section 14 and is amended to read as follows:

"MISCELLANEOUS PROVISIONS

"SEC. 14. (a) The Director shall, in accordance with such policies as the Board shall from time to time prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act. Except as provided in section 4(h), such appointments shall be made and such compensation shall be fixed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates: *Provided*, That the Director may, in accordance with such policies as the Board shall from time to time prescribe, employ such technical and professional personnel and fix their compensation, without regard to such provisions, as he may deem necessary for the discharge of the responsibilities of the Foundation under this Act. The members of the special commissions shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(b) Neither the Director, the Deputy Director, nor any Assistant Director shall engage in any other business, vocation, or employment while serving in such position; nor shall the Director, the Deputy Director, or any Assistant Director, except with the approval of the Board, hold any office in, or act in any capacity for, any organization, agency, or institution with which the Foundation makes any grant, contract, or other arrangement under this Act.

"(c) The Foundation shall not, itself, operate any laboratories or pilot plants.

"(d) The members of the Board and the members of each special commission shall receive compensation at the rate of $100 for each day engaged in the business of the Foundation pursuant to authorization of the Foundation and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

"(e) Persons holding other offices in the executive branch of the Federal Government may serve as members of special commissions, but they shall not receive remuneration for their services as such members during any period for which they receive compensation for their services in such offices.

"(f) In making contracts or other arrangements for scientific research, the Foundation shall utilize appropriations available therefor in such manner as will in its discretion best realize the objectives of (1) having the work performed by organizations, agencies, and institutions, or individuals in the United States or foreign countries, including Government agencies of the United States and of foreign countries, qualified by training and experience to achieve the results desired, (2) strengthening the research staff of organizations, particularly nonprofit organizations, in the United States, (3) aiding institutions, agencies, or organizations which, if aided, will advance scientific research, and (4) encouraging independent scientific research by individuals.

"(g) Funds available to any department or agency of the Government for scientific or technical research, or the provision of facilities therefor, shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Foundation for such use as is consistent with the purposes for which such funds were provided, and funds so transferred shall be expendable by the Foundation for the purposes for which the transfer was made.

"(h) For purposes of this Act, the term 'United States' when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States."

SEC. 14. Sections 16 and 17 of the National Science Foundation Act of 1950 are redesignated as sections 15 and 16, respectively. Subsection (a) of the section redesignated as section 15 is amended by striking out "1946" each place it appears and inserting in lieu thereof "1954". Subsection (b) of the section redesignated as section 15 is amended by striking out "section 15(h)" in paragraph (1) and inserting in lieu thereof "section 14(g)".

SEC. 15. (a)(1) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(19) Director of the National Science Foundation."

(2) Section 5314 of such title is amended by striking out paragraph 40, and by inserting in lieu thereof the following new paragraph:

"(40) Deputy Director, National Science Foundation."

(3) Section 5316 of such title is amended by striking out paragraph (66), and by inserting in lieu thereof the following new paragraph:

"(66) Assistant Directors, National Science Foundation (4)."

(4) The amendments made by this subsection (and the amendments made by sections 3 and 4 of this Act insofar as they relate to rates of basic pay) shall take effect on the first day of the first calendar month which begins on or after the date of the enactment of this Act.

(b) Section 902(c) of the National Defense Education Act of 1958 is amended by striking out "$50" and inserting in lieu thereof "$100".

SEC. 16. Except as otherwise specifically provided therein, the amendments made by this Act are intended to continue in effect under the National Science Foundation Act of 1950 the existing offices, procedures, and organization of the National Science Foundation as provided by such Act, part II of Reorganization Plan Numbered 2 of 1962, and Reorganization Plan Numbered 5 of 1965. From and after the date of the enactment of this Act, part II of Reorganization Plan Numbered 2 of 1962, and Reorganization Plan Numbered 5 of 1965, shall be of no force or effect; but nothing in this Act shall alter or affect any transfers of functions made by part I of such Reorganization Plan Numbered 2 of 1962.

ADDITIONAL COSPONSORS OF BILLS

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Maryland [Mr. TYDINGS] I ask unanimous consent that, at its next printing, the name of the Senator from Pennsylvania [Mr. SCOTT] be added as a cosponsor of the bill (S. 989) to provide improved judicial machinery for the selection of Federal juries, and for other purposes.

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

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Wisconsin [Mr. NELSON] I ask unanimous consent that, at its next printing, the name of the Senator from New York [Mr. KENNEDY] be added as a cosponsor of the bill (S. 2410) to provide a program of economic incentives to assist and encourage industry to assume its responsibility for abating and preventing the pollution of the atmosphere by wastes from industrial sources, and for other purposes.

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

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 30, 1967, he presented to the President of the United States the enrolled bill (S. 1160) to amend the Communications Act of 1934 by extending and improving the provisions thereof relating to grants for construction of educational television broadcasting facilities, by authorizing assistance in the construction of noncommercial educational radio broadcasting facilities, by establishing a nonprofit corporation to assist in establishing innovative educational programs, to facilitate educational program availability, and to aid the operation of educational broadcasting facilities; and to authorize a comprehensive study of instructional television and radio, and for other purposes.

HEARING ON TAX COURT BILL—S. 2041

Mr. TYDINGS. Mr. President, as chairman of the Judiciary Committee's Subcommittee on Improvements in Judicial Machinery, I wish to announce a hearing for the consideration of S. 2041. This bill would remove the Tax Court from the executive branch of the Government and make it an article III court.

The hearing will be held at 10 a.m.

on Thursday, November 9, 1967, in the District of Columbia hearing room, 6226 New Senate Office Building.

Any person who wishes to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, room 6306, New Senate Office Building.

CHARLIE HASLET'S 43 YEARS OF DISTINGUISHED SERVICE

Mr. CARLSON. Mr. President, tomorrow the Kansas congressional delegation will lose one of its most respected and effective members of the press, when Charles C. Haslet retires after 43 years of distinguished service with the Associated Press. He is probably one of the few men who have ever served that long with AP.

Charlie was born in Wellington, Kans., and had his first newspaper job with the Wellington Daily News. He joined AP in 1924 in Chicago. Shortly after that he was transferred to Oklahoma City and covered the Oklahoma State Legislature until March of 1937, when he was sent to Washington, D.C., where he has served ever since.

I was a comparatively new Member of the House of Representatives when Charlie was transferred here to cover news involving Kansas, Oklahoma, and Missouri. I shall never forget the first day he called on me and introduced himself. I was getting ready to go to a baseball game and invited Charlie to go along. He laughingly said he had never seen a major league baseball game, but he had too much work to do to go. I picked up the telephone and called the AP desk downtown and told them that if they expected Charlie to cover me that day, he would have to go to the baseball game. Permission was naturally granted, and Charlie and I have been the best of friends ever since.

I am sure that few people in Kansas realize it, but Charlie Haslet is the one person who has reliably kept them advised on happenings in Washington for the past 30 years. He has probably written more words on this subject than anyone else.

I could not have hoped for a better relationship with the press than I have had all these years with Charlie Haslet. Nothing has ever been too small or too big for him to cover. His word is his bond, and never has he violated a release date or my confidence in any way.

I will personally miss Charlie Haslet very much, and it will seem quite strange to deal with his replacement. However, I take this opportunity to wish Charlie and Mrs. Haslet many years of happiness and contentment. I do hope, however, that he will come into Washington from his nearby Virginia residence every now and then to see his many friends on the Hill.

THE TRUTH FROM OUR FIGHTING MEN IN VIETNAM

Mr. YOUNG of Ohio. Mr. President, recently at the White House, Secretary Rusk proudly read a letter he received from a GI fighting in Vietnam who wrote he had "never met a single U.S. soldier who said 'get out of Vietnam.'" Neither President Johnson nor our warhawk Secretary of State Rusk chose to refer to another letter from an Ohio GI fighting in Vietnam. The letter of this youngster, an Akron boy, was recently published in the Akron Beacon Journal, one of the great newspapers of my State of Ohio. Portions of this letter are as follows:

DEAR MOM AND DAD: Today we went on a mission and I'm not very proud of myself, my friends, or my country. We burned every hut in sight. It was a small rural network of villages and the people were incredibly poor. My unit burned and plundered their meager possessions. The huts are thatched palm leaves. Each one has a dried mud bunker inside. These bunkers are to protect the families. Kind of like air raid shelters. My unit commanders, however, chose to think that these bunkers are offensive. So every hut we find that has a bunker we are ordered to burn to the ground.

When the ten helicopters landed this morning, in the midst of these huts, and six men jumped out of each "chopper," we were firing the moment we hit the ground. We fired into all the huts we could. It is then that we burn these huts and take all men old enough to carry a weapon. And the "choppers" come and get them (they take them to a collection point a few miles away for interrogation). The families don't understand this. The Viet Cong fill their minds with tales saying the GI's kill all their men.

So, everyone is crying, begging, and praying that we don't separate them and their husbands and fathers, sons and grandfathers. The women wail and moan. Then they watch in terror as we burn their homes, personal possessions and food. Yes, we burn all rice and shoot all livestock.

Some of the guys are so careless. Today a buddy of mine called "La dai" (come here) into a hut and an old man came out of the bomb shelter. My buddy told the old man to get away from the hut and since we have to move quickly on a sweep, just threw a hand grenade into the shelter.

As he pulled the pin, the old man got excited and started jabbering and running toward my buddy and the hut. A GI, not understanding, stopped the old man with a football tackle just as my buddy threw the grenade into the shelter. (There is a 4-second delay on a hand grenade.)

After he threw it, and was running for cover (during this 4-second delay) we all heard a baby crying from inside the shelter. There was nothing we could do.

After the explosion we found the mother, two children, and an almost newborn baby. That is what the old man was trying to tell us. The shelter was small and narrow. They were all huddled together. The three of us dragged out the bodies onto the floor of the hut. It was horrible. The children's fragile bodies were torn apart, literally mutilated. We looked at each other and burned the hut. The old man was just whimpering in disbelief outside the burning hut. We walked away and left him there. Well, Dad, you wanted to know what it's like here. Does this give you an idea?

YOUR SON.

Mr. President, while at the White House Secretary Rusk could also have read the views of Dan Burdekin, a 25-year-old Army veteran who served as an artillery officer in Vietnam and is now a student in social welfare at Ohio State University. In the Cincinnati Post and Times-Star, a member of the Scripps-Howard chain and a great newspaper in Ohio, there appeared on October 19 an article entitled "How One GI Lost Faith in Vietnam War." Portions of this article are as follows:

"When I went over in August, 1966, I had the position America, right or wrong," Burdekin said.

"It wasn't until I was there quite a while that I started coming to some definite conclusions in the other direction, and it really shook me up."

Burdekin began to have doubts, he said, when he heard about artillery units dropping rounds into villages and about American soldiers burning down villages in the fight against Viet Cong infiltrators. He said he began to wonder if he were doing the Vietnamese people more harm than good.

"The average person there has no more than the land he was raised on and if he loses that he loses everything," Burdekin said.

"I think it's wrong for us to go over there and say that we're going to win the war for you, but if we have to kill you all in the process, that's all right too.

"That's what really set me off. It's not an overt attitude, but it's in everything we do."

Burdekin says American shelling, bombing and defoliating schemes are leveling Vietnam, destroying forests and farm lands.

And after talking to Viet Cong prisoners and South Vietnamese villagers, he wonders what the point of it is.

"I hate to hear American mothers say their sons died fighting communism in Vietnam, because they really didn't," Burdekin said.

The North Vietnamese are Socialists and the Viet Cong leaders are Communist, but they're both more interested in nationalism.

In addition, Burdekin said most South Vietnamese would rather be governed by the Hanoi government than continue the war.

"There's a growing resentment against Americans because to the Vietnamese people our presence means continuation of the war," he said.

He said a lot of South Vietnamese he talked to throughout the country would rather be governed by Ho Chi Minh than by the Saigon government anyway.

Mr. President, it is evident that our Secretary of State is beginning to believe his own propaganda, to believe only what he wants to believe. I—and I am sure all Senators—receive many letters from GI's, sailors, and airmen deploring our involvement in the civil war in Vietnam, our continuing destruction of that little country, and the killing and maiming of thousands of civilian men, women, and children both north and south of the 17th parallel.

It is obvious that the Secretary of State heeds the advice and counsel only of those who agree with his warhawk policies. He scornfully disregards his critics and the belief of the majority of Americans who—according to all reliable polls—now feel that it was a tragic mistake for our Nation to have become involved in an ugly civil war in Vietnam, a nation of no strategic or economic importance to the defense of the United States.

In the many speeches and statements regarding Vietnam made by Secretary of State Dean Rusk in recent years he invariably denounces "aggression from the north" using that phrase many, many times, untruthfully ignoring the fact that there has been a civil war in South Vietnam for more than 10 years between the Vietcong, or forces of the National Liberation Front, and the Saigon regime of generals who fought on the side of the French colonial oppressors from 1946 to Dienbienphu in 1954.

Also Secretary Rusk ignores the fact that historically for thousands of years there never was a North Vietnam and a South Vietnam. And the Geneva accords recognized this fact by terming the division at the 17th parallel as a temporary demarcation line and not a national boundary. Also he is prone to denounce the Vietcong for "contemptible sneak attacks in the darkness of night." Did George Washington perpetrate a sneak attack crossing the Delaware in the darkness of night on Christmas night 1776, marching his small force in silence on the Hessian mercenaries at Trenton killing and capturing 2,000?

Mr. President, it is crystal clear that for many months now Secretary of State Rusk has been unable to be objective regarding the administration's Vietnam policies which I fear he has advised and plotted, and which our President unfortunately has followed. His ludicrous issuance of one loophole-ridden justification after another for these aggressive policies has resulted in causing heads of state of many countries to regard the United States as an aggressor nation. If he continues his present policies and his peculiar views and if his unsound and utterly fallacious arguments are persuasive to President Johnson, the Secretary may well lead this Nation into a third world war. His resignation would be welcomed at home and abroad. I refer particularly to heads of state of the United Kingdom, France, Japan, Pakistan, India, the Philippine Republic, and Indonesia, to name a few nations.

DISCRIMINATION IN INTEREST RATES

Mr. WILLIAMS of Delaware. Mr. President, last week the Johnson administration established another new record by pushing interest rates to another 46-year high. This week the Treasury Department in financing the Federal debt is being forced to pay 5¾ percent interest on bonds with 7-year maturity. This 5¾ percent being paid to the bankers compares to the 4¼ percent which they pay to the small investors in the series E bonds. This practice of discriminating against the small investor is earning for the administration the title of "the bankers' best friend."

I ask unanimous consent that an article by Mr. Lee M. Cohn, which appeared in the Washington Evening Star of Friday, October 27, 1967, entitled "Forty-six Year High Hit in Cost of Treasury Borrowing" be printed at this point in the RECORD.

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

FORTY-SIX-YEAR HIGH HIT IN COST OF TREASURY BORROWING

(By Lee M. Cohn)

The spiraling cost of credit is forcing the Treasury to pay 5¾ percent interest—the highest comparable rate in 46 years—to borrow money.

Furthermore, financial analysts warned today, interest rates probably will climb much higher unless Congress raises taxes to curb inflation and hold down the federal budget deficit.

The Treasury announced yesterday plans to borrow about $12.2 billion by selling $1.5 billion of 7-year notes paying 5¾ percent interest, and $10.7 billion of 15-month notes paying 5⅝ percent.

Not since 1921 has the Treasury paid as much as 5¾ percent on securities outside the bill area. The rate rose to 6.32 percent on an issue of 6-month bills during last year's credit squeeze.

Notes, bonds and certificates—known as coupon securities—pay interest periodically. Bills have shorter maturities and are sold at discounts from their redemption values, instead of paying interest.

After a brief period of relief earlier this year, interest rates have soared on debt securities sold by the Treasury, other federal agencies, corporations and municipalities, basically because the federal budget deficit is expected to be the largest since World War II.

The big deficit will require a huge volume of Treasury borrowing, and threatens to cause an inflationary boom in industry by overstimulating the economy.

With the Treasury borrowing heavily and a boom spurring business borrowing for expansion, the demand for credit is expected to strain the supply of loanable money.

When borrowers have to scramble for funds, they bid up the price of credit—interest rates.

Besides the overwhelming demand for credit, there is a real prospect that the Federal Reserve may restrict the supply by tightening monetary policy to fight inflation.

The threat of extremely high interest rates is a major reason why President Johnson has recommended tax increases—to limit the size of the deficit and thus the amount of Treasury borrowing, and to minimize the need for anti-inflationary action by the "Fed."

Congress has balked at raising taxes, and financial markets have reacted by pushing interest rates up. Borrowers are rushing to get their money before interest rates climb still higher, and lenders are holding out for the higher rates they expect later.

Each 3-month delay in raising taxes increases the government's borrowing requirements by $1.8 billion to $2 billion, Treasury Undersecretary Frederick L. Deming told a news conference yesterday.

If taxes are not raised, he said, the government may have to borrow about $21 billion this fiscal year. Adding this to non-federal borrowing, he said, total demand for credit might total $87 billion—exceeding the anticipated supply of $70 billion.

The Treasury and big borrowers would get the credit they need, he said, but other worthy borrowers would be shoved aside, even if they were willing to pay high interest rates.

Of the $12.2 billion to be borrowed, Deming said, $10.2 billion will be used to pay off that amount of bonds and notes maturing Nov. 15.

The $2 billion balance should take care of the Treasury's requirements for new cash to finance the deficit through December, he said. The Treasury has borrowed $14 billion of new cash so far during the second half of calendar 1967.

Investors may subscribe for the new notes at the Treasury or Federal Reserve banks, or through securities dealers, only next Monday. Since subscriptions normally exceed the amount offered, investors generally will be allotted only a fraction of the notes they ask for.

The notes will be delivered and must be paid for Nov. 15.

Only about $4.6 billion of the notes will be sold to the public. The Federal Reserve and government trust accounts are expected to buy at least $7.6 billion to replace their holdings of the maturing securities.

This is the first time in recent history that the Treasury has sold any securities with maturities longer than five years at an interest rate above 4¼ percent.

Congress earlier this year relaxed the legal 4¼ percent ceiling, allowing the Treasury to exceed that rate on securities with maturities up to seven years. The limit had been five years.

VIETNAM: HOW NOT TO UTILIZE AIRPOWER—V

Mr. SYMINGTON. Mr. President, with respect to the utilization of airpower in Vietnam—and this is the fifth summary I have made on this subject in recent days—I ask unanimous consent that additional testimony contained as part of the interrogation of Maj. Gen. Gilbert L. Meyers by counsel for the Senate Preparedness Investigating Subcommittee, having to do with the fact that authorized targets were lost if not hit within a certain time period, be printed in the RECORD.

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

LOST TARGETS IF NOT HIT IN SPECIFIED TIME FRAME

(Testimony by Gen. Gilbert L. Meyers, USAF, retired, before Senate Preparedness Investigating Subcommittee, August 29, 1967)

Mr. KENDALL. If you did not fly them within that period, what happened to them?

General MEYERS. Well, we lost them.

Mr. KENDALL. You lost them?

General MEYERS. Right.

Mr. KENDALL. So I assume that——

General MEYERS. The same thing was true of the targets. If we did not hit them within the specified [deleted] series, we lost them.

Many times they were rescheduled in a subsequent [deleted] series, but we did not have automatic approval to keep going.

Mr. KENDALL. So if you got a target—one a week and later on, I believe, it was three every 2 weeks—and if you did not hit that target within that period, then it became not valid for strike?

General MEYERS. That is correct.

Senator SYMINGTON. That is one of the most incredible aspects of all these rules and regulations laid down from Washington.

Senator THURMOND. Asinine.

Mr. KENDALL. It would seem to me as a layman that that would generate a great deal of pressure on your people to get that target during that particular period even though you might have to fly through questionable weather and things of that nature to do it; would that be accurate?

General MEYERS. That is correct. We used larger numbers of sorties to attack these targets than we thought was militarily advisable, based on the defenses that existed. This was done so we would not lose sorties in the next allocation of [deleted] series.

Mr. KENDALL. Were you ever given an explanation for this type of control, either on the number of sorties or the target being valid only for a particular period?

General MEYERS. No, but it goes back again to the philosophy of the graduated pressure.

In conformance with the policy, they apparently did not want to put too many sorties over North Vietnam at a given point in time. They wanted to increase the air effort gradually, which, in turn, increased the pressure on the enemy.

THE BRINK OF CHAOS

Mr. YOUNG of Ohio. Mr. President, two highly respected newspapers in Ohio, both with large circulations in their respective areas, the Daily News of Port Clinton, a city on Lake Erie, and the Daily Herald of Delphos, a city in the westerly section of Ohio, recently

expressed editorially their complete disagreement with the administration position and recent remarks of President Johnson concerning the war in Vietnam. In a letter addressed to Mr. Whitney Shoemaker, assistant to President Johnson, Murray Cohen, publisher of the Port Clinton Daily News and the Delphos Daily Herald, expressed his regret that he must continue to disagree with statements made by President Johnson seeking to defend turning a civil war in Vietnam into an American ground war.

Murray Cohen, an extremely knowledgeable and well-known publisher and journalist in Ohio, stated in his letter:

I and an increasingly larger number of people who believe they are acting out of dedication to what this nation stands for, are becoming more and more alarmed over the carnage in Viet Nam and the potential for future carnage as the escalation grows. We are, by and large, the group that held silent in hopes that our silence would produce a settlement that would end the killing. Now, it seems almost too late.

Surely the views of nearly the entire rest of the world, including those who traditionally have been our closest allies cannot be so totally ignored?

President Johnson must attempt to use protracted deescalation as the path to peace, or he must be replaced, just as President Eisenhower succeeded a Democrat in office.

One more word. The editorial, which appeared in two newspapers, did not result in a single critical response from any person in the two Ohio communities. Considering the number of armed forces personnel from our areas now in Viet Nam, the response should have been strongly negative by many people if there were not a widespread feeling that our course is immoral, dangerous and harmful to this nation.

I would give everything if only the present course were right, but I know now it is not.

Mr. President, at the time I first read this editorial, I was startled to read the official report from Saigon dated October 26:

U.S. casualties in the Vietnam war last week rose slightly and were more than double those of the South Vietnamese forces for the same period, the U.S. Command reported today.

Spokesmen said 193 Americans were killed in action, while 81 South Vietnamese were killed and approximately 400 wounded.

Of the 949 Americans wounded, 573 required hospital treatment.

It is with a feeling of sadness, Mr. President, that I report this continuing sacrifice of the lives of the young Americans in a civil war in which we should never have become involved, and which we have now turned into an American ground and air war.

These most recent casualty figures speak louder than words of the urgency for deescalating the ground war and stopping the bombing of North Vietnam in the hope that this will lead to negotiations and a cease-fire and an armistice. The editorial which appeared in the Port Clinton Daily News and the Delphos Herald clearly and concisely points out the sound logic for doing so. I ask unanimous consent that the fine editorial, "The Brink of Chaos," be printed in the RECORD.

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

THE BRINK OF CHAOS

Most of the critics of the Johnson Vietnam policy would cease their criticism immediately, as the President asked Friday night, if they thought their silence would contribute to the defeat of the North Vietnamese and the Viet Cong, a shortening of the war, a lessening of the injury and killing of American soldiers, the advancement of democratic principles, or a reduction in the chances for a nuclear World War III. Indeed, the vast majority of those who view the Johnson policy with increasing alarm would never have joined the rank of those who have opposed the administration in its escalation if they had not felt that we are headed for the brink of disaster.

Friday night's speech by President Johnson went wrong for most of the critics when he referred to the Vietnam conflict as being caused by foreigners. The truth about the war in Vietnam that is now becoming known to an increasing number of people in the United States is that it is in virtually every respect a civil war. One of the groups of "foreigners" involved is the group of generals from North Vietnam who fought with the French in the war of independence and now have taken over South Vietnam. If this isn't a civil war, there never was one in the history of the world.

Many of the critics involved, including this newspaper, held their silence in hopes that the "united front" would somehow produce results. Instead, the situation continued to deteriorate.

United States troops switched to take the lead on the battlefield and the numbers grew from 100,000 to 200,000 and then 300,000, again, 400,000, a half a million. When American bombers attack targets daily that are within one minute of China, when the familiar arguments begin to sound for invading North Vietnam—a step that will, at the minimum, require a doubling or quadrupling of U. S. troop commitments—and when the weaponry on both sides heads closer to nuclear disaster, there doesn't seem to be much point in further silence. The right direction seems to be deescalation, a cessation of the bombing, rather than further escalation.

Meanwhile, the most humanitarian nation in the world, the nation that is the symbol and the hope of this world in its actions and preachments, continues to descend to the level of a barbaric Asiatic civilization. The United States loses a portion of its moral position before the world every day the bombing continues.

As for the Johnson quotations from the Asiatic nations in support of staying in Vietnam, let them put up with economic and troop commitments what their speeches indicate they will do. By and large, they have not done so to date.

The question is not withdrawal. The question is deescalation or escalation. The President has deliberately confused deescalation with abandonment.

Increasing the fury of this horrible war and slowing the pace both have their risks. The increasing number of critics, including our closest allies, favor taking the risk of deescalation as the road to peace.

The PRESIDING OFFICER. Is there further morning business?

Mr. BYRD of West Virginia. 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. SYMINGTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. 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. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

DISTRICT OF COLUMBIA COUNCIL NOMINEES

Mr. DOMINICK. Mr. President, on Friday, October 20, 1967, the Senate District of Columbia Committee conducted hearings on the nominations for Chairman, Vice Chairman, and members of the District of Columbia Council.

At that time I raised certain questions with respect to possible conflicts of interest and conflict of duties as far as two nominees were concerned. I also raised questions with respect to the American Bar Association Canons of Ethics and their effect on one nominee, Mr. Thompson. Because of the nature of my questions and the considerable attention which they have received, I want to make my position clear prior to consideration of the nominations by the Senate.

First, let me emphasize that I do not question the qualifications of Mr. Thompson. I have been most favorably impressed with his background, education, and experience, and in my contact with him since his appointment. He has been at all times very cooperative.

However, during his testimony before the committee Mr. Thompson stated his intention to continue his partnership with the other members of his law firm during his service as a member of the Council. Certainly, it is not improper for him to do so, but the potentiality for possible conflicts of interest is obvious unless certain safeguards are met.

I am deeply concerned that our first Council under the newly reorganized government for the District of Columbia get off to a start with a clean bill of health.

To this end I have endeavored, while at the hearings and during this past week, to explore thoroughly and bring to the forefront items which in my mind should be fully aired now and not later. Since Mr. Thompson is a well-qualified attorney and member of the American Bar Associaton who is seeking public office, the canons of ethics of that association seem to me to be legitimate matters for public inquiry.

Mr. President, I do not view the Senate District of Columbia Committee or the Department of Justice as judge of what is proper under the canons of ethics of the American Bar Association. Indeed, I would resist any attempt by either to assume such a role. Procedures are available to Mr. Thompson and the members of his firm, if they feel it necessary, to seek out an opinion on any potential conflicts from the Standing Committee on Professional Ethics of the American Bar Association.

But the Senate District of Columbia Committee or any Senate committee with the responsibility for reviewing nominations and making recommendations for or against confirmation has a duty, in my judgment, not only to study the nominee's qualifications but to fully disclose matters in which the interest of the public is a part.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senator from Colorado [Mr. DOMINICK] may be permitted to proceed for 10 additional minutes.

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

Mr. DOMINICK. I thank the distinguished Senator from West Virginia.

The time lapse which it has taken to look into the ethics issue should not be construed to mean the committee felt a definite conflict existed. Nor should a favorable report on the Thompson nomination by the committee be construed to mean potential future conflicts have been precluded.

Mr. President, with the caution that the canons and ethics opinions of bar associations are subject to interpretation, I would like to make some legislative history as to the reasons for my concern.

I have previously made available to Mr. Thompson the citations to the opinions which have troubled me.

One opinion of the Colorado Bar Association is particularly illustrative. In ethics opinion 18, the Colorado Bar Association held that neither a city councilman nor members of his firm could represent a client before any administrative departments or agencies of the city. I hasten to add, of course, that that opinion is not applicable to Mr. Thompson since he is not a member of that association.

I have examined a number of opinions, both formal and informal, of the American Bar Association to which he does belong. To the best of my knowledge, but not surprisingly, there has been no decision directly in point. Three opinions in particular caught my eye.

In formal opinion 192 one of the issues was to what extent it was proper for a firm, one of the members of which had accepted public office, to accept professional employment requiring dealings with the employer of the firm member.

The decision held:

> There is no objection to his retaining his membership in a law firm or in sharing the earnings of the law firm, provided such firm does not represent interests adverse to the employer. . . .

In formal opinion 306 the ABA Ethics Committee decided to permit members of a law firm to appear before legislative committees even though a member of the firm is also a member of the legislature.

I might say at this point, Mr. President, that this is a change from ethics rulings which had previously been issued by the American Bar Association Ethics Committee. Prior to this particular ruling, the ABA committee had held that it was not ethical for any member of a firm to appear before a legislative committee or a legislative body on behalf of a client, where a member or an associate of that firm was a member of the legislative body. This was true even though the member of the legislative body had said that he would not share in the profits of his law firm while he was holding such position.

So this formal opinion No. 306 is a change, and it indicates, once again, the difficulty of the Senate District of Columbia Committee trying to interpose itself as a judge in this type of situation. Even ethics committee rulings change from time to time.

Opinion No. 306 went on to say that such appearances are authorized whenever there are constitutional, statutory, or legislative provisions which expressly or by necessary implication recognize such action as proper, or where a provision permits a member of the legislature to disclose his conflict and withhold his vote on the matter. It may be that the Federal conflict of interest law, in particular, 18 United States Code 207, is the type of consent contemplated by this opinion.

Finally, I would call the attention of the Senate to formal opinion No. 315. Decided in 1965, this opinion involved, among other issues, the nature of business which a firm could conduct after one of its members was elected Governor of the State and remained a partner of the firm. The ethics committee referred to formal opinions Nos. 192 and 306, and in its conclusions cautioned:

> The firm must be extremely careful to avoid any representation which involves even the appearance of a conflict with the governor's duties.

Mr. President, the four opinions which I have just mentioned—Colorado Bar Association Opinion No. 18 and ABA Opinions Nos. 192, 306, and 315—are important, and I feel it is in the public interest that these as well as three others—ABA Informal Opinions Nos. 691, 700, and 855—receive widespread distribution. I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOMINICK. In order that the record may be complete, I would merely mention that other opinions which have been considered as possibly having some relation to the problem are: ABA Formal Opinions Nos. 16, 30, 34, 49, 128, 135, 186, 262, and 278, and ABA Informal Opinions Nos. 564, 620, 674, and 772.

Prior to Senator BIBLE's departure from Washington, I asked the staff and the chairman if it would be possible for us to obtain a letter from Mr. Thompson's firm with respect to these issues, indicating specifically what they would and what they would not be willing to do. Such a letter was received. In general, Mr. Thompson has said that he would not represent any client against the District, that his firm would not represent any client before an administrative agency over which the council has jurisdiction, and that he would not, of course, act adversely to the interests of the District in any situation that might arise.

I believe this is an indication of the high quality of Mr. Thompson and his ethical considerations, and I am deeply appreciative of his cooperation and the effort that he has made to resolve these possible conflicts.

There is one other question which I would like to take up, and that is as to another nominee, Mr. Anderson. He is a highly qualified man also, and a very fine person. However, at the time he was nominated to the Council for the District of Columbia, he was a GS–13 working for the District of Columbia in the Recreation Department. That created an impossible situation as to him, because his Recreation Department job provided him with more personal funding than the Council job, and he would, as a Council member, have had jurisdiction over the very role that he was playing as a salaried employee.

All of a sudden, the administration came up with a new job for Mr. Anderson. If his nomination is confirmed by the Senate, he will be employed by HEW in the Children's Bureau as Youth Services Adviser. I am not sure whether his salary range will be any different, but it seems to me we still have the same problem in a slightly different context. No longer will he have jurisdiction over his own job, as he would had he remained with the District of Columbia Recreation Department, but he does have a situation where he is being given a job in the Children's Bureau, an area in which the administration claims his services are badly needed. Yet at the same time he will promptly be given an enormous amount of time off to start out on District of Columbia council work. A broad question in my mind is whether any Federal employee, at least initially, should serve on a city council, when we know that the work of the council is going to take so much time that the Federal employee would very patently not be able to spend the amount of time that has heretofore been considered necessary in the Federal job in which he has been employed or to which he is being appointed.

I believe this should be a matter of serious concern to all of us. What we can do about it I do not know. There is no law against it, as far as I am able to determine, at the present time. We do have a personnel problem, it seems to me, of major importance; and I should like to discuss the matter at greater length at a later time.

I do wish to say publicly, as I have said before to the staff and to the committee members, that I do not intend to oppose any of these nominees, but I do wish to bring the questions out, so that Senators can look at the problems and determine what they want to do, in the interests of future policy.

In concluding I would like to express my appreciation and extend my compliments to the staff of the District of Columbia Committee, particularly to Mr. Chet Smith, staff director, for the work which has been done since our hearings. Chet has been in daily contact with my own staff in an effort to resolve all of my

questions regarding the nominees, and I would just like the RECORD to reflect my own high regard for the quality of the materials which I have received as a result.

I thank the Senator from West Virginia for giving me this time.

EXHIBIT 1

[Colorado Bar Association]

OPINION NO. 18, ADOPTED JANUARY 20, 1961

SYLLABUS

It is improper for an attorney who is also a city councilman (a) to appear on behalf of a defendant who is charged with violation of a city ordinance in the municipal court of that city; and (b) to represent a client before administrative departments or agencies of that city. It is also improper for a member or associate of the law firm of which the city councilman is a member to act as an attorney in either of the above situations.

FACTS

An attorney in the private practice of law is also a member of the city council. The city council does not appoint municipal judges or administrative department or agency heads, but does appoint the members of the board of adjustment which hears zoning and building appeals. The limits of the salaries of municipal judges are established by city charter but the council has authority to fix the salary within such limits. The council approves the budget of the municipal court and appropriates funds for the operation of that court as well as all city departments and agencies.

OPINION

In Opinion No. 14 this Committee concluded that in a situation where the city council hired the municipal judge and fixed his salary it was improper for an attorney-councilman to practice in the municipal court on behalf of defendants charged with violations of city ordinances. The practice there condemned is equally improper where the council, although not directly appointing the judge, must approve the court's budget and appropriate funds for its operation.

The same conclusion must be reached with respect to the representation of a client by an attorney-councilman before an administrative department or agency of the city. Even though the conduct of both the department and the attorney is scrupulously correct, it is likely that an individual client, or the public, will believe that an attorney-councilman would receive a more favorable reception from a municipal department or agency than would a noncouncilman. An attorney who is also a public officer has an obligation to avoid any appearance of possible impropriety resulting from his dual position.

The pertinent rule regarding the appearance before municipal courts, departments or agencies of other members of the firm of which the attorney-councilman is a member has been stated as follows:

"The relations of partners in a law firm are such that neither the firm, nor any member or associate thereof, may accept any professional employment which any member of the firm cannot properly accept." Opinions 49 and 72 of the Committee on Professional Ethics of the American Bar Association. To the same effect are Opinions 33 and 103 of the same committee.

The foregoing rule is frequently harsh in its application, particularly where, as here, an entire firm is precluded from a substantial area of private practice because one firm member, often at a financial sacrifice, serves part time in a public or political position. The rule, and the policy considerations upon which it is based, are nevertheless too firmly established to permit of modification at this time.

AMERICAN BAR ASSOCIATION FORMAL OPINION 192 (FEBRUARY 18, 1939)

A firm member who accepts permanent full-time employment with a private employer or government agency may continue to serve the firm and the firm may continue to use his name; however, if he remains a firm member or the firm retains his name, then the firm may not represent interests adverse to those of the member's employer.

If a firm member accepts temporary full-time employment with a private employer or government agency and retains his membership in the firm, then the firm may represent parties adverse to the firm member's employer only after such employment ceases and only in connection with matters arising subsequent to the termination of employment.

A firm member who accepts full-time employment with a private employer or government agency should not habitually recommend the employment of his former firm.

CANONS INTERPRETED: PROFESSIONAL ETHICS 6, 27, 33, 36

A member of the Association presents the following inquiries:

(1) Is it ethical or professionally proper for an attorney, after accepting public office or full-time employment, whether by local, state or federal governments, to continue to be a member of a private law firm or to allow his name to be used as a part of the name of the law firm?

(2) Is it ethical or professionally proper for an attorney who individually and personally accepts full-time private employment, especially from an institution such as a bank, railroad, insurance company, utility, to remain a member of a law firm or to allow his name to continue to be a part of the firm name?

(3) To what extent is it ethical or professionally proper for the firm, a member of which has accepted such employment as is described in (1) and (2), to accept professional employment which requires dealings with the employer of the firm member or former firm member?

(4) Is the situation in any way changed if the attorney who accepts public or private employment such as that described ceases to be a member of the firm but allows his name to be retained as a part of the firm name? What is the duty of the member of the firm and of the firm in case the employment is temporary rather than permanent?

(5) Is it ethical or professionally proper for one who has accepted public or private employment of the kind hereinbefore described, to habitually recommend to those with whom he comes in contact in his new employment that they employ the same firm of which he is still a member, or the firm name which still contains his name? Is the situation changed if he withdraws from the firm and the firm name is changed so as to exclude his name therefrom?

The opinion of the committee was stated by Mr. HAUGHTON, Messrs. Arant, Phillips, Miller, Brown, Jones and Evans concurring.

The foregoing questions involve considerations of Canons:

6. Relating to adverse influences and conflicting interests,

27. Relating to advertising, either direct or indirect,

33. Relating to partnerships, and

36. Relating to conduct of attorneys on retirement from public employment.

Many opinions have been written by this committee applying each of these Canons. *Opinions 16, 30, 34, 77, 118* and *134* relate to *Canon 6*, and pass on questions concerning the propriety of the conduct of an attorney who is a public officer, in representing private interests adverse to those of the public body which he represents. The principle applied in those opinions is that an attorney holding public office should avoid all conduct which might lead the layman to conclude that the attorney is utilizing his public position to further his professional success or personal interests.

In general, when an attorney accepts employment, either public or private, his name may properly be carried by his firm. If the conditions of his employment require that he sever all other connections, he can no longer remain a member of the firm, and in such case should not permit his name to be used by the firm. In the absence of such conditions or of a law requiring the attorney to refrain from private practice, "there is no objection to his retaining his membership in a law firm or in sharing the earnings of the law firm, provided such firm does not represent interests adverse to the employer," and the public is not misled.

Questions (1) and (2) may be considered together. The only difference between them is that in (1) the lawyer is employed by a governmental agency, and in (2) by a private agency. The question is whether if he accepts full-time employment, by either governmental or private agency, he may continue to be a member of a law firm, or allow his name to be used in the firm name. In the absence of legislation forbidding this, there is no impropriety in his continuing to be a member of the firm so long as the firm refrains from representing interests adverse to the employer. In such case there is no conflicting interest and no chance for any conflict of interests. If, however, the firm is to represent interests adverse to the employer, it is otherwise. There may be instances in which there is no conflict, but we think that if there is a conflict, or even if there is apt to be a conflict, the attorney should withdraw from the firm, and the firm should no longer carry his name.

Question (3). We assume that the inquiry here is whether the firm may accept professional employment which is adverse to the employer of the firm member, or former firm member. The answer to this is indicated by what has been said previously. Such employment may be accepted only if the former firm member has severed all connections with the firm and is no longer a member of it; then there is and can be no possibility of a conflict between the interests represented by the attorney and his former firm.

Question (4). The situation is not changed if the attorney ceases to be a member of the firm and allows his name to be retained as a part of the firm name. So long as his name is retained by the firm, such firm should not represent interests adverse to the employer, either public or private, of the firm member. If the employment of the member of the firm is merely temporary, when such employment ceases, the firm may again represent interests adverse to the former employer, arising subsequent to the termination of the employment, and in no wise related to such employment. *Canon 36.* Departments or divisions are here regarded as the employer—not the government as a whole.

Question (5). A former member of a firm who later accepts public or private employment should not recommend habitually the employment of his former firm. This approaches touting. Upon inquiry he may recommend the retainer of his former firm in matters not adverse to his employer.

FORMAL OPINION 306 (MAY 26, 1962)

Wherever under constitutional or statutory provisions or legislative rules consent has been given, expressly or by necessary implication, a lawyer may properly engage in lobbying on behalf of a client before a legislative committee or otherwise where a member of his firm or associate is a member of the legislature.

CANON INTERPRETED: PROFESSIONAL ETHICS 6

This Committee said in formal Opinion 296, dated August 1, 1959, in effect, that there was a necessary conflict of interest where a partner or associate of a law firm was in the legis-

lature, for another representative of the firm to appear before the legislature and sponsor or oppose legislation in the interest of one of the clients of the firm; and since the public was involved, consent to the dual representation could not be given, so as to meet the requirements of Canon 6, wherein it is provided (in part) that it is unprofessional to represent conflicting interests except by express consent of all concerned given after a full disclosure of the facts.

We have been advised that in some states, particularly some of the smaller states, our ruling has had the effect of cutting down on the number of lawyers in the legislature, and has deterred many able young lawyers employed by law firms from standing for positions in the legislature; and as requested by some members of the Bar from certain of these states, we have given consideration to Opinion 296. While we adhere to the basic principles of that opinion, we have concluded that it should be modified and supplemented as hereinafter set out.

We have concluded that if in any particular state there are constitutional or statutory provisions or legislative rules which expressly or by necessary implication recognize the propriety of a lawyer appearing before legislative committees, or otherwise lobbying in the legislature for a client where a member of his firm or associate was at the time a member of the legislature or where provision has been made permitting a member of the legislature to disqualify himself from voting on or participating in the discussion of the matter involved, consent has been given resolving the conflict of interest questions, either by the people through the constitution or by the Legislature speaking for the state.

Section 22 of the Article III of the Constitution of the State of Texas reads as follows:

"A member who has a personal or private interest in any measure or bill, proposed, or pending before the Legislature, shall disclose the fact to the House of which he is a member, and shall not vote thereon."

While no effort has been made to check the constitutions of all the states, such check as the Committee has made discloses that several other states have provisions substantially the same as that contained in the Texas Consitution but that so such provisions appear in the constitutions of a number of other states.

Such provisions have been construed as not disqualifying a legislator whose interest is merely that which is common to large segments of the public (such as a bill dealing with veterans of wars). While such provisions were probably never intended to apply to the situation we now have under discussion, such provisions are very broad and it seems to the Committee they might appropriately be considered as applicable to a legislator-lawyer whose firm was employed by a client to lobby for or against certain legislation. As a member or associate of the law firm he has a "personal and private interest" in the activities of the firm in behalf of the client. Accordingly, it is the opinion of the Committee that in states having a constitutional provision of this kind, the public in its basic law has consented to appearances by lawyers under such circumstances and has removed the question of conflict by providing that the legislator in question should disclose the interest and not vote upon the measure.

Even in States which do not have such constiutional provisions (assuming no conflict with existing constitutional provisions) the Committee is of the opinion that Consent of the public may properly be given by an act of the legislature or legislative rule substantially to the effect of the aforesaid constitutional provisions, or in any other manner recognizing the possible conflict of interest and either expressly or by necessary implication permitting it under prescribed circumstances.

Without such constitutional or statutory provisions or legislative rules the mere disclosure by the lawyer-legislator of the conflict of interest and a voluntary disqualification on his part to participate in the legislation involving such conflict is not sufficient to meet the requirements of Canon 6, as interpreted by this Committee. This would seem to involve, in part at least, the abdication of the functions for which the legislator was elected, without constitutional or legislative permission therefor. With such constitutional or legislative provisions the public policy of the state has been declared.

A number of states have adopted so-called lobbyists registration statutes, generally providing (in substance) that anyone acting in a representative capacity who appears before a legislative committee or contacts any member of the legislature for or against any pending legislation shall file with the legislative body a statement showing the name of his client and giving the measure or general subject matter in which the client is interested. It has been suggested to our Committee that compliance with such lobbyist registration statutes is sufficient to take the case out from under our *Opinion 296*, and resolve the question of conflict of interest. We do not so hold. Such statutes are designed to give the legislature and the public notice of the client or person represented and of the legislation which it advocates or opposes through its representative. While such statutes are of general application, they do not purport to deal with the question of conflict of interest. Accordingly, we hold that they are not sufficient to give an implied consent by the public, resolving the question of conflict of interest, where a law firm appears before a legislature committee or otherwise contacts members of the legislature on behalf of a client for or against a pending measure, and where at the same time a partner or associate in said firm is a member of the legislature.

To the extent herein provided, formal *Opinion 296* is modified and qualified; but otherwise said *Opinion 296* is adhered to.

FORMAL OPINION 315 (DECEMBER 11, 1965)

As long as the laws of the state do not forbid it, there is nothing ethically improper in continuing in the firm name and carrying on the firm's letterhead the name of a partner who has been elected to the office of governor of the state, providing the following conditions are met; (1) he must continue to be responsible and liable as a partner to avoid possible deception; (2) the firm must be extremely careful to avoid any representation which involves even the appearance of a conflict with the governor's duties.

The same principles apply to listings in law directories, where his name may be followed by the words "on leave," but without showing the public office held.

CANONS INTERPRETED: PROFESSIONAL ETHICS 6, 33

The opinion of the Committee has been requested as to the propriety of a law firm continuing in the firm name the name of a member of the firm who has been elected to the office of governor of a state, when he intends to return to the law firm at the expiration of his term or terms of office. It is stated that by reason of the duties and burdens of his office, the officeholder will not be able to practice law during his incumbency as governor and, therefore, will not participate in fees earned by the firm while he is in office. It is also proposed that the name of the officeholder be shown in the list of individual lawyers named on the letterhead, with the notation "on leave." It is further proposed to carry the name of the officeholder in the various legal directories wherein the firm is listed, showing the public office held and the notation "on leave."

The Committee has also been asked if it would be improper to add to an announcement being sent out by the firm, in the customary manner showing the name of a new member of the firm, an announcement to the effect that the public officeholder had withdrawn from the firm during the term of his public office.

Canon 33, entitled "Partnerships—Names" holds, in part:

"In the formation of partnerships and the use of partnership names care should be taken not to violate any law, custom, or rule of court locally applicable. . . . The continued use of the name of a deceased or former partner, when permissible by local custom, is not unethical, but care should be taken that no imposition or deception is practiced through this use."

In *Opinion 192* the Committee was asked the question:

"Is it ethical or professionally proper for an attorney, after accepting public office or full-time employment, whether by local, state or federal governments, to continue to be a member of a private law firm or to allow his name to be used as a part of the name of the law firm?"

With respect to this inquiry, the Committee held:

"The question is whether if he [the lawyer] accepts full-time employment, by either governmental or private agency, he may continue to be a member of a law firm, or allow his name to be used in the firm name. In the absence of legislation forbidding this, there is no impropriety in his continuing to be a member of the firm so long as the firm refrains from representing interests adverse to the employer. . . . If, however . . . there is a conflict, or even if there is apt to be a conflict, the attorney should withdraw from the firm, and the firm should no longer carry his name."

Opinion 296 of this Committee held that a law firm may not accept employment to appear before legislative committees while a member of the firm is serving in the legislature, even though full disclosure is made to the committee and even though the member of the firm serving in the legislature does not share in any fees received thereby.

Opinion 306, while adhering to the basic principles of *Opinion 296*, modified that opinion by stating:

"We have concluded that if in any particular state there are constitutional or statutory provisions or legislative rules which expressly or by necessary implication recognize the propriety of a lawyer appearing before legislative committees, or otherwise lobbying in the legislature for a client where a member of his firm or associate was at the time a member of the legislature, or where provision has been made permitting a member of the legislature to disqualify himself from voting on or participating in the discussion of the matter involved, consent has been given resolving the conflict of interest questions, either by the people through the constitution or by the legislature speaking for the state."

Assuming that the conditions of the acceptance of the office of governor do not legally require the successful candidate to sever any or all of his other connections, in general his name may properly be continued in the firm name and carried on the firm letterhead if there is no statute opposing it. However, if a state statute exists prohibiting the governor from practicing law, then his name should be taken out of the firm name. The same principles would apply to listing the name of the governor in the various legal directories wherein the firm is listed, with the notation "on leave" after his name in the list of individual lawyers, but without showing the public office held.

In the event the officeholder's name is so continued in the firm name, whether or not he receives compensation from the firm, he must be responsible as a partner of the firm and liable as such in order to avoid possible deception.

If the name of the officeholder is retained in the firm name, then the firm must be extremely careful to avoid any representation which will or might appear to be in conflict with the duties of the governor where there might be any possible statutory or ethical conflict. At any time when it appears that such conflict might appear, the firm must disqualify itself.

Canon 27 prohibits all forms of advertising, direct or indirect, or solicitation or self-laudation, and it has been argued that the continued use in a firm name of the name of a holder of high public office, especially of a governor, not actually practicing with the firm during the term of his public office, would result in attracting clients, either because of the official's fame and stature, or, because of a feeling that the firm might have special influence in high places.

A majority of the Committee, however, are of the opinion that the general public would know of their governor's law office connection when he ran for office and that continuing his name on the firm letterhead in the manner here proposed would have no additional effect in connection with attracting new clients.

In conclusion, therefore, it is the opinion of the majority that if the safeguards and conditions set forth above are observed, it would not be unethical for a governor's name to be retained in the firm name under the circumstances stated.

Answering the second part of the inquiry, in *Opinion 301* it was held proper for announcement cards by lawyers entering or returning to private practice from governmental service to contain a brief and dignified reference to the position occupied with the government immediately prior to such entry or return. In view of the reasoning in that opinion, it would not be improper for the public officeholder's firm to send out, in the customary manner, an announcement showing the name of a new member of the firm together with an announcement to the effect that the public officeholder had withdrawn from the firm during the term of his public office.

This opinion affirms formal *Opinions 192* and *296* (modified by *Opinion 306*) as they apply to the questions covered herein. Any informal opinions inconsistent with the reasoning and conclusions in this *Opinion 315* are hereby overruled.

The opinion of the Committee is concurred in by Messrs. Benton E. Gates, Samuel P. Myers, E. B. Smith, Lewis H. Van Dusen, Jr., and Walter P. Armstrong.

Mr. Joiner concurred in the majority opinion but would add the following language to it:

"I believe that a firm which contains the name of an officeholder, in addition to being extremely careful to avoid representation which will or might appear to be in conflict with the duties of the officeholder, such as representing a client against the government of which the officeholder is a part, where their might be a conflict of interest, is also bound not to represent clients before courts or administrative agencies containing members appointed or subject to appointment by the man who is listed as a partner in the firm. In such cases the firm should disqualify itself."

Messrs. Carson and Johnston disagree with *Opinion 315* as approved by the majority and have filed this minority opinion for the purpose of expressing their reasons and setting forth their views.

Opinion 192, February 18, 1939, is summarized in its following paragraph:

"In general, when an attorney accepts employment, either public or private, his name may properly be carried by his firm. *If the conditions of his employment require that he sever all other connections, he can no longer remain a member of the firm, and in such case should not permit his name to be used by the firm.* In the absence of such conditions or of a law requiring the attorney to refrain from private practice, there is no objection to his retaining his membership in a law firm, provided such firm does not represent interests adverse to the employer, and the public is not misled." [Emphasis added.]

Opinion 286, August 1, 1959, and *Opinion 306*, May 26, 1962, which modified *Opinion 286*, together are to the effect that if a member or associate of a law firm is a member of a legislature, neither the firm nor any of its members or associates may appear before any committee of that legislature or otherwise lobby before it for a client, unless either (a) the propriety of such activity is recognized expressly or by necessary implication by statutory provisions or by legislative rules, or (b) provision has been so made for the lawyer-legislator to disqualify himself from voting on or participating in discussion of the particular matter and he has so disqualified himself and acts accordingly. These two opinions related principally to *Canon 36* and *Canon 32*. Neither *Canon 77* nor *Canon 33* was mentioned or discussed or involved in either opinion.

In its *Informal Decision 120*, date unknown, the Committee held, according to the summary on page 633 of the published opinions of the Committee (1957 bound volume), that a lawyer's letterhead should not state that he is a member of a stated bar association, or a senator or governor, or a member of Congress. This would apply to the letterhead of a law firm as well, and *120* apparently has not been overruled or superseded. It is not referred to in the majority's *Opinion 315*.

Informal Decision C–620, March 13, 1963, was concerned with the propriety of continuing to use in the firm name the name of the incumbent of a high local office, described as being equivalent to the office of mayor of a major city, which as a practical matter would preclude the lawyer from practicing law because of the burdens of the office, although there was no legal prohibition against his doing so. In that decision (*C–620*), the Committee quoted *120*, implying approval of it in 1963, and also quoted formal *Opinion 192* and in discussing it said:

"Where members of the legal profession are elected to the United States Senate, to the House of Representatives, and to state and local offices, it is not uncommon for them to continue the use of their names in the firms of which they are members. Doubtless this practice has been established because these positions were at least originally considered part-time only. In recent years, of course, a United States Senator or Representative is in fact pretty well occupied full time in Washington, except for a limited vacation period."

We believe that such discussion *clearly implies serious doubt on the part* of the Committee in 1963 as *to the propriety of continuing the use in a firm* name of the *name of the incumbent of high public office*, even if he is not by law required to "sever all connections," *if, as a practical matter because of* the demands of the office, he simply *does not have time to engage in* the practice of law. The Committee, in *C–620* in 1963, also quoted the following from *Informal Decision C–403*, date unknown, having to do specifically with the office of governor:

"The position of Chief Executive of a State is of such importance that it requires a member of the law firm to sever all relations with his firm during his term of office. The retention of his name, even with the addition of qualifying words, would create the impression that the firm has influence with the Governor that other law firms would not have. *The advertising of such relationship in the firm name would be improper.*" [Emphasis added.]

It was felt by some members of the Committee at the time *C–620* was issued that the reasoning and principles of *C–403* were also applicable to the local office under consideration, but the conclusion of the majority was that, while a borderline case, it would not be improper to continue using the name of the incumbent of the local office if certain measures were taken to avoid a partnership name which was either "misleading" or the use of which would amount to "deception" in violation of *Canon 33*. The majority was of the opinion that the use of the officeholder's name would be "misleading"

". . . *unless it was shown that he was no longer a member of the firm*, since otherwise there might be some implied representation that he was engaged in practice with the firm when in fact he is not in a position to [do so]. Accordingly . . . [if his name] is retained in the firm it should be indicated where his individual name appears on the side of the letterhead, either that he is retired from the firm in 1962 [apparently the year of incumbency], or that he is on 'leave of absence.'" [Emphasis and words in brackets added.]

Informal Decision C–414, February 24, 1961, as summarized on page 55 of the 1963–1964 supplement to the 1957 bound volume of the opinions, held that it was proper for a law firm and a firm member "leaving" to accept an important government position to make announcements warranted by former relationships, to avoid inference that there has been a split in the firm.

Formal Opinion 301, November 27, 1961, held that it was permissible for a lawyer "upon return to private practice" to send to persons concerned announcements explaining the "absence from private practice" by a dignified reference to the immediate past position with the government, so long as the guidelines and restrictions regarding the character of the announcements and the persons to whom they were sent were observed.

We concur with the majority in holding that in any case the lawyer-incumbent of the office of governor and his firm must adhere strictly to the principles of *Canon 6, Canon 26, and Canon 32*.

We believe, however, that the majority has not given proper construction or sufficient consideration to the language and principles of *Canon 33* or *Canon 27*.

Canon 33 provides in part as follows:

". . . *In the selection and use of a firm name, no false, misleading, assumed or trade name should be used.* The continued use of of the name of a deceased or former partner, when permissible by local custom, is not unethical, but care should be taken that no imposition or deception is practiced through this use. *When a member of the firm, on becoming a judge, is precluded from practicing law, his name should not be continued in the firm name.*" [Emphasis added.]

The sentences in italics were omitted from the quotation from *Canon 33* contained in the majority opinion. We deem them to be of crucial importance.

Canon 27 states that it is unprofessional to solicit professional employment in any way and that indirect advertising, such as inspiring newspaper comments in connection with the importance of the lawyer's position, and all other like self-laudation offend the traditions and lower the tone of the legal profession and are reprehensible.

We are of the opinion that *Canon 33* prohibits the continuation in the firm name of any partner who has ceased to practice law actively with the firm, except in the case of a deceased or former partner when this is permitted by local custom.

In the case of a judge who is "precluded from practicing law," the prohibition of *Canon 33* is specific. We believe that the same principle is applicable to any high national or state office if the incumbent, either by statute or rule of court or by reason of

the duties and nature of office, is precluded from engaging in the private practice of law.

The only exception in *Canon 33* is the name of a deceased or former partner when permitted by local custom. We read "former" to mean a former partner who is retired, and not a former partner who in full vigor has ceased practicing only because he has become a high public official and is unable to practice. The Committee in 1939, in *Opinion 192*, quoted above, condoned the continued use of the name of a public official but not with specific reference to the office of governor. Subsequently, in *Informal Decision C–403*, the Committee specifically disapproved of the use of the name of a governor of a state in the name of a law firm. In 1963, in *Informal Decision C–620*, the Committee, with some difficulty and not unanimously, was able to distinguish between the high office of governor and an important local office, but did not disapprove *C–403*.

We agree with the majority that if, as a condition of acceptance of office a public official must cease to engage in the private practice of law and sever all former connections, his name may not be used in the firm name while he is in such office. Reluctantly, we concur with *Formal Opinion 192* and *Informal Decision C–620* insofar as they relate to local offices only, but we do not believe their principles should be extended to offices as high as that of governor of a state.

To use in the firm name the name of a public official who, by reason of his office, has ceased to practice law in our opinion is misleading and is in the nature of an assumed or trade name because the official in fact is not practicing with the firm, and thus contravenes the spirit of *Canon 33*. The exception for the names of deceased or retired partners is not approved wholeheartedly by the profession as a whole, and it should not be extended to permit the use of names of high state and federal officials. An explanatory note on the firm letterhead that the official is not truly an active partner does not cure the vice of a misleading firm name, as the explanation is not likely to be received by a prospective client, but only by those who in fact have become clients.

Canon 27 also is applicable. Its prohibition of all forms of advertising or solicitation or self-laudation to bring in prospective clients applies with equal force to law firms as well as individual lawyers. Continued use in a firm name of the name of a high public official not actually practicing with the firm can only result in exploitation of the probabilities that, because of his name and connection with the firm, prospective clients will recognize his name and thereby be attracted to the firm, either because of the official's fame and stature or, even worse, because of a feeling that the firm might have special influence in high places.

The vice is especially apparent in the case of high federal offices, such as President or Vice President, or governors of states, whose terms are usually at least two years and often more. While the same possibilities may exist with respect to local and lesser state offices, the danger is not as great because of the nature of such offices and the nature of the duties and prominence of the incumbents.

AMERICAN BAR ASSOCIATION, STANDING COMMITTEE ON PROFESSIONAL ETHICS

Re: Informal Opinion No. 691, October 14, 1963: Private Practice by City Solicitor.

You have requested answers from us to questions you have asked growing out of the following state of facts:

As *City Solicitor* for the City of (——), you spend *two days each week* strictly on City business and exercise an over-all supervision of the conduct of the City Solicitor's office for the balance of the week. You have *two assistants*, each of whom *spends a day-and-a-half each week* in the City office, and each of whom is generally available at other times for the City's work. Each of you is a member of your own individual law firm.

The questions you ask are:

1. "Is it proper for a *partner* or associate of the City Solicitor to represent a property owner *in an appeal before* the *City's Zoning Board of Adjustment?*

2. "Is it proper for the City Solicitor or his *associate* in private practice to represent a property owner *in connection with entering into a Developer's agreement with the City?*

3. "Is it proper for an *associate or partner* of the City Solicitor *to file suit against the City* on behalf of a client who has either a claim against the City, based on the City's alleged negligence, or a Court appeal from Decision of Zoning Board?"

Canon 6 of the Canons of Professional Ethics of the Association is involved and provides (in part) that:

"It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this Canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose."

The materiality of certain of the facts should first be determined. That you as City Solicitor and the two assistants *are only part-time employees* of the City is *not material.*

The Comprehensive Formal Opinion of this Committee, No. 28 (March 15, 1935), considered the position of a part-time employee of a code authority and found that in considering whether there was a conflict of interests *no distinction* is to be made *between a part-time and full-time employee.*

The Opinions of the Committee in the field of conflict of interests, make no distinction between an associate in a law firm and a partner in a law firm. This Committee's Opinion in considering a conflict-of-interests question in Formal Opinion No. 306 (May 26, 1962) in two places refers to a member of the firm and to an associate as being in the same category. Both are attorneys acting for and engaged in carrying on the practice of the firm and no distinction can be made in this consideration as between a partner and an associate.

It is *not material* that the property owner or claimant is a *client of a member of the firm who is not employed by the City.* We quote from Formal Opinion No. 128 (March 15, 1935):

"In Opinions 33, 49, 50, 72, and 103, we held in substance that a *partnership could not undertake any professional relationships which any one of the partners, because of adverse influence and conflicting interests, could not ethically undertake.*"

This statement you have given to us does not present the element of consent to representation of conflicting interests, but we mention that in a series of Opinions this Committee has held that the consent which may make representation of conflicting interests unobjectionable cannot be utilized by a person standing in an official position. (Formal Opinions 16, 34, 71, 77, and 192.)

We assume from the statement you have given and the questions you have asked, that under your procedure you, as City Attorney, will represent the City in an appeal before the City Zoning Board of Adjustment. Therefore, you could not represent a property owner and neither can one of your partners nor an associate represent a property owner in an appeal before the Zoning Board. The answer to question No. 1 is, "No".

We assume also that it may be your duty as City Solicitor to see that the City is properly protected by the Developer's Agreement with the City. You therefore, could not properly represent the property owner and neither can your associate who is in private practice represent the property owner when you are representing the City. The answer to question No. 2 is, "No".

It must follow from what has been said that the answer to question No. 3 is "No".

For your information and the record, we mention that in the preparation of this Informal Opinion (in addition to the Opinions already mentioned in this letter, which are Formal Opinions), we have considered the following Informal Opinions: No. 518, Conflict of Interests—Borough Attorneys; No. 564—Conflict of Interest; No. 647, Former Deputy City Attorneys—Conflict of Interests; No. 674, Firm Representing Client in Claim Against State Where Associate is Part-time Assistant Attorney-General.

AMERICAN BAR ASSOCIATION, STANDING COMMITTEE ON PROFESSIONAL ETHICS

Re: Informal Decision No. C 700—March 13, 1964: Conflict of Interest in Negligence Case.

You have given us the following facts:

Claimant C sustained serious injuries in a motor vehicle accident involving the negligence of three persons, D–1, D–2, D–3. C retained the services of lawyer L–2. L–2 presented claims against D–1 and D–2, telling C that he did not wish to handle the claim against D–3 and if C wished to pursue it he would have to seek other counsel. L–2 then settled the claims against D–1 and D–2. At that time L–1 was an associate of a law firm who represented D–2. There is no legal relationship between D–3 and the other defendants. The question is whether or not it is proper for L–1 to represent C in his claim against D–3 after having been actively engaged in the defense of D–2.

Canon 7 of the Canons of Professional Ethics provides:

"It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of counsel.

"It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

"The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed."

The answer to your question would depend on the circumstances. If during his representation of D–2, L–1 received any confidential communication regarding the accident from D–3, directly or indirectly, he could not accept the case. Should there be any doubt it must be resolved in favor of D–3.

If, as seems to be the case here, no claim was pursued against D–3 and L–1 had no communication of a confiential nature with D–3 there is no reason why he should not accept the case.

You have asked an opinion on a second question, i.e., when an attorney is retained by a town and takes an active part at all meetings of the Town Board and the Board of Appeals, is it proper for another member of his law firm to represent an applicant appearing before one of those boards seeking a variance in the zoning laws.

We call your attention to the second paragraph of Canon 6 above.

In Opinion 16 this Committee held that where the public is concerned it cannot consent. This opinion also held that a member of a firm could not represent a defendant when it was the duty of another member of the firm to prosecute the defendant.

The Committee believes that opinion is

sound. Should a member of a law firm be retained by a town to take an active part in meetings of the Town Board and Board of Appeals, none of his partners should represent an applicant seeking a variance in a zoning matter.

AMERICAN BAR ASSOCIATION, STANDING COMMITTEE ON PROFESSIONAL ETHICS

Re: Informal Opinion No. 855—May 31, 1965: Conflicts of Interest.

Your letters of December 17, 1964 and December 21, 1964 to this Committee present questions of ethics concerned primarily with Canon 6 relating to actual and possible conflicts of interests, and Canon 37 on the duties of a lawyer to preserve the confidence of a client, as well as the obligations of a lawyer in public office.

You present a situation in which many attorneys hold municipal offices in (City) either elective or appointed by the Mayor substantially as follows:

1. City Judge, full time, elected;
2. Acting City Judge, two year term, part time, appointed by Mayor;
3. Corporation Counsel, part time, at will, appointed by Mayor;
4. Counsel for Urban Renewal Board, at will, appointed by Mayor;
5. Counsel for Commissioner of Public Works, at will, appointed by Mayor;
6. Counsel for Director of Civil Defense, at will, appointed by Mayor;
7. Member of City Zoning Board, five years, appointed by Mayor;
8. Attorney's Secretary for Police Commissioner, appointed by Mayor;
9. Attorney for Housing Authority, appointed by authority;
10. Attorney for Police Benevolent Association;
11. Attorney for Board of Education, appointed by elected Board.

As you are perhaps aware, Canon 6 provides in part as follows:

"It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this Canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

"The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed."

Canon 37 provides in part as follows:

"It is the duty of a lawyer to preserve his client's confidences. This duty outlasts the lawyer's employment, and extends as well to his employees; and neither of them should accept employment which involves or may involve the disclosure or use of these confidences, either for private advantage of the lawyer or his employees or to the disadvantage of the client, without his knowledge and consent, and even though there are other available sources of such information. A lawyer should not continue employment when he discovers that this obligation prevents the performance of his full duty to his former or to his new client."

Generally speaking, any persons in public offices, including attorneys, have as their primary duty that of performing the functions of the office in a wholly honest, impartial, and ethical manner.

Under both the foregoing Canons the duties and considerations of possible conflicts are such that what a lawyer cannot do because of these ethical precepts relating to other parties neither his partner, his associate, nor one with whom he shares offices, may do.

If there is no conflict of interest nor violation of confidence, an attorney who happens to be an appointee of a Mayor in one capacity may properly appear before other appointees or appointed bodies of the same Mayor in other related boards, or offices, or courts, and may likewise make claims against the city in fields which are not related to his office in the city.

It is improper for an attorney who is associated with or shares office space with the Acting City Judge to appear before such Judge in any capacity as an attorney for anyone.

On the matter of the practice of the Acting City Judge in his capacity as an attorney we believe it would be improper for him to appear on behalf of clients before the City Judge.

In Formal Opinion 242 it was held that a City Police Judge whose jurisdiction is limited to trials of misdemeanors and examination on felony cases, may not ethically represent criminal defendants in the Circuit Court. Whether or not your Acting City Judge has a relationship to the functions of the City Judge would depend upon the jurisdiction of each. It has been said that a Judge should not practice in a Court over which he occasionally presides, and neither should a partner nor associate practice in the Court over which such Judge occasionally presides. However, it would appear that there is a matter of degree involved, in that it has been held that one who occasionally sits as a special or pro tem Judge when the regular Judge of the Court cannot sit, receives only temporary compensation, and is engaged primarily in the practice of the law, may properly practice in such Court, if he scrupulously refrains from acting in any matters where there might be even the slightest conflict of interest.

It would not be unethical per se for the Board of Education member lawyer to practice before either the elected City Judge, the appointed part time Acting City Judge, or any other municipal boards.

It would be improper and unethical for an attorney sharing space or associated with the Attorney for the Board of Education, to represent claimants against the Board of Education, regardless of whether or not the Board was insured on its liability on such claims. However, it would not be improper per se for another attorney holding an appointive office of some character under the Mayor, or his associates, to handle claims aaginst other boards or departments of the city, merely because those other boards were also appointed by the Mayor.

Not knowing the duties or powers of your Police Benevolent Association and its attorney, nor those of the attorney who is Secretary to the Police Commissioner, it is difficult to say whether there would be any ethical improprieties in their being associated with each other in the practice of law or sharing office space. These relationships again should be considered under the spirit and the letter of the Canons of Ethics, having regard to the nature of the positions, the duties, and powers.

AUTHORITY TO SIGN BILLS AND RECEIVE MESSAGES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the adjournment of the Senate until noon tomorrow, the Secretary of the Senate be authorized to receive messages from the President of the United States and from the House of Representatives, and that the President pro tempore or the Acting President pro tempore be authorized to sign enrolled bills.

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

ORDER FOR ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon tomorrow.

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

Mr. BYRD of West Virginia. 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. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senator from Tennessee [Mr. BAKER] be recognized for 20 minutes.

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

CONGRESSIONAL REAPPORTIONMENT

Mr. BAKER. Mr. President, on Thursday the House of Representatives accepted by a vote of 241 to 105 the report of a Senate-House conference which, in my judgment, attempts to delay fair redistricting of congressional seats for 5 years.

The vote, nevertheless, was encouraging to those of us who are hopeful that the Senate will adhere to its previous position on this legislation and soundly reject the report when it comes up for our consideration this week.

I am encouraged because the House debate shows increased awareness in the Congress of the disturbing effects of such legislation. It also demonstrates the development within the past few months of truly bipartisan opposition to it.

When the same basic issue was raised earlier this session in the House, on April 27, that body approved antidistricting legislation by an overwhelming vote of 289 to 63.

By last Thursday, the proponents of one-man, one-vote had attracted a net increase of 42 Members. That the opposition to this mischievous legislation was equally based in both parties was shown by the fact that, of the negative votes, 53 came from the Republican side, and 52 from the Democratic side.

The debate on the floor of the House confirmed the serious questions many of us have asked about the constitutionality of this legislation. It further confirmed that this proposal, which has never been subjected to the scrutiny of public hearings, simply cannot stand the light of day.

When properly examined, its provision that no State be required to redistrict until a time-consuming, expensive, and unnecessary special Federal census is available is nothing more than an attempt to set back in 18 States efforts to achieve fair districting that permits each

man's vote to count as much as the next man's.

On June 8, the Senate passed by a convincing margin, 55 to 28, legislation that would set definite legislative standards implementing and fully consistent with the Federal Constitution's one-man, one-vote requirement. That legislation would have banned gerrymandering and would have permitted only a 10-percent variance between the largest and the smallest congressional districts in a State.

Neither of these latter provisions are in this new conference report. Because the report ignores the clear mandate of the full Senate, I think it is imperative, and I further think the prospects are reasonably good, that a majority of the members of the Republican Party, as well as a majority of the members of the Democratic Party, join to reject the report.

The House debate indicates that the proponents of the report had a difficult time establishing both its propriety and its constitutionality. One advocate of the report admitted that there "is the depressing atmosphere of a funeral service about this debate today." I fully agree and my only regret is that the majority of the House did not see fit to complete the funeral ceremony and reject and bury this proposed legislation which is not worthy of either body of the Congress.

The debate reflected considerable confusion about whether the special census provision is constitutional. The distinguished chairman of the House Judiciary Committee, the leading proponent of the measure, seemed to admit that the special census provision was unconstitutional and therefore could only be regarded as an "admonition" to the courts, although the chairman further stated that he was "quite sure" the courts would accept the admonition, presumably thereby overruling themselves.

I do not propose at this time to detail again why I think the legislation proposed by the report is unconstitutional.

The RECORD of October 19, 1967, at page 29507, contains an elaboration of the remarks made at that time. A very excellent exposition of the constitutional questions presented by Mr. CONYERS during the House debate on Thursday, October 26, 1967, appears at page 30246.

However, I would like to reiterate two points. First, it will not be necessary for those Senators who wish to abolish at-large elections for Congressmen to vote for the Senate-House report. The report does contain such a prohibition, but that is an inseparable part of the entire package, another part of which—the census provision—is clearly unconstitutional. Thus, when the census provision is declared unconstitutional, the at-large elections prohibition will be, too. If the legislation were to be ruled unconstitutional sometime next spring, some courts might find it necessary at that late date to require Congressmen in several States to run at large. Therefore, it is fair to say that a vote for the conference report heightens the possibility of at-large elections. From this point of view, it would be better if there were no bill at all.

The best circumstances, of course, would be to pass separate legislation, unclouded by doubts of constitutionality, that immediately and finally bans at-large elections in all States. I have stated before, and I want to reiterate, that I intend to attach to some pending business in the Senate an amendment that will accomplish this purpose. I feel that both bodies of Congress will accept it. This is the most effective way to deal with the at-large election issue.

Finally, I would like to comment briefly on the delay and expense that will be caused if the special census provision is enacted. There are 18 States which are under a court order to redistrict, or which are involved in pending court challenges to their district lines; or which have district lines which do not conform to the Supreme Court requirements. The Census Bureau has said that if as many as 10 of these States requests a special census, it will take the Bureau about 8 months to complete the work in the smaller States and about 15 or 16 months to complete the work in the larger States.

This would delay redistricting well into 1969 and 1970 for most of these 18 States which are now electing their total of 259 Congressmen on the basis of lines which are constitutionally vulnerable.

And the expense of this elaborate and unnecessary procedure should not be minimized. If a State elects to voluntarily redistrict and avoid the expense of a special census—as the report would permit—that might require the expense of a special session of the legislature. If all of the States elect or are required to conduct a special census, the total cost would be about $35 million. And I might remind my colleagues that most of our financially hard-pressed States will not be enthusiastic about appropriating up to $6 million—which would be the approximate cost in the largest States—New York and California—for such a census.

The onerous expense is more difficult to justify when one considers that the proponents of the conference report are saying that 1960 census data is good in some instances, and not good in some others. For example, under the conference proposal, if a State voluntarily elects to redistrict, it may use 1960 data. If a State is required to redistrict, 1960 census data may not be used. And the latest inconsistency appeared in the House debate on Thursday, when the chairman of the Judiciary Committee suggested that if a court decree decides to draw the district lines, it may elect to use 1960 census data.

If the justification for the special census provision is that the 1960 census data is outdated, then the proponents of the conference report ought to explain to the Senate why they have decided the data is good in some instances but not good in some others.

Mr. President, I ask unanimous consent to have printed in the RECORD for the benefit of my colleagues the estimated cost of the special Federal census in those 18 States where there should be redistricting. The estimated cost is computed by multiplying the 1960 population of the State by 33 cents, which is the approximate method of computing this cost suggested to me by the Census Bureau.

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

States with unconstitutional district lines—Estimated State cost of special Federal census

(Computed on basis of 33 cents × 1960 population)

California	$5,186,677.32
Indiana	1,538,624.34
New Jersey	2,002,038.06
Texas	3,161,293.41
Missouri	1,425,538.29
Ohio	3,203,111.01
New York	5,538,160.32
Florida	1,634,014.80
Colorado	578,022.51
Connecticut	836,627.22
Georgia	1,301,228.28
Iowa	909,987.21
Louisiana	1,074,817.26
Minnesota	1,126,575.12
Nebraska	465,738.90
Pennsylvania	3,735,390.78
Washington	941,560.62
West Virginia	613,938.93
Total	35,273,344.38

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

"AMERICA CAN BE BEAUTIFUL"—ADDRESS BY MILTON J. SHAPP

Mr. CLARK. Mr. President, one of our outstanding Pennsylvania Democrats is Milton J. Shapp, our candidate for Governor of the Commonwealth in 1966.

Mr. Shapp, despite his defeat—from my way of thinking, his unfortunate defeat—by the present incumbent of the Governor's chair in Harrisburg, is continuing his active interest in public affairs and in the economy and environment of Pennsylvania.

On October 18, at LaSalle College in Philadelphia, Pa., Mr. Shapp made a most interesting address entitled "America Can Be Beautiful—It's All a Matter of Priorities."

Mr. President, I find myself in substantial agreement with the points made by Mr. Shapp in this stimulating address.

Mr. President, I ask unanimous consent to have printed in the RECORD the address by Milton J. Shapp.

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

AMERICA CAN BE BEAUTIFUL—IT'S ALL A MATTER OF PRIORITIES

(Address by Milton J. Shapp, October 18, 1967, LaSalle College, Philadelphia, Pa.)

You have asked me to speak here today on the problems of our City in relation to taxes and constitutional revision. This I shall do, but it is important first to put these issues in proper perspective. Neither the City of Philadelphia nor the Commonwealth of Pennsylvania exist in a vacuum. Both are entities within the U.S.A., and their welfare is influenced more by national policies and priorities than by actions taken by local leaders.

To present the overall picture, it is necessary first to portray the national scene and then superimpose the state and local issues on this larger canvas.

We are reaching the end of our era in the development of our American social structure. Unfortunately, too many political leaders with their eyes glued to the Far East fail to understand the nature of the internal revolution gripping this nation; too large a majority of our affluent citizens wish the problems would simply go away and not interfere with golf dates, business as usual, or even with their consciences.

The riots in our cities last summer reflect the surfacing of the massive change that is taking place in America. We have yet to feel the major thrust of the revolution. The advent of cooler weather is of no benefit unless we use the time gained to institute programs that will bring measurable change. Anything less will increase the likelihood that there will be more intensive explosions next year—a "longer, hotter summer" and even longer, hotter ones that will follow.

We have reached the moment of truth. Either we believe in our constitution that claims all citizens shall have equal rights or we do not. If we believe this strongly, then in our own cities, as in Saigon, we will resolve that no problems are too expensive or difficult to overcome.

We must find the way to eliminate ghetto slum life in our cities. Failure will result in cataclysm.

Against this backdrop of realism, let us consider our course of action. Importantly, we must recognize that the myriad of present government and private programs dealing with poverty, housing, education, health, welfare, etc., merely add fuel to the fires of discontent because they are accompanied by press releases that whet the appetites of the poor for a better life way out of proportion to any benefits that can be obtained even if present programs were fully and properly implemented.

However, because of lack of imagination at the planning levels; lack of desire on the part of many officials at the operating levels; and lack of adequate funds at the "people" levels, these programs have created frustration and bitterness in the minds of those who have been promised too much and received too little too slowly.

Basic changes in attitudes and methods are required if we are to be successful in averting chaos.

The first change in attitude requires recognition that high government priorities must be set to achieve *this* goal. Such attitudes do not exist at this time in Washington. In fact, the opposite views are held.

National priorities are being set today by a handful of generals and political leaders who feel it is of greater urgency to conduct the war in Asia than to build for peace in America. I am not a member of the group that cries for peace at any price in Viet Nam; but I disagree strongly with those who want victory at any cost. I believe emphatically that first things must come first. I have grave doubts about what we will really win even if or when we win the war in Viet Nam, but I know precisely what we will lose if we fail to win the battle here in our cities. We will lose our American way of life, and with it the civil freedoms that have made this nation great.

I am greatly disturbed by Washington's present schedule of priorities that stresses greater action 10,000 miles from our shores than without our cities.

This year, the Viet Nam price tag to force Ho Chi Minh to the peace table along with other Defense Department expenditures will total in excess of $75 billion. Other major items in our national budget include $14 billion for interest charges (chiefly resulting from the costs of this and previous wars), an additional $5 billion for veterans' benefits; $9 billion for federal salaries; $3.2 billion for space and $1 billion for the "postal deficit resulting from third-class mail subsidies."

The total costs of aid to education, national health programs, school lunches, housing, urban redevelopment, food stamps, aid-to-families with dependent children, anti-poverty programs and food for the hungry of the underdeveloped nations is about $13 billion. Yet, it is here that Congress would cut $5 billion.

I consider it sheer folly for our government to spend $5 billion on the first stages of a thin anti-missile system to protect our cities from a mythical attack from Red China while Congress demands a $5 billion cut in the programs that would improve life within our cities.

Most of you were either unborn or mere infants when World War II began. But history tells how France was afflicted with a Maginot Line and a Maginot Line philosophy based upon static defense. Today, our turn seems to have arrived. Apparently, we have failed to learn that for every static defense there is specially designed mobile offense. Neither moats, nor Chinese walls, nor minefields, nor electronic fences have prevailed. And, as the Israeli Air Force recently proved, even a radar screen is penetrable.

Further, the building of this Maginot "Air Line," combined with our complete dedication to affairs in the Far East, is putting a great strain on the dollar and contributing to a recession in Britain, which itself is going to extremes to save the pound. It will help little for us to win a doubtful military victory if in the process our closest ally is forced into third-class nationhood. The Communist world wants nothing more than to see America bled dry on foreign battlefields, weakened through internal upheaval and its friends cast adrift.

To put $5 billion into the start of an anti-missile system to protect us from Mao while admitting that it is impossible to build a similar system to protect us against Soviet missiles indicates the low level of intellectual thought and the high level of emotion upon which major decisions are being reached today in our Nation's capitol.

When Congress voted recently not only to prevent feeding poison to rats, but also to reduce funds for feeding nutritious food to hungry children; when on the same day last month a House Agriculture Committee defeated a $75 million appropriation to combat starvation in the United States, and the Senate approved an appropriation of $142.5 million to subsidize the construction of a new huge supersonic plane, it again revealed the sickness of our era.

That supersonic plane, when built, will probably be unuseable anywhere near our cities because the supersonic boom will deafen its inhabitants and damage buildings. Additional billions will be required for construction of these planes before the first one flies. When built, the plane will reduce air travel time between New York and Los Angeles by an estimated two hours. Since local traffic congestion will probably have increased by that time, it will probably take two additional hours to reach Manhattan and Hollywood from the distant airports required to land the new giant aircraft.

Meanwhile, because the stress upon military, aircraft and space ventures takes increasing priority in our national scheme, our city dwellers breathe air that becomes increasingly polluted; live in houses that become more unfit; attend schools that fall farther and farther behind meeting the educational needs of our youth; walk in greater fear along streets that breed violence.

Taxes rise to meet increased costs for police protection; for caring for the mentally and physically ill, for welfare and unemployment compensation; and yes, for building new prisons and detention homes.

It is to be hoped that some day soon our national leaders will recognize that building a Great Society here in America cannot be accomplished unless the major resources of this nation are massed for this project. Only then can our states and cities receive the monetary support and national direction needed to overcome the decades of neglect that has brought the nation to its present internal plight.

Now let me turn to the state and local actions required to relieve pressures in our cities.

In December, delegates will gather in Harrisburg to rewrite Pennsylvania's ancient Constitution. Testimony recently presented to a Senate Committee in Harrisburg indicates there is greater danger that the efforts of the convention will result in our present 1873 Constitution being rewritten to conform more to the needs of 1838 than to those of 1968 and 1978.

Spokesmen for too many potent state organizations (particularly those representing the Pennsylvania Bar Association) have urged that we retreat into the past instead of striking out for higher ground.

If Pennsylvania is to make progress it is imperative that our constitution eliminate the present million dollar constitutional debt limit. It must remove restrictions on the state's ability to loan money to lower government units, and remove limitations on the amount of money that cities, townships and other local governments may borrow to meet needs. Option should be granted to voters to eliminate inefficient and overlapping governmental structures.

In the metropolitan area of Philadelphia there are over 800 separate governmental agencies, each with its own elected officials. Under these circumstances, there is no efficient plannnig for common water, sewerage and transportation systems; for proper local use and effective control of air and water pollution. Costs for police and fire protection are higher than need be. Fragmented school districts perpetuate expensive, inflexible educational programs. Suburbia sprawls over the countryside.

The township form of government, originally conceived by our great, great, great grandfathers as a way to conduct the affairs of rural, scarcely populated areas, operates in the now densely populated sections of the metropolitan area with all the verve of 18th century efficiency. Tax collectors and justices of the peace still ply their trades and are compensated by a percentage of their take.

The central city of Philadelphia suffers greatly from the obsolescence of the methods of government operation in its suburbs. The city is the area's center of culture with its museums, libraries, theatres and academies. The City maintains the airport, Zoo, port and other facilities used by all in the region. Suburban dwellers by the hundreds of thousands work in Philadelphia but live and pay real estate taxes in the suburbs.

Suburban dwellers want no part of the city's problems. They prefer to drive to work along the expressways and park drives and to bypass the slum areas. It is their cars that jam the downtown streets within the city and create the parking crisis.

Suburbanites don't want to see the ghettos into which the slum dwellers are crowded, nor share the school and hospital problems with these people.

They live only a few miles away, but are worlds apart.

Because of Pennsylvania's Sterling Act that prevents a municipality from taxing anything taxed by the Commonwealth, Philadelphia depends primarily upon real estate and wage taxes to support its needs. The suburban dwellers resist paying a share of the wage tax to the city to support the city services they receive and the institutions they use. Attempts are now being made in

the State Legislature to prevent the city from collecting these revenues.

The retreat of the affluent to suburbia has weakened the city's major tax base—real estate—while leaving the city with the hard-core problems of poverty and discrimination; under-education, bad housing and urban blight.

These are the problems. What are the solutions?

First and foremost is the establishment of national priorities that recognize we can neither sustain economic growth in this nation now achieve internal peace unless we make our cities livable from every standpoint. Neither our states nor cities have sufficient money or expertise to solve these complex problems by themselves. Only the federal government, by turning its attention away from Saigon and Hanoi and directing constructive programs in Philadelphia, Los Angeles, Detroit, Newark, Cleveland and all of our major centers, can set the stage for rebuilding our cities and with it the fabric of richer American life.

The state and cities must pick up the challenge from here.

Our State Legislature, dominated as it has been for two centuries by rural districts, must be altered to represent the interests of urbanites who today represent over three-fourths of the population.

Our State Constitution must be streamlined to permit greater efficiency and flexibility in government and to introduce modern investment principles into its financial operation. Our Legislature should be empowered to authorize revenue bonds in any amounts where it can be shown that the use of these funds will increase the economic growth rate of the Commonwealth at a pace sufficient to meet interest and debt repayment schedules out of tax revenues without increasing tax rates.

For example, in the field of housing, it is not difficult to estimate accurately the rent returns that can be generated directly by the utilization of funds used to build low and medium cost projects desperately needed today by the slum dwellers. We are already obeying this principle in the state by applying the collection of gasoline taxes to support highway construction.

In the field of education, it is obvious to anyone who has studied the problem that we cannot possibly expand our schools to meet the needs of our children—and adults too—by financing the needed programs on an on-going basis—out of tax collections. This is particularly true in Philadelphia where the major revenue to support education is derived from real estate taxation.

There is absolutely no relationship whatsoever between the assessed value of a house or factory and the value of our children's education. This is creating a situation where many of those being taxed, not being direct beneficiaries of the programs for which this money is being used, are in political revolt against any increase in their taxes.

In 1776 our great revolution flared over the issue of "taxation without representation." Under today's circumstances of taxation without relationship, it is political suicide for an elected official to urge a real estate tax increase to meet the expanded costs of education.

As one example of the gravity of the problem, analyze the recent record regarding the needs of Philadelphia schools. Last winter a special Blue Ribbon Committee estimated that to provide quality education, our schools should require a minimum of $350 million annual budget. When the new superintendent, Dr. Mark R. Shedd assumed his post this past spring, he declared Philadelphia schools needed $400 million a year to fulfill its proper mission. He declared that a minimum of $20 to $30 million increase was necessary each year for the next decade to overcome past neglect. Yet, when this year's budget was finally submitted, it called for only $212 million, which required only $8.5 million in new taxes. Despite this tremendous cut in requirements, and the relatively low amount of new taxes required, so far authorization for even this new tax money has not been forthcoming from the political leaders in Harrisburg.

Yet, what are we to do—throw up our hands and permit the deterioration of our schools and with it the scuttling of our educational system? Are we to fail our youth by not providing them with the quality education required to obtain and hold good paying jobs in our modern technological society?

Are we to permit the present educational imbalance between white and colored youth that virtually locks the Negroes into low paying jobs and second class citizenship and generates the seeds of the slum revolution that is engulfing our cities?

The answer to all these questions must be a resounding no. The solution to our fiscal problems here in Pennsylvania is twofold.

First we need to plug all the many existing loopholes in our tax laws that permit large corporations to escape paying their fair share of taxes both to the state and local communities. Hundreds upon hundreds of millions of dollars are skimmed away from the public each year through these gaping loopholes.

Second, we need a simple constitutional change that will allow all capital expenditures—including those for education—to be separated from operating budgets at both state and local levels.

First let's take a look at some of the unholy tax loopholes that allow wealthy corporations to escape paying their fair share of taxes and thereby impose a heavy hardship upon those who cannot afford to support lobbyists to look out for their special interests in Harrisburg.

Foremost is the utility company real estate exemption. Pennsylvania, alone among the fifty states, allows the privately owned public utilities—the electric, telephone, water, gas and railroad companies—to avoid payment of any real estate taxes on operating properties. No house owner, ordinary business firm or farmer rides such a magnificent gravy train. It is estimated that between $135 and $200 million per year are not paid into Pennsylvania's municipal and school taxing districts because of this loophole, which has existed since 1828. It is impossible to calculate the many billions of dollars that haven't been available to finance government projects in the Commonwealth because of this tax loophole.

Then there are the sales tax benefactors—that group of companies which are granted the privilege of not paying 5 percent extra for products they buy. Included in this group again are the utility companies, large manufacturers and (soon-to-be) processors of materials. A farmer pays 5 percent into the coffers of the state if he buys a tractor to pull a plow in his fields. A utility company pays no sales tax if it buys a similar tractor to pull a plow for digging a cable trench.

A student here at LaSalle pays 5 percent at the time he buys a typewriter, but a large manufacturer pays no sales tax on a typewriter he buys unless he determines—after the purchase—that the typewriter is not used for manufacturing purposes, and reports this transaction and his decision to the Commonwealth at a later date.

Now, under a new bill approved by the Senate the same day it passed the new five cent tax increase on cigarettes, any company engaged in processing (and whatever that will ultimately include is unknown) will be exempt from paying the sales tax on purchases of equipment.

Another gaping tax loophole gives a special privilege to Sun Ship Yard in Chester. They are not required to pay a sales tax on any material they purchase. In this respect they're not like you and me, but after all, it isn't every company that can afford to keep a private lobbyist on its payroll in Harrisburg to look out for its interests.

Then there's the manufacturer's exemption tax that prevents local real estate assessors from levying taxes on machinery. This allows untold millions of dollars worth of valuable property to go unscathed, and deprives many communities and school districts from collecting a fair share of taxes from the big companies who often are or should be the main sources of revenue to support local needs.

A steel company for example simply by calling the roof of its plant a lid to support a moving crane used in the manufacturing of its product, and by using similar tax avoidance methods, greatly reduces its tax assessments. If the new bill which exempts processors from paying the state sales tax passes the House and is signed into law by the Governor and the definition of processor contained in this bill is then used at the local level to permit real estate taxes from being imposed upon processing equipment, many millions of dollars of exemptions will result, depriving communities and school districts of desperately needed revenues.

Pennsylvania must plug up these unfair and unjustified exemptions. It's not fair to those who pay their fair share of taxes; it deprives the state and communities of too many needed dollars.

Now let me turn to the second requirement to help finance our local and state obligations—a constitutional change to permit the sale of revenue bonds to finance expenditures for all levels of education.

We should treat all educational expenditures as an investment—an investment in the income-producing potential of our most important asset—people.

We should sell bonds to the investing public to finance this investment. These bonds will be repaid many times over without increasing existing tax rates by the increased tax collections resulting from economic growth generated in our communities and within the Commonwealth by a better educated, better trained work force that will earn more money for themselves and attract many new industries to the state.

Last year when I suggested such a bond program during the gubernatorial campaign, my opponent called me fiscally irresponsible. Since then, the State of Illinois has passed legislation similar to that which I have suggested and the City of Chicago has sold $76 million worth of bonds to substantial investment houses to meet the ongoing costs of education. In the meantime, the present governor who called me fiscally irresponsible when I made the proposals has done nothing to help solve the financial plight of our schools, or to meet his campaign pledge that the state would pick up at least 50 percent of Philadelphia's school cost burden.

It's going to take "ground breaking" action to resolve the problems that beset our nation. It's time we start to break ground here in Pennsylvania during the forthcoming Constitutional Convention and lay the foundation for an era of growth.

In summary, if we are to resolve the grave problems of our urban centers, and these are the severest tests facing our nation today, we must focus attention on Detroit, Newark, Cleveland, Philadelphia, Los Angeles, Milwaukee and our major cities and devote less of our national monetary physical and manpower resources attempting to solve the age old problems of Asia. Viet Nam has become a curse—not a course of action. It is imperative to back up our boys in the service by making sure they have decent homes in peaceful surroundings, good educational facilities and important job opportunities to come home to.

If we were to take but a minor fraction of what the Viet Nam war is costing and put

these funds into major programs to eliminate slums, build and staff schools and health centers, feed our children, care for our senior citizens, create modern transportation facilities, purify our streams and the air we breathe, and to encourage the development of cultural forms—art, music, literature, drama, dance—then we would eliminate the causes of friction in our cities and make the American dream a reality.

We have the capital, productive capacity, resources and above all, the skilled people to accomplish this goal. All it takes is the willingness to be bold and the will to do so, and the job can be done.

America can be beautiful. It's all a matter of priorities.

VIETNAM

Mr. CLARK. Mr. President, despite the efforts of many well-meaning people to "cool it off" the debate on Vietnam continues without relaxation. My views are well known and I shall not undertake to reiterate them at this time.

However, an extremely able individual, and a good friend of mine, Arthur Schlesinger, Jr., one of our leading American historians, has recently sent me a statement he made entitled "Vietnam and the 1968 Elections" under date of October 8. To my way of thinking, this is one of the most thoughtful and soundly argued arguments in support of a substantial change in our present policy.

I ask unanimous consent that the statement of Mr. Schlesinger be printed in the RECORD at this point in my remarks.

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

VIETNAM AND THE 1968 ELECTIONS

(By Arthur Schlesinger, Jr., at the National Assembly for Negotiation Now, Washington, D.C., October 8, 1967)

Thirty-two months ago, in February 1965, the American government embarked on a new course in Vietnam—a course marked, first by the bombing of North Vietnam, and second, by the commitment of American combat units to the war in South Vietnam. These two and two-thirds years have seen a steady increase in both efforts—an increase which, in the melancholy jargon of our age, designed to hold horror at one remove and make it schematic and technical, has won the name "escalation."

Our planes, originally bombing North Vietnam under careful rules and limitations, now roam across the country, dropping more explosives than we used to drop on Nazi Germany, striking the major cities, striking within a few miles of the Chinese border, on occasion invading Chinese air space itself. Our ground troops, originally sent to stiffen and supplement South Vietnamese resistance, have now taken over almost all the fighting. We have over half a million soldiers in Vietnam today—more than we had in Korea at the height of the Korean War; more than we have had in the field in any war in our history, except for the Civil War and the two World Wars.

Since February 1965 the administration has operated on the assumption that the steady intensification of military pressure would end the war and force Hanoi to the negotiation table—that widening the war would prove the best way to shorten it. For most of this period, the escalation policy has commanded the backing of a sizable majority of the American people. But recent weeks and months have shown a visible and widespread increase in doubt and disquietude over this policy. The Harris poll of October 2 reported a sharp decline since July in support of the war, a sharp increase in the opposition to the bombing of North Vietnam, a sharp increase in the number of Americans who want to get out of South Vietnam as quickly as possible, a decline in the number who favor the pursuit of total military victory. Less than a third now express confidence in President Johnson's handling of the war.

The Democratic Party has long been divided on the Vietnam policy. It is increasingly evident today that the divisions are equally deep in the Republican Party. More and more newspapers criticize the bombing of the North. Here in Washington, the *Star*, long a supporter of the war, has proposed a halt to the bombing. There are even signs the *Post* is entertaining second thoughts after its long and able defense of escalation. Such meager support as escalation has ever had abroad is ebbing away. In the United Nations our European allies urge an end to the bombing. On October 1, the *London Sunday Times*, an unimpeachably conservative paper, declared in a lead editorial:

"The time has come for the Americans unconditionally, and for an indefinite period, to stop bombing North Vietnam . . . The argument for stopping the bombing has become so strong that to withstand it any longer is going to make it far harder for the friends and allies of the U.S. to understand and support her case."

The reasons for both the initial support and the spreading disenchantment are not too mysterious. Vietnam has always been a highly complicated problem. The proper line of policy was not clear and self-evident. No one could be sure in February 1965 what would be the best course for the United States to follow. Given the murkiness of the situation, the administration, after earnest and conscientious consideration, made a choice and settled upon a certain hypothesis. This hypothesis was based on a number of premises which, when the escalation policy began, may have had—for many thoughtful people, did have—a strong *prima facie* plausibility. What has happened in the last 32 months has been the testing of these premises—the testing under fire.

How do the assumptions behind the escalation policy stand up after this period of trial? Let us cast a balance on the seven basic propositions on which this policy has been based:

1. *That escalation would break the will of North Vietnam and bring Hanoi to the conference table.* "The objective of our air campaign," said General Taylor two years ago, "is to change the will of the enemy leadership." After 32 months what has been the result? Newspapermen and others who have visited Hanoi are almost unanimous in testifying that the effect of the bombing has been, not to break, but to harden the will of North Vietnam. The Secretary of Defense recently said: "There is no basis to believe that any bombing campaign, short of one which had population as its target, would by itself force Ho Chi Minh's regime into submission." To those who say that we just haven't bombed the North Vietnamese enough, Mr. McNamara replies:

"As to breaking their will, I have seen no evidence in any of the many intelligence reports that would lead me to believe that a less selective bombing campaign would change the resolve of N.V.N.'s leaders or deprive them of the support of the North Vietnamese people."

Moreover, far from bringing the Hanoi regime to the negotiating chamber, our bombing of the North is at present the insuperable obstacle to having any negotiation at all. The Hanoi regime has made it abundantly clear that, so long as the bombing continues, it will not come near the conference table. In short, experience has plainly disproved the first premises of the escalation policy.

2. *That escalation would reduce the infiltration of supplies and men from North to South Vietnam.* Again this proposition had a certain initial plausibility. But does it stand up after 32 months of testing? Though our bombing has certainly increased the cost of infiltration, it has at the same time increased the quantity of men and the quality of arms infiltrated. The reason for this is that our escalation has invariably stimulated counter-escalation on the part of our enemy.

The administration has always assumed that, while we escalate, the other side would sit still; and that we would therefore improve our relative position. This has been the reasoning behind every step of escalation. It has always proved wrong. The other side, instead of obliging us and sitting still, has escalated too. Far from achieving a clear margin of superiority, all we have done is to make the stalemate more bloody and explosive.

Thus, in March 1965, after the bombing had started, the Hanoi regime, according to our own Department of Defense, had only 400 regular troops in South Vietnam. Today it has 50,000. In March 1965 our adversaries in South Vietnam were fighting with small arms and mortars. In the months since, with each new escalation on our part, that weaponry has grown more sophisticated and effective. As for stopping infiltration, Secretary McNamara has pointed out that "the quantity of externally supplied material other than food required to support the VC–NVN forces in South Vietnam at about their current level of combat activity is very, very small—significantly under 100 tons a day—a quantity that could be transported by only a few trucks." Nor does he see any reason to suppose that even wider bombing could miraculously achieve what the present very wide bombing has failed to achieve. "No improvements and refinements," Mr. McNamara has told us, "can be expected to accomplish much more than to continue to put a high price tag on NVN's continued aggression." So, too, the second proposition falls by the wayside.

3. *That escalation would lessen American casualties in the war.* This is the argument for the ever wider bombing of North Vietnam which has had the greatest influence with the American people. On occasion, this argument has even taken the contemptible form of suggesting that those who oppose the widening of the war are responsible for the deaths of young Americans. If this is the level on which our leaders desire to conduct the debate, they should consult their own statistics.

These statistics show that more than half the Americans killed in the whole length of the Vietnam war, from 1961 to the present, were killed since the beginning of this year—killed, in short, during the period of the most intense escalation. The statistics also show that the number of American deaths declined during the bombing pause last February. The statistics, in short, strongly suggest that the way to increase casualties is to escalate the war—and that the way to reduce casualties is to slow down the war. And, of course, the way to end casualties is to end the war. So, after 32 months and 13,000 deaths, one more premise of the escalation policy has been condemned by events.

4. *That escalation would strengthen the government and will of South Vietnam.* This was one of the three reasons cited by President Johnson in April 1965 when he explained the decision to start bombing North Vietnam; and there is reason to believe that it may in fact have been the major reason. How does this argument look 32 months later?

On the political side, it is true that South Vietnam has had an election and now boasts a "constitutional" government. It is only co-

incidental, no doubt, that the new government consists of essentially the same faces as the military junta which preceded it. But the presidential election took place after the disqualification of the two most formidable opposition candidates, Au Truong Thanh and General Big Minh, both of whom were advocates of a negotiated solution—an action which meant that the election was rigged long before the voting took place. As for the voting itself, though given the seal of approval by President Johnson's team of Innocents Abroad, it was regarded with less enthusiasm by the Special Election Committee of South Vietnam's Constituent Assembly, which voted 16–2 to invalidate the results. In the end, the Assembly itself was induced to confirm the results only by a vote of 58–43.

Moreover, the winner, General Thieu, and the escalation policy received only 34.8 per cent of the vote; while the next three candidates, all of whom were for peace, received together 38 per cent. As for "constitutional" government, the Saigon police since the election have detained Truong Dinh Dzu, who ran second in the election, as well as Au Truong Thanh; and, though the constitution expressly forbids press censorship, the Saigon government has suspended four Vietnamese-language dailies in the last month. All this hardly suggests that the escalation policy has strengthened the commitment of the people of South Vietnam to their government or to the war.

The sharper test, of course, is the Army of South Vietnam. There are nearly 700,000 troops—certainly an impressive number for a small country. But the soldiers are miserably paid and miserably led. They have no faith in their officers; indeed, of the officers of the rank of lieutenant colonel or higher, only two fought against the French in the war for Vietnamese independence. They have no faith in their government or their cause. Naturally many of them go over the hill whenever they can.

They don't fight at night. They don't fight on weekends. "Most of the troops," Peter Arnett of AP recently reported from Vietnam, "insisted on a 5½ day week, taking Saturdays and Sundays off, while their allies and the Viet Cong go on fighting." According to the *National Observer* of September 25, "Collecting tales about the incredible inefficiency, slovenliness and laziness of South Vietnam's Army is perhaps the easiest work in all of the country. The Army is the No. 1 scandal of the war, and it is the No. 1 failure of the American military command."

Our escalation of the war, far from strengthening the government and will of South Vietnam, has had precisely the opposite effect. The more we do, the less they do; and, in consequence, the less they do, the more we do. In some months more Americans are killed than South Vietnamese are drafted. We have taken over the fighting. We are taking over the management of the economy. We are beginning to take over pacification. And, in the meantime, the weight of our presence crushes the frail fabric of Vietnamese society; our money degrades and debauches the people we are trying to save. We leave in our trail, not rising purpose and commitment, but deepening corruption and contempt. So, after 32 months, still another proposition turns out wrong.

5. *That we are holding the line against general communist aggression.* This, of course, has been the fundamental defense of the escalation policy. If this were simply a local war in Vietnam, no one would dream of sending half a million American soldiers there. But from the start the administration has conceived this conflict in loftier terms. Expounding the escalation policy in April 1965, the President said:

"There are great stakes in the balance. Let no one think for a moment that retreat from Vietnam would bring an end to the conflict. The battle would be renewed in one country and then another. The central lesson of our time is that the appetite of aggression is never satisfied. To withdraw from one battlefield means only to prepare for the next."

He repeated this theme the other day in San Antonio, calling Southeast Asia "the arena where communist expansionism is most aggressively at work in the world today" and concluding, "I would rather stand in Vietnam, in our time, and by meeting this danger now, and facing up to it, thereby reduce the danger for our children and for our grandchildren."

The President's words deserve the most careful attention. What does he mean when he talks about "communist expansionism"? Though on occasion he likes to compare Ho Chi Minh to Jack Dempsey, he cannot seriously believe that Ho and his ragged bands present America and the world with a threat comparable to that presented by Hitler in the thirties or by Stalin in the forties. If his statement makes any sense at all, it can only be on the assumption that communism is still some sort of coordinated, unified, centrally controlled world movement, that nothing important has happened to communism since the days of Stalin, that polycentrism is a delusion and national communism a fraud and that Hanoi and the Viet Cong are the spearhead of a Chinese program of aggression in East Asia.

The proposition that Hanoi and the Viet Cong are the obedient instrumentalities of Chinese expansionism is absolutely crucial to the President's San Antonio argument. Otherwise the speech makes no sense at all. Yet the administration has at no point produced convincing evidence to sustain this proposition. Nor is there any reason to suppose that North Vietnam has been, is or will be a puppet of Peking's. If communist North Korea, which would not even exist had it not been for Chinese intervention in the Korean War, now declares its independence of Peking, why should anyone suppose that North Vietnam, whose whole history has been shaped by resistance to China, would become a compliant adjunct to the Red Guard? As good a probability—and for a long time in the past a much better probability—is that North Vietnam, with its vast Russian support, would resist Mao's pressure and Chinese expansionism—and do so a good deal more effectively than the parade of gimcrack regimes we have sponsored in Saigon. The long-run bulwark against China in Asia will be, not white intervention from across the seas, but local nationalism, even if that nationalism sometimes assumes a communist form.

In Cambodia, for example, that inveterate and wily neutralist Prince Sihanouk has begun a purge of Chinese influence in his government and his society. The State Department no doubt thinks this is the consequence of our presence in Vietnam. But Sihanouk doesn't. In the midst of his campaign against the Chinese, he continues to urge us to pull out of Vietnam: "If the American government . . . one day took such a decision, the whole world, including Cambodia, would cheer America. For once America would be popular."

Our escalation policy in the last 32 months, far from discouraging North Vietnam from serving as an instrument of Chinese aggression, has had precisely the opposite effect: it has increased North Vietnam's dependence on China, increased the number of Chinese in North Vietnam, driven the two states closer together than they ever were before. Again, a basic premise of the administration argument has been refuted by events.

6. *That escalation proves we will keep our commitments everywhere.* This has been another fundamental thesis in the administration's case for widening the war. We are in Vietnam, the Secretary of State said in 1966, "because we made a promise. We have made other promises in other parts of the world. If Moscow or Peking ever discovers that the promises of the United States do not mean what they say, then this world goes up in smoke."

How does this piety stand up under the test of events? Has our deepening involvement in Vietnam persuaded anyone that we will involve ourselves equally elsewhere in new cases of aggression? Quite the contrary: on this point, let us consult the hawkiest hawk in the nation, Richard M. Nixon. (At least he has been the hawkiest hawk up to now: as he studies the public opinion polls, we may confidently expect that our flexible former Vice President will, in due course, stop screaming and start cooing—and I trust that you will continue to give his views on world matters the respect they deserve). Mr. Nixon puts it this way:

"One of the legacies of Vietnam almost certainly will be a deep reluctance on the part of the United States to become involved once again in a similar intervention on a similar basis . . . If another friendly country should be faced with an extremely supported communist insurrection—whether in Asia or in Africa or even Latin America—there is serious question whether the American public or the American Congress would now support a unilateral American intervention, even at the request of the host government."

The storm of senatorial criticism when we sent three innocuous Air Force jet transports to the Congo last July proves Mr. Nixon's point.

Escalation has thus gravely damaged our national credibility as a keeper of promises politically. It has also done so militarily. For, if our assistance were sought today in some other part of the world, what in fact *could* we do—with 40 per cent of our combat-ready divisions, more than 50 per cent of our air power and more than a third of our naval power tied down in a small country 10,000 miles from the United States? Moreover, if the United States, with its fantastic military strength, cannot defeat the guerrillas of Vietnam, and, if in the attempt it wrecks the country it is trying to protect, why should any rational nation ever seek our protection again?

The administration denounces its critics as isolationists. But the real isolationists are surely those who, in their dedication to the escalation policy, have isolated the United States from its traditional allies and from the people of the world. At San Antonio the President went through the litany of the Asian leaders who have given our policy verbal support. But words are cheap. Except for our client state, South Korea, no nation in the world has sent us the support which counts—that is, a combat detachment of any size in Vietnam. We are going it alone as a nation in a way we have not done for thirty years.

More than this, the escalation policy has set in motion through our land a basic questioning of the whole idea of overseas commitments. Not in our time has there been such doubt about our military, economic and political ties with other nations. The lesson of Vietnam is not, as the administration keeps saying, that America will meet its commitments everywhere on earth.

The lesson of Vietnam, as read not only by the American Congress and people but by our friends and enemies around the world, is: "No more Vietnams." The escalation policy, after 32 months of trial, far from proving that we will keep our promises elsewhere, has had precisely the opposite effect: it has been the greatest stimulus and boon to American isolationism in the last thirty years. So one more proposition must be struck off the list.

7. *That military men know how to win*

wars. We have embarked on the escalation policy because the Joint Chiefs of Staff have told the President that this is the way to win the war. In recent months the military has boldly escalated its own campaign with Congress and the public. Admiral Sharp has said that a bombing pause would be "a disaster for the United States." General Wheeler has promised that the war could be ended in a "relatively short time" if we bombed the port of Haiphong and all lines of transport from South China. General Greene has had the presumption to tell the American people that the war in Vietnam is more important than the crisis of the American city.

Let us not make the mistake of condemning all military men. Such generals as James M. Gavin, Matthew Ridgway, David M. Shoup have offered searching criticism of the escalation policy. Within the Defense Department itself, Secretary McNamara has evidently—though with decreasing success in recent months—stood against the program of insensate escalation. Nor can one condemn the present Joint Chiefs of Staff for their insistence on a military solution. That is their business. The fault lies not with those who give such advice but with those who take it. There is nothing infallible about the JCS. I know what they recommended during great crises of the Kennedy Administration—the Bay of Pigs, the Berlin crisis of 1961, the missile crisis of 1962, the test ban debate of 1963—and in each case their recommendations were plainly wrong. President Kennedy took their advice on his great decisions once—before the Bay of Pigs. He did not make that mistake again. I know of no reason to suppose that the present Chiefs are wiser than their predecessors.

This sudden worship of the military is not in the American tradition. When General MacArthur carried his campaign for the escalation of the Korean War to Congress and the public, President Truman fired him. When Union generals in the Civil War showed that they could not succeed, President Lincoln fired them, one after another. Judging by the record, the present military leadership in South Vietnam is as disastrous as any we have had in the life of our nation. With over 500,000 American troops, better equipped than any troops in history, with 700,000 South Vietnamese, with 50,000 South Koreans, with total command of the air, with total command of the sea and, until recently, with total monopoly of heavy artillery, we have been fought to a standstill by 280,000 characters in black pajamas mostly armed, until recently, with rifles and mortars. In the last month, at Con Thien, our generals, in their wisdom, placed a group of gallant Marines in—and I quote that superhawk Joseph Alsop—"just about the only position in the entire country where the North Vietnamese can hope to attain relative parity in heavy weapons when battle is engaged." Because, as General Westmoreland has elegantly put it, "There is more firepower concentrated in that area than on any single piece of real estate in the history of warfare," we have evidently staved off the assault; but the question remains whether the strategy of putting the men in this terribly exposed position made sense.

The inescapable conclusion is that our military leadership has grossly misjudged and misconceived the character of the war. The foremost authority in the west on counter-insurgency and the leading British expert on Vietnam, where he headed the British Advisory Mission for three and a half years, is Sir Robert Thompson, who organized the defeat of the guerrilla uprising in Malaya. Sir Robert recently pointed out that General Giap's strategy "has one main aim, to keep the American combat forces fully occupied on 'search and destroy' type operations in the Demilitarised Zone and in the spinal column of the Annamite mountain chain as far south as Zone D. . . . These are areas where he can most easily deploy his main units and where American forces can achieve, in comparatively unpopulated mountain and jungle, no permanent gains." The costs of this strategy for North Vietnam, Sir Robert says, are quite acceptable. If they lost twice as many troops per year as we claim they are losing, "it would still be less than half one annual age group (and there is an enormous reserve of these age groups between 18 and 30)." And American strategy, Sir Robert points out, is exactly what General Giap wants. It plays exactly into his hands. And the result? As Rowland Evans reported from Vietnam a few days ago, "The US position here in the critical northern provinces of South Vietnam is deteriorating as the communists press their remorseless campaign of attack, parry and retreat."

Let us liberate ourselves from the illusion of the infallibility of generals. Stewart Alsop, the wiser brother, recently wrote in the *Saturday Evening Post*, after citing the historical record, "Almost all generals are almost always wrong about all wars. Generals should be listened to with skeptical respect, but never with reverent credulity." If the experience of the last 32 months proves anything, it proves that the administration's 7th assumption is as wrong as all the rest.

In February 1965 it was permissible to suppose that some, or all, of the administration's assumptions might be right. No one then could be certain whether or not the escalation policy would work. But now, for 32 long, terrible months, war has put to trial the validity of the propositions on which this policy is based. What may have seemed plausible in the abstract in February 1965 has received the laboratory test. It is no longer a question of speculation but of verification. The evidence is concrete. It is overwhelming. It is irrefutable.

History is the great executioner; and, in these months and years, as the basic assumptions, one after another, have run the gantlet of experience, none has survived. We are a pragmatic people. We believe in the process of trial and error, of experimentation. But we also believe in heeding the results of experiment. As Franklin Roosevelt once said, "it is common sense to take a method and try it. If it fails, admit it frankly and try another."

That is the way most Americans think—and this, I submit, is why there has been in recent months so marked a disillusion with the escalation policy. Some of us may have known from the start that the policy would not work. But let us be charitable to those who preferred to suspend judgment until the results were in. Let us unite now in the determination to slow down this ghastly war and move as speedily as possible toward a negotiated settlement.

This is the way most Americans are coming to think. But is it the way the American government is coming to think? So far as one can tell, our leaders remain stubbornly unimpressed by the collapse of their case for escalation. They continue to reiterate the proposition which experience has so cruelly disapproved. Lashed to their own past policies, they seem incapable of admitting error or changing direction.

And so their only response to the failure of escalation is more escalation—like a doctor, when the medicine fails to cure, doubles the dose.

Their only response to the misconceptions of our generals is to capitulate more and more to their demands.

Their only response to frustration and stalemate is to issue ever more fatuous statements about turning the corner of the war, turning the tide, the beginning of the end, victory in sight and so on.

It is difficult to see how serious men can, year after year, with the straight face, repeat the same optimistic predictions and do so, very often, in the identical words. Nor should we forget that herald angel of the hawks, Joseph Alsop, in this connection. *The Washington Post* on October 4 adorned his most recent effusion with the encouraging headline: "Vast Gains in Vietnam War Evident in Last Few Months." Hark how this herald angel has sung through the years. Thus February 1964, "In Communist North Vietnam . . . the situation is close to desperate"; in September 1965, "The whole pattern of the war has been utterly changed. . . . At last there is light at the end of the tunnel"; in October 1965, "Final defeat is beginning to be expected, even in the ranks of Viet Cong hard-core units"; in February 1966, "The enemy's backbone of regulars can even be broken this year. And when and if that happens, this war will be effectively won"; in April 1966, "The Vietnamese and American forces are now imposing a rate of loss on the Viet Cong which the enemy cannot indefinitely withstand"; in October 1966, "Within six, eight, ten or twelve months—before the end of 1967 at any rate—the chances are good that the Vietnamese war will look successful." Now in October 1967, just at the time when this last gorgeous prophecy is due for fulfillment, Mr. Alsop finds improvement so great that "the contrast between then and now is all but incredible." One is compelled to conclude that it is not the contrast but the columnist who is incredible. How consistently silly can an intelligent man be?

How do our leaders explain the failure of the escalation policy to produce the results so glowingly promised at such regular intervals? For some time, of course, they have been building their alibi. We all know what it is: that dissent in the United States is responsible for frustration in Vietnam. This is a familiar reflex of military disaster. One need only remember the *Dolchstegosslegende*—the stab-in-the-back myth concocted by the German generals to account for their defeat in the First World War.

The argument, like the escalation theory itself, has a certain initial plausibility. But let us consider what it really means—and the best way to do that is simply to invert it. If it means anything, it must mean that, if only everybody in the United States would shut up and rally behind their President, then Ho Chi Minh and his friends would stop doing what they are doing, and the war would be over. Simply to state this proposition is to demonstrate its absurdity. Serious leaders base their military decisions on the actual battlefield balance of force, will and opportunity, not on speculations about anti-war protests on the other side of the world. Our adversaries are fighting not because they count on protest at home but because they believe fanatically in their cause and because they have not been beaten in the field of battle. They would fight just as hard if everyone in America thought the escalation policy was perfect.

The rise of the Great Alibi has been paralleled by a curious sense of persecution within the administration as if it were some sort of beleaguered and impotent minority. A good example of this cry-baby reaction is the speech that Ambassador Gronouski gave this August at the University of Wisconsin. "Those charged with the conduct of foreign policy," the Ambassador said in his long wail of self-pity, ". . . find it difficult to maintain an attitude of rapport with a group (the intellectual community) which incessantly challenges their motives and morality."

Let us be clear about this. We are not questioning the motives and morality of the makers of policy; we are questioning their judgment, which is a very different matter. I know a good many of the men who have sponsored the escalation policy. They are not evil men. They are, as I suggested earlier, earnest and conscientious men. They are doing what they are doing because they pro-

foundly believe it serves the interests of American security and world peace. They are doing their best for their country according to their lights. But it may justly be said, I think, that, in certain cases at least, their lights are dim. Historians have sometimes noted that the most underrated factor in the conduct of public affairs is stupidity.

Fortified by this sense of persecution, exonerated by their Great Alibi, deluded by their own propaganda and prophecy, still convinced that escalation is the road to peace, our leaders persist in their course. And, as they do so, another political year approaches. The 1968 election will provide, I believe, a test of the adequacy of our political process. For, given the size and intensity of dissent in our land, if this election does not offer the country a clear choice on the question of Vietnam, then something will have gone badly wrong with our political system. Now no political system works automatically. People make it work—and they may make it work well, or they make it work badly. It is up to us, and people like us through the country, to do our best to make sure that our system meets its responsibilities.

Our objective is to bring the war in Vietnam to the end. We must not be under any illusions about the ease of a negotiated solution. While I have little doubt that an unconditional halt of the bombing of the north would soon lead to talks with Hanoi and the Viet Cong, I have considerable doubt that these talks would lead very soon to a mutually acceptable solution. So far as one can tell at present, each side continues to insist on terms which would mean, in effect, the defeat and humilitation of the other side. So long as this remains the case, no settlement will be possible. What both sides must come to in the end, I believe, is agreement on the creation of a structure in South Vietnam within which contending forces, including the communists, may compete by peaceful means for political representation and control. Such a structure would require some form of international supervision for a stated period in order to guarantee against reversion to terrorism and guerrilla warfare. It will take time—perhaps a long time—for such a solution to win mutual acceptance.

How do we move in this direction? The first necessity obviously is to slow down the war—to stop the bombing of the north, to reduce the fighting in the south, to do everything we can to lessen the killing.

The next necessity is to make it clear that we will keep an American military presence in South Vietnam until a negotiated settlement can be achieved. Let us have no confusion here. There will be no chance of negotiation if the other side thinks it is going to win; therefore a military stalemate is a self-evident precondition to negotiation. The advocates of a political solution and the advocates of unilateral withdrawal agree on the indispensibility of slowing down the war; but, after this point, it seems to me, their paths diverge and their policies become incompatible. One cannot, of course, wholly exclude the possibility of unilateral withdrawal; it would not be America's finest hour, but it would obviously be greatly preferable to a policy of unlimited escalation. But the option of withdrawal is always open to us. It would be foolish to rush at once to that extreme without exhausting the possibilities of negotiation. It need hardly be said that, up to this point, we have not, despite fine words, pursued negotiation with a fraction of the zeal, ingenuity and preservance with which we have pursued war.

This leads to the third necessity: we will not have a negotiated solution until we have a leadership which desires a negotiated solution—which has freed itself from the obsession with the idea of a military victory, or at least of a spectacular and favorable reversal of the present military balance: the obsession which evidently continues to possess the present administration. If our present leadership can think of nothing better than persistence in the policies which, after full and fair trial, for 32 bitter months, have proved a dismal failure, then this country, if it is to save itself, requires new leadership.

How do we make sure that the 1968 election offers an alternative? Let us be clear about another thing: the idea of a third party is an illusion. A third party based on the Vietnam war would get nowhere in the elections; it would run well behind George Wallace in the electoral college; and the only result would be drastically to understate the size of the opposition to the escalation policy and thereby to discredit the cause of peace. The serious issue must remain within the major parties. This means, I think, that the Republicans among us must work for anti-escalation candidates in their party—and that all of us must work for delegates to the party conventions pledged to an anti-escalation platform. As we do this, we may all be encouraged by the expectation that disenchantment with the war is bound to grow in the weeks and months ahead.

It is bound to grow so long as the present leadership remains frozen in its ideas, locked into its system of error, unable to think of anything to do but more of the same. How much more proof will they require before they recognize that the escalation policy has been a disaster? They began that policy in February 1965. Today, after 32 months, after the death of more than 13,000 American soldiers and of countless Vietnamese, after the expenditure of nearly $90 billion, after our increasing isolation in the world, after the irresponsible and dangerous neglect of the urgent problems of our national community—to which President Johnson's Great Society was so prominently dedicated—after all the blood and killing and waste and degradation, are we any closer to a solution than we were when we began? Are we nearer to winning the war? to establishing a healthy society in South Vietnam? to pacifying the countryside? to winning world confidence in American purpose and American sense? Are we not ever more deeply and hopelessly mired in the quicksand?

I say again: how much longer do our leaders insist on reinforcing error and dragging us down this dirty and hopeless road? Can nothing demonstrate to them the futility and folly of their course? "My bretheren," said Cromwell, "I beseech you, in the bowels of Christ, think it possible that you may be mistaken." If this administration lacks the moral or the intellectual courage to conceive the possibiilty that it may be wrong, then the American people, I hope and believe, will turn next year to leadership determined to meet this tragic problem with the realism, the rationality and the high idealism that have marked the finest moments of our history.

Mr. CLARK. Mr. President, it is interesting that Mr. Schlesinger, in discussing the assumptions which are behind the escalation policy, casts a balance sheet of the seven basic propositions on which this policy has been based and then undertakes to show how each of those assumptions has turned out in history to be wrong.

The first assumption is that escalation would break the will of North Vietnam and bring Hanoi to the conference table. This, so far at least, has turned out to be entirely false.

The second assumption is that escalation would reduce the infiltration of supplies and men from North to South Vietnam. As Mr. Schlesinger points out, the fact is quite to the contrary. Infiltration, according to the best information we can get, continues at whatever rate the North Vietnamese wish to infiltrate. I believe it is beyond question that Ho Chi Minh has 15 well-trained divisions in North Vietnam which he has not committed as yet to the struggle in South Vietnam.

The third assumption is that escalation would lessen American casualties in the war. We all know how false that is with over 13,000 American dead, most of them in the last couple of years, and I believe over 100,000 wounded, although it is true that many of the wounded are not hospitalized and are returned reasonably quickly to action.

The fourth assumption is that escalation would strengthen the Government and will of South Vietnam. This would appear to be far from the facts, as Mr. Schlesinger ably points out.

The fifth assumption is that we are holding the line against general Communist aggression. In my opinion, his argument demolishing this assumption is most persuasive.

The sixth assumption is that escalation proves we will keep our commitments everywhere. Again I leave to Mr. Schlesinger the annihilation of this particular premise, which I believe to be quite unsound.

The seventh premise is that the military men know how to win wars. I think that Mr. Schlesinger makes pretty clear that this sudden worship of the military is not in the American tradition. It just is not true and has been proven untrue from the Civil War down to the present time, although we have been fortunate, indeed, in many of our outstanding generals, some of whom have gone on to become President of the United States.

Nevertheless, Mr. Schlesinger deplores the worship of the military which seems to be a part of our present thinking in this country.

In this connection there is no greater worshiper of the military than the well-known columnist Joseph Alsop, and in the style of what I am afraid I must refer to as his usual petulance, arrogance, and bad temper, he has a column this morning taking to task practically everybody in the United States except the military and Mr. Alsop. His column is entitled "Nation's Plunge Into Nonsense or This Is Where We Came In." Mr. Alsop takes on quite a wide variety of Americans of all generations, going back to the early days of the depression, in his disapproval of the point of view of what I believe to be a majority of our fellow countrymen. Mr. Alsop, of course, has been telling us for a long, long time that we are winning the war in Vietnam. As his predictions are increasingly unmasked as untrue, he becomes more and more petulant and more and more arrogant.

In this connection, Mr. Schlesinger in his article referring to Stewart Alsop—I think correctly—as the wiser brother, quotes Stewart as saying:

> Almost all generals are almost always wrong about all wars. Generals should be listened to with skeptical respect but never with reverent credulity.

I believe that Stewart is the younger of the two brothers. I regret that he went to Yale while Joe went to Harvard. But

I do think, in this instance, that Cambridge could learn something from New Haven.

Mr. Schlesinger points out in his article, which I have had inserted in the RECORD, it is difficult to see how serious men can, year after year, repeat the same optimistic predictions with a straight face and do so very often in identical words.

He suggests that we should not forget that the herald angel of the hawks is Mr. Alsop. He goes on to point out how often Mr. Joseph Alsop has been wrong in his predictions of upcoming military victories in Vietnam.

Mr. President, I ask unanimous consent to have printed in the RECORD the quotations from Mr. Alsop in Mr. Schlesinger's article beginning with 1964 and continuing on down to the present column, which have consistently been at variance with the facts as they were developed; together with Mr. Alsop's article of today to which I have earlier referred.

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

The Washington Post on October 4 adorned his most recent effusion with the encouraging headline: "Vast Gains in Vietnam War Evident in Last Few Months." Hark how this herald angel has sung through the years. Thus February 1964, "In Communist North Vietnam . . . the situation is close to desperate"; in September 1965, "The whole pattern of the war has been utterly changed. . . . At last there is light at the end of the tunnel"; in October 1965, "Final defeat is beginning to be expected, even in the ranks of Viet Cong hard-core units"; in February 1966, "The enemy's backbone of regulars can even be broken this year. And when and if that happens, this war will be effectively won"; in April 1966, "The Vietnamese and American forces are now imposing a rate of loss on the Viet Cong which the enemy cannot indefinitely withstand"; In October 1966, "Within six, eight, ten or twelve months—before the end of 1967 at any rate—the chances are good that the Vietnamese war will look successful." Now in October 1967, just at the time when this last gorgeous prophecy is due for fulfillment, Mr. Alsop finds improvements so great that "the contrast between then and now is all but incredible." One is compelled to conclude that it is not the contrast but the columnist who is incredible. How consistently silly can an intelligent man be?

[From the Washington Post, Oct. 30, 1967]

NATION'S PLUNGE INTO NONSENSE OR THIS IS WHERE WE CAME IN!

(By Joseph Alsop)

"This is where we came in, for God's sake." Any traveler returning to the United States at this juncture, who is also old enough to remember the nonsense-ridden '30s, cannot easily repress the foregoing horrified exclamation.

In the '30s, the younger generation of Americans, and all those older men who hankered to be "in the movement," had briskly rejected the whole experience of the past. The result was driveling nonsense about the Communist Party; nonsense about the Soviet Union, then bathed in innocent blood; nonsense about the causes of wars, resulting in the idiotic Nye Neutrality Act, and nonsense in general about the role of power in history.

The same sort of plunge into nonsense clearly threatens in America today, if it has not occurred already. The younger generation are easily forgivable, for they do not even remember what happened in Korea. But the older men, still prancing along "in the movement," mouthing the new slogans, are very much less forgivable today than they were in the '30s.

Take the scores of eminent anti-Johnson Democrats—historians and college professors, journalists and Senators, all remorsely articulate—who were already active in the era of President Harry S. Truman. Not a one of them that you can think of failed to support President Truman's decision to intervene in Korea. Just about all of them have gone on, ever since, rightly praising President Truman's wisdom and courage on that occasion.

(One of the more celebrated journalists, to be sure, had an article ready—written to the effect that we could not and must not intervene in Korea. But the news of intervention came that afternoon, and the article was rewritten to support the President.)

If these distinguished liberal Democrats, who supported Truman and now vilify President Johnson, can make any distinction at all between the Korean and Vietnamese wars, they have yet to say what it is. In Korea, we were fighting on the Asian mainland, as we are today; and in Korea, too, mainly because of Gen. Douglas MacArthur, we had to meet Chinese as well as North Korean manpower.

In Korea again, there were two primary stakes that the United States was engaged to defend. First, there was the American position as a Pacific power. In the second World War, blood and treasure had been lavishly poured out to defend and strengthen this American position. It was, and is, of cardinal importance.

President Truman rightly recognized that the whole Pacific position would be irrevocably compromised if the Korean challenge were not met. In play was not Korea alone, but the future alignment of Japan and the Philippines, the eventual tendency of Southeast Asia, and, in fact, the direction of the bandwagon of history in the whole of Asia.

On the same subject, just 15 years later, Gen. Maxwell Taylor accurately told President Johnson that he had the choice between meeting the challenge in Vietnam or being thrown "back to Hawaii." And surely this first stake, this American position in the Pacific, when Taylor gave this advice, deserved even greater consideration since we had already fought a second major war in its defense.

As for stake number two, it was, and is, quite simply the credibility of American commitments, such as our pledges to the South Vietnamese, the Thais and a good many other people in the present instance. This stake was far less important in Korea, which we had publicly put on its own, than it was in Vietnam. But either way, the great power that enters into pledges and then chooses to ignore them has taken a road that may at first seem smooth, but will always turn cruelly rocky and downhill in the end.

There is a third stake, too, in the Vietnamese war that was really invisible in the Korean war. The Pacific, in brief, now promises to become another "world lake" quite as important as the Atlantic, if not more important. But this vast process, so greatly enhancing the significance of stakes I and II, requires a further, more detailed report.

How then can these distinguished liberal Democrats talk out of one side of their mouths about Korea, and out of the other side about Vietnam? None has tackled that question with sober honesty, with the sole, highly, honorable exception of Richard Rovere in "The New Yorker" and Rovere's attempt to offer an answer would satisfy no one searching for a serious national policy.

Meanwhile, it must also be noted that there is the widest imaginable difference between our last round of nonsense and the present one. In the 1930s, the U.S. was a strictly perhipheral power, without a serious foreign policy, even lacking serious foreign relations. In the '30s, therefore, the conversation of a majority to a nonsense-view of the rest of the world had hardly any lasting effects.

Now, however, the U.S. is the central, giant power. And if the U.S. takes the final plunge into nonsense in this quite new situation, the sure and certain consequence will be a third world war.

Mr. CLARK. Mr. President, an extremely perceptive and, to my way of thinking, sound article was published in the Saturday Review under date of October 21, 1967, is written by Theodore C. Sorensen, the one individual who was probably closer to President John F. Kennedy than any other in the White House.

The article is entitled "The War in Vietnam—How We Can End It."

I find Mr. Sorensen's article most persuasive and I ask unanimous consent to have it printed in the RECORD.

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

[From the Saturday Review, Oct. 21, 1967]

THE WAR IN VIETNAM—HOW WE CAN END IT

(By Theodore C. Sorensen, former Special Counsel to Presidents Kennedy and Johnson, is an Saturday Review editor-at-large)

I have not previously spoken out publicly against our course in Vietnam. My years in the White House made me more conscious than most private citizens of the burdens our President bears, more aware of his unique access to information, and more unwilling to add fuel to the fires of dissension within my party and country. But I believe that the President's friends and supporters today can best serve him as well as the country by speaking out: Not by offering over-simplified solutions or personal criticisms; not by questioning anyone's motives or credibility; not by reflecting on the skill and courage of our fighting forces; but by helping to seek before it is too late a reasonable, feasible course in Vietnam that offers some hope of achieving an early peaceful settlement—a course with costs and risks more proportionate to America's interests than this present avenue of expanding escalation and slaughter.

"Your government should understand," a Russian diplomat said to me as we lunched last August in Moscow, "that we are obligated to do for the North Vietnamese whatever they ask us to do. If they ask us to send bombers, we will send bombers. If they ask us to send men, we will send men." This was not delivered as a threat nor was it surprisingly new. But it helped point up for me the urgency of our stopping World War III now before it starts.

I realize that it is difficult for a great power to alter its course—but the Soviet Union pulled its missiles out of Cuba (and received world praise for doing so). I realize that it is difficult for our proud nation to acknowledge error instead of compounding it—but we did exactly that at the Bay of Pigs.

I do not say that we have wholly erred in Vietnam or that we should precipitously pull out our troops. Nor am I concerned here with many of the other disputes surrounding that war. The Senate will long debate the legal basis for our involvement, the alleged choices between Europe and Asia, and the effect of the war on our prestige, politics, and priorities. Historians will long debate over how and why we got into Vietnam, who first breached the Geneva Agreement, whether it was originally a civil war, whether another President would have acted differently, whether Congress was consulted adequately, and whether the various past precedents cited—from Munich to Malaya—are mean-

ingful. What concerns me now is not the past but the future.

What concerns me now is the prospect of an endless war in which the original issues (to say nothing of the Vietnamese people) will have long been forgotten, in which each gradation of American escalation will continue to be offset by more troops from the North and less help from the South. What concerns me is the prospect of a frustrated, aggravated, bitterly divided America, irritated at its increasing isolation from the world, unable to accept its inability to bring this upstart to heel, under growing pressure from a growing military establishment, consequently pouring in more men, bombing out more targets, and finally, in desperation, mining or blockading the Haiphong harbor or even invading the North by means of a permanent excursion across the demilitarized zone or an "Inchon-type" landing behind that front line. Then the entry of Chinese and possibly Russian "volunteers" will be a very real threat and possibly—even without our destroying North Vietnamese dikes, bombing MIG bases in China, or occupying Hanoi—an inevitable fact, as inevitable as the fact that their entry will lead eventually to a world-wide nuclear war. The tragic irony of it is that all this could happen without our advancing one single step nearer to our original goal of a terror-free South Vietnam.

We have already moved in recent years from limited counterinsurgency to all-out combat, from 15,000 advisers to 500,000 troops, from a war fought largely by South Vietnamese forces in the South to a war fought largely by American forces both North and South. Each stage of escalation has brought a response from the other side requiring more escalation, bringing a further response from the other side requiring still more escalation. When two doses of penicillin failed to help the patient, we gave him four, then six, now eight. It is high time we realized that penicillin is not what this patient needs, and more can only poison him.

To be sure, we cannot now lose the war. We have prevented the kind of large-scale North Vietnamese assaults that might have destroyed all hope for self-determination and survival in the South. There is no prospect now that the Communists can push our forces into the sea or impose their rule by conquest. Nor is there any prospect now that we will abandon to slaughter those South Vietnamese who stood up against a Communist military takeover. But this country has to face the unaccustomed and uncomfortable fact that, despite all the brilliance and valor of our fighting forces, their lives are being given for a war which—in terms of achieving our *total* objectives, political and moral as well as military, in all Asia as well as Vietnam—we are not "winning" in the traditional sense and cannot ever expect to "win."

We are not "containing" the Red Chinese when we create a vacuum on their borders into which they will inexorably move unless we stay forever—when we increase North Vietnam's dependence on Chinese imports—or when we erode South Vietnam's institutions, traditions, economy, independence, and spirit.

We are not "winning the war for men's minds" among the South Vietnamese people, much less "pacifying" their country, when we level their villages, burn their crops, dominate and prolong their war, work primarily with the privileged few entrenched in both their military and government, and place half a million free-spending Americans into that tiny, impoverished, and now inflation-ridden country.

We are not demonstrating the futility of Communist "wars of liberation" to any army that soon returns to rule by night those areas from which we have temporarily driven it; nor are we deterring similar attacks in Thailand or elsewhere when we stretch our forces thin in Vietnam.

We are not "defending our national interest" when we endlessly divert more than two billion tax dollars a month away from our cities and schools and overseas friends for a war that, much as we dislike the word, is producing at best only a stalemate.

I read all the predictions that victory is just around the escalation corner—but I heard those same predictions three and four and even five years ago. I read all the rosy statistics on how many Communists we have killed and captured and induced to defect—but still their number keeps growing. I read all the claims on our bombing successes in the North—but still the infiltration southward continues. I read all the statements that this is a joint effort with South Vietnam and others—but still we are doing more and more of the fighting and dying. And, finally, I read all the assurances that neither the Russians nor the Chinese will intervene—but at the same time Washington experts acknowledge that neither Peking nor Moscow could tolerate a North Vietnamese defeat.

General Westmoreland calls it a war of attrition. That it is—a war of attrition pitting American youth on the Asian mainland against an Asian foe which has not yet begun to tap its immense manpower reserves. Most of the time that foe is a Vietnamese guerrilla—a tough, cunning, elusive warrior who knows every hiding place in his native land, who is fed and shielded by the people we are supposedly there to defend, and who believes that someday his children will push out the Americans just as his elders pushed out the French.

Even if the old-fashioned kind of military victory in Vietnam were possible, it would require an indefinite occupation of that country by American troops under constant attack from such guerrillas. But such a victory is not possible against an enemy that keeps coming and fighting, as it has for twenty years and as it seemingly can for twenty more, suffering heavy casualties but also inflicting them, hiding in the hills or brush, disappearing literally underground or by mingling with civilians, eluding our "search and destroy" missions and then returning, controlling or terrorizing virtually as many villages and roads, and assassinating or kidnaping virtually as many South Vietnamese local leaders, as it did before we arrived.

If countering this kind of guerrilla warfare requires, as the Pentagon has said, that our forces outnumber theirs by a lopsided ratio of 3 or 4 or even 10 to 1—and if, in addition, we must take over the immense and unfamiliar task of nonmilitary "pacification," and do it without a nonpartisan civil service, without the goodwill of the people, without effective land distribution or respect for the South Vietnamese troops or cooperation from their intellectuals—then where do we obtain the manpower to offset the gradual tapping of Communist reserves? Not from our Asian and Pacific allies who have, on the whole, shown very little enthusiasm for propping up with their own forces what we have warned could be the first of the falling dominoes. Nor are there unlimited reserves still available to the South Vietnamese army, whose brave but poorly paid and dispirited soldiers are still too often led by corrupt and politically controlled officers more imitative of the Vietcong in brutally interrogating civilians and prisoners than in risking their own comfort in combat.

It is small wonder, then, that one American military leader has said that 2,000,000 U.S. troops will be required to root out the terrorists in the South, village by village. But if the other side keeps growing through recruitment and reinfiltration, despite escalated bombings and electronic barriers, even 2,000,000 may not be enough. And what would an American commitment of 2,000,000 men do to our force levels at home and around the world? What, finally, would it do to the South Vietnamese themselves?

"In the final analysis," said President Kennedy in the fall of 1963, "it is their war. They are the ones who have to win it or lose it . . . the people of Vietnam." But as we pour in more troops, destroying in the process their economic stability more effectively than the Communists have ever done, it has become *our* war. We have the largest fighting force. We suffer the largest fatalities. The South Vietnamese people, weary after twenty years of warriors and foreigners, divided by rival sects and provincial politics, seem simultaneously to resent and prefer our taking over their battle. Many of the young leaders and scholars upon whom the country's liberation must ultimately depend are reported openly cynical and skeptical of the American presence. The present military government with which we are identified—now popularly elected but still far from universally accepted—seems incapable of understanding any real opposition or dissent, and incapable of undertaking any serious land reforms or serious peace negotiations.

A more viable, representative, and reform-minded civilian government, possessing real strength in the grassroots as well as the cities, rallying the people after the fashion of the Philippines' Magsaysay, and offering true amnesty and amity to the Vietcong and true reconciliation to the North Vietnamese, might have at least been able to increase the rate of Communist defectors to a level exceeding South Vietnamese desertions. That has not happened, nor will it. But the strength, the morale, and the legitimacy of the present government in Saigon are at least sufficient now to permit our own country to pursue a different course.

I wrote in my book *Kennedy* that that Administration's objective in Vietnam was to gain time—time for the South Vietnamese, with our help and protection, to achieve a society sufficiently cohesive politically and militarily to negotiate a balanced settlement. There is no reason now for us to refrain from concluding that such time is finally near at hand. The South Vietnamese have expressed through their elections a longing for peace and the beginning of constitutional rule. The Communists have reason to know that they cannot win a final military victory. The Red Chinese, beset by internal strife and external setbacks, may be less able to interfere with negotiations. The Soviets prefer peace to a widening war. The National Liberation Front has dropped its resistance to the inclusion of other South Vietnamese in a postwar government; and the North Vietnamese, at least in the view of some, may again be indicating a genuine willingness to talk peace.

Their willingness, to be sure, has been conditioned upon our suspending indefinitely and unconditionally the bombing of the North. If that bombing had been clearly curtailing Communist infiltration and operations within the South, one could more readily accept our refusal on the ground that such attacks were a more effective way of saving American lives than attempting to interdict North Vietnamese lines in the South. But in fact, despite our constant expansion of targets to include all those of genuine military importance. Secretary of Defense McNamara has acknowledged that the infiltration of North Vietnamese forces has continued to grow—infiltrating over countless routes, by boat and truck and bicycle and foot, under cover of jungle or darkness. In the South they live off the land whenever their supply trains are delayed. In the North, they obtain replacements overland through China whenever their supply depots are destroyed. On balance, the continued bombing, by increasing an embittered militancy in the North and thus prolonging the war, appears

to be costing more American lives in the long run than it actually saves.

Heavy bombing has never been wholly decisive in any war. No one promised that it would be in this one. But let us leave aside the various inconsistencies in the various statements explaining our original reasons for bombing. The overwhelming weight of the evidence still fails to indicate that pounding that largely primitive peasant economy with more bombs than we unloaded on all of Europe in World War II has brought us a single day closer to the hour of peaceful settlement. The overwhelming weight of the evidence still fails to indicate that the North Vietnamese resolves to resist has been weakened instead of hardened by these massive attacks on their homeland. The overwhelming weight of the evidence still fails to indicate that any feasible amount of bombing can ever prevent the North Vietnamese from infiltrating into the South all the men, arms, and food needed to sustain a low-level guerrilla war indefinitely.

To be sure, the bombing is not without effect. It not only boosts the morale of the Saigon government—a somewhat dubious justification—but punishes and pressures and pains the North Vietnamese. It makes their maintenance of reserves and supply lines, and particularly their transportation of large cadres and heavy artillery pieces, more difficult and more costly. It makes life harder and poorer for their citizens and their soldiers. But their life has always been hard and poor. They have never depended on cities or industries. They have known very little but war against the Japanese, the French, and the Americans during most of their lives. A still lower standard of living now, an inconvenient mobilization of manpower to repair bridges and railroads, an increase in shortages and terrors and casualties, do not add up to grounds for surrender, now that they have endured this much this long and have so little to lose but their lives.

There seems little to be gained, then, by our insisting upon a continuance of the bombing in the North. Suspending it will not produce a Communist military victory in the South, nor will it bring the collapse of any Saigon government worthy of our attention. But suspending it will, possibly with the aid of the new electronic "fence," confine the war to the South, where it must be won anyway. It will end the strain on U.S. aircraft crews badly needed for air support in the South, while reducing the costly loss of our aircraft and the humilitation of our captured pilots. It will limit the area our dollars must surely rebuild when the war is over. It will end the toll of North Vietnamese civilian casualties which embarrassingly but unavoidably grows as the list of our targets is expanded. And it will eliminate the single largest barrier to world support for our position and the single largest barrier to negotiations with Hanoi.

Bombing, we have now learned, cannot force negotiations but it may well be preventing them. There is no possibility of the North Vietnamese engaging in talks while their homeland is being bombed. Inasmuch as the bombing can no longer be regarded as an indispensable means for securing our forces and objectives in the South, the time has come for us to suspend indefinitely and unconditionally our bombing of the North in order to test Hanoi's sincerity and see how it will reciprocate.

Accompanying such a suspension with conditions and deadlines will not work. The North Vietnamese will not respond to an ultimatum. Nor will they respond to our demand or even "expectation" that in exchange they stop sending men and supplies to South Vietnam—in effect stop fighting the war altogether—while we continue to fight. Naturally, no American is going to like it if and when the North's flow of troops and supplies to the South increases during such a suspension. We did not like it when fighting continued in Korea during the truce talks; but had we refused to talk, the loss of American lives there would surely have been higher. Today we must face the facts that prolonging the bombing cannot end the war or even the infiltration and that this impasse is costing us more lives than the bombing saves. Let us also face the fact that someday we will stop it—and the longer we put it off, the more difficult it will be for both sides to negotiate a reasonable settlement.

Indeed, there is already a danger that we have passed the point of no return beyond which neither the Hanoi regime nor the Administration in Washington could reach an accommodation with the other without the risk of being turned out of office. Bitterness and distrust are rapidly rising in both camps. Militants and military chieftains are gaining influence in both capitals. Each side is fearful that a cease-fire will cause a loss of momentum and morale, that negotiations will be only a cover for reinforcements. Each side believes that the other should pay the price of aggression, accept the blame, and make the first concession. Each side would prefer to postpone negotiations until he is clearly winning (at which time, of course, the other side would not negotiate).

Perhaps even now the North Vietnamese and the National Liberation Front are not interested in serious negotiations. Their recent public statements about peace talks have been largely bellicose, rude, and inconsistent. They appear convinced of their ability to outlast us, meanwhile bleeding us white. They do not wish to offend their largest neighbor, protector, and potential supplier, Red China, which would obviously prefer to see us hopelessly bogged down in Vietnam without risking one Chinese casualty, and which might well threaten the North Vietnamese with a disastrous interruption of supplies if they even talk with the Americans. The pro-Chinese faction in the Hanoi government is already said by some to be on the ascendency.

But even if Hanoi is not now ready to negotiate, we can—instead of continuing the present treadmill into ever more dangerous, divisive, and self-destructive escalation—prudently de-escalate our war effort without harming our interests and with some hope that Hanoi will de-escalate also. Limiting our military commitments, objectives, investment, and assaults, meanwhile consolidating our position in the most populous areas of the South, would cost us fewer lives, less money, no territory, and no "face," while better enabling us to wait until outside events—such as divisions in the Communist camp—make negotiations more possible. Certainly our present course is not dividing the Vietcong from Hanoi or Hanoi from Peking, and indeed may end up helping to unite China for Mao or even Peking with Moscow.

But in fact we do not know with any certainty whether Hanoi and the Vietcong—together or separately—are now ready to negotiate. We have not stopped the bombing indefinitely to find out. We have not since one thirty-seven-day pause nearly two years ago accompanied our talk of negotiations with real deeds of de-escalation demonstrating our earnest good faith. We have not given to the pursuit of peace the same effort, ingenuity, and relentless consistency we have given to prosecuting the war. We have not prevented the Saigon regime from torpedoing the rise of civilian neutralist forces in the South capable of negotiating with the North and the National Liberation Front. We have not left those voices in Hanoi who might once have been concerned about their economy with much reason now to justify a cease-fire. We have not, to the best of my knowledge, adopted a concrete, mutually acceptable plan for negotiations—as distinguished from admirable but vague statements of principle—and communicated that plan to the North. Publicly, at least, we have not offered any of the concessions and compromises required by the military and practical situation for a realistic settlement, frequently implying instead only that we stand ready to negotiate the surrender of the Vietcong.

Most serious of all, we have not been sufficiently forthright or forthcoming in response to what may have been actual opportunities to start or explore negotiations. Perhaps we were looking for a different kind of "signal" and missed the one they sent. Perhaps we were plagued by poor translations, poor communications, or poor coordination on both sides. But whatever the reasons and whoever is to blame—and assessing it now will not help—we must in the future take more care not to spurn or ignore potential opportunities for negotiation, much less deny their existence or escalate in response to them.

Such a posture would involve no weakening of our resolve or responsibility. President Johnson has called "the path of peaceful settlement . . . the only path for reasonable men." President Kennedy obtained withdrawal of the Soviet missiles from Cuba by giving attention to the olive branch as well as the arrows—by adopting a carefully measured combination of defense, diplomacy, and dialogue. Perhaps his ploy in that crisis of interpreting a Communist demand in his own terms, his response thus necessitating their reply, could be used now to initiate negotiations with Hanoi. Perhaps the good offices of U Thant, a resolution by the U.N. General Assembly, or a reconvening of the Geneva Conference could initiate talks without either side worrying about protocol or precedent. Perhaps we could invite the other side to the President's next summit meeting with our Asian allies. It would be more realistic, in my view, to seek a secret conference, with no mediator, arbitrator, or press releases, thus alleviating potential Chinese and other pressures. But the essential step is to bring together the combatants—and that necessarily means all the combatants, including the Vietcong.

Such talks are not doomed to end in disagreement and disappointment. After all, *both* sides are pledged to work:

First, for a return to the Geneva Agreement of 1954;

Second, for an end to hostilities and the withdrawal of all foreign troops and bases;

Third, for a neutral, peaceful, independent South Vietnam, free to determine in new elections its own political, economic, and social system, and its relationship or reunification with the North;

Fourth, for a government—if necessary (though neither Saigon nor the NLF has squarely faced this), a coalition government composed of all parties, as in the Laotian settlement of 1962—acting on behalf of all South Vietnamese citizens in accordance with the principles of universal suffrage, free speech, free worship, and meaningful land redistribution.

Agreement on the interpretation and implementation of these principles will not be reached quickly or easily. Such words as "freedom," "independence," and "neutrality" mean very different things to the two sides. Some form of international guarantees and supervision will be essential at least at the outset. But agreement should not be impossible.

Such an ending, while restoring South Vietnamese self-determination and preventing its conquest, would not leave the United States and its allies with any better position militarily than they had before the war began—but neither did the ending of the Cuban crisis or the Berlin crisis or even the Korean war. Such a settlement would also involve grave risks. It would endure only if both sides felt as a matter of practical self-interest that this kind of peace was preferable to war. Even then there would be no way of assuring the American people of the elimination of terrorists from the South, of the early departure of all American troops from Asia, or of the nonparticipation in the

South Vietnamese government of one variety or another of Communists. Indeed, there is *no* negotiated solution possible that would not lend itself to bitter attacks in the Congress and pose continuing dangers for the future.

Thus, whatever quantities of national courage, understanding, and unity are required on our part today to fight and accept the war in Vietnam, they will be needed in twice those amounts to find and accept the peace. But find it we must. While we cannot overlook any dangers, neither can we overlook any opportunities. A new opportunity may now be approaching in the holiday season. We have been able to arrange in recent years a Christmas cease-fire in Vietnam. If we plan and work for it now, we can be prepared this Christmas to have the firing cease forever.

The PRESIDING OFFICER. Is there further morning business?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PAY SCALE OF DEPUTY U.S. MARSHALS

Mr. MONDALE. Mr. President, the Senate will soon have before it for consideration legislation dealing with Federal pay increases. It is my understanding that the distinguished Senator from Indiana [Mr. HARTKE] is planning to submit an amendment that will make adjustments in the pay scale for deputy U.S. marshals.

Recently Mr. Robert L. Allie, executive vice president of the National Association of Deputy U.S. Marshals, furnished me with an informational sheet on the dangers inherent in the role of deputy marshal. I ask unanimous consent that this very short statement be printed in the RECORD.

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

NATIONAL ASSOCIATION, DEPUTY U.S. MARSHALS,
October 25, 1967.

Deputies from the State of Minnesota were on duty in 1962 at Oxford, Mississippi during the "Ole Miss" riot and have participated in numerous other "special duty details" around the country since. The most recent being the anti-war demonstration which were held all over the country last week.

The deputy marshal has been the mainstay in all racial crises (Little Rock, Montgomery, Oxford, etc.) and the recent trial in Mississippi where history was made with the conviction of the perpetrators of a heinous crime.

In 1965 a deputy marshal was critically wounded in Minneapolis while making an arrest and after an eight hour operation to sew up the bullet holes and two weeks in the hospital was back on duty, within a short time, and has made numerous arrests since.

In 1966 a deputy mashall from St. Paul was assaulted with a gun, disarmed and kidnapped. After a long ride in the country north of St. Paul in the deputies car he got a chance to jump the man and after a bitter fight, during which the gun was discharged into the deputies car, he made the arrest.

In 1966 a deputy was running after a narcotic suspect when suddenly the man turned and fired three times at close range at the deputy. The deputy shot the suspect and he and other officers then effected the arrest.

In 1966 a deputy marshal in Minneapolis was shot in the right foot by a sniper who was never found. The deputy has since quit the department to take a local police job which pays more money.

There are many more incidents in which this small force of seven deputy United States Marshals have faced danger. Only one out of this group has not either been shot or shot at in the last two and one half years and this man was almost run over by a narcotic suspect's car two weeks ago.

Deputy marshals' lives are in danger every day in upholding law and order in the United States.

ROBERT L. ALLIE,
Executive Vice President.

THE REDWOOD NATIONAL PARK BILL

Mr. MORSE. Mr. President, it is my understanding that Tuesday the Senate will take up the Redwood National Park bill, S. 2515. I have received a number of communications from people in my State of Oregon, and elsewhere, expressing divergent views on this legislative proposal.

I ask unanimous consent that these items be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MORSE. Mr. President, in particular, I call attention to a comprehensive letter dated October 25 from Mr. Wendell B. Barnes, executive vice president of the Western Wood Products Association, of Portland, Oreg., Mr. Barnes, who served very effectively as Small Business Administrator several years ago, is a respected and able spokesman for his association. He has asked 11 cogent questions which I have submitted to the chairman of the Interior and Insular Affairs Committee. It is my hope these will be answered as the bill is discussed in the Senate.

Other important communications from industry representatives, either opposing or expressing reservations concerning S. 2515, are included in the materials I am inserting in the RECORD today. Among them are letters from the Gilchrist Timber Co., Gilchrist, Oreg., the Simpson Timber Co., the Miller-Rellim Redwood Co., and the National Forest Products Association.

The views of conservationists concerning this legislative proposal are well expressed in communications I have inserted in the RECORD, brought to my attention by the Sierra Club; the American Forestry Association; the Izaak Walton League; the National Wildlife Federation; the North American Wildlife Foundation, and the Wildlife Management Institute. Letters and telegrams from Oregon conservationists, including Dr. George Selke, who has devoted scores of years of outstanding work in the cause of conservation, are also included in the materials I have inserted today. All of these items deserves serious consideration by my Senate colleagues.

EXHIBIT 1

WESTERN WOOD PRODUCTS ASSOCIATION,
Portland, Oreg., October 25, 1967.

HON. WAYNE MORSE,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR MORSE: There may be some who would consider that those of us in Oregon might have no direct concern with legislative proposals involving redwood or California but this is certainly not the case. Three of the landowners affected are also Oregon taxpayers and employers, and as you know, we have 10,000 acres of redwood forest in Oregon. Since Oregon is the largest single producer of timber products among the fifty states, we must concern ourselves with any legislation which appears to be inimical to the best interests of the industry, the timber grower, the forest dependent communities, the taxpayers or the consumers.

S. 2515 is a new redwood park bill approved by the Senate Interior and Insular Affairs Committee. It might fall into that inimical category unless carefully studied and amended.

One concern is whether the authorization of $100 million for a redwood national park, having what is considered by proponents of the park to be an emergency priority, will supersede in priority appropriations for federal parks, seashores and recreation areas in Oregon and other states in various parts of the country where need for public recreation is more immediate. It is my understanding that bills have already passed both the Senate and the House authorizing parks which cost $400 million but that appropriations for all these projects are slow in forthcoming. This would mean delays in acquisition of these land areas in other states if the $100 million for the redwood park is moved to the top of the list.

Specifically, with respect to the Committee Report supporting S. 2515, there are questions which need answering before the bill is brought to the Senate floor for action:

1. S. 2515 presents a wholly new park proposal, parts of which have not been the subject of hearings. Shouldn't there have been appropriate opportunity for consideration of the views of local citizens, the companies affected, the State of California or officials of government agencies and local communities where jobs, schools and economic well-being are involved?

2. Has adequate consideration been given in the Report to the fact that 141,719 acres of coast redwoods (more than 200 square miles) are already in park and reserve status in the State of California? Won't many people receive the impression that there is an emergency endangering the last of the redwoods? This is simply not the fact, and legislation should not be hurriedly passed on that assumption.

3. What is the basis for the statement in the Report that "The Committee believes that no company which has a genuine interest in staying in the redwood timber business will be obliged to cease operations as a result of the enactment of S. 2515?" Apparently at least one company will have to cease operations there and others will be damaged.

4. Does the Committee have evidence to substantiate the Report's contention that "any initial adverse impact of the creation of the park on the local economy will be temporary?" I've heard some 600 jobs would be eliminated and service industries also affected. This is a fact which can and should be determined from officials in the communities directly affected.

5. Is it relevant with respect to S. 2515 to cite in the Report correspondence from the Deputy Director of the Bureau of the Budget, the Governor of California, and the Secretary of the Interior when all the letters in

question dealt specifically with earlier and much different national redwood park bills? Their opinions of this bill, S. 2515, should be available to the Senate.

6. Does the fact that the Report ignored months of negotiations between Federal and State officials, reported in the press, with respect to land exchanges mean that such agreements as had been reached will not be applicable under the park proposal in S. 2515? Isn't this a slap at the California State Administration which cannot be justified on the basis of fair and equitable dealing in relations between the Federal and State governments?

7. What are the actual figures with respect to quantities and values of redwood timber being cut or available for cutting on the Northern Purchase Unit? There is a variation between the statements by the Deputy Director of the Bureau of the Budget and the Forest Service as cited in the Report and published elsewhere.

8. Since S. 2515 takes almost double the estimated volume of timber out of useful production as compared with S. 1370, does not the Report fail to justify its assumption that "the impact of land acquisition will not materialize under the bill reported by the Committee?"

9. Since the Report indicates that federal acquisition of the key state parks is not necessary and that the Committee "does not feel it appropriate to condition the creation of the Redwood National Park on that event", and since all testimony of qualified witnesses leads to the conclusion that the private lands proposed for the park fail to meet the established criteria of quality for a national park, does not S. 2515 violate the legislative intent and policies of the National Park Service and the National Park Act (H.R. 15522, 64 Cong. 1 Sess. Stat. 39)?

10. Are the cost estimates of $100 million for acquisition of the park realistic and demonstrably true? Responsible estimates are more than twice that amount.

11. Does the Federal government plan any method of restitution to the displaced workers and their families, numbering as many as thousands, who will be deprived of their livelihoods on the Oregon border and will tend to gravitate to the nearest major centers in Oregon for job opportunities?

Although neither our Association nor I have any direct interest or responsibility for the management of redwood lands, I am most earnest in raising these questions, because I know you and other Senators are fully conscious of the direct correlation between productive land and timber resources, community stability, the deteriorating tax base or areas where private lands are withdrawn for exclusive recreational use, and the needs of our citizens and industry in the Pacific Northwest. These issues are briefly discussed by me in the editorial in the current issue of "Progress Round Up," our Association trade magazine.

As one of our leading Northwest citizens declared some years ago, "Recreation can supplement the economy, but it cannot become the economy." It would appear this truism is not reflected in the redwood park proposal approved by the Senate Interior and Insular Affairs Committee.

Sincerely,

WENDELL B. BARNES,
Executive Vice President.

GILCHRIST TIMBER CO.,
Gilchrist, Oreg., October 26, 1967.

Hon. WAYNE MORSE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MORSE: My telegram, which was sent to you on October 18th, concerning the Redwood Park Bill S. 2515 mainly requested a postponement until further study was done. Your reply requested special objections, which I will try to list. I am sorry for the delay in replying but I do hope this letter reaches you prior to October 31st.

Any action on the bill should be postponed so the effects of the bill, which is a brand new one, can be studied. Final action also should await recommendations from industry, the forest-dependent communities which are affected, counties and the state. We believe that employment and prosperity in the local communities will be seriously affected.

The cost of parks for recreation during the current budget review of civilian items should be carefully scrutinized.

The bill substantially shrinks the raw material base for the forest products industry at great public expense while demands for forest products for the nation's housing will constantly increase in the future.

Basically, this bill is not needed. The fact is that virtually all the truly park-like redwoods are already preserved. There are more than a million and a half trees of more than 8 feet in diameter on more than 115,000 acres of state parks. These are in the finest groves there are, and are enough huge trees to make a row from San Francisco to New York City. These are in 30 California state parks, and regional and district parks in the area contain another 14,688 acres with redwood stands.

There are a few park-like groves not already in parks, but these are being held by the industry and other private land owners for park acquisition. It is puzzling that proponents of a national redwoods park are not even urging the inclusion of these choice private groves. Private lands proposed for park status in the current bill do not contain the kind of stands which give the redwoods their fame.

The bill proposes expenditures of federal money to buy commercial timberland clearly not needed for park purposes.

As you know, some 43.5 percent of the land in the 12 Western states—52 percent in Oregon and 44 percent in California—is now in federal ownership. It is extremely doubtful that this percentage needs to be increased.

I personally do not believe we need S–2555, the bill which you introduced, which provides for a study by the Secretary of Interior of the Cascades in Oregon, ranging from Crater Lake to the Columbia River, to determine their potential as a national park or some other administrative unit of the National Park Service. I believe these lands are being competently managed by the Department of Agriculture through the United States Forest Service under the Multiple Use concept.

Yours very truly,

FRANK A. GILCHRIST,
President.

SEATTLE, WASH.,
October, 27, 1967.

Senator WAYNE MORSE,
Senate Office Building,
Washington, D.C.:

S. 2515 authorizes a Redwood National Park at an estimated cost of $100 million.

Contrary to the Interior Committee report this proposal will force Arcata Redwood Company out of business and have additional adverse effect on other companies and dependent communities. The cost will be at least double the authorization.

The proposed park boundary includes several thousand acres of young growth Redwood managed for sustained operations by Simpson Timber Company. This young growth is essential to support major long-term investments in the area and is of minor value to a redwood park.

There are alternative plans that would create a significant Redwood National Park and not severely damage the jobholders, communities, and investors in the area.

We strongly urge that you request S. 2515 be modified to achieve a good park at a reasonable cost to the taxpayer and still maintain industry and jobs in this rural area.

STARR W. REED,
Vice President, Timberlands, Simpson Timber Co.

PORTLAND, OREG.,
October 26, 1967.

Hon. WAYNE MORSE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: I understand that at long last a sensible bill for a Redwood National Park (S. 2515) has come to the floor of the Senate, one which will incorporate and protect the finest groves. I also understand that a compromise has been worked out with the lumber companies which calls for an exchange of the so-called Northern Redwood Purchase Unit of 14,000 acres, and that the Forest Service is opposing this exchange. Since this tract is currently being logged, I see no reason for its remaining under forest service management other than bureaucratic self-protection.

I certainly hope that the bill will pass the Senate, and given the fact of adequate compensation having been arranged for the private companies involved, I trust it will receive your support.

Yours sincerely,

T. PRICE ZIMMERMANN.

LAW OFFICES, RAGAN & MASON,
Washington, D.C., October 25, 1967.

Hon. WAYNE MORSE,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR MORSE: As Counsel for the Miller-Rellim Redwood Company we have heretofore corresponded with you in connection with the proposed Redwood National Park.

A bill has now been reported by the Senate Interior Committee. It is a considerable improvement over the previous bill, although too much land is taken from private interests. With the continued inclusion in the bill of an exchange of the 14,000 acre Redwood Northern Purchase Unit in Del Norte County, California, presently under custodial control of the Forest Service for the private lands taken, the Miller-Rellim Redwood Company can stay in business. As you know, the previous bill was fatal to their continuation.

Without going into other specifics of the bill it is the purpose of this letter to urge your support for the continuation of the exchange provision in this proposed legislation. We have briefly set forth below the arguments that have been made against the exchange and the arguments retaliatory thereto. We sincerely believe that the arguments against the exchange are specious.

1. The Purchase Unit has, in fact, been logged since 1954. The Secretary of Agriculture has, himself, stated the Unit is not park-like quality. Since the Redwood Park has become an issue no contracts have been let for logging in the Purchase Unit. Thus, the Unit is not suitable for park purposes and is allegedly only good for commercial use and is not being so utilized.

2. Without the Purchase Unit included not one but two companies may well have to close their doors.

3. Both the Sierra Club and Save-the-Redwoods League support the exchange provision.

4. The Forest Service states that if the exchange provision stays in public forest lands will be deprived from multiple-use management. The redwood companies are the leading multiple-use proponents in the Nation's forest industry and presently have over 365,000 acres so dedicated.

5. The Forest Service claims that it would eliminate valuable research and demonstration capabilities. The research heretofore

taken place has been limited to old-growth and continuation of virgin trees. If the bill passes as presently written this research would no longer be required.

6. The Forest Service claims the exchange provision would hurt the operators who have used the Purchase Unit. The fact of the matter is, the Purchase Unit has been closed for bidding since the issue of the Redwood Park was presented to Congress.

7. The Forest Service points out that the Purchase Unit is on a sustained yield basis. In private hands it would have to continue on a sustained yield basis.

8. Lastly, the Forest Service points out the exchange of lands, would be a dangerous precedent. It would be a dangerous precedent not to exchange the lands. The precedent involved is that never before has a National Park been superimposed over and to the destruction of an industry and jobs. Without the exchange provision this will be the result. Clearly, if we are to preserve our national resources, we have the same obligation to our people.

The Forest Service maintains over 186,000,000 acres of land. The 14,000 acres here involved constitutes less than one one-hundredth of this total. Yet in the State of California forty-eight percent (48%) of the land is now federally owned—twenty-two million acres alone by the Department of Interior.

The 14,000 acres is *de minimis* to these totals, but it is not *de minimis* to the people of Del Norte County, who must survive economically. Del Norte County is seventy-three percent (73%) owned by the Federal Government. If this 14,000 acres makes a difference of economic security to the people of that County the support of this exchange is mandatory and the exchange does make that difference.

I would be very pleased to discuss or substantiate any points set out above with you or any member of your staff with or without representatives of the Forest Service present.

Very truly yours,

RAGAN & MASON,
WILLIAM F. RAGAN.

[News from the National Forest Products Association, Washington, D.C.]

INDUSTRY ESTIMATES NEW SENATE REDWOOD PARK BILL WILL ACTUALLY COST DOUBLE AMOUNT IT AUTHORIZES

WASHINGTON, D.C., October 27.—Actual costs of a newly proposed redwood national park in Northern California will be more than double the $100 million authorized by the Senate Interior Committee and would be considerably more if the proposal to exchange federal lands is rejected.

This estimate was announced here today by Mortimer B. Doyle, Executive Vice President of National Forest Products Association, for the five redwood timber companies whose land would be taken under the new 66,384-acre park plan. He termed the bill's $100 million authorization ceiling "totally unrealistic."

S. 2515 calls for a two-unit park in Humboldt and Del Norte Counties. It was approved earlier this month by the Senate Interior Committee after consideration of three differing park proposals. Floor action is expected next week.

Doyle stated that current value of the 32,989 acres of private land to be acquired is "well over $100 million." Since one of the companies involved has publicly announced that the park would force it out of business, he asserted, resulting damages to a permanent operation would bring private property acquisition costs to more than double the $100 million authorized.

The industry's cost figure reflects the bill's recommendation that the 14,567-acre federal Northern Purchase Unit near the Klamath River be exchanged with private land owners to ease the adverse economic impact locally.

Without the exchange provision, Doyle warned, a second large redwood manufacturing company would be crippled and costs of the park would "rise tremendously."

He valued the Purchase Unit somewhere between the $60 million estimate given by a Senator sponsoring the bill and the $10 million value set by the Secretary of Agriculture.

Doyle listed other federal costs totalling $66.4 million that have been linked with the national park by the Bureau of the Budget in both Senate and House Interior Committee testimony:

Development, $30 million: companion grants-in-aid, $15.4 million; accelerated road-building in Six Rivers National Forest to aid local timber operators, $11 million; new park road between the two units, $6 million; accelerated National Forest recreational facility development, $3 million; coastal parkway right-of-way acquisition, $1 million.

To the costs of S. 2515, now up above the $300 million range, Doyle said, must be added such hidden costs as increased financial aid to the economically depressed areas, loss of tax income at all levels of government and serious local economic side effects. He warned of the harmful aspects of underestimating the costs to the people of the area and cited the original $14 million authorization for nearby Point Reyes National Seashore, which five years later is now estimated to be in excess of $60 million.

"No one but the people directly involved has yet considered in dollars the crippling effects on the families, companies and the communities that will lose a substantial part of their timber economy base," Doyle asserted.

"The excessive loss of producing forest lands embodied in S. 2515 means even more personal and economic hardship in an area that is already classified as a depressed area," he added.

He emphasized that the present Senate bill makes no provision for in lieu payment of tax losses in Humboldt and Del Norte Counties, where the federal government already has large holdings. An in-lieu clause, designed by the Administration to ease local impact of the park, was stricken from the new Senate bill.

"The industrial timber growers whose properties are taken for a park will receive a fair payment under constitutional provisions," Doyle said. "But the thousands of people in the two areas dependent on the redwood industry will receive nothing when their livelihoods are taken away by this bill."

Doyle held that the industry's preliminary estimates of potential costs of the park may be conservative because many of the details are not yet available to the companies.

SIERRA CLUB,
Mills Tower, San Francisco,
October 20, 1967.

Hon. WAYNE LYMAN MORSE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MORSE: As I am sure you know, few opportunities remain anymore in America to create classic national parks. Most have already been set aside. For over a century, however, there has been a notable omission: California's coastal redwoods.

For three years now debate has focused on the remaining opportunities to rescue some of the surviving redwoods for a Redwood National Park. We have advocated a national park centered on Redwood Creek, while others have pointed to other areas. Recently, the Senate Interior Committee reported out a bill that attempts to resolve the differences through a composite plan. While it is not optimum, the bill does as good a job as probably can be done at present in extending protection to superb and endangered redwood forests. We believe, however, that the ceiling on authorized size should be raised to 70,000 acres (from 64,000 acres) to permit flexibility in fleshing out the boundaries in certain areas of Redwood Creek. We believe this can be done within the leeway implicit in the authorized price of $100 million.

The key to the financing of the compromise bill of the Committee is use of the Northern Redwood Purchase Unit, which the federal government now owns, on an exchange basis to acquire needed parkland. This 14,000 acre tract north of the Klamath River was purchased in the early 1940's by the Forest Service as part of a now defunct program to acquire enough lands for a Redwood National Forest of 863,000 acres. Because of a failure to gain necessary monies, this unit stands as a lone remnant of an admirable but abortive effort. However, the value of the unit has appreciated from the $440,000 paid to between $30–$75 million today. These Forest Service redwoods are being logged, with the timber sold to private concerns, and the receipts remitted to the federal treasury. The unit itself does not lend itself to park management. The Committee felt, and we agree, that it makes good sense to phase out this abortive redwood program to enable the National Park program to succeed. No adverse precedent is intended as these lands are not regular national forest lands and have never served their intended purpose.

We understand that a vote may come on this bill in early November. We would welcome the opportunity to talk this matter over with you and your staff. Our Conservation Director, Michael McCloskey, will be in Washington soon and will call upon you.

Sincerely yours,

EDGAR WAYBURN, M.D.,
President.

[Copy of telegram]

OCTOBER 27, 1967.

Hon. LYNDON B. JOHNSON,
The White House,
Washington, D.C.:

We support a Redwoods National Park and are looking to you to uphold the outstanding conservation record of your administration as well as long established policy that National Forest lands of this country not be used as trading stock in support of unrelated Federal programs. Specifically, we are opposed to provisions in the current Redwood National Park Bill which would exchange National Forest lands for private timber lands. We can see no purpose in subordinating the broad public interest to the pressures of some California interests.

American Forestry Association, Kenneth Pomeroy, Chief Forester; Boone and Crockett Club, John E. Rhea, Conservation Committee Chairman; Izaak Walton League of America, Joseph W. Penfold, Conservation Director; National Rifle Association of America, Frank C. Daniel, Secretary; National Wildlife Federation, Thomas L. Kimball, Executive Director; North American Wildlife Foundation, C. R. Gutermuth, Secretary; Sport Fishing Institute, Philip A. Douglas, Executive Secretary; Wildlife Management Institute, Ira N. Gabrielson, President.

PORTLAND, OREG.,
October 9, 1967.

Mr. PHILIP R. GEORGE,
Care of Senator Morse's Office,
Portland, Oreg.

DEAR MR. GEORGE: May I please prevail upon you to convey the following information to Senator Morse as promptly as possible:

It has come to my attention that efforts are being made by the Chairman of the Senate Committee on Interior and Insular Affairs to have the Committee endorse the proposition espoused by Governor Reagan of California to approve the exchange of National Forest lands in California for privately

owned lands which would be included in a proposed redwoods national park. Opposition to this proposal has been expressed by the President, the Bureau of the Budget, the Secretary of Agriculture, and the Chief of the Forest Service.

It is my opinion that the proposal of Senator Jackson is indeed very unwise and would set a most dangerous precedent for future similar actions. It would mean that every time a federal agency would find it necessary to acquire private lands for any project whatsoever, it would merely recommend that lands in National Forests, the Bureau of Land Management, or any federal lands wherever located, could be transferred in exchange for the privately owned lands desired. This would mean that such new projects would not need to justify their actual outlays.

All of us recall the recent incident which involved BLM lands in the Stoddard-Getty episode. The tendency in such exchanges is usually in favor of those who "have" and not in favor of the general public, especially those who "have not". The general public, as you know, was strongly opposed to such action.

I thank you for your willingness to bring my point of view to the immediate attention of Senator Morse. I am sending you this message in my capacity as a private citizen.

Sincerely yours,

GEORGE A. SELKE.

THE AMERICAN FORESTRY ASSOCIATION,
Washington, D.C., October 26, 1967.

Hon. WAYNE MORSE,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR MORSE: We are concerned about a provision in the Redwood National Park bill, S. 2515, to use national forest land in the Redwood Purchase Unit as payment in kind for private lands desired for park purposes.

This Federal land was acquired by the Forest Service under the Weeks Act of March 1, 1911 for the practice of multiple use, sustained yield forestry. It is being managed efficiently for this purpose. Trading this land for other land to be used as a park will defeat the purpose for which national forests are established.

The annual harvests of timber from the Redwood Purchase Unit supports ten small lumber companies and their employees. One-quarter of the receipts from timber sales, a substantial sum, goes to Del Norte County in lieu of taxes. This 25 percent fund exceeds the amount of taxes received from comparable land in private ownership.

Therefore, it is clear that giving four large landowners this Forest Service land will not benefit the local economy. It merely aids four large companies at the expense of ten small companies.

Neither will such an exchange improve the tax base of Del Norte County.

Of even greater concern is the precedent to be established by such action. It will open the flood gates to demands by all sorts of special interests and land grabbers. Some of these already have appeared.

Consequently, we urge you to delete all references to the Redwood Purchase Unit from S. 2515 and to preserve this tract for the purposes for which it was acquired.

Sincerely yours,

KENNETH B. POMEROY,
Chief Forester.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, October 20, 1967.

Hon. WAYNE MORSE,
U.S. Senate.

DEAR SENATOR MORSE: You will shortly be considering S. 2515, a new bill to establish a Redwood National Park. The Department of Agriculture actively supports the establishment of such a Park.

However, this Department vigorously and strongly objects to the feature of S. 2515 which would use National Forest land as trading stock to obtain land for the Park. This commandeering of the National Forest land in the Redwood Purchase Unit is not necessary in order for the Nation to have a Redwood Park.

Using National Forest land for trading stock in this important case endangers land administered by the Forest Service all over the country. It threatens the integrity of the National Forests, a principle of long-standing.

It would open the floodgates. Right now, and repeatedly in the past, there have been made demands in other parts of the country that National Forest lands be used to pay for parks, or for reservoirs, or for highway rights-of-way. Any and every instance of such a taking of National Forest land makes the later pressures that much harder to resist.

This is why past actions of Congress have resoundingly rejected use of National Forest land for this kind of trade-off.

There are other reasons for not appropriating these National Forest lands to pay for Parks:

1. Savings derived from trading off the National Forest land would be a small part of the total cost of the proposed Park. On an acre-for-acre basis, the value of the National Forest land in the Purchase Unit, estimated at $25 million, falls far short of the value of the old-growth groves proposed for inclusion in the Park. This is a very small sum to endanger a very basic principle of conservation.

2. The four main companies involved do not need the limited acreage of land that could be made available to them in order to continue operating for a significant number of years. The company that would experience the greatest impact could continue at its present rate of operation for 15 years or longer.

3. A move to make these companies partially whole would be at the cost of withdrawing supplies now used by smaller operators who buy the stumpage that would be transferred to the four larger, stronger companies. In recent years, 10 operators in the area have used the timber that this action would turn over to only four large companies. Thus, a trade-off of land would not create any new jobs. It would favor four large companies at the expense of 10 smaller ones.

A Redwood National Park is in the national interest. The USDA supports strongly that objective. But a raid on the National Forests and the establishment of a dangerous precedent in violation of long-standing, sound conservation principles is neither necessary nor wise.

Sincerely yours,

ORVILLE L. FREEMAN.

PORTLAND, OREG.,
October 26, 1967.

DEAR SENATOR MORSE: I am writing to urge you to support S. 2515—with, hopefully, an increase in acreage to at least 70,000. Also, although I see some reason to object to the purchase unit trade feature of the bill I hope that you will not oppose this too strenuously if such opposition might seriously damage the chances for passage. It seems to me to be already very late for the establishment of a Redwood National Park.

Sincerely,

J. B. ROBERTS.

CORVALLIS, OREG.,
October 28, 1967.

Senator WAYNE MORSE,
Washington, D.C.:

Urge passage of Redwood National Park bill S. 2515 including proposed Redwood National Forest Timberland Exchange. Bill is in best public interest except park should be larger.

Mr. and Mrs. ROBERT E. FRENKELL.

BEND, OREG.,
October 28, 1967.

Senator WAYNE MORSE,
Senate Office Building,
Washington, D.C.:

We sincerely hope that when it reaches the Senate floor you will support S. 2515 as reported by Senate Interior Committee including the purchase unit exchange, but hopefully with the Redwook Creek unit increased by a minimum of 10,000 acres to include the Emerald Mile and other desirable contiguous areas.

PHIL and JO CHASE.

HOOD RIVER, OREG.,
October 26, 1967.

Senator WAYNE MORSE,
Senate Office Building,
Washington, D.C.:

Urge your support of bill S. 2515. We believe the exchange clause of bill should be maintained but that size of park should be increased to 70,000 acres.

Dr. and Mrs. D. L. COYIER,
Mr. and Mrs. L. R. STEEVES.

CORVALLIS, OREG.,
October 28, 1967.

Senator WAYNE MORSE,
Senate Office Building,
Washington, D.C.:

The new bill to establish the Redwood Park S. 2515 is worthy of your support. However, at least 70,000 acres should be added to the proposal including the emerald mile and the Lower Redwood Creek area. Also the purchase unit from the forest service must be kept in the bill.

THOMAS WILL.
DIANA DIETZ.

EUGENE, OREG.,
October 26, 1967.

Senator WAYNE MORSE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MORSE: I am writing to lend my support to two conservation measures that will soon be before you. One, the Redwoods of Northern California need saving and I believe Senate Bill 2515 is a reasonable compromise. Even though some land will need to be either traded for or purchased, I believe it is to the public good that this be done.

The other bill I am particularly interested in concerns the North Cascades National Park in Washington. I am familiar with this area and it is extremely rugged and beautiful. Fortunately little timber is involved for so much of it is near or above the timber line. I am convinced that it could be developed as a park so that many could enjoy it and I know of few natural areas that deserve to be saved.

Sincerely,

EWART M. BALDWIN.

MOUNT ANGEL COLLEGE,
Mount Angel, Oreg., October 25, 1967.

Senator WAYNE MORSE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Please support the general plan outlined by the Senate Interior Committee regarding the Redwood National Park (S. 2515), but, if possible, try to increase the size to the least 70,000 acres. We urge you, also, to vote to keep the Exchange of the Northern Redwood Purchase Unit in the plan.

We feel that conservation of our few remaining natural resources, especially those of such beauty and grandeur as the redwoods, is of vital importance to our country, and we urge you to support conservationists in every way possible.

Once again we want to express our appreciation for your stand against the Johnson war policies.

Sincerely,

LELAND AND AMELDA JOHN.
SILVERTON, OREG.

PORTLAND, OREG.,
October 26, 1967.

Hon. WAYNE MORSE,
U.S. Senate,
Washington, D.C.

DEAR SIR: We urge your support of S. 2515 and modifying it to increase the size to at least 70,000 acres. It seems to us important to keep the Purchase Unit in the plan. We hope this will at long last secure a Redwood National Park.

Respectfully yours,

CARROLL S. HIGGINS.
LUCILE H. HIGGINS.

OCTOBER 23, 1967.

Subject: Redwoods National Park.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Board of Directors of the Izaak Walton League, which represents the Nation-wide membership, held its regular fall meeting over the past weekend. The Board discussed the Redwoods National Park proposal and your Committee bill S. 2515, one of the key conservation issues of the 90th Congress. Copies of the bill and the Committee Report had previously been distributed.

The Board was highly commendatory of the Committee for working its way through all the complexities of the issue and reaching agreement on a workable plan for a worthwhile National Park.

The Board unanimously agreed on the following points:

1. To support the Committee's recommended two-unit Park;

2. To support full funding for acquisition of lands for the Park;

3. To oppose use of the Northern Redwoods Purchase Unit as trading stick for lands to be acquired.

The League over the years has supported and now supports land exchanges when that serves to block upholdings, to achieve more effective and efficient administration and management or to eliminate undesirable inholdings. The League as consistently has opposed proposals to use national forest lands as payment in kind when Federal acquisition is necessary for other projects of broad public interest. The League does not believe that the choice lies between a national park on one hand and national forest lands on the other—both are needed. Rather, the League believes that the Country can afford to acquire directly the lands necessary to establish the National Park approved by your Committee.

The League's opposition to one provision of S. 2515 in no way detracts from our evaluation of the Committee's accomplishment in reporting out this important measure.

Sincerely yours,

J. W. PENFOLD,
Conservation Director IWLA.

SALEM, OREG.,
October 26, 1967.

Senator WAYNE MORSE,
Senate Office Building,
Washington, D.C.:

Please support acquisition of Redwood National Park by purchase rather than exchanging national forest lands.

OREGON STATE RIFLE ASSOCIATION.

PORTLAND, OREG.,
October 26, 1967.

Senator WAYNE MORSE,
Senate Office Building,
Washington, D.C.:

Urge enthusiastic support of S. 2515. Modify to increase Redwood National Park to at least 70,000 acres. For instance, increase protection of stream side area with wider buffer zone. National redwood purchase unit exchange important for partial funding of park and should be supported.

LESLIE SQUIER.
ANNE SQUIER.

PORTLAND, OREG.,
October 26, 1967.

Senator WAYNE MORSE,
Senate Office Building,
Washington, D.C.:

Support S. 2515. Urge expansion to 70,000 acres purchase unit exchange seems wise.

WILLIAM BLOSSER.

PORTLAND, OREG.,
October 25, 1967.

Senator WAYNE MORSE,
Washington, D.C.:

Urge your strong support S. 2515 Redwood National Park. Would recommend increase to 70,000 acres plus retention purchase unit exchange Forest Service land to preserve more Lower Redwood Creek and Emerald Mile Area.

JAMES W. GAMWELL.

PORTLAND, OREG.,
October 25, 1967.

Hon. WAYNE MORSE,
U.S. Senate,
Washington, D.C.:

We favor the Redwood National Park concept; are opposed to the exchange of our National Forest land for this accomplishment.

RICHARD L. HUBBARD,
President, Oregon Division, Izaak Walton League of America.

CORVALLIS, OREG.,
October 25, 1967.

Senator MORSE,
Washington, D.C.:

I encourage you to support the new Interior Committee Redwood Park bill, S. 2515, with the modifications advocated by the Sierra Club to increase the size of the park to a minimum of 70,000 acres.

Sincerely,

RICHARD B. NORGAARD.

DISSENT ON VIETNAM

Mr. McGEE. Mr. President, Columnist Howard K. Smith pointed to the unilateral escalation of America's domestic critics in his Sunday offering in the Washington Star. His column, in fact, makes a good point: that the dissenters in our own country have been so carried away with their own arguments that they have convinced themselves, that they tailor facts to fit their preconceived notions, that their dissent feeds on itself to grow ever larger in its irrationality. They have caused a general degeneration of the so-called debate over U.S. policy, Mr. President, and seem to be debating, not the administration, but a bogey man of their own making.

Mr. President, I ask unanimous consent that Howard K. Smith's column, "The Unfair War Dissenters," be printed in the RECORD.

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

THE UNFAIR WAR DISSENTERS

(By Howard K. Smith)

The impression is being cultivated that both sides in the Vietnam "debate" have now escalated their arguments beyond the level of fairness and that together they threaten the nation's moral fabric. Both, says James Reston, should now "elevate them guns a little lower."

In fact, equating the two is a false exercise. It is the dissenters alone who have departed from reason and fairness. It is the baby doctor from Ohio and the preacher from Yale who have encouraged young people to stop thinking and break the law—not their opponents. Consider the great contrast between the quality of the two demonstrations of last weekend—Doctor Spock's in Washington and that in New York by the Committee for Responsible Patriotism. Guess which of the two got the most television coverage?

Administration supporters have said that the hysterical dissenters are encouraging Ho Chi Minh to pile higher the mound of lives on which to build his ideological empire. Hanoi promptly confirmed it and set up a committee for liaison with its American sympathizers.

Secretary Rusk made the unoriginal point that China has made herself the essential enemy, a fact confirmed daily by Peking. Marshal Lin Piao, Mao's heir-designate, said in his party line-setting treatise that "the colossus of U.S. imperialism can be split up" and "destroyed" by methods invented and supplied by Peking.

If their success has been limited so far, intimidation may become more forceful when China soon gets her stock of nuclear weapons. Mr. Reston finds that "silly" and has dredged up the Kaiser's old racist and demagogic cry of "Yellow Peril" to discredit Mr. Rusk, perhaps the least race-minded of U.S. officials. The two arguments are not equal. One is fair and the other is not.

The quality of dissent attains a kind of peak in Walter Lippmann's arguments. Mr. Lippmann has published an essay proposing that we get out of Asia and put our forward base in Australia instead. The thought is attractive and I vote for it. But first I want some minimal reasoning to show that we won't, because of such a move, have to fight a much worse war a little later.

Mr. L. doesn't provide any such reasoning, and the thinking he does on the way to his conclusion is not convincing. He says, for example, that Presidents Eisenhower and Kennedy kept us out of a big war in Vietnam, and that it was Mr. Johnson who violated the American tradition (by the way, what tradition?) and got us into it. That is about as sound as praising Presidents Coolidge and Hoover for keeping us out of World War II and criticizing President Roosevelt for breaking with tradition and getting us into it.

He says "it has always been axiomatic that we must exert our power offshore and must never allow ourselves to get sucked deeply onto the mainland." Where does this piece of history come from? U.S. forces brought the decision in World War I, but there is no record that they remained in boats afloat in the North Sea. Did the D-Day invasion of 1944 really not happen? Were the Greeks and the South Koreans stimulated to keep their independence by armies of Americans cheering from offshore? This is a world of dreams fashioned to fit a thesis; not a thesis designed to fit the world.

Mr. L. says that we are fighting a "war to exchange casualties with the inexhaustible masses of the Asian continent." By my count we are a nation of nearly 200 million people and we are fighting a nation of 17 million people with its quarter-million recruits in the South. It may be that Lippmann has predicted China would come into the war so often that he has persuaded himself that it is a fact.

The degeneration of the "debate" on Vietnam is a unilateral act. The irrational little mob who assaulted the Pentagon (fewer, by the way, than the number of young Americans who volunteered for the armed services in the same month) and those respectable pundits who provide them with a theoretical justification, have to de-escalate. Nobody else has escalated.

THE BUTTER SUBSIDY BILL

Mr. MONDALE. Mr. President, the Land O'Lakes Creameries, Inc., one of the largest processors of dairy products

in the world, has given strong support to S. 2527, which I introduced a short time ago in the Senate. I ask unanimous consent that an editorial, contained in their October 1967 publication Smoke Signals be printed in the RECORD.

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

LAND O'LAKES SUPPORTS BUTTER SUBSIDY BILL

Land O'Lakes Creameries came out with strong support for the bill introduced today by Senator Walter F. Mondale (D-Minn.). The bill would empower the Secretary of Agriculture to encourage the movement of surplus butter into commercial domestic consumption instead of into government storage by effecting a reduction in prices to consumers by payment made to processors of butterfat used in butter.

Lank O'Lakes supports the Mondale bill, according to D. H. Henry, General Manager, because they believe that dairy farm income could better be strengthened by providing payments to processors, which would make possible a decrease in the consumer price of butter—actually a "consumer subsidy".

Land O'Lakes believes that the Senator's bill will prevent butter from piling up in government hands and enable butter to move in domestic markets.

Under Mondale's bill the existing dairy price support would be continued with the Secretary of Agriculture announcing the price support level per hundred weight of milk to the dairy farmer in the same manner that he does with the current price support program.

But this bill adds a new feature. If commercial butter markets become sluggish, this legislation would enable the Secretary to take remedial action. But, instead of purchasing butter in the market to support the price as he does currently, he could reduce the retail price to encourage the purchase of all butter production by consumers. Consumers would accordingly have the benefit of lower retail prices.

There would be no government purchases or storage except to the extent that the Secretary might wish butter to fill government program requirements.

Mondale called attention to the fact that during World War II a similar program maintained milk production to meet wartime needs. Prices to plants and consumers were fixed at relatively low levels and payments were made through plants to encourage dairy farmers to maintain their production.

In 1945, while this program was in effect, the per capita consumption of butter was nearly 11 pounds. At present prices and competitive conditions commercial consumption of butter is scarcely 5.5 pounds.

One of the oldest economic concepts of the dairy industry is that butter is the economic balance wheel. A strong butter market is necessary for the maintenance of the prices of fluid milk and other dairy commodities for all dairy farmers. A surplus of milk-fat above immediate market requirements for other products is manufactured into butter.

Land O'Lakes spokesmen note that figures show that as the spread between the price of substitutes and butter widens, butter consumption drops.

In calling for the passage of the Mondale bill, Land O'Lakes notes that the main problem of the dairy industry is butterfat. They believe that Senator Mondale's bill will move butter into the domestic consumer market, benefiting the farmer with a greater income and the consumer with a lower retail price for butter.

A similar program of direct consumer subsidy on butter in Canada has been very successful in increasing the per capita consumption of butter over the past few years.

ALEXANDER WILEY

Mr. FULBRIGHT. Mr. President, it was with sorrow that I learned of the death last week of Alexander Wiley, a good friend, a colleague of many years, and former chairman of the Committee on Foreign Relations.

I knew Alexander Wiley, who was chairman of the committee from 1953 to 1955, as a hard-working, conscientious, and fair leader. He enjoyed hard struggle in support of his beliefs, but he never stooped to unfair or dishonest tactics. His willingness to give fair treatment and hearing to those who espoused positions contrary to his own was one of his most admirable qualities.

Alex Wiley was a man of warmth and deep affection. He loved his family, his Senate, and his country.

His bouncy step, often heard in the corridors of the Senate even after departure, will be missed.

I offer my condolences to his wife, Dorothy, and the members of his family.

"PASSING UP THE PORK"—A SENSIBLE APPROACH TO BUDGET CUTTING

Mr. PROXMIRE. Mr. President, recent congressional moves tend to strengthen the feelings of those of us who say that public economic policy is the key to current economic ills. More people—lawmakers and constituents alike—are coming upon the dichotomy between what is happening in the Government sector and what is going on in the private sector. They see Government continuing to undertake expensive but low-return projects, at the same time that predictions multiply of an impending inflationary spiral accompanied by low-capacity utilization and rising unemployment levels.

The present economic dilemma is often simplified as a guns and butter trade off. But, we can have both—if returns to investments justify the commitment. Government policies which misallocate resources by employing unrealistic investment evaluations must be eliminated.

One area in which Government policies have created significant dislocations is the huge and expensive public works program. Government cost-benefit analysis has employed what economists term an unrealistically low discount rate. The result has been gross overinvestment in public works projects as well as increasing inflationary pressures—because these low-return projects compete for scarce resources with many other higher return investments—and lower economic growth.

However, the picture seems to be changing. Given a choice between a tax increase and lower public works expenditures, the public would opt for spending cuts. The slats of the pork barrel are falling off; the long-used argument of political suicide by advocating public works budget slashes is proving untrue.

According to an article in last Friday's Wall Street Journal:

> The old fashioned pork barrel seems to be suffering a decline in relative esteem.

The voter is realizing the need for some sort of Government spending priorities. Budget cuts cannot be indiscriminate. There must be some system to show relative payoffs of alternative proposals. Congress must act as soon as possible to rectify policies which justify wasteful investments. And Congress must also establish a rational and realistic ordering of budget needs.

I ask unanimous consent that the Wall Street Journal article entitled "Passing Up the Pork," be printed in the RECORD.

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

PASSING UP THE PORK: LEGISLATORS, HOME FOLK QUIETLY ACCEPT FREEZE ON PUBLIC WORKS PLANS—MANY AGREE THE PET PROJECTS SHOULD YIELD TO ECONOMY—SCHOOL AID IS STILL SOUGHT—BUT SOME CONTINUE TO FIGHT

(By Arlen J. Large)

WASHINGTON.—A $368,000 contract for an anti-erosion job on a beach at Hunting Island, S.C., is on the list of public works ordered "frozen" by President Johnson in the Government's current budget squeeze.

"Local interest is high," warns the Army Corps of Engineers in its confidential inventory of the frozen projects. "Efforts have extended over several years with local money now available. Considerable public criticism anticipated."

Yet South Carolina's two Senators so far have heard no cries of outrage from the area, and neither has the Congressman from that district, Democrat Mendel Rivers. "The people down there are willing to take their medicine," says Mr. Rivers.

The largest project on the Engineers' freeze list is an $8.2 million contract for construction of the Rend Lake Dam in southern Illinois. The home folks aren't in revolt, reports Democratic Rep. Kenneth Gray, "because I've assured them that it's only temporary; the President doesn't intend to stop the project."

Both Reps. Rivers and Gray are quick to stress the great worth of these vital projects, and both think the freeze is a bad mistake. But their relatively docile response points up a significant shift in Congressional and public attitudes toward the supposedly alluring morsels in the traditional "pork barrel."

NEW FASHIONS IN SPENDING

Dams, watershed projects, river dredging, new Federal buildings and the like have historically been symbols of a lawmaker's influence in Washington, and they still are. But in recent years new fashions in Federal spending have boosted the relative glitter of cash for schools and colleges, aid in fighting water pollution and more generous benefits for veterans and the elderly.

Until lately, Uncle Sam has bestowed the old and new kinds of Federal bacon with roughly equal generosity. But both Congress and the public now face hard choices about Government spending priorities, and the old-fashioned pork barrel seems to be suffering a decline in relative esteem.

Democratic Sen. Jennings Randolph of West Virginia, chairman of the Senate Public Works Committee, says he has heard only scattered grumbling from colleagues about the $66 million in frozen Corps of Engineers projects. In contrast, "nearly every Senator" has beefed to him about the Administration's threatened stretch-out of highway construction funds, he says.

"A dam that helps prevent a flood can be vital," observers Sen. Randolph, "but there's a detachment about that kind of project that you don't get with money for highways or schools. Those things are more personal to people than regular public works."

UNPUBLICIZED CUTBACKS

The idea that people have become disenchanted with old-style pork can surely be overdrawn; the Corps of Engineers hasn't widely circulated its list of frozen projects, and the lack of protest may be due partly to ignorance. But consider the experience of Democratic Rep. Richard Fulton with his celebrated Federal courthouse annex in Nashville, which comprises the bulk of his district.

Early this month Mr. Fulton asked the Budget Bureau to deter construction of the $8 million annex "in the interest of economy and the economic health of the nation." The gesture was hailed for its novelty on a national TV news show, and Mr. Fulton received praise in newspaper editorials across the land. He also is receiving a freshet of favorable mail from Nashville and elsewhere.

Wrote a Federal employe who works in the existing cramped courthouse: "I would much rather continue working in this building than to see this money being spent at a time when we sorely need to economize."

"Please let me know when you need some campaign money from a Republican source," offered a man in Bronxville, N.Y. A Kingsport, Tenn., lawyer sent a $1 contribution toward a "Richard H. Fulton memorial statue."

AN ORDER OF PRIORITIES

Mr. Fulton says he hasn't received a single complaint about delay of the courthouse annex. He makes clear his own priorities for economizing: "It doesn't include the things that affect the health and welfare of the individual." He says he never would have suggested a cutback in school-aid money for his district or lower outlays for the heart-cancer-stroke research center in Nashville.

Some other lawmakers are also showing untraditional restraint on certain public works projects for their home districts.

Each year the Administration sends Congress a list of Corps of Engineers rivers and harbors projects for which money is needed. The mark of a successful lawmaker is to get his own pet unbudgeted projects added to the final appropriations bill. Last July Democratic Sen. John Pastore of Rhode Island wrote a note to Chairman Allen Ellender of the Senate Appropriations subcommittee on public works asking him to insert $80,000 for an "essential study" of repairs to the Cliff Walk, a scenic seaside footpath near Newport threatened with wave erosion. Sen. Ellender, a Louisiana Democrat, obliged.

By the time the public works appropriations bill reached the Senate floor this month, however, the atmosphere had changed. The President's request for a tax increase had been rebuffed; lawmakers had worked themselves into an economy lather, at least in their speeches. Republican Sen. John Williams of Delaware moved to delete from the bill unbudgeted funds for the 41 projects that various Representatives and Senators had added. Voting with Mr. Williams, and thus against the "essential" Cliff Walk project, was Sen. Pastore.

Sen. Pastore says that because of the budget situation, "We should set an example by eliminating all projects that may be desirable but not essential." He is insisting, though, that the Cliff Walk money shouldn't be taken out of the bill unless the other unbudgeted projects are removed. "I don't want to be discriminated against," he says. "After all, that $80,000 isn't going to balance the budget."

Another liberal Democrat, Sen. Joseph Clark of Pennsylvania, also voted for the Williams amendment, though it would chop a small project in his state. It's a question of priorities, he told the Senate, urging higher outlays against urban poverty and crime: "To me that should have a higher priority than any public works project," he declared.

Still, the more reserved Congressional attitude toward the pork barrel is far from a wholesale reversal. In fact, only nine other Senators voted with Sens. Williams, Proxmire and Clark for cutting out the unbudgeted projects. And of the 41 other projects then in the bill, 19 have since survived a House-Senate conference on the measure; included is the Cliff Wall project.

Long-standing proposals for some projects have almost assumed a political life of their own, which lawmakers can't ignore; Sen. Carl Hayden fights in peace and war for his beloved central Arizona water supply project; Maine's Congressional delegation is ready to bleed for the hotly disputed Dickey-Lincoln School power dam; Republican Sen. Hiram Fong of Hawaii laments denial of funds to put more sand on Waikiki Beach and vows to try again next year.

COMPLAINTS MAY MOUNT

Though there has been little squawking so far about the President's freeze of nearly $66 million on contracts for Corps of Engineers projects, complaints may mount as the suspension of work continues. "We've not had too much repercussion," reports a corps official. "A delay of only a couple of weeks can't make much difference. But it will start hitting harder as time goes on." Warns the tolerant Rep. Gray, discussing the frozen contract for Rend Lake Dam in Illinois: "If Congress adjourns and then comes back in January to find the freeze still on, it will be a different story."

When the newer, more glamorous varieties of "pork" are threatened, the howls can be lusty. The new Federal program for fighting water pollution—a popular cause with the voters—consists mainly of grants for local sewage treatment plants. The Senate increased the Administration's $203 million appropriation request for this year by 10%, and lawmakers accusing the President of stinginess already are talking about an extra appropriation early in the next session.

Neither of California's Senators has complained about the freezing of some small old-fashioned levee and flood control projects in their state. But both exploded when West Virginia's Sen. Randolph and his coal-state colleagues proposed a cut in nuclear reactor research money. The cut would have set back the new nuclear-powered ocean water desalting plant scheduled for construction south of Los Angeles. The successful plea of liberal Republican Thomas Kuchel and conservative Republican George Murphy: Cut something else.

JUSTIFYING PROJECTS

The current budget pinch has encouraged a louder assault on the Corps of Engineers' traditional method of justifying rivers-and-harbors projects: The cost-benefit ratio. For a 50-year period, a project must show a return of more than $1 in benefits for every $1 spent or face rejection. Such critics as Democratic Sen. William Proxmire of Wisconsin contend the benefits often are inflated and costs are minimized in computing cost-benefit ratios.

Yet the corps' own figures helped doom a famous symbol of pork-barrel enterprises—the proposed Lake Erie-Ohio River canal, also known as "Mike Kirwan's Ditch." Pushed for years by Youngstown's Democratic Rep. Michael Kirwan, the $1 billion-plus project originally carried a rather impressive 3-to-1 cost-benefit ratio. But the engineers revised estimates downward, and the canal's many foes in Ohio and Pennsylvania contended the latest ratio of 1.2-to-1 was too low. Mr. Kirwan sadly dropped the project this year when Gov. Raymond Shafer of Pennsylvania formally notified the corps he wouldn't cooperate on the project.

A low cost-benefit ratio isn't always fatal. The current public works appropriation bill provides an unbudgeted $150,000 for planning the control of natural salt pollution in the Wichita River in Texas. The project strongly backed by local officials, has a cost-benefit ratio of 1.1 to 1.

Nor is a high ratio a guarantee of success. The corps calculates Sen. Fong's Waikiki Beach project would bring benefits of $15.90 for every $1 spent on spreading more sand and building erosion-control devices. That, says the frustrated Senator, is one of the highest ratios for any proposed project. The high benefits are attributed to more tourist business for nearby hotels if the famous beach is enlarged.

BUTTER LEGISLATION

Mr. MONDALE. Mr. President, the Dairy Record, the No. 1 trade magazine for the dairy industry, in its October 18, 1967, issue editorialized on S. 2527, the so-called butter legislation.

I ask unanimous consent that this very favorable editorial be printed in the RECORD.

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

NEEDS INDUSTRY SUPPORT

The bill introduced by Senator Walter F. Mondale of Minnesota to subsidize the price of butterfat used in butter, which would make it possible to reduce the retail price to encourage its use by consumers, is one that should receive the dairy industry's full support and endorsement.

The measure, in effect, is a consumer subsidy and it is legislation that every major dairy organization throughout the country has endorsed.

While, at this writing, we have not seen a copy of the Mondale bill, the salient points of it are that it empowers the Secretary of Agriculture to move surplus butter into commercial domestic consumption rather than into government storage by effecting a reduction in price to consumers by payments made to processors of butterfat used in butter.

Another feature of the bill is that the existing dairy price support program would be continued with the Secretary of Agriculture announcing the price support level per hundredweight of milk to the dairy farmer, as under the present support program.

However, something additional has been added in the Mondale bill. If commercial butter markets drag, the secretary, instead of buying butter in the market to support price, could reduce the retail price to encourage butter purchases by consumers. There would be no actual butter purchases or storage, except that which is needed to fill the requirements of the government programs.

It will be recalled that during World War II, prices of butter were rolled back and a subsidy was paid to dairy farmers through the plants. At that time, the dairy industry was critical of the Roosevelt Administration because of the rollback in butter prices, because consumers came to regard the rollback prices as what the real price of butter should be. Consumers, of course, did not take into account that a subsidy was being paid.

The situation then and now, however, is very much different. Even during rationing in 1945 while the program was in effect, the per capita consumption of butter was almost 11 pounds. At today's prices and competitive conditions, commercial consumption is about 5.5 pounds per capita.

The butter industry, during and immediately after World War II, was in a much healthier condition. Today it is in a surplus situation because of an unfortunate series of incidents, such as the cholesterol theory jag, the diet craze, the encouragement that the government has given to the oleomargarine industry and also the government's stubborn refusal to do something about imports until this country became a dumping ground for subsidized foreign dairy products.

LAW OF THE SEA

Mr. BARTLETT. Mr. President, in June of this year a Second Annual Summer Conference of the Law of the Sea Institute was staged at the University of Rhode Island. Among the participants was William C. Herrington, former Special Assistant to the Secretary of State for Fisheries and Wildlife.

Mr. President, I found the paper delivered to the conference by Mr. Herrington to be extraordinarily informative. Even though I have become reasonably familiar with the Geneva Convention on Fishing and the Conservation of the Living Resources of the Sea, as chairman of the Merchant Marine and Fisheries Subcommittee of the Senate Commerce Committee, I found reading Mr. Herrington's paper to be so educational that I would like others to have the same opportunity. Therefore, I ask unanimous consent that Mr. Herrington's paper, entitled "The Future of the Geneva Convention on Fishing and the Conservation of the Living Resources of the Sea," be printed in the RECORD.

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

THE FUTURE OF THE GENEVA CONVENTION ON FISHING AND THE CONSERVATION OF THE LIVING RESOURCES OF THE SEA

(By William C. Herrington)

Last year at the first Rhode Island Law of the Sea Conference, at the end of my paper on the "1958 Geneva Convention on Fishing and Conservation of Living Resources" I commented as follows:

"Now, eight years since the Geneva Fisheries Convention was negotiated, we must admit that much of the world has not yet caught up with its provisions, in practice at least. With this in mind the U.S. has recently begun to talk up a proposal that the FAO convene a World Fishery Conference that would consider, among other fishery matters, how the convention could be most effectively implemented and encourage more ratifications. Such a conference could also consider auxiliary procedures, such as the development of joint enforcement measures, which would make the provisions of the Geneva Convention more effective."

I understand that the informal reaction to this sounding out from fisheries people of other countries has been something less than enthusiastic. You should keep this reaction in mind in connection with some of my later comments on the possibility of improving the convention.

I have been asked to discuss at this Conference the future of the Geneva fisheries convention. I propose to approach the subject by first considering what countries have ratified the convention, speculate on the reasons behind their action, and then discuss the possibilities of further accessions and the likely motivating considerations. This will point up some of the strengths and limitations of the convention and the modifications needed to make it more effective. It will also provide a background for evaluating the possibility of achieving these modifications and, failing this, the possible alternatives.

WHO HAS ACCEPTED THE CONVENTION

As of June 1, 1967, the following countries were parties to the Geneva Fisheries Convention: Australia, Cambodia, Colombia, Dominican Republic, Finland, Haiti, Jamaica, Malagasy Republic, Malawi, Malaysia, Mexico, Netherlands, Nigeria, Portugal, Senegal, Sierra Leone, South Africa, Switzerland, Tobago, Trinidad, Uganda, U.K., U.S.A., Venezuela, Yugoslavia.

The combined catches of these countries in 1965 made up about 14% of the World total. Three of the countries accounted for more than ⅔ of this 14%, the next four accounted for about ⅓, while the remaining 18 produced about ⅓. The average catch of the 18 was about 50,000 m.t. each. Only the first three countries, together accounting for about 10% of the World total, generally would be classed as major fishing countries.

Why have these countries become parties to the Convention? I expect mostly because they favor the development of an international fishery regime based on law and order and consider the Fisheries Convention, while not fully satisfactory, is an improvement over the existing situation. Few of them will have their current problems substantially helped or hindered by the Convention in its present form. The majority I expect made no sophisticated analysis of the impact of the Convention on their long range fishery interests.

NOW LET US CONSIDER THE NONMEMBERS

The reasons why these countries have not become parties to the Convention are more varied and perhaps in many cases more deep seated than the reasons for most ratifications.

One group led by the USSR presumably favors most of the provisions of the Convention. However, the members of this group will not accept the requirements for obligatory settlement of differences concerning the conclusions to be drawn from scientific data bearing on the need for and nature of conservation measures. (Yet without this provision each country if it desires to prevent or delay action on regulations, is free to bicker as long as it wishes regarding the conclusions that should be reached concerning conservation requirements.)

There is another group of countries made up largerly of coastal states which would like to have broad jurisdiction over the fishery resources in waters adjacent to their coasts. They do not join primarily because they fear that such accession would handicap their efforts to develop such broad jurisdiction.

A third group is made up of conservatives, mostly sophisticated European fishing countries (and Japan), which hold back official recognition of any special rights of the coastal states for fear it will adversely affect their overseas fishing operations. However, some of this group with substantial coast lines (and coastal fisheries) of their own may be experiencing growing internal conflicts as their long range fishing operations are increasingly and effectively challenged by competition from relative newcomers to long range high seas fishing, and their coastal fisheries suffer increasingly from the aggressive operations of these same newcomers. If the position of such countries should change, it probably would be to support measures that would give substantially more protection to established inshore fisheries than does the present convention.

There is still a fourth group which is made up of countries that generally favor the provisions of the Convention but are not at present involved in any serious fishing controversy or, if they are, do not see that the Convention would provide any near time help in solution of their current problems. Since the Convention has not been accepted (and is not likely to be) by an overriding majority of countries, including most of the substantial fishing countries, its provisions do not have the force of international law. They apply only to those who are members of the Convention and this group does not include most of the parties to current major fishing disputes. In such disputes the Convention at best serves as a guide or precedent. For this reason the party to the dispute whose position is most at odds with the general provisions of the Convention, is less than ever inclined to join up for fear of strengthening the position of the other party. Meanwhile this other party can see little to be gained from joining since the provisions of the Convention would not be binding on the non-member.

Countries not involved in fishing disputes generally lack urgent and practical incentives for accession. In such situations we often find action on accession rather low on the priority lists of their Foreign Offices where it must compete for attention with more pressing and in their view more practical matters.

If fishery disputes could be taken to the World Court for settlement in fact as well as in theory, some countries would have a substantially greater incentive to accede to the Convention, for the greater the membership the more influence its provisions would have on the Court. However, such disputes rarely reach the Court for one party or the other which is dubious of the soundness of its case under international law (as influenced by the 1958 Law of the Sea Conference and resulting Convention), refuses to make use of the services of the Court.

To substantially alter this membership situation would require some new development that would provide a practical incentive for immediate action (such as the discovery of gas and oil in the European continental shelf did for the Continental Shelf Convention). At the moment I do not see such a development on the near horizon and therefore conclude that we are not likely to soon see any substantial number of new accessions, certainly not enough to give the Convention the force of international law.

For these reasons the principal effect of the Convention will continue to be its moral and technical influence. By and large countries will continue to seek solutions to their fishery problems through bilateral and multilateral agreements which from time to time may borrow provisions from the Geneva Convention. For example, the setting up of an independent committee of experts in population dynamics by the International Whaling Commission, which played a key role in initiating a realistic conservation program for the Antarctic whale stocks, could not have been engineered except for the precedent of the 1958 Geneva Fishing Convention. (Progress on this program has been seriously handicapped by enforcement problems.) Furthermore, because of the status of the Convention, deriving from its origin in a Law of the Sea Conference convened by the UN and the strong support it received at that Conference, most responsible fishing countries involved in fishery controversies will seek to develop positions which are not inconsistent with the general provisions of the Convention.

LIMITATIONS ON EFFECTIVENESS

The primary limitation on the effectiveness of the Convention stems from the limited membership I have just discussed. However, even should this limitation be removed by a flood of ratifications, other serious limitations would remain.

One of the most serious is the lack of provision to handle the problems generated by large numbers of fishing vessels operating together in fleets. Such fleets have the capacity to rapidly concentrate tremendous fishing power on one area or stock of fish, and just as rapidly to shift this power successively to other areas at distant or intermediate points. Where the fish stock is relatively limited in numbers such a concentration can rapidly reduce the availability of fish to a level indicating severe and at least localized and temporary overfishing. If this stock is relatively independent of the stocks in other areas it may take years to recover. If there is considerable intermigration between this stock and those in nearby

areas, it will recover more rapidly, provided adequate conservation measures are adopted and the other stocks are not similarly reduced. The mobile fleet of large vessels is not particularly handicapped in this situation for it can move to other areas (provided massed fishing intensity has not similarly over-fished these areas). However, the smaller, short range coastal vessels may be severely affected, for they must continue to make their living from the nearby fishing grounds. Under this system the massive long range fishing fleets presently would dominate the coastal fisheries even though they may not provide the best means for harvesting the resources, either economically or socially.

This is a relatively new problem, at least in the Western Hemisphere, and the Fisheries Convention provides no remedy. It cannot be argued in defense of this new fishing method, at least when the coastal fishery already is making full use of the resource, that large boat fleet fishing will add to the World food supply, nor can it generally be argued per se that such long range fishing is more economic than coastal fishing. Unless effective provisions can be developed and applied which will prevent long range fishing operations from destroying or seriously damaging coastal fisheries, many countries will look to other vehicles than the Fisheries Convention for a solution to their problems for I do not believe that the countries of the world will allow the general destruction of coastal fisheries by fleet fishing. For those interested in securing full utilization of the World's fishery resources to feed a hungry World the problem will be to secure a solution that gives adequate protection to coastal fisheries without resulting in extensive under utilization of the coastal resources.

A second major shortcoming of the Fisheries Convention is the lack of enforcement provisions. Under the present convention even when countries through painstaking research, long drawn out discussion, and painful and sometimes debilitating compromise, finally reach unanimous agreement, there is no machinery for assuring the enforcement of the measures agreed upon. This defect is becoming increasingly important as long range fishing operations increase and fishing vessels operate at long distances from their own coasts and the fishery enforcement vessels of their own country. Efforts to secure agreement on joint enforcement measures, which would increase immeasurably the prospects for effective enforcement, have been unsuccessful except in the case of a few specialized fisheries (North Pacific Fur Seal Convention and the International North Pacific Convention in cases involving abstention. Under these conventions arrests for violation can be made by any Party, but prosecution takes place in the flag country.) The U.S. delegation to the 1958 Geneva Conference on Law of the Sea sounded out the prospects for including provisions for joint enforcement in the Fisheries Convention but encountered such strong opposition that no formal proposal was made. About the most that can be said of efforts since the 1958 Conference to secure agreement on joint enforcement provisions is that in some instances there has been partial agreement in principle, but none in practice. (Very recently efforts in the North Atlantic seem to be making limited progress.) In the absence of agreement on measures for international enforcement, joint enforcement, or at least effective international observers, the world must depend on the honor system. By and large international honor systems have left much to be desired. Furthermore, even when the will is present, it generally is impossible for a country to control in detail the activities of its fishermen when they operate thousands of miles away off the coasts of other countries.

A third limitation on the effectiveness of the Fisheries Convention stems from delays in getting agreement on and implementation of needed and effective conservation measures, particularly when one or more of the parties wishes to prevent or delay any restriction on the operations of its fishermen. This limitation is similar in kind but substantially less in degree than that in most present international fishery agreements. The drafters of the Fisheries Convention strove mightily to resolve this problem, and they did so up to a point. There are many ways of stalling. Perhaps the most sophisticated is to require an absoluteness of supporting evidence which as a practical matter is impossible to achieve or which requires such a span of time and expenditure of scientific skill and financing that excessive damage is done to the resource before agreement is reached and implemented. The Antarctic whale resource is a striking example. The groundfish of the NW Atlantic may be another.

The Geneva Fisheries Convention pioneered a number of measures designed to resolve this problem. Time limits are set for reaching agreement on necessary conservation measures and provision is made for referral of the question to a special commission of experts when the time limits are not met. Furthermore, in urgent situations in coastal waters, the Coastal State is authorized to regulate unilaterally pending a determination by the special commission. These provisions of the Fisheries Convention are a great advance over preceding fishery agreements and probably would assure a speed of decision-making generally adequate for fishery developments of ten years ago. However, the tempo of fishery development and exploitation has accelerated since then, and with increasing attention being directed to utilization of the ocean's resources the acceleration is likely to continue.

Now to sum up the limitations on the effectiveness of the Convention: First of all and most important, the parties to the Convention are not at present adequate in number and makeup to give it the status of international law. Consequently its provisions for determining conservation measures and expediting action can be applied only among those party to the Convention. They make up a relatively small club which does not include both or all of the participants in most of the current and urgent international fishing problems. Unless this shortcoming can be remedied, then other modifications to make the Convention more effective will have no very great impact.

Correction of the other principal shortcomings—control of the impact of massive long range fleet fishing on developed coastal fisheries, international enforcement provisions, and speeding up action on needed conservation measures, all require modifications which would make the Convention less acceptable than at present to some countries. Thus efforts to strengthen the provisions of the Convention to a substantial extent operate at cross purposes with efforts to increase membership. If time were available as in the past to laboriously work toward these improvements they might in time be accepted. However, the rapidly growing world population with its pressure for more food and other raw materials which the sea can supply (at a price) is not likely to grant time as in the past for the slow evolution of international fishery procedures.

As science and engineering develop economic means to make use of the ocean's resources pressures will increase to establish a legal system that will make such use practicable. We are seeing how rapidly this is taking place with resources of the continental shelf once the family of nations settled the jurisidction problem in a way that made it practical and attractive for investors to commit large sums of money and brains to exploration and development of the latent resources of the sea bed. The problems of development, management, and control of the ocean's resources increase rapidly in complexity as we move from mineral resources, to immobile living resources (example: pearl oysters), to living resources which move in constant contact with the sea bed (king crab), to living resources which swim but within a relatively restricted area (flounders), to those which roam over great areas of the high seas (skipjack). Neverthless, I have no doubt that man will learn to develop and manage these resources with suitable allowance for their intermingling stocks and overlapping ranges in such a manner as to maximize the overall yield. Where actual "sea farming" is possible (increasing the productivity of a stock of fish, invertebrates, or sea weed, through improved breeding, feeding conditions, environment, etc.) experience teaches us that the responsible individual or organization must have control of the operation and of the harvest if the project is to realize its potential. If we are to succeed to any major degree in realizing the great potential of the oceans about which so much now is being said. I would judge that both international law and domestic law must evolve toward a greater degree of individual or group ownership, or at least control. The longer and more bitterly the overseas fishing countries (those who fish principally off the coasts of other countries) resist this development the more extreme and arbitrary the final solution is likely to be.

The World appears to be ready, in a scientific and technical sense, for a major advance in fuller utilization of the resources of the oceans. Perhaps the principal remaining legal (or political) question regarding jurisdiction is: will this problem be resolved "de facto" or "de jure"?

JUDGE ADVOCATE SERVICE AND ADMISSION ON MOTION

Mr. TYDINGS. Mr. President, the October 1967, issue of the American Bar Association Journal contains an article entitled "Does Judge Advocate Service Qualify for Admission on Motion?" written by H. Thomas Howell, of the Maryland bar, a young attorney who was graduated from Princeton University with an A.B. in 1959 and from the Yale Law School with a LL. B. in 1962.

Mr. Howell's thesis is that State bar admission rules permitting the admission on motion of attorneys admitted in other States who have practiced in good standing for a specific term, but precluding inclusion of military legal experience in the computation of the specified term, are based upon the erroneous and unreasonable preconceptions that military legal experience is of little value and is not professionally the equal civilian legal experience.

I commend this article to my fellow Senators most strongly, not only because Mr. Howell is a promising attorney, who has served both as law clerk to Judge Simon E. Sobeloff, chief judge of the U.S. Court of Appeals for the Fourth Circuit and as a member of the Army Judge Advocate General's Corps, but because he states the case for abolition of this discrimination against military lawyers most persuasively. I heartily endorse the arguments Mr. Howell propounds, and invite Senators to read his excellent support brief.

I ask unanimous consent that Mr. Howell's article be printed in the RECORD.

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

DOES JUDGE ADVOCATE SERVICE QUALIFY FOR ADMISSION ON MOTION?

(By H. Thomas Howell)

The professional career of William H. Babcock began in typical fashion: success on the Maine bar examination, admission to practice and long hours as a fledgling attorney. Then came the Korean conflict, and his private practice was curtailed by a summons to active duty. Determined to pursue his calling as a lawyer, he accepted a commission in the Judge Advocate General's Corps of the Air Force. During the next ten years he performed legal assignments at military bases in the United States, Norway and Morocco. In 1962, deciding to resume civilian practice, Babcock resigned from the Air Force and departed with his family for Sitka, Alaska, where he promptly moved for admission to the Bar.

Like thirty-eight sister states and the District of Columbia, Alaska does not require a written examination of attorneys licensed elsewhere who have actively practiced for specified period of years[1] and who comply with standards as to residence, age, education and character. No constitutional mandate compels a state to make this concession.[2] Whether authorized by statute or by rule of court, admission on motion is a matter of comity—a principle by which one jurisdiction confers the privilege upon a practitioner licensed in another. Professional fitness is measured in terms of actual experience instead of by formal examination.[3]

In contrast, a minority of eleven states[4] continues to impose written examinations upon all out-of-state applicants, irrespective of demonstrated competence. The ostensible purpose is to promote high standards protective of the public, but a cynic might wonder if the public shield does not conceal a sword against unwanted competition.[5] It may or may not enable the local Bar to "gain a momentary respite from the pressure of events by the simple expedient of shutting its gates to the outside world".[6]

But even though Alaska officially recognizes comity, its gates remained shut when Babcock applied. The Board of Law Examiners rejected his petition and an appeal to the Supreme Court of Alaska met with this response:

We do not believe that it can be reasonably said of a lawyer in the military service, even though he be assigned to do work only of a legal nature, that he is engaged in the business or profession of practicing law. His business or profession while in the Armed Forces, as we see it, is that of being a soldier, a man in the service of his country.[7]

As far as his chosen profession was concerned, Babcock might as well have been piloting jets or requisitioning supplies. What he did in fact is outlined in the court's own opinion:

His practice of law in the Air Force was a full-time assignment as a Judge Advocate and encompassed a wide range of legal endeavor. He participated in almost a thousand trials, as either prosecutor, defense counsel, or law officer (judge). He acted as legal advisor to staff agencies and took part in contract negotiations, tax matters and administrative hearings.[8]

If a record as comprehensive as Babcock's falls short of "practice of law", then it surely follows from the court's pronouncement that many lawyers in military service are wasting their careers. This could be said of any one of the 3,000 judge advocates in the Army and Air Force and legal specialists in the Navy who fully constitute 1 per cent of the entire profession and who regard themselves, now and forever, as an integral part of it; or of bygone gentlemen (Major Henry Wheaton, Brigadier General Hugh S. Johnson, Major Henry L. Stimson, Lieutenant Colonel Patrick Hurley) and scholars (Colonel John H. Wigmore, Major John Chipman Gray, Colonel Edmund P. Morgan) who, as lawyers in uniform, were assuredly lawyers in fact;[9] or even perhaps of Major Felix Frankfurter, the reserve judge advocate with a healthy contempt for "pipsqueak colonels".[10] The indictment is conceivably broad enough to embrace a Deputy Judge Advocate General who later became Chief Justice of the United States, although his biographer assures us that "Valley Forge was a better training for Marshall's peculiar abilities than Oxford or Cambridge might have been."[11]

The military segment of the profession deserves greater consideration than the *Babcock* decision accords to it. Only a few months earlier, the Supreme Court of New Mexico had no qualms in holding, under a rule similar to the Alaska statute, that a career judge advocate had "actively and continuously practiced law" in the Army.[12] The Alaska court was aware of the latter ruling and actually cited it in its own opinion. Nonetheless, it fastened its own independent value judgment upon the comity statute and wound up "finding no reasonable basis for enlarging the words 'practice of law' as used in the proviso to include the performance of legal work assigned by the Judge Advocate General . . .".[13]

The Alaska legislature has since responded with an amendment which pointedly includes "legal duties as a member of one of the Armed Services" within the statutory definition of "practice of law."[14] While the sting of the *Babcock* decision is gone, the value judgment may yet linger to cloud the interpretation of comity rules in other jurisdictions.

In fairness to the Supreme Court of Alaska and those inclined to its viewpoint, it may be said that military service has not always been conducive to bona fide practice. Fighting men have been slow to realize why anyone should "appear before a general Court Martial to interrogate, to except, to plead, to teaze [*sic*], perplex and embarrass by legal subtilities [*sic*] and abstract sophistical distinctions".[15] We need not go far back into history to find hideous examples of drumroll travesties, duly presided over by judge advocates. Within the legal profession itself there is persistent doubt and speculation whether the Uniform Code of Military Justice, for all of its paper reforms, really amounts to much in practice.[16] Even lawyers with charitable dispositions are prone to conceive the function of judge advocates solely in terms of the court martial.

Downgrading the defense establishment and scorn for the military mind have become so traditional that few among us are prepared to swallow whole the notion that law practice can actually thrive in such other-wordly conditions.[17] The less this branch of practice is understood, the easier it is to indulge in abstract criticism of lawyers engaged in it. This article does not urge the admission on motion of every military applicant who tenders the fee. Nor is it directly concerned with the droves who enter the Judge Advocate General's Corp to discharge minimum service obligations[18] and then flee back to civilian life at the first opportunity.[19] Rather, the suggestion here is that lawyers who devote their prime years and talents to military practice and contribute to its development should not be penalized without consideration of the realities of such practice. If the benefits of comity are to be withheld from lawyers in uniform, it at least seems incumbent upon the decision-

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[1] Usually five years of prior practice. Two years are required in Montana; three years in Arkansas, Illinois, Maine, Michigan, Utah and Vermont; seven years in New Mexico and Texas; eight years in Pennsylvania; ten years in Rhode Island.

[2] Admission to the Bar of one state confers no reciprocal right to practice in another. *Petition of Avery*, 44 Haw. 597, 358 P. 2d 709 (1961); *In re Rodgers*, 194 Pa. 141, 46 Atl. 668 (1900); *Application of Stone*, 77 Wyo. 1, 305 P. 2d 777, *cert. denied* 352 U.S. 1026 (1957). It is not regarded as a constitutional "privilege or immunity". *Bradwell v. Illinois*, 16 Wall. 130 (1873).

[3] *Petition of Jackson and Shields*, 95 R.I. 393, 187 A. 2d 536, 539 (1963).

[4] Alabama, Arizona, Florida, Hawaii, Idaho, Louisiana, Nevada and New Jersey. Attorney's examinations are required in California, Oregon and Washington.

[5] Dalton & Williamson, *State Barriers Against Migrant Lawyers*, 25 U. KAN. CITY L. Rev. 144 (1957); Note, 98 U. PA. L. REV. 710 (1950). See also, Note, *Attorneys, Interstate and Federal Practice*, 80 HARV. L. REV. 1711 (1967).

[6] *Edwards v. California*, 314 U.S. 160, 173 (1940).

[7] *Application of Babcock*, 387 P. 2d 694, 697–698 (Alaska, 1963).

[8] *Id.*, 694–695.

[9] Fratcher, *History of the Judge Advocate General's Corps, United States Army*, 4 MIL. L. REV. 89 (1959).

[10] PHILLIPS, FELIX FRANKFURTER REMINISCES 114–115 (1960). Frankfurter attributed to a former Judge Advocate General "one of the best professional brains I've encountered in life". *Id.*, 59.

[11] 1 BEVERIDGE, THE LIFE OF JOHN MARSHALL 119 (1916).

[12] *Lanning v. State Board of Bar Examiners*, 72 N.M. 332, 383 P. 2d 578. (1963), noted 49 A.B.A.J. 1015 (1963). See also *Warren v. Board of Bar Examiners*, 409 P. 2d 263 (N.M. 1966) (attorney for the Atomic Energy Commission with prior experience as a judge advocate).

[13] *Application of Babcock, supra* note 7, at 698.

[14] ALASKA STAT. § 08.08.245(4) (1966 Supp.). See *In re Payne*, 36 Law Week 2078 (Alaska, 1967) (legal service as attorney for United States Army Corps of Engineers constituted "active practice of law" for purposes of admission on motion to Alaska Bar).

[15] General James Wilkinson, speaking in 1809 as Army Chief of Staff. Wiener, *Courts Martial and the Bill of Rights: The Original Practice*, 72 HARV. L. REV. 1, 28 (1958). Such attitudes find no favor in the military hierarchy today. Hamlett, *A Commanders' View of the Judge Advocate*, 50 A.B.A.J. 533 (1964).

[16] Compare, Keefe & Moskin, *Codified Military Injustice*, 36 CORNELL L.Q. 151 (1949) with Ward, *UCMJ—Does It Work?* 6 VAND. L. REV. 186 (1953), and White, *The Uniform Code of Military Justice—Its Promise and Performance*, 35 ST. JOHN'S L. REV. 197 (1961).

[17] *E.g., Washington ex rel. Laughlin v. Washington State Bar Association*, 26 Wash. 2d 914, 176 P. 2d 301, 311 (1947) (Army legal career "interesting" but incompatible with "practice of law").

[18] Nearly 80 per cent of all newly commissioned judge advocates resign after a single tour of duty and therefore lack the requisite years of practice for admission on motion. See note 1, *supra*.

[19] Often in fear that they would be missing the "real" practice by remaining in uniform. For conflicting viewpoints of young judge advocates over the nature of military practice, see letters appearing in 53 A.B.A.J. 204, 507, 508 (1967). These fears are heightened by knowledge that civilian jurisdictions do not always recognize military practice in their comity rules. This accounts in part for the mass exodus from the Armed Services of many of its promising lawyers and is cause for constant soul-searching on the part of those who do remain.

makers to eschew preconceived value judgments and to acquaint themselves with the facts of legal life in the Armed Services.

Excellent literature is available on the subject to anyone willing to consult it.[20] Suffice it to say that all judge advocates are lawyers, selected because they are lawyers and entrusted with assignments that only lawyers can handle. To qualify for a commission today, a candidate must compile a superior record in an approved law school and be admitted to practice before his state's highest court. Competition is intense; three out of four who qualify must be turned away.[21]

Once commissioned, the military lawyer accumulates practical experience at the same rate as his civilian brethren. At some point in service he may participate in courts martial but will more often than not be deeply involved in civil-oriented fields of law. Depending upon his particular assignment, a judge advocate may be called upon to draft wills, contracts and leases for service personnel and their families; to advise them in state and federal tax matters, commercial transactions of all kinds, voting and civil rights, and the whole gamut of divorce, adoption and naturalization proceedings;[22] to analyze patents; to supervise the award and preparation of multimillion-dollar procurement contracts; to render advice as to union representation and labor disputes on government installations; to instruct commanding officers and staff agencies as to their statutory duties; to settle claims by and against the government; to prepare litigation briefs; to represent the Armed Services before civilian boards and commissions; to interpret treaties and apply precepts of international or domestic foreign law to the myriad situations arising from our far-flung global commitments.[23] No one judge advocate does all of these things, of course, but many of these challenges do occur in the course of extensive service.

In short, opportunities to cultivate a well-rounded legal background or to perfect a specialty do exist in fact. It would be an overstatement to say that all make the most of these opportunities. The military segment of the profession has its share of time-servers and dilettantes who manage somehow to survive annual efficiency reports and periodic reductions in force. At the same time, no civilian Bar is immune from parasites or more diligent in its efforts to weed them out. Practice in a military environment is neither a badge of incompetence nor an absolute guarantee of qualification for admission on motion. It does provide a suitable basis for inquiring on a case-by-case basis into what the applicant has actually accomplished.

In some states, comity admission is denied if the applicant lacks trial experience.[24] Judge advocates rarely argue cases in *civilian* courts, conduct of Armed Services litigation being vested in the Department of Justice.[25] It is usually a judge advocate who puts the case together for trial or who drafts the brief; he may sit at the counsel table as a trial consultant. Some Navy lawyers do appear before admiralty tribunals, and, now and then, a judge advocate is court-appointed to represent an indigent accused in a civilian proceeding.[26] However, the general court martial is still the primary forum for the art of advocacy. It remains a unique institution, but one which has matured so rapidly as to constitute a major achievement of the modern legal profession. No fair-minded observer would deny that the safeguards afforded the accused, the procedural steps from arrest to final review, and the range and vigor displayed by counsel on either side compare favorably with any state or federal prosecution.[27] (Surely the scores of civilian attorneys who have participated would resent any inference that *they* were not practicing law while so engaged!)

Even assuming for agrument's sake that court-martial practice falls short of trial experience, should a lawyer in uniform—or any lawyer, for that matter—be precluded from demonstrating that his over-all proficiency renders him eligible for comity admission? Few would disagree that trial participation is a reliable gauge of professional worth. But there are many other ways to measure up as a lawyer. It is as true now as it was thirty years ago that:

> Court litigation constitutes but a small fraction of the work of the legal profession today. It would, I believe, amaze even us, the members of the legal profession, if we could obtain a reasonably accurate appraisal of the volume of court litigation as compared to the volume of general legal business, to find out how small a part it plays in the practice of law today.[28]

Many able practitioners seldom, if ever, engage in trial work.[29] As we regret the declining pre-eminence of the trial lawyer,[30] we tend to venerate the ideal. Yet, for all our nostalgia, we "suspect that the romantic vision of the old-fashioned barrister as a knight in shining armor, ready to try any lance offered to him, was never quite so true in the United States, as we like to think".[31] Formal distinctions between barristers and solicitors vanished long ago from our jurisprudence.[32] Why conjure up ghosts for the sake of comity admissions?

A more serious impediment to military lawyers is the rule enforced in several jurisdictions calling for actual practice in the state of admission. Frequent assignment changes and widely scattered tours of duty make it impossible for judge advocates to sink roots in any one spot, much less the state of original admission. After prolonged absence, contacts there may be more sentimental than real.

Construed literally, the single-state test could be used to exclude lifelong practitioners, military or otherwise.[33] Viewed in broader perspective, it is but a sensible maxim that lawyers performing under the vigilance of local judges and fellow attorneys are usually better risks for admission on motion than will-o'-the-wisp migrants. All that is intended, one court has said, "is to have the applicant put to the test of the reputation which he would acquire in five years in one locality".[34]

Without sacrificing this purpose, comity among states is also capable of being applied to the federal system and to those who practice in it. As a practical matter, the Armed Services constitute a self-contained jurisdiction important both in terms of population and territory.[35] For lawyers practicing within it, professional reputation is at once a subject of constant scrutiny and a matter of official record. Choice of assignments, promotion and retention depend upon it. A judge advocate may be sent from place to place, but a thoroughly documented file goes with him, and so do the studied opinions of his associates. He does not fit the description of "the unsuccessful lawyer, who, having failed to make good in one jurisdiction, determines to try his luck in another".[36] Why, then, should he be casually lumped together with the drifters, the misfits, the disbarred and the other flotsam and jetsam against which the comity rules were purposely designed?

Gone is the era when the likes of Colonel Winthrop could arrive at a new duty station and be admitted to the local Bar a few weeks later.[37] Nor are we likely to witness

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[20] Murray, *The Military Practice*, 50 A.B.A.J. 938 (1964); Walsh, *Can the Military Cope with Thirteen Books?*, 50 A.B.A.J. 67 (1964); Davis & Wiley, *The Life and Work of an Army Judge Advocate*, 7 STUDENT LAW. J. 6 (1962); Hodson, *The Judge Advocate Lawyer*, 34 BAR EXAM. 56 (1965); Bracken, *Remarks*, 29 BAR EXAM. 43 (1960).

[21] Murray, *supra* note 20, at 939.

[22] The legal assistance program, cosponsored by the American Bar Association, has at present an annual caseload of 1,000,000 in the Army alone. Winkler, *Legal Assistance for the Armed Forces*, 50 A.B.A.J. 451 (1964).

[23] See, *e.g.*, Auerbach, *The Military Lawyer in the Republic of Vietnam*, 53 A.B.A.J. 63 (1967).

[24] "Actual practice in the highest court of original jurisdiction provides a crucible for testing legal knowledge and its practical application in behalf of clients." *Application of Plantamura*, 149 Conn. 111, 176 A. 2d 61, 62 (1961), *cert. denied* 369 U.S. 872 (1962) (trial work an absolute prerequisite to admission on motion). But *see In re Hunt*, 230 A. 2d 432 (Conn. Sup. Ct. 1967) (salaried corporate house counsel eligible for admission on motion). Maryland recently abandoned such a trial-work requirement. See text accompanying note 48, *infra*.

[25] 5 U.S.C. § 306 *et seq.*

[26] Counsel for petitioner in *Escobedo* v. *Illinois*, 378 U.S. 478 (1964), was an Army judge advocate at the time of his appointment. Hodson, *supra* note 20, at 59.

[27] See generally, Warren, *The Bill of Rights and the Military*, 37 N.Y.U.L. REV. 181 (1962); Note, *Constitutional Rights of Servicemen Before Courts-Martial*, 64 COLUM. L. REV. 127 (1964); Wiener, *The Army's Field Judiciary System: A Notable Advance*, 46 A.B.A.J. 1178 (1960); Melnick, *The Defendant's Right To Obtain Evidence*, 29 MIL. L. REV. 1 (1965); Christensen, *Pretrial Right to Counsel*, 23 MIL. L. REV. 1 (1964); Maguire, *The Warning Requirement of Article 31(b)*, 2 MIL. L. REV. 1 (1958).

[28] Clark, *Limitation of Admission to the Bar*, 23 A.B.A.J. 48 (1937).

[29] "Under the growing problems and complexities confronting clients today, many outstanding lawyers devote themselves exclusively to office work, and refer court matters to counsel experienced in this field of the law." *Application of Plantamura*, 22 Conn. Sup. Ct. 213, 166 A. 2d 859, 862 (1960) (patent lawyer nonetheless held ineligible for admission on motion; *In re Hunt*, 230 A. 2d 432) Conn. Sup. Ct. (1967) (corporate house counsel eligible).

[30] Rhoads, *The Lawyer's Image*, 51 A.B.A.J. 621 (1965); Kaufman, *The Trial Lawyer: The Legal Profession's Greatest Asset*, 50 A.B.A.J. 25 (1964).

[31] Rostow, *The Lawyer and His Client*, 48 A.B.A.J. 25, 27 (1962).

[32] *Id.*, 28. "No valid distinction can be drawn between the part of the work of the lawyer which involves appearance in court and the part which involves advice and the drafting of instruments." *State Bar Association* v. *Connecticut Bank & Trust Co.*, 145 Conn. 234, 140 A. 2d 863, 870 (1958).

[33] This at present is the state of affairs in four jurisdictions. See note 50, *infra*. The rule in Rhode Island also require practice in the state of admission, but this requirement has been waived in the case of qualified military lawyers. *In re Shields' Petition*, 192 A. 2d 430 (R.I. 1963), noted 49 A.B.A.J. 1014 (1963).

[34] *Edmonds* v. *Webb*, 182 Md. 60, 32 A. 2d 702, 703 (1943) (interpretation of former Maryland rule). See also, *In re Hunt*, 230 A. 2d 432, 434 (Conn. Sup. Ct. 1967) ("continuity of exposure").

[35] *Lanning* v. *State Board of Bar Examiners*, *supra* note 12 (legal assignments at various military bases constitute practice of law within a single jurisdiction).

[36] Riordan, *The Itinerant Attorney With a Past*, 23 A.B.A.J. 15, 17 (1937).

[37] The esteemed military scholar was admitted on motion by the Supreme Court of California in 1883. Prugh, *Colonel William Winthrop: The Tradition of the Military Lawyer*, 42 A.B.A.J. 126, 129 (1956).

another spate of legislation such as followed World War II, when fourteen states waived bar examinations for all veterans and fifteen granted comity solely on the basis of military service—*any* kind of service.[38] The present generation of lawyers in uniform has sought neither concessions nor waivers but simply forthright recognition as professional equals.

To achieve this end, the House of Delegates of the American Bar Association adopted the following resolution in 1959:

Whereas, The American Bar Association is advised that many lawyers, who have completed their service with the Armed Forces of the United States during which they were primarily, if not exclusively, engaged in the general practice of the profession of law and who are already admitted to practice before the bar of one state, have been denied admission to practice before the bars of certain states under existing reciprocity agreements of admission on the theory that they are not entitled to cumulate, for length-of-practice purposes, the time spent practicing as a military lawyer with the time spent practicing as a civilian lawyer;

Now, Therefore, Be It Resolved, That the American Bar Association urges that the appropriate authority of the several states, in determining the length-of-practice under reciprocity agreements on admission, give credit for the practice of the profession while in the Armed Forces by those lawyers who otherwise meet the requirements for admission under reciprocity agreements.[39]

Behind the energetic leadership of John P. Bracken [40] and its present chairman, Frank B. Gary, the Standing Committee of Lawyers and Legal Services in the Defense Establishment has endeavored to carry out this noteworthy commitment.[41] The success of this committee—composed of civilians—is mirrored in the wide-scale response to its unflagging efforts.

It is always easier to define an issue than to solve it. For all the committee work, the resolution would have become a dead letter [42] without the voluntary intervention of bar examiners, lawmakers and judicial bodies at state and local levels. From a mere handful, the number of states granting some form of recognition to military lawyers has grown steadily. It now represents a clear-cut majority (thirty-one in all), according to a recent informal poll of bar admissions officials in the thirty-nine comity states. Eight of them [43] have adopted rules or statutes which expressly authorize admission on motion upon certificate by The Judge Advocate General as to the nature, quality and extent of legal work actually performed by the applicant. In three others,[44] which have no special military rule, such a certificate will usually be accepted as *prima facie* compliance with existing "active practice of law" standards. Authorities in seventeen states,[45] without committing themselves to a fixed interpretation of rules, have indicated that circumstances of military practice are entitled to full consideration on a case-by-case basis. In three states,[46] prior practice requirements have been waived in favor of judge advocates.

And the returns are still coming in. Within the last several months, Kansas, Maine, Tennessee and Vermont for the first time admitted lawyers whose professional experience consisted entirely of legal work in the Armed Services. Last May, Oklahoma bar examiners entertained seven comity petitions and rejected all but one. The successful applicant was a law professor who had just retired from the Army after serving on the staff and faculty of the Judge Advocate General's School at Charlottesville, Virginia.

Full-time active service as a judge advocate will henceforth be considered as the practice of law for admissions purposes, according to a statutory amendment passed by the Michigan legislature last May.[47] In Maryland a rules amendment went into effect on January 1, 1967, which eliminated a test of "active and responsible participation in the trial of cases", which had been construed to render ineligible most military lawyers. The amended version adopted by the Court of Appeals of Maryland now permits consideration of the nature and extent of professional duties performed by a lawyer while a member of the Armed Services.[48] From Mississippi it is reported that the State Bar is taking a second look at a blanket prohibition against comity admission of "attorneys working for governmental agencies".[49]

Gaining the understanding and confidence of civilian decision-makers has not been an overnight proposition. Pockets of resistance still abound. No fewer than nineteen states either officially discourage military applicants [50] or else have no comity arrangements whatsoever.[51] It is one thing to lock the door to all outsiders and quite another to label it "civilians only". Barriers of the latter kind are seldom designed as such. Nor are they necessary to the preservation of professional standards, if we accept the expressions of policy now in force in a majority of states. While the present trend is encouraging, it remains incomplete. Only when the entire legal fraternity accords rightful status to its military members in good standing will there be cause for genuine satisfaction.

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[38] Gerhart, *Admission to the Bar: Survey of Present Requirements in the States,* 33 A.B.A.J. 995 (1947). The author "concluded that these relaxations in favor of veterans have not resulted in any wholesale reduction of admission standards". *Id.,* 1000. Arkansas still waives practice requirements if the applicant is unable to comply by reason of military service.

[39] 84 A.B.A. Rep. 511–512 (1959).

[40] Former chairman of the standing committee that sponsored the American Bar Association resolution.

[41] Particular responsibility is vested in a comity subcommittee of which Rignal W. Baldwin is the chairman.

[42] Formalistic barriers were proving "almost unscalable" at the time of its adoption. Dalton & Williamson, *supra* note 5, at 145.

[43] Alaska (1965), Colorado (1962), Iowa (1965), Michigan (1967), Missouri (1964), South Carolina (1962) and West Virginia (1956). A 1966 Wisconsin statute more comprehensively recognizes "actual legal service in any department of the United States government". A local rule in the District of Columbia is to the same effect. Clark & Smith, *Bar Admission Requirements and the Military Lawyer,* 3 JAG BULL. 16, 18 (1961).

[44] Illinois, Kentucky and New Hampshire. The Illinois policy toward judge advocates is outlined in Smith, *Remarks on What Constitutes Practice,* 34 BAR EXAM. 54, 55 (1965).

[45] Delaware, Georgia, Indiana, Kansas, Maine, Maryland, Massachusetts, Minnesota, Montana, New Mexico, Ohio, Oklahoma, Tennessee, Texas, Vermont, Virginia and Wyoming.

[46] Arkansas (by express rule) and Rhode Island (by judicial decision: *In re Shields' Petition, supra* note 33). Graduates of accredited law schools, including virtually all judge advocates, are exempt from the bar examination in Nebraska.

[47] MICH. LAWS § 600.946(3) (1967).

[48] Rule 14, Rules of the Court of Appeals. Pursuant to the amended rule, the Court of Appeals of Maryland recently admitted on motion a former Navy captain with twenty years' continuous military legal service.

[49] Rule IV § 1 (e), Rules of Mississippi Board of Bar Admissions. The Executive Director of the Mississippi State Bar informs the writer that a proposal is being considered to credit judge advocate service in connection with the five-year practice requirement.

[50] Connecticut and Pennsylvania rules literally contemplate trial work in civilian courts. New York, North Dakota, South Dakota and Utah require practice in the state of admission. See, *e.g., Application of Waller,* 278 N.Y.S. 2d 949 (App. Div. N.Y. 1967). Mississippi and North Carolina do not currently equate military legal experience with practice of law. But see note 49, *supra.*

[51] See note 4, *supra.*

UNITED STATES, THE UNITED NATIONS, AND THE HUMAN RIGHTS CONVENTIONS

Mr. PROXMIRE. Mr. President, last week the 22d anniversary of the United Nations was observed throughout the world. Even the most partisan supporter of the United Nations would be hard pressed to celebrate jubilantly the 22d anniversary of the U.N.

The saga of the U.N. has been both success and failure. The very fact that the world has been free of total war since 1945 stands as a tribute to the existence and effectiveness.

In order to evaluate the United Nations as it attains its majority, I think it is beneficial to recall the words of the American businessman and economist, Beardsley Ruml, who wrote in 1945:

> At the end of five years you'll think the U.N. is the greatest vision ever realized by man. At the end of fifteen years, you'll believe the U.N. cannot succeed. You'll be certain that all the odds are against its ultimate life and success.
>
> It will only be when the United Nations is 21 years old that you will revere and laud the dedication of those who devoted their energies to it through its turbulent course, for you then will know that the U.N. is the only alternative to the demolition of the world.

The U.N. is still new. But the hope and dream which inspired the creation of the U.N.—the quest for peace with justice—is as old as man.

The successes of the United Nations have been almost directly proportional to the willingness of nations to reject the discredited doctrine of absolute sovereignty. The failures of the U.N. can almost all be traced to nations' unwillingness to sacrifice an iota of that same absolute sovereignty.

The Human Rights Conventions are a perfect example in point. These conventions were initiated and adopted as living evidence of the belief that human dignity is universal and that the individual human is soverign.

No government, no regime, has the inherent right, either divine or secular, to impose forced labor upon its citizens. No government properly exercises its authority by depriving half its citizenry equal participation in the nation's political life.

Yet, the United States has shrunk from this bold new challenge. The United States has yet to become a partner in the worldwide effort to establish universal standards of human dignity. The United States is not a party to a single Human Rights Convention.

I once again urge the Senate to reverse this pointless policy of indifference by our Nation and to give its advice and consent to the Human Rights Conven-

tions on Forced Labor, Freedom of Association, Genocide, Political Rights of Women, and Slavery.

THE UNITED STATES—NOW AND IN THE THIRTIES

Mr. McGEE. Mr. President, as one who can well remember the nonsense-ridden thirties and who has come from that period to this with an appreciation of the role of power in history, I cannot help but second the thoughts expressed today by Joseph Alsop in his column, printed in the Washington Post. The Nation, he writes, is threatened with a new period of nonsense which rejects the lessons of the past and, in particular, the appreciation of power.

There is a wide difference between the nonsense-ridden thirties and today, however, as Mr. Alsop points up. It boils down to the fact that in the thirties the United States was but a peripheral power. Today the United States is the central, giant power on the globe. History, certainly, will judge our Nation severely if it descends again to the nonsense level and precipitates a third world war.

Mr. President, I ask unanimous consent to have Mr. Alsop's column from the Washington Post for October 30 printed in the RECORD.

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

NATION'S PLUNGE INTO NONSENSE OR THIS IS WHERE WE CAME IN!

"This is where we came in, for God's sake." Any traveler returning to the United States at this juncture, who is also old enough to remember the nonsense-ridden '30s, cannot easily repress the foregoing horrified exclamation.

In the '30s, the younger generation of Americans, and all those older men who hankered to be "in the movement," had brisky rejected the whole experience of the past. The result was driveling nonsense about the Communist Party; nonsense about the Soviet Union, then bathed in innocent blood; nonsense about the causes of wars, resulting in the idiotic Nye Neutrality Act, and nonsense in general about the role of power in history.

The same sort of plunge into nonsense clearly threatens in America today, if it has not occurred already. The younger generation are easily forgivable, for they do not even remember what happened in Korea. But the older men, still prancing along "in the movement," mouthing the new slogans, are very much less forgivable today than they were in the '30s.

Take the scores of eminent anti-Johnson Democrats—historians and college professors, journalists and Senators, all remorselessly articulate—who were already active in the era of President Harry S. Truman. Not a one of them that you can think of failed to support President Truman's decision to intervene in Korea. Just about all of them have gone on, ever since, rightly praising President Truman's wisdom and courage on that occasion.

(One of the more celebrated journalists, to be sure, had an article ready—written to the effect that we could not and must not intervene in Korea. But the news of intervention came that afternoon, and the article was rewritten to support the President.)

If these distinguished liberal Democrats, who supported Truman and now vilify President Johnson, can make any distinction at all between the Korean and Vietnamese wars, they have yet to say what it is. In Korea, we were fighting on the Asian mainland, as we are today; and in Korea, too, mainly because of Gen. Douglas MacArthur, we had to meet Chinese as well as North Korean manpower.

In Korea again, there were two primary stakes that the United States was engaged to defend. First, there was the American position as a Pacific power. In the second World War, blood and treasure had been lavishly poured out to defend and strengthen this American position. It was, and is, of cardinal importance.

President Truman rightly recognized that the whole Pacific position would be irrevocably compromised if the Korean challenge were not met. In play was not Korea alone, but the future alignment of Japan and the Philippines, the eventual tendency of Southeast Asia, and, in fact, the direction of the bandwagon of history in the whole of Asia.

On the same subject, just 15 years later, Gen. Maxwell Taylor accurately told President Johnson that he had the choice between meeting the challenge in Vietnam or being thrown "back to Hawaii." And surely this first stake, this American position in the Pacific, when Taylor gave this advice, deserved even greater consideration since we had already fought a second major war in its defense.

As for stake number two, it was, and is, quite simply the credibility of American commitments, such as our pledges to the South Vietnamese, the Thais and a good many other people in the present instance. This stake was far less important in Korea, which we had publicly put on its own, than it was in Vietnam. But either way, the great power that enters into pledges and then chooses to ignore them has taken a road that may at first seem smooth, but will always turn cruelly rocky and downhill in the end.

There is a third stake, too, in the Vietnamese war that was really invisible in the Korean war. The Pacific, in brief, now promises to become another "world lake" quite as important as the Atlantic, if not more important. But this vast process, so greatly enhancing the significance of stakes I and II, requires a further, more detailed report.

How then can these distinguished liberal Democrats talk out of one side of their mouths about Korea, and out of the other side about Vietnam? None has tackled that question with sober honesty, with the sole, highly honorable exception of Richard Rovere in the New Yorker; and Rovere's attempt to offer an answer would satisfy no one searching for a serious national policy.

Meanwhile, it must also be noted that there is the widest imaginable difference between our last round of nonsense and the present one. In the 1930s, the U.S. was a strictly peripheral power, without a serious foreign policy, even lacking serious foreign relations. In the '30s therefore, the conversation of a majority to a nonsense-view of the rest of the world had hardly any lasting effects.

Now, however, the U.S. is the central, giant power. And if the U.S. takes the final plunge into nonsense in this quite new situation, the sure and certain consequence will be a third world war.

CORDIAL RELATIONS BETWEEN PEASE AIR FORCE BASE, PORTSMOUTH, N.H., AND SURROUNDING COMMUNITIES

Mr. COTTON. Mr. President, I have taken considerable pride throughout the years in the excellent relations which consistently have existed between Pease Air Force Base at Portsmouth, N.H., and the surrounding communities. Each successive commander of this great SAC installation has made it his business, not only to avoid friction with the base's civilian neighbors, but to affirmatively cultivate a harmonious working relationship. In this, the military has been dramatically successful. It goes without saying, of course, that equal credit should be given the fine people of New Hampshire's seacoast area who have done so much in extending the hand of friendship. The Exeter, N.H., News-Letter for Thursday, October 5, contains an excellent report on this subject by its publisher, Mr. James P. Lynch, a keen observer of national and local affairs. I ask unanimous consent that his column, entitled "Down in Our Corner," be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. COTTON. Mr. President, the new commander of the 817th Air Division at Pease, Brig. Gen. Morgan S. Tyler, Jr., evidently feels as strongly as did his predecessors about the necessity for establishing and maintaining good public relations. I have every confidence that General Tyler will continue in the same fine constructive spirit of give and take that has characterized military contacts with the civilian population and made Pease a welcome addition to our State. As Mr. Lynch points out, it is noteworthy that so many of those who are assigned to New Hampshire for duty decide to remain with us permanently upon retirement. This is tangible proof of the congenial and cordial relations which prevail.

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

DOWN IN OUR CORNER

(By James R. Lynch)

"It's not a one-way street," assured Brigadier General Morgan S. Tyler Jr. at a get-acquainted luncheon the other day. The new commander of the 817th Air Division at Pease Air Force Base emphasized the strong mutual respect personnel at this installation has for their neighbors in the area.

In lauding the public for the cooperative spirit which exists, General Tyler stated: "Pease is noted for its outstanding relationship between military and civilian personnel on the base and in the surrounding communities."

He mentioned the high respect that military leaders such as General Joseph Nazzaro, commander-in-chief of the Strategic Air Command, and others hold toward the people in this section of the country.

General Tyler is new at Pease but he has been quick to establish good public relations. He fully realizes the value of friendship.

Prior to his assignment at Pease, General Tyler was stationed in Okinawa. He was considered an outstanding ambassador for this country while in that area.

It is not difficult for him to make friends for he likes people. He knows that one of our greatest assets is to exemplify goodwill toward our fellow man.

It is not always easy on military personnel to go into a strange territory and make new friends. Yet, because of their desire to assist communities in various projects, they are wholeheartedly accepted.

QUITE REWARDING

It was not always this way as many can testify. Thus it was rewarding the other day for civilians within the area to hear General Tyler speak words of praise about the people in the various communities.

General Tyler wasn't doing this to gain quick support, for the support is already there. He gained his knowledge from the experience of others who served at Pease.

PREVIOUS NEW ENGLAND ASSIGNMENT

Although never stationed at Pease, the general did at one time serve at another installation in New England. Several years ago he was stationed at Loring Air Force Base, Maine.

Like his predecessors he wants Pease to continue as an outstanding base. To this he is dedicated. He knows that when military leaders such as General Nazarro make it a point to praise this installation, then it is living up to its reputation as "the world's greatest."

CLOSE WATCH

General Nazarro has had a close eye on Pease for a number of years. Back when he was at Eighth Air Force at Westover Air Force Base, Massachusetts, he was a frequent visitor to this base. Since becoming commander-in-chief at Strategic Air Command headquarters in Nebraska this close relationship has continued.

WELL BALANCED

When General Tyler assumed command at Pease in August no major problems confronted him at Pease. He found an outstanding organization under the command of Colonel Madison M. McBrayer, 509th Bomb Wing commander.

Colonel McBrayer has been at Pease since early in the year when he replaced Col. James O. Frankosky who was transferred to a new assignment at the Pentagon.

RECORD TIME

Whenever a change is made there is always the uncertainty of the public relations image. Colonel McBrayer soon erased any doubts and he won friends in record time.

Mild-mannered in appearance, he is known for getting things done. Not only quickly, but also thoroughly. He strives to cooperate and has done much to build lasting friendship between military and civilians.

Colonel McBrayer undoubtedly takes the position that we are all in this together and let's join forces.

PROUD OF AIR FORCE

He likes to give the public a chance to see the job the Air Force is doing for the country and the world. Just a couple of months ago he illustrated this by having the internationally famous Air Force Thunderbirds appear at Pease for one of their outstanding air shows.

At the same time the public had an opportunity to see the various other aircraft fly over Pease. Some of these are assigned to Pease while others came from various bases.

RENEWED FAITH

The public left that afternoon more convinced than ever that the United States has exceptional military strength. They had the opportunity to see aircraft similar to that which makes the headlines daily in the conflict in Southeast Asia.

Because of the mission of the Strategic Air Command, access to Pease is not easy for the general public. Thus, when there is an open house the people quickly grasp the opportunity to visit and see the various aircraft.

PROUD OF STRENGTH

To some extent at the last open house they were bewildered by the size of the planes even though they have often heard them passing overhead. They departed somewhat proud and more enriched in the knowledge of our Air Force might and determination.

No one can accuse Colonel McBrayer of being loquacious, but he is not at a loss for words when it comes to cooperating with the public. To him it is more than a gesture. It is in a sense a responsibility.

OF NO HELP

When he arrived at Pease from a southern base the weatherman was not very cooperative. Nevertheless, the 509th Bomb Wing commander knew that eventually the snow would go and ideal conditions would prevail.

He found, too, that there were plenty of warm hearts around the area that helped the McBrayers forget the extremeties outside.

GOOD ADVISER

It is more than likely that Colonel McBrayer briefed General Tyler on the cordiality of the public in the surrounding communities.

Furthermore, it is quite probable that the division commander was rather pleased with the similarity of General Nazarro's opinion and that of Colonel McBrayer.

This enriched and rewarding relationship did not come overnight. Nor was it one-sided.

MORE EMPHATIC

General Tyler in his remarks last week emphasized, "It's not a one-way street." To those who have been around Pease down through the years they are in hearty agreement with General Tyler although they probably would be more emphatic.

The military had made it a two-way thoroughfare quicker than many expected. Not only did they accomplish this, but they made certain that it continued down through the years.

QUITE HELPFUL

They have helped in various civilian projects. Their children attend schools in the areas. Parents are quick to participate in Parent-Teacher Association and other worthwhile endeavors.

In times of emergency the men willingly give their time aiding emergency crews in fighting fires, rescue work or assisting at nearby hospitals.

They do not seek recognition, for they figure they derive full satisfaction in helping their fellow man.

WORKING TOGETHER

General Tyler called it an "outstanding relationship." His men as well as the majority of civilians are in agreement, although they may add that it is a primary rule of good citizenship. True Americanism is displayed at its fullest when all factions work together.

This progress of walking and working together is not always evident in various sections of the country. Even in the early days of planning to build the Pease installation, there was much confusion and, in some quarters, considerable animosity.

GREAT HEALER

Time, though, seemed to accomplish many wonderful and extremely important victories. The opposition which appeared to be insurmountable in the early stages of planning, finally gave way to a more cooperative understanding.

The credit goes not to one or a few individuals but to the many thousands who have down through the years worked together for a common goal. The young airmen, who display the conduct of a real gentleman, are equally as impressive as the commanders in promoting a good public image for Pease.

VARIOUS PROBLEMS

Back in the early days of Pease there were many problems to be ironed out between the military and the civilian communities. Some critics were unnecessarily harsh with the treatment they accorded the military.

Instead of getting riled up over the matter, the military endeavored to show that they were quite interested in the various cities and towns.

A GOOD LESSON

At first this did not make any real impression among their adversaries. Nevertheless, they wanted to prove their point and refused to give up easily. In time they won their battle. It was a good lesson in perseverance.

In fact when the early commanders stressed that they wanted to be part and parcel of the area, they were not giving just a sales pitch. They were quite sincere as most people eventually found out.

LONG BEFORE

The first base commander came to the area long before any buildings were erected or any flightline was visualized. He arrived on the scene without any welcoming committee, but this did not bother him.

He knew that in due time he would be able to build a friendship regardless of the various foes who were quite vocal in their opposition at the time.

Certain ones looked on him as a temporary resident. He purchased a home in Portsmouth, but even this did not influence their thinking.

DID COME BACK

At the time, he was a lieutenant colonel. The longer he stayed in the area the more he liked the community. When he departed from Pease as a full colonel, Andreas A. Andreae said he would be back. He kept his word. Now retired from military duties, he is engaged in the automotive field in Portsmouth and lives in Rye.

RETURNING HERE

Even the first division commander at Pease, Major General Walter E. Arnold, showed a fondness for the area that continues right up to the present time. He is scheduled to retire later this year, and more than likely will settle in one of the nearby communities.

These are only a couple of the many military families who somehow or other got to like the spirit that prevails in this area.

Just a few weeks ago another former division commander, Lieutenant General Jack J. Catton came "home" to Pease to address a kickoff dinner of the Air Force Association. Catton was high in his tribute to the various military in discussing the area.

MADE HIS MARK

General Catton did much to promote a close relationship between civilians and military. When he departed from Pease, he left behind a part of his heart. He will always be remembered for his desire to promote a mutual attachment between the military and the civilians.

His men held him in high esteem. To them he was an outstanding commander. To the public he was an exceptional leader.

Since his departure he has held several assignments, yet he still looks back to the days at Pease and the many friends he and his family made.

Others followed General Catton and they, too, contributed to establishing a close and lasting understanding between the base and the various communities.

It all boils down to recognizing your fellow man's mission in life and trying to work together toward a common goal of goodwill.

STRONGER ADAPTATION

General Tyler's words, "It's not a one-way street," does not only apply to the relationship between Pease personnel and civilians. It should be the guiding light on all our endeavors throughout life.

Working together requires a two-way street. It is the American way. It strengthens rather than weakens this country's image.

SET THE PATTERN

While leaders like General Tyler and Colonel McBrayer express deep satisfaction over the cooperative spirit that prevails between military and civilian, the fact remains that this has been accomplished because the military set the pattern.

Colonel McBrayer, since coming to Pease, has exemplified the real meaning of leadership by the way he has carried out his duties as commander. Although his task is primarily

military, he has not overlooked the need for working in close harmony with many civilians.

GOOD TEACHERS

As a matter of fact, these military leaders could teach some of the politicians the art of creating a better image. Not that we expect to see General Tyler or Colonel McBrayer invade the political field.

They draw the line at getting involved in such subjects. Their forte is strictly military and they have no desire to invade anyone else's ballfield.

Not that they couldn't quickly adapt themselves to the change. Assuredly they would be able to win votes if they followed this route.

Nevertheless, they prefer the life of a military man. Fortunately for this nation we have men of their caliber commanding our forces.

MANY INTERESTED

On various occasions military officers after retiring have invaded the field of politics. Some have been very successful, while others went down to defeat.

Former President Dwight Eisenhower was an example of success. While in uniform, he was groomed as a Presidential candidate. Upon his return to the country he doffed the uniform of a general and donned campaign togs. His success story has been the envy of most politicians, even those who were close to him.

NOT SO SUCCESSFUL

But another general, the late Douglas MacArthur, never was able to achieve political success. Some say he never really tried, yet this is not quite accurate. MacArthur definitely wanted political recognition.

The attempt to win the Republican nomination in the 1952 convention in Chicago was good evidence. It also proved MacArthur was taking the advice from has-been leaders.

As a commander, he should have readily seen their ineffectiveness long before the call of the convention. This would have saved him much embarrassment.

OUT OF FOCUS

MacArthur was never quite able to get a political image in focus even though he was desirous of such recognition. Possibly he would have been more successful if he had surrounded himself with more astute political chieftains who were abreast of the times.

Already another general is being groomed for Presidential recognition. There is a movement on in behalf of General Curtis E. LeMay, former chief of staff of the U.S. Air Force.

LeMay, who at one time served as commander-in-chief of the Strategic Air Command, has not made any outright move in this direction. However, there has been considerable discussion concerning the possibility of entering his name in several primary campaigns throughout the country.

NO CERTAINTY

Whether his forces will be able to get a campaign on his behalf off the ground is problematical at this time. They seem to be groping rather than grasping in their quest for support.

LeMay should not be caught in the same position as MacArthur. If he has a strong desire to be a candidate, then he should start moving in that direction. Surely at this point not too many of the nation's political leaders are looking in his direction.

LIKED BY PUBLIC

But this does not mean he would be overlooked by the electorate, if he waged a fight for the post. LeMay has had an illustrious image for years. Although he was chief of staff, more people will remember him for his brilliant leadership as commander-in-chief of SAC.

Regardless of whether he succeeds in the political arena, the candidates should heed his statements. He does not talk just to be heard. His voice is a warning that should not go astray.

NOT SO WILLING

Republicans are jubilant when he speaks out against the administration, but they are not so willing to give him recognition for fear he will endanger such candidates as former Vice President Richard Nixon, Governor George Romney, Senator Charles Percy or Governor Ronald Reagan. Anyone of them would like to have him as a supporter and not an opponent.

Actually the Republicans would profit by recognizing LeMay. His astute leadership in the military field would renew the confidence of the American public in regard to the conflict in Southeast Asia and other dangerous spots throughout the world.

GOOD FIGHTER

LeMay pulls no punches. He is no appeaser. He is proud of his country, and does not desire to see it relinquish its number one position as world leader. He helped personally to attain the top position, and thus has no desire to yield.

Whether LeMay makes any headway is a matter of conjecture. Nevertheless, his valuable knowledge of world conditions should not be overlooked. The Republicans would be quite lax if they ignored him during the campaign.

HAS AN INTEREST

General James Gavin is another military leader who is much in the news these days. He, too, has plenty of supporters who would like to see him in the White House. They seem rather confused, though, on what ticket would be more attractive.

Gavin at one time was a key member on a Democratic organization. He resigned when he was at odds with the administration concerning certain policy.

He would be unable to cope with the political atmosphere that is part and parcel of a convention. When the professional politicians swing into operation, the weaker candidates find it rather difficult to keep attuned to the proceedings.

HAD HOPES

Here in this state last year there was quite a drive on behalf of a bridgadier general in the Air Force who retired to seek the post of U.S. senator. Without any previous political experience, Harry Thyng, decided to run for the office held by U.S. Senator Tom McIntyre.

The primary battle had Thyng pitted against some who were considered strong political leaders. Among them were former governors.

AS EXPECTED

The Thyng forces figured that the other candidates would split the votes among them and he would emerge the victor. That is exactly what happened.

Once he won the nomination the Republicans began boasting about the new blood within their organization. They forgot about some of the other candidates and started placing the emphasis on Thyng.

At the end this was costly even to Thyng. He went down to defeat as well as the GOP gubernatorial hopeful, former Governor Hugh Gregg.

AT A STANDSTILL

What seems rather surprising to many people is the fact that no effort has been made in recent months to keep the road open for possible political ventures of the former general. Surely his staunch supporters are not now writing him off the books as a liability.

Just a year ago he was being groomed as the greatest asset the Republicans have had in recent years. He was supposedly unbeatable, although the electorate proved otherwise.

RATHER QUIET

It seems utterly fantastic that he is now relegated to the mothball status. There is a strong possibility that this is being done deliberately in order to spring him as a candidate for high office next year.

If this is the plan, the only opening seems to be the gubernatorial post. It would be highly unlikely that he would attempt to oppose U.S. Senator Norris Cotton. Thus, the only opportunity seems to be a candidate against Governor John King.

He would most likely have to face plenty of opposition, but he has done this before and succeeded. Another battle wouldn't bother him too much.

There is a possibility he would be more acceptable than many of the often-mentioned prospects. He will be interesting to watch in the months ahead.

REPORT ON KOREA BY GEORGE CHAPLIN, EDITOR, HONOLULU ADVERTISER

Mr. INOUYE. Mr. President, George Chaplin, editor of the Honolulu Advertiser and one of Hiawaii's most distinguished editors and writers, recently returned from an extensive visit to Korea which ranged from Panmunjom at the DMZ to Pusan, the key port of the south.

Because of Mr. Chaplin's extensive knowledge of the Far East, I am confident that his report will be of great interest to the Senate. I ask unanimous consent that his eight-part series of articles be printed in the RECORD.

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

KOREA

(NOTE.—While the war rages in Vietnam, what of Korea, where Free World and Communist troops continue to face each other across a shaky truce line? To get the answers, the writer flew to the Far East on a Pan Am jet for a firsthand look from Panmunjom, at the DMZ, to Pusan, the key port in the South. This is the first of his reports.)

(By George Chaplin)

Korea is on the way.

One senses it these days in the countryside, where a fresh spirit of confidence and hope blows like a strong wind over the jagged mountains and down the ancient cultivated valleys.

One sees it in the towns and cities, with their rising buildings and rising expectations, and in the glistening machinery of young industrial plants.

And one recognizes it in the mood and policies of the government, a one-time military junta which President Chung Hee Park thus far is moving down the long road—with some vexing detours—toward a democracy the people have never really known.

A Korean cabinet officer put it to me this way: "We say, 'Instead of lying idle, stand up.' Then we say, "Instead of standing still, move forward.'"

A high-ranking American official said, "The transformation, especially in the last three years, has been extraordinary."

PRODUCTION AND EXPORTS UP

Here are some indices:

The gross national product (after adjustment for price changes) has been rising since 1963 at 9 percent a year—one of the most impressive rates in Asia—and last year reached 13.4 per cent.

Agricultural production has climbed 46 per cent in five years. And during the same period, while Korea is still basically a farming country, industrial output has almost doubled.

Exports have more than tripled since 1962, to $205.3 million last year. Also significantly, manufactured items now represent more than 60 per cent of exports, compared with 12 per cent six years ago.

As one U.S. bank report observes, "Koreans take pride (that) they are now exporting ski sweaters to Sweden, transistor radios to Japan, guitars to the U.S. and sewing machines to Germany."

But for all this progress and more to come, Korea is still a desperately poor nation, with its people scrabbling for a living. Per capita income is still extremely low—about $110 a year. (Some say less.) During each of the last four years it has moved up an average of 6.2 per cent, but from a very meager base.

In the packing-crate shacks so evident around the capital of Seoul—with almost 3.8 million people the 13th largest city in the world, just behind Chicago and ahead of Manila, Paris and Berlin—there is still considerable misery. I was told that five or six abandoned babies are found daily.

UNEMPLOYMENT IS STILL HIGH

Throughout Korea there is still very heavy unemployment and underemployment. Of the country's 30 million population 42.3 per cent is under 14, 55 percent under 19—a lot of people to be coming into the labor force.

Housing remains in short supply and even the better houses are small. Since most lack a living room, it's customary to invite friends to a public teahouse, for a cup and music (sometimes played by a disc jockey).

But Korea's problems are relative. A western diplomat with experience in India said, "What strikes me is that the children here have shoes. Children have no distended bellies, no sharply etched ribs and no hopeless, despairing faces. Kids here in winter-time are clothed in sweaters and in solid pants, carrying their books in bags or briefcases."

Less than 14 years ago a war never officially ended left Korea divided and devastated. Divided it still remains—like Berlin and Vietnam—with the Communist in control of the north.

COUNTRY'S INFLUENCE WIDENS

Great opposing armies continue to stand at the ready. But behind the military shield, here in the overcrowded south the people of the Republic of Korea are beginning to write an exciting and impressive Asian success story.

Some of the early "chapters":

Korea in December, 1965 ratified a normalization treaty with Japan, a traditional enemy, providing for $800 million in Japanese grants, loans and commercial credits.

Also in December, 1965 Korea was one of the signers of the agreement to set up the Asian Development Bank and pledged a $30 million subscription.

The country has become increasingly active in international conferences. "You might think Seoul was the end of the line," but in the last couple of years it has hosted a long list of important conferences. In June of last year it stimulated a 10-nation meeting of foreign ministers which formed the Asian and Pacific Council (ASPAC) for regional cooperation.

In 1950–53 Korea needed the armed assistance of the U.S. and other U.N. nations to thwart Communist aggression. In 1965 this once-helpless land proudly began sending crack combat units to the aid of South Vietnam—and now has 45,000 troops there.

Korea's progression from wartime rubble to reconstruction to rapid new growth was fueled by $6 billion in U.S. aid, more than half of it economic. But it is now starting to function effectively with a lower level of assistance. (In 1964, 36.7 per cent of the government budget was supported by U.S. aid. Last year the figure had dropped to 23.4).

SHARP CHANGE IN ATTITUDES

I asked a knowledgeable American official, who travels a great deal in the countryside, about the Korean reaction to some of these recent developments.

He replied there's been a dramatic change in attitudes. Not so long ago he used to be asked two questions. One was, "Why is the U.S. abandoning us to the Japanese?"—an emotional if outdated response to the new treaty with Japan, which had harshly occupied Korea for the 36 years from 1910 through the end of World War II, and left a legacy of bitter memories. The other question, "Why is the U.S. cutting down on aid?"

"These questions got so boring," the official said. "But now I travel and people have an entirely different outlook. They say, 'Come and see what we are doing.' 'Come to my factory and see what I'll export next year.' Or, 'Come see our land reclamation project.' "

Two and a half years ago, the U.S. shipped Korea 200,000 fewer tons of grain than the year before. "Everybody," the American recalled to me, "said it's a terrible thing, cutting aid. We said, 'Look, you ought to say it's wonderful; Korea is more self-sufficient.' "

The next year another 200,000 tons were trimmed and the Park government put out a statement that the cut was a tribute to the Korean farmer. "Now they're boasting about food production—and hope to be self-sufficient in two or three years."

A NEW SPIRIT OF CONFIDENCE

Clearly, the Koreans are in a hurry, so much so that I sensed a concern in some quarters that they may be trying to do too much too fast, over-extending themselves domestically.

But the over-riding "plus" is that their outlook and actions have changed from those of the mendicant to those of the confident man. This self-esteem has been evolving over six or seven years but has become really noticeable in the last three or four years. And it should be of great satisfaction to the U.S.

As one U.S. expert said:

"We've put in a lot of money. Many times it looked hopeless. Many called it 'an open hole.' But it's working and with good luck and judgment it should continue to work.

"Ideas are just as important as money. These people are not afraid of ideas. There's also a good rapport. We can suggest good ideas without their feeling they're being patronized. Americans and Koreans enjoy each other. After all, we fought together; we established a partnership."

A Western economist expanded on this:

Korea "has the best climate of any Asian country for acceptability of American programs and the initiative for self-help. The people work hard, they take responsibility, they have pride in their country.

"Next to Taiwan, Korea is probably the best example of American government investment paying off. There's more mature perception in politics and about social and economic matters—like the tax program to curb inflation, and the raising of interest rates to stimulate savings."

BASE IS LAID FOR PROGRESS

Inflation is still a big problem, but its rate is declining. In 1963 the overall price increase over the previous year 25 per cent. The 1965 increase over 1964 was only seven per cent and that for 1966 over '65 remained under 10 per cent.

"The economy," I was told, "is so much freer these days that the politicians don't have too much to play around with. One doesn't have to buy export licenses. There's a greater volume of savings, more credit to distribute and less chance for favoritism. Also there's a highly critical press."

In the recent presidential election, charges of corruption were hurled by General Park's opponent, and at his inaugural Park himself took note of this problem. An informed source I asked about it said: "There is the usual corruption of low-paid civil servants and big businessmen. The 'kickbacks' on contracts is almost a routine thing and bribery to obtain favored treatment on imports is fairly common. However, the situation is no worse or more extensive than in the other nations of the region."

He switched to a more positive note: "It's fair to say the foundation has been laid for steady continued progress, and the potential for it exists.

"There's a reasonable degree of stability. Whether it keeps up depends on what the Koreans do and on what we do, barring bad harvests or war.

"The harvests have been wonderful. There's more available land through bench terracing, the scientific approach. Presently 25 per cent of the land is arable. They expect to add one-fourth more through reclamation in the next four years."

THERE'S HOPE OF BETTER LIFE

To the Korean plodding down the country road with the shoulder-strapped A-frame on his back piled high with a heavy load this means gradually achieving a better life, starting with electricity in his home. He's already buying a radio and in time will be able to afford a bicycle.

Several years ago, the Korean Deputy Prime Minister Ki-yong Change likened his country to a leaky ship, with a plugged hole below the waterline, with little freeboard and some help needed for sails.

Recently, in briefing a U.S. Congressional committee, this same official updated the image. The Korean economy, he said, "is like an airplane which has just taken off. The no-smoking sign is out, but the fasten-seat-belt sign is still on."

KOREA PLANS BIG: MEANS TO MAKE GOOD

(By George Chaplin)

The hottest word in the Korean language nowadays is not "kimchi"—the world's spiciest concoction of cabbage and turnips—but "planning."

It has Number One priority. The most telling clue is that the official in charge of planning, Deputy Premier Ki-yong Chang, is also in charge of the national budget.

Last Dec. 31 Korea finished its first five-year plan and the very next morning launched its second with all the expectancy and excitement of a rocket takeoff.

"We're thinking young and acting young," one official commented to me. "Our top people are pretty young." President Park, recently reelected, is 49 and the average age of his cabinet is in the mid-40's.

Before I went to Korea some of the government literature I'd read about economic planning seemed heavily propagandistic in tone. I wondered how much was conversation and how much was achievement.

But on the scene, I was deeply impressed by the quality of the Korean planners, by the high regard in which they are held by American planners, by their record to date and the apparently realistic goals they've set for the new plan now in effect.

BASIC FACILITIES STRESSED

The first five-year plan foresaw an annual average growth of 7.1 per cent. Despite bad weather and poor crops in the early period (1961–62) it finished up at 9 per cent. The prediction for the new five-year plan is 10 per cent growth each year.

"We have to build basic facilities—ports, highways, railroads, power," one of the country's top planners told me. "Our emphasis has to be on the infrastructure, the basic foundation."

There are several reasons:

The Korean War did $3 billion in damage to what was at best a weak economy. Then the division of the country compounded the problem. Most of the land, most of the iron and coal, most of the heavy industry and 70

per cent of the electric power capacity was in the north, to which the Communists gained control.

So the south—the Republic of Korea—has had to move forward from a base of multiple handicaps: meager resources, over-population, a shortage of managerial and technical skills, and the necessary burden of maintaining the fourth largest army in the world. (The military cost alone takes one-third of the national budget, with some relief from U.S. aid.)

But the Koreans are a tough, tenacious people, eager and quick to learn, and deeply determined to build a modern society. The once "Hermit Kingdom" is pulsing with ambition and considerable economic progress.

MORE POWER, BETTER TRAINS

I asked the government planner I was interviewing about electricity. He, three of his colleagues and I sat around a coffee table piled high with reports and charts. But except for an occasional double-check, his figures flowed easily.

"In 1961 our average power outpost was 300,000 kilowatts. Industrial development was held back. We had to ration power to factories. And city dwellers received a limited supply—from sunset to 9 or 10 a.m. Now we have peak capacity of 770,000 kilowatts and no rationing." The 1971 goal (with eight new plants) is 17 million kilowatts.

It's the same story with the railroads.

"We've been using coal-shovel locomotives. By the end of this year all of our locomotives should be completely dieselized."

The U.S. has provided $15 million in "diesel loans" for the conversion, will be supplying another $12 million to buy 62 new locomotives to add to the present 188.

Track construction is also expanding. A double track from Seoul to the port of Inchon was opened in 1965. There's now a six-hour express train from Seoul to Pusan, over 300 miles. And more lines are fanning out to help move basic commodities.

"Before," the planner explained, "for lack of transport we couldn't properly exploit the coal which we have in the east coast mountains. So the coal price would go up.

"Before, we used to import $60 million in chemical fertilizer, mainly through (the port of) Pusan. We would get it to Pusan on time, but not to the west coast farms on time. So the rice price would go up.

"We have overcome this problem, not only as to movement, but as to supply. We have built five new fertilizer plants. The last three—two at Ulsan (a new industrial center near Pusan) and one in Chinhae (a southern port)—were completed early this year and are now beginning production."

That at Chinhae is a joint venture of the Republic of Korea and Gulf Oil with $10 million from each, plus a $25 million loan from AID, the Agency for International Development.

Once the three new plants are fully operating, Korea will have a surplus rather than a deficit of fertilizer.

The country is also nearing self-sufficiency in cement. The level reached a year ago was adequate, but higher use and export of 100,000 tons to Vietnam caused a shortage. Now there are discussions on building the largest cement plant in Asia, with Japanese finance.

The near future should also bring Korea's first integrated steel mill—processing ore all the way from the blast furnace to finished steel—with a starting capacity of 500,000 tons.

Deputy Premier Chang said financing would be by a consortium of U.S., British, Italian and West German firms, with a possible inclusion of French and Japanese interests.

The government is also interested in developing petrochemicals to provide a raw material base. There's already one oil refinery, managed and one-quarter financed by Gulf Oil, and two others are planned.

FARMING SHOWS PROMISE, TOO

Less dramatic than the industrial development but greatly heartening is the advance in Korea's problem-ridden agriculture, still the backbone of the country.

Fertilizer is more scientifically used, double-cropping has increased, there's been progress in irrigation and flood control, and new land is being developed.

Bench terracing has enabled the effective use of 335,000 acres of previously unproductive upland, with another 500,000 acres to be reclaimed between now and '71.

Improved seed is yielding better crops and more rural people are raising pigs and chickens, creating cash income. This is important because most Korean land-holdings are uneconomically small and densely populated.

The census in October of last year showed 48.8 per cent of the population as farming and 51.2 as non-farming, although some of the latter live in the countryside. Since two years ago more than 50 per cent of the people were in agriculture, the urban movement is evident.

The city lights beckon, but often falsely, with neither jobs nor housing for many of the newcomers. Population has been growing at 2.7 per cent annually but the birth control program is seeking to reduce this to 2 per cent.

MAIN CROPS: RICE, BARLEY

The government's aim is for Korea to grow enough to feed itself four years from now.

The prime crop, domestically and for export, is still rice. And any number of Koreans made it a point to tell me it's the best in the world, that even Japan has to get rice from Korea since "good sushi requires our rice." One man proudly recalled that during the occupation by the Japanese, the Emporer used to get his rice from near Kimpo (the site and name of the Seoul airport).

Barley is the second major crop, others being wheat, potatoes, vegetables and fruits (from garlic to melons, from red pepper to pears), ginseng (for herb medicine popular in the Orient), and tobacco. There are five tobacco factories and the newest one at Sintanjin can turn out nine billion cigarettes a year.

Farming, forestries and fishing (annual catch of about a half-million tons, from shrimp to tuna) now provide about one-third of Korea's gross national product. Manufacturing and construction add another one-fifth. Services make up the rest.

The planners' eyes and studies roam restlessly over this whole spectrum. They're sometimes under criticism, in the press and in the universities, over the fact the country hasn't yet developed substantial heavy industry. The major emphasis is still on transport and power, but with a strong tendency toward balance—which for some makes the evidence of economic growth hard to see.

I asked a knowledgeable American in Seoul for his estimate of the quality of Korean planning. He said:

"Projections are now honest and reasonably accurate—against a feeling that certain past statistics were not. The government's Economic Planning Board works closely with USOM (United States Operations Mission), which considers the goals attainable.

"There are a number of very capable Korean administrators qualified in economics, all top people who have studied abroad, including many in the U.S. There's a considerable level of expertise in this economic planning."

He summed up: "This country is moving."

PUSAN AND PROBLEMS

In Korea, the planning fever is not only national, but municipal.

Seoul has an estimated 3.8 million people but sees a total of 5 million in another five years. The mayor envisions a brand new city in 20 years.

Downtown Seoul is building pedestrian overpasses and underpasses. Zoning is in the works, and I was told that a U.S. city planner, Oswald Nagler, is involved in this.

The country's second city, Pusan, is also planning-minded. As recently as three years ago it had the appearance of an oversized slum, going nowhere. Today it's modernizing and no longer has as much of the grimy, sleazy look.

Pusan now has 1,460,000 people. But when the original city plan was adopted in 1936 it had only 180,000 with a projection for this year of 500,000.

The current master plan stresses the building of streets, expanding the water supply, and developing the suburbs under zoning. Because Pusan is hemmed in by water on one side and mountains on another, it's not easy.

The hardest problem is the expansion of the narrow streets and roads to up to six lanes plus sidewalks. Downtown this has been helped by relocating a railroad station which had occupied the heart of the business area.

As Korea's major port, development of Pusan is essential. Seventy per cent of Korea's 1966 exports of $255 million were shipped through this port and $55 million of those originated in Pusan. A City Hall official said: "We used to be consumers only; now we're also producers."

I was told that Pusan's industrial production is greater than Seoul's, turning out 40 per cent of the country's steel products and supplying 20 per cent of its electricity. Pusan has a surplus of power because it augments its steam plants with a diesel generator ship which I saw "parked" at the downtown wharf.

New factories—including a synthetic fiber plant with a $3 million AID loan—are in the works and the job picture is becoming brighter. But there's still a lot to do and City Hall is the first to concede it.

Of 260,000 Pusan households, 80,000 live in slum conditions. The city is developing land, selling it to individuals on a house loan program. It is also putting up some low-cost units, but so far only 700 a year. "Small, but a start," the Mayor's office said.

Water continues a problem. In 1945 the supply was 40,000 tons a day. Today it is 135,000 tons, but the demand is for 200,000. For the end of next year the target is to produce 250,000 tons daily—"level with the demand" then foreseen.

Eighty-four per cent of Pusan's people are connected to the municipal water supply. The other 16 per cent rely on wells, with the city providing sterilizing chemicals without charge. I was told that the per capita water consumption is 32 gallons a day compared to the worldwide figure of 50 and Chicago's average of 100.

KOREAN INDUSTRY: EXPORTS UP SHARPLY

(By George Chaplin)

Ulsan, a seaside community 186 miles south of Seoul, used to be known for two things. It had some excellent whalers, with a fleet of 25 to 35 boats. And the farms behind the town grew the best peas in the country.

Today, Ulsan is on the way to becoming the "little Pittsburgh" of Korea.

In a newly created industrial area, 14 plants are operating or under construction, with 50 seen by 1981. The population, 80,000 five years ago, is now close to 120,000 and is expected to grow to 300,000.

Petroleum, fertlizer, synthetic fibers and caustic soda are among the present products, with steel and aluminum soon to join them.

Investment in Ulsan is about $130 million from domestic sources and $140 million from foreign, including heavy sums from Japan as a result of the new normalization treaty. The Korean government is spending millions for roads, water and harbor improvements.

Ulsan has a good natural harbor on the Sea of Japan—being developed to take 40,000-

ton ships—and a good water supply. The southwest winds blow the industrial smoke to sea.

REFINERY HAS LARGE IMPACT

I stopped in there at the country's first refinery for a chat with manager Claude Booth, a veteran of the Gulf refinery in Philadelphia.

He explained that Gulf had put in 25 per cent, the Republic of Korea 75 per cent. The three-year-old refinery was designed for a capacity of 35,000 barrels a day but this past spring was expanded to produce 55,000 (distributed in Korea-made drums).

Booth said they're turning out 13 products—gasoline, jet fuel, everything from propane to asphalt. But with the need three years from now put at 170,000 to 200,000 barrels a day, two more refineries are being scheduled, one due for completion within 18 months.

I asked Booth about the impact of his operation.

"It's the keystone of development, this refinery, directly related to industries. When I came in August, 1963, cars and taxis were scarce. Now Seoul is jammed with cars and they're building overpasses and underpasses.

"We make heavy fuel for power plants and heavy industry. They're building three fertilizer plants (to raise production five-fold). They need naphtha to make ammonia and naphtha comes from the refinery."

Booth termed the Koreans "the world's hardest-working people." The refinery employs 608, about 40 of them college graduates. Until recently, he said, Korea had graduate chemical engineers for whom no jobs existed.

In Ulsan when I talked with Booth were 177 foreigners, 65 of them Americans, the other 112 being Japanese engineers for a new fertilizer plant, the country's fifth.

A VISIT TO RADIO-TV FIRM

Forty miles south of Ulsam is the port of Pusan and I visited several industries there, beginning with the Gold Star Co., Ltd., which typifies Korea's recent industrial expansion.

Gold Star last year made 240,000 radios, 140,000 of these for export (all other companies made just over 600,000). This year's Gold Star goal is 300,000, with most being shipped to the U.S. (Eight years ago, Korea made only 40 per cent of its own radios; today it makes 85 per cent.)

Gold Star is also Korea's only TV manufacturer, turning out its first batch of 30,000 sets last year (with picture tubes made in Japan) and projecting 36,000 this year, in the $200 to $250 range. Presently there are only 100,000 sets in the country.

Other Gold Star products:

Refrigerators, 5,000 a year; electric fans, 60,000 this year; telephones, 55,000 a year; automatic switchboards, 42,000; motors, 11,000; Watt-meters, 250,000. Gold Star is also affiliated wth companies making products ranging from chemicals to toothpaste and soap to cable and wire.

The firm was established in 1958 and built in 1963 on the 16-acre site I visited. It has 3,800 workers—up 1,600 in a year. Of these, 1,600 are women and girls, mostly on the assembly line, working with equipment bought with a $1.25 million loan from West Germany.

Gold Star began exporting four years ago, reached $1.5 million last year, mostly in radios. A New York general merchandise company is its biggest buyer, but it also has customers in Canada, Panama, Southeast Asia and Africa (Kenya, Uganda, Tanzania).

The company has top engineers but needs skilled labor, so it runs its own technical school, partly financed by the government. Graduates immediately get 50 to 60 per cent more pay than unskilled workers.

For those who wish them, the company provides houses and dormitories.

SAWMILL NOW BIG ENTERPRISE

After Gold Star, I went through the Tong Myung Timber Co., which was founded as a small sawmill in 1925, began making veneer plywood after World War II and started exporting in 1961.

Tong Myung employs 2,200—30 per cent of them single women about 19 or 20—and expects this total to go to 3,500 when a second plant is completed this year.

At that time it will be the largest hardwood plywood producer in the Orient, turning out 80 million square feet of one-eighth-inch-thick plywood each month. Its final products range up to an inch in thickness and are used for furniture, packing, boats and housing.

The two-square-million-foot-plant operates around the clock, sometimes seven days a week. Most of its logs (120 million board feet a year) come from the Philippines and Borneo.

The firm has been supplying the U.S. Army in Korea for a decade but in 1965 exported to the U.S. for the first time and last year began supplying the U.S. military installations in Vietnam.

Tong Myung exports 85 per cent of its output (about $20 million this year, from $2 million in 1963). Also this year it will begin shipping finished instead of unfinished plywood. U.S. shipments go to Tacoma, Los Angeles, Longview, Calif., Houston, Norfolk.

PRODUCER OF BARGAIN GOODS

Korea is still running a trade deficit—its imports last year of $716.4 million ($253.7 million from U.S.) ran far ahead of its $250.3 million in exports—so it is urgent that the country sharply step up its overseas sales.

(But the foreign earnings picture—$454 million last year—has been greatly helped by remittances from the 45,000 Korean troops and 10,000 civilian workers in Vietnam. Through purchase of supplies, the Vietnam war, in fact, is giving the Korean economy the same kind of boost the Korean War gave Japan during 1950–53).

In years past, Japan and Hong Kong were the places where American and other western buyers went for bargain-basement merchandise. Today, it's increasingly becoming Korea.

A reporter visiting Seoul for The Daily News Record, one of the Fairchild business papers in New York, recently called South Korea "the last frontier where the current generation of economic missionaries can still find the required formula of an abundant low-wage, literate, easily-trained labor force under a government that combines stability with an eagerness to attract foreign capital."

In the lobby of the Bando Hotel in Seoul I chatted with two New Yorkers who were in Korea to buy cheap beaded sweaters. They said a local operator could hang out a sign for 600 unskilled women and train them well enough in two weeks for them to make acceptable sweaters in their own homes. (A latter-day version of New York's East Side "piece work" thousands of miles removed!)

The Daily News Record listed these wage scales: Assembly-line girls, $10 to $15 a month (which usually include 25 workdays); men laborers, $21 a month; women, $15; semiskilled men, $33; women, $23; skilled men, $44; women, $30. Not only considerably lower than Hong Kong and Japan but about 15 to 20 per cent under Taiwan.

The Bank of Korea lists the following as the average daily cash wages by industry: machinery, 61 cents a day; textiles, 65; leather products, 65; rubber products, 74; paper, 78; metal products, 78; chemicals, 79 cents; petroleum and coal, 84; electronics, 88; stone, glass and clay products, 89; food processing, 91; beverages, $1.02 a day; wood products, $1.06; printing, $1.11; and basic metals, $1.14.

U.S. FIRMS LOOK TO FUTURE

Despite the low-wage level, a program has begun for inspection of outgoing merchandise, in an effort for quality control. More and more of even the larger American firms are buying in Korea—among them, R. H. Macy & Co., May Department Stores, Woolworth's.

It's further encouraging that several major U.S. financial institutions have opened branches: Bank of America, First National City Bank of New York and Chase Manhattan.

Several months ago, Chase Manhattan Bank put out an economic survey of the country. To finance economic development under the present five-year plan, it says, "$2.2 billion of investment is scheduled to come from Korean taxes and domestic savings over a five-year period, much more than in any previous period.

"To accomplish this, the Koreans will have to save a third of the anticipated increase in their earnings. In addition, the plan looks for $1.4 billion of public and private capital from abroad, an increase of one-sixth over the amount Korea attracted in the last five years.

"To succeed, government officials recognize the need to pursue fiscal and monetary policies that keep the stepped-up volume of investment in line with the nation's overall resources. Only in this way can they preserve the nation's recent gains in financial stability.

"This is a big order, but not impossible. The government is doing its part by restraining its spending and reducing the government deficit. This has made it easier for Korea's monetary authorities to curb credit expansion. As a result, the private sector has been encouraged to increase savings, investments and export sales."

Last March former Undersecretary of State George W. Ball, now with Lehman Brothers International, headed a U.S. industrial investment mission to Korea. Of the 23 firms represented, 18 decided to follow up with further investigation of investment possibilities.

FOREIGN INVESTMENT SPURRED

As one aid to foreign investment, a Korean law has been revised to permit an unlimited takeout of profits. Before the limit was 20 per cent of the capital base.

Other main features of the amended law: foreign-invested enterprise can have a five-year tax holiday, then three years at 50 per cent of the rate; and machinery and raw materials can be imported duty-free until an enterprise is established. (If a firm is 100 per cent in the export business then the duty-free aspect is on a permanent basis).

While many countries at Korea's present stage of development are ultra-nationalistic, Korea does not insist on joint venture or on any maximum or minimum equity by foreigners. Outsiders can come in and give technical knowledge or they can come in and own 100 per cent.

Korea has set up an investment promotion office but wants to make sure the climate is "right" before putting out its calling card by having offices overseas. At present, I was told, there's enough interest to keep the main office busy without any heavy promotion. However, the Korea Trade Promotion Corporation (KOTRA) has 11 offices overseas.

TOURISM SHOWS A REAL POTENTIAL BUT GETS LITTLE OFFICIAL SUPPORT

Tourism is one of Korea's real potentials—but thus far it's had a rather low priority in terms of official support.

A government agency does exist, however—the Korea Tourist Service, Inc. (KTS), the stock 100 per cent owned by the Finance Ministry and its operations controlled by the Transportation Ministry. Its head is named by the President of Korea and the directors by the Transportation Ministry.

KTS, which tries to operate as if it were in free enterprise, owns and manages a number of hotels and tourist attractions. These include the Bando Hotel (111 rooms), the best in Seoul; the nearby Walker Hill resort (265 rooms); and the Bando-Chosun arcade, which is lined with fascinating little shops stocking everything from jewels to neckties. The Chosun was closed in July and

is being demolished. It will be replaced by an $11 million 500-room hotel to be built and operated by American Airlines and Korean government.

KTS also operates a travel agency and foreign commissaries in several cities, which sell canned foods, liquors, cigaret and other items tax-free to foreigners, on display of passports. To cap it, KTS runs a taxi service which caters to U.S. and U.N troops.

KTS represents Korea in international tourism, being a member of the Pacific Area Travel Assn. and a charter member of the East Asia Travel Assn., which it helped organize in Tokyo along with Japan, Taiwan, Hong Kong, the Philippines and Thailand.

It's soon obvious to a visitor that Korea is short on tourist facilities and will be for a long time, unless there's more outside financing. The government regards tourism's profitability as low compared with other industries. Those in tourism cite its value in producing foreign exchange and in contributing to economic development.

"Each hotel room in Korea produces two to three jobs," I was told. "Each tourism dollar turns over 3.4 times, since it flows out to the laundries, to feed people, to mechanics and others."

Despite inadequate accommodations visitors last year totaled 67,965, up 100 per cent over 1965. This was primarily due to the new regulation that you can travel to Hong Kong or Bangkok by way of Seoul without extra air fare.

KOREA'S SCHOOL NEEDS OUTRUN FUNDS

(By George Chaplin)

Koreans, one of them said to me, are "big in the head, but not so big in the stomach."

It was his way of saying that interest in higher education has outrun the ability of the economy to absorb graduates.

"Of every 1,000 population, we now have 6.7 students at the university level," I was told. "This makes Korea rank fourth, just after Canada, Japan and the United States. We hope to cut this to 5.5 per thousand. As an example, a quota has been placed on law students."

Since about 30 per cent of high school graduates go on to higher learning, Korea now has 140,000 students—"more than England"—in 117 colleges and universities. Some of the schools are first-rate, some just diploma mills.

These 117 include six national universities, six national and two other public colleges 56 private universities and colleges; 47 junior colleges, 13 of them specializing in education. (Almost three-quarters of the students are in private institutions). Overall, 17 kinds of bachelor's and master's and 11 kinds of doctoral degrees are offered.

(By contrast, at the end of World War II, there was only one university, Keijo Imperial University, and 19 junior colleges established during the Japanese occupation).

"Today, 60 to 65 per cent of the graduates of a top university can get jobs at once—but the other 35 cannot, at least not on a level one associates with a degree."

The educator who said this added that part of the pressure is taken off by the fact some are drafted into military service the year they graduate.

TOO MANY STUDY CLASSICS

The surplus of graduates is but one part of the problem. The other is that too many of the graduates are in the liberal arts, while Korea's need is for more scientific skills.

Traditionally, the Confucianist influence built respect for classical studies. Technical training lacked status and was something reserved for the lowly members of society.

"Everyone respects the white collar," it was explained, "but in recent years the government has been stressing the blue collar."

Despite the prestige hurdle, the program is gradually catching on, partly because it pays off economically.

"There used to be emphasis on, say, political science. Now the cream of the high schools goes into chemistry, civil engineering, bio-chemistry and such. It's easier for them to get jobs."

With one five-year plan completed and the second underway, Korea is feverishly seeking to build an industrial base—and in part this is dependent upon having the right talent in the right numbers.

TECHNICAL JOBS UP SHARPLY

Sang-kun Chun, an official of the Economic Planning Board, sees the employment of scientific and technical workers increasing at an annual average rate of 10.1 per cent as against 3.6 per cent for total employment.

The greatest annual increase between now and 1971 is expected in construction (18.8 per cent), followed by electrical, plumbing and sanitation work (14.8), with manufacturing jobs third (12.8).

This trend had produced a growing emphasis on vocational training below the full college level.

Throughout the country vocational education—agricultural, commercial, technical—is offered by 205 public and 107 private high schools, with 172,436 pupils. There are also eight technical colleges—four public, four private—with the average college graduate 20 years old. Those drafted at 21 put in three years of service, during which they may continue technical training at army depots.

In Seoul I visited Kyunggi Technical College, which is a daytime junior college for 600 youths and doubles at night as a technical high school for 780.

The junior college is entered at the 10th grade and provides three years of senior high and two of college.

Kyunggi has been operating for only three years. The first year it graduated 62, found jobs for all. Last year it graduated and placed 40. This past February it again turned out 62, with assured employment.

EQUIPMENT IS ANTIQUATED

At Kyunggi there are four departments: mechanical engineering, civil engineering, architecture and industrial arts. The rooms are drab and drafty and the workshop equipment is old, having been donated by UNKRA—the United Nations Korean Reconstruction Agency—10 years ago, after the Korean War.

A mimeographed sheet handed me as I toured the school said: "We cannot replace these old things because of our financial situation. As you know well, our national expense go almost to the national defense. We are not able to spend much money in education. We are doing our best under the circumstances."

Korea spends about 16 per cent of its budget for education, with 69 per cent of the funds going to elementary instruction. The backlog of needs is so massive and the school population growth so great that facilities and equipment are highly inadequate.

There's a current shortage of 16,000 classrooms and of 10,000 elementary, 15,000 middle school and 10,000 high school teachers. (Even so, teaching standards have risen. Until six years ago, normal school graduates were regarded as qualified to teach the elementary grades. Now, a two-year teachers' college course is required).

The country really had to start its school system almost from scratch after the Korean War, in which half the classrooms and most of the libraries and labs were destroyed and thousands of teachers killed or wounded.

Schools had to be rebuilt, teachers recruited and trained, books written and printed, vocational education expanded and the campaign against literacy widened.

LITERACY LEVEL MUCH HIGHER

Literacy in 1945 was estimated at only 22 per cent. The claim now is 90 per cent (of those over six), achieved through compulsory education and adult classes in the villages, often conducted by volunteers.

One is officially literate if he can write the 24-letter "hangul" alphabet, which has come down from the 15th century. But since this can be learned in several hours, the standard of literacy is still low.

Perhaps the most impressive aspect of Korean education is the dramatic increase in student totals. Since the end of World War II, the general population has risen from 20 million to 30. But elementary enrollment has tripled and that at secondary and college levels has jumped 20 times.

The latest elementary education figures I saw were of five million pupils. They are instructed by 79,164 teachers (three-quarters of them men) in 5,125 schools—with the high pupil-teacher ratio of 62.3 to 1.

Yearly pupil increases of 300,000 are seen until at least 1971. Attendance is compulsory through the sixth grade and the Ministry of Education hopes to extend this through the ninth grade in the next 10 to 15 years.

Tuition is free, but textbooks and school supplies are not, although the government assists families too poor to afford these.

In the secondary schools—middle schools for grades 7 through 9; high schools for grades 10 through 12—admission is by competitive examination, and an entrance fee and modest tuition are charged.

There are some 695 public and 513 private middle schools with 751,341 students and 19,067 teachers; and 385 public and 316 private high schools with 426,531 students and 14,108 teachers. I gather that almost 90 per cent of the teachers have a higher student ratio than the standard of 50 to 1.

PARENTS EXPECT TOO MUCH

An article in the Korea Journal by Tai-se Chung, Secretary-General of the Korean Federation of Education Associations, says, "Considering the fact that the teacher and the parent share the child's day, a teacher can be compared to parents who have 60 to 70 children.

"Yet parents expect teachers to take care of their children with the same loving understanding they themselves give. We (teachers) cannot look on unconcerned while the size of classes continues to increase.

"The teaching load is certainly too heavy for teachers to fulfill their mission of educating youth. The teacher becomes a mere machine for cramming facts and figures in immature heads. . . Most teachers work at least 13 hours in addition to their 44-hour week."

The article also pleads for higher teacher's pay, pointing out that while the average married male teacher supports a family of 4.25 persons, he's only paid $22 U.S. monthly in primary schools and about $33 in high schools.

The school year in Korea starts in March, ends in February, with 40 days of vacation in summer, 30 in winter. The youngsters go to school six days a week.

The classroom and teacher scarcity in primary schools requires a two-shift system (8 a.m. to noon and 1 p.m. to 5), even three shifts in certain densely populated areas for lower grades.

STRENGTHS AND WEAKNESSES

One major weakness of the system is its inflexibility, making for a lack of rapport between student and teacher. There are strong points, too. One is in the teaching of English from the 7th grade up, which, I was told, is done more effectively than in Japan.

At the university level there is often not enough interchange between departments. Again, too much rigidity. There also has been a history of strong faculties and weak presidents, but I gather the quality of administrative leadership has improved.

I visited only one university—Ewha Woman's University in Seoul, the largest women's institution of higher learning in Asia and the ninth largest in the world. On its 100-

acre campus, 8,000 students pursue four-year programs leading to B.A. degrees. It also has graduate schools offering masters' and doctors' degrees.

Interestingly, Ewha was started as a primary school, with four pupils, in 1886, by Mrs. Mary F. Scranton, the first woman Methodist Episcopal missionary to Korea.

In 1904 it was expanded to include a high school and in 1910 a college, with a freshman class of five. (Korea's first college, Soong Sil, had opened three years earlier in Pyongyang). In 1945, after liberation from Japan, Ewha became a university.

When the Communists occupied Seoul in 1950, the school moved south to Pusan, called itself a "campus in exile" and went on operating. After the truce it moved back to Seoul, with 2,000 enrolled.

Of today's 8,000 students, only 800 live in dorms, the rest commuting. The faculty is 500, of whom 300 are full time.

EMPLOYMENT IS HARD TO GET

Ewha's freshmen, mostly 18, have finished 12 years of schooling—six primary grades, three in middle school, three in high. Admission is by exam and three times as many apply as can be absorbed—6,000 for 2,000 openings. Five per cent of the students get Ewha scholarships and some others are helped by government.

Courses leading to degrees include liberal arts and sciences (about half the graduates are in liberal arts), education, music, fine arts, physical education, law and political science, medicine, pharmacy and home economics. Of the some 2,000 receiving degrees each year, fewer than 200 go to graduate school.

Ewha's graduates mostly become teachers, social workers and office personnel. Jobs are not easy to get except for the teachers; these prefer to stay in Seoul rather than going into the countryside, where a heavy need for them also exists. (Nationally, to attract more teachers quickly, three-to-six month special training is being offered in such subjects as music and physical education to liberal arts graduates who have not majored in education).

Ewha still has strong U.S. Methodist backing; also support from the United Church of Canada. One official at the university said, "We look for Christian leaders from women. We try to prepare these. We put emphasis on religion and there is chapel every day."

MANY KOREANS STUDY ABROAD

Quite a few Koreans prefer overseas study and they range over 30 countries, from Taiwan (97 Korean students) to Switzerland (38), but most come to the U.S. (presently 4,000 to 5,000 in undergraduate and graduate fields and some 600 Ph.D.'s, largely working for universities or the Federal government).

To help attract them back to Korea and stop the "brain drain," there's a new civil service act providing that scientists be paid as well as, if not better than, administrators.

Related to this is a new Korean Institute for Science and Technology, for which the U.S. is providing $150 million. Ground formally was broken just after President Johnson's visit last fall and 45 scientists now abroad will return as staff.

In sum, Korea is making substantial progress in education but its needs are formidable and its ability to pay the bill is highly limited. The story is the same as in all the developing countries.

KOREA'S HISTORY IS ONE OF WAR AND WOE

(By George Chaplin)

Korea is a land that wanted to be left alone—but never was for long.

It is largely a victim of its geography—a peninsula jutting 600 miles south from China's Manchuria and the Soviet Union's Maritime Provinces and yet so close to Japan that Japanese TV programs are clearly received in the Korean port of Pusan.

For centuries, as even today, Korea has borne the brunt of big-power rivalries. Kublai Khan, the Mongol leader, used Korea to launch assaults on Japan in 1274 and 1281. And in 1592 the Japanese shogun Hideyoshi landed thousands of troops in Korea in an invasion directed at China.

Korea knew no peace. Its description as the Land of the Morning Calm was pleasant, but rhetorical. When it was not the Mongols occupying, it was the Manchus or the Japanese. Official envoys extracted concessions. Foreign pirates plagued the coasts.

Through most of its early history, Korea held a sort of junior status to China, at some times more willingly than at others. The result was a heavy Chinese impact on Korean culture, philosophy and government structure.

HAD WELL-ADVANCED CULTURE

By the 15th century, well before Gutenberg, Koreans were printing from movable metal type. They built great pagodas and opened a royal college of literature. Their scholarly pursuits ranged from geology to astronomy.

But too much of their energies and resources were diverted to resisting outsiders. They yearned to seal themselves off from the world, to be the Hermit Kingdom, and their efforts were fairly successful through the 17th and 18th centuries.

Internally, the almost 500-year-old Yi Dynasty began to crumble before the feuding of political cliques and the growing separation of the court and academicians from the Korean people. Externally, Japan and Russia and the West were all contesting for Pacific power and trade.

Korea was about to be "opened up", but not without showing its displeasure.

In 1866 a grounded American trading schooner, the General Sherman, was burned and its crew murdered. And nine European Catholic priests who had been quietly seeking converts were also killed.

In 1871 the U.S. Minister to China, Frederick F. Low, was sent to Korea with five American naval vessels to negotiate both a trade treaty and a shipwreck convention. The ships ran into shore battery fire, retaliated and withdrew.

UNITED STATES SIGNED TREATY IN 1882

In 1876 Japan maneuvered a diplomatic pact with Korea and in 1879 sent its first minister to Seoul. In 1882, the U.S. was able to conclude the first Western treaty ("of peace, amity, commerce and navigation") with Korea, whose king had first obtained the consent of the Chinese government.

Our first minister, Lucius H. Foote, presented his credentials in May and that August two Korean ministers came to the U.S. to study our customs and postal services, public schools and fortifications.

By spring of 1886 Korea had also signed treaties with Russia and France. But the "open door" brought no peace. In 1894 a revolt attracted troops of first China, then Japan—and the two countries began a war on Korean soil.

China was quickly defeated, ceded Formosa to Japan and recognized Korea's independence. Japan then forced a pro-Japanese cabinet on the Korean king, but he fled to the Russian legation and tried to rule from there.

Relations between Japan and Russia worsened—over both Korea and Manchuria—and in 1904 Japan declared war. Japanese troops landed in Korea to use it as a base. The Korean ruler, who wanted to be neutral, was forced to become a Japanese ally, to hand over control of the mail, telephone and telegraph systems, and to accept Japanese advisors throughout government.

Like China a decade before, Russia was defeated and recognized—as did the U.S. and Britain—that Japan had paramount interest in Korea.

JAPAN TAKES OVER KOREA

The Korean emperor (he'd upgraded his title from king) reluctantly signed a treaty giving Japan control of Korea's foreign affairs—and from Tokyo Prince Ito Hirobumi came in 1906 as the first resident-general.

The U.S. legation in Seoul and the Korea legation in Washington were closed, and representatives withdrawn. In 1907 the Korean emperor was forced to abdicate in favor of a retarded son who approved annexation to Japan on August 20, 1910.

The first governor-general, Count Terauchi, stated as Japan's aim: "The transformation of a decayed kingdom into a prosperous and rich country and the gift of good administration and peace to the new subjects of the empire."

For years there was Armed Korean resistance (70 incidents in the first 36 months), but it was called the work of "brigands" and put down by force. Tight political control was maintained—posts down to the level of magistrate and village leader being filled by Japanese, with Koreans confined to clerical jobs. Japan set out to develop the country while methodically seeking to Japanize the culture.

The country's finances were improved. Japanese industrial capital poured in. Excellent hydroelectric systems were built in the north. New railways, roads and harbors were constructed. (A deluxe train ran from Pusan to Paris, via Siberia).

Fishing and forestry were expanded—often with the use of immigrants from Japan. (Most of the industrial development was in the north, later tying in with Manchuria; the south remained largely agricultural).

THINK AND ACT JAPANESE

But the economic gains were at the expense of the Korean culture. The school system and curriculum were revamped and more primary schools opened to make the Koreans "good and loyal subjects of the Empire." The Japanese language was stressed and soon became dominant in the classroom and newspapers. (Between 10 and 15 per cent of the people—those over 35—can still speak Japanese).

People were supposed to think and act Japanese, and heavy military and police forces were on hand to back up official policy, and break any resistance.

But Korean leaders, never daunted, sought a way to dramatize their resentment. The time was March 1, 1919. It was a time when Woodrow Wilson's doctrine of self-determination was stirring nationalistic pride around the world. It was also a time when impending burial ceremonies for the Korean king who had abdicated in 1907 enabled people to gather in Seoul without undue suspicion.

Thirty-three distinguished Koreans—including clergymen of Buddhist and Christian faiths and the nationalistic Chondokyo sect—signed a proclamation of independence drawn up by a noted author, Choe Namson. Then 30 of them met in Pagoda Park in the center of Seoul, dispatched their declaration to the Japanese governor-general, called the police and waited to be arrested.

Their imprisonment—and the prearranged reading of the proclamation throughout Korea—set off a vast wave of demonstrations, mostly peaceful. The Japanese harshly retaliated, but when details leaked to the world despite a tight censorship, the pressure of opinion forced an easing of occupation policies.

STUDENT RIOTS PROVE FUTILE

The freedom movement had carried the slogan, "May Korea be free for 10,000 years"—dai han tongnip mansei—but this soon became called just "mansei", the Korean equiv-

alent of banzai, and is still referred to in that way.

In the 1920's there were several student riots, but they achieved little. Beginning in 1931, when the Japanese moved into Manchuria, controls in Korea again were tightened. They remained so as Japan went to war in China proper in 1937—using Korea as a staging area—and then moved to World War II.

Korea became a part of the Japanese war machine and in 1942 was made a part of Japan proper, and placed under a domestic ministry.

The next year, at the Cairo Conference of December, 1943, the U.S., Great Britain and China declared that "the aforesaid three great powers, mindful of the enslavement of the people of Korea, are determined that in due course Korea shall become free and independent."

Russia, which subsequently affirmed this, began to figure in Allied deliberations on Korea, both at Yalta in February, 1945 and Potsdam in July, 1945. At Yalta, President Roosevelt was eager for Russia to enter the war against Japan. Stalin, no easy bargainer, wanted acknowledgement that Korea fell within the Soviet sphere of influence.

Russia finally went to war against Japan, only a week before the latter's surrender, on Aug. 14, 1945. And beginning the day before—on Aug. 13—close to a quarter-million Russians crossed into Korea. The Americans, fewer than 80,000, did not start landing at Inchon, the port for Seoul, until Sept. 8, almost a month later.

COUNTRY SPLIT AT THE 38TH

The 38th Parallel, which was supposed to have divided the zones for Russian and American military efforts against the Japanese, now became something else. The Russians were to accept the surrender of the Japanese north of the 38th, the Americans to handle it in the south.

Historian Alexander De Conde says, "If there had been no division along the 38th Parallel, the Soviets probably could have over-run the country before the Americans arrived. Since the line limited the area of Communist control, it favored the U.S."

The 38th soon became frozen into a barrier—as efforts to unify Korea failed because neither the U.S. nor the Soviet Union would permit an agreement that gave the other a dominant role. (An agreement between the U.S. and Russia for a four-power trusteeship for up to five years stirred violent resistance in a Korea hungry for independence).

The U.S. carried the problem in late 1947 to the United Nations, which named a commission to seek unification and elections.

When the Russians refused to let the commission enter the north, the Republic of Korea was established in the south (succeeding our military government) and Syngman Rhee was elected president in mid-1948. In the north, the Russians at first ruled through Korean People's Committees—well trained in Moscow—then set up the "Democratic People's Republic of Korea", with the capital in Pyongyang.

WAR ERUPTS, U.N. SENDS HELP

Russian troops pulled out of Korea in 1948, the Americans in 1949. The next year—June 25, 1950—the north, heavily armed and supplied by the Russians, attacked the south.

The U.S. Security Council—with the Russians fortuitously absent and unable to vote—voted to help the south. Sixteen nations sent troops, seven others provided medical and other help.

The war seesawed up and down the peninsula, at a staggering cost. The U.S. lost 33,000 dead, 107,000 wounded and missing, and spent $15 billion. The South Koreans lost 250,000 killed in battle and suffered another two million civilian casualties.

In mid-1951, with battle lines largely stabilized at the 38th Parallel, truce talks began and two years later led to the shaky agreement which still obtains.

With the truce, Korea remained divided, as it does even now, 14 years later. Unification is still the much-discussed dream of the Koreans, but its achievement, if ever, lies in the vague future.

AT PANMUNJOM: KOREAN WAR IS STILL ON

(By George Chaplin)

A U.N. patrol is ambushed by Communist infiltrators.

South Korean ships and North Korean shore batteries exchange shellfire.

North Korean grenades blow up two U.S. Army huts.

In 1967, the Korean War still goes on—sometimes in armed clashes along the truce line, then in heated words in a quonset at Panmunjom, where a military commission supervises the longest armistice in modern history.

I rode the 35 miles from Seoul to Panmunjom in a U.S. Army car, over an inhospitable landscape socked in at times by a smoky gray haze which cancelled my plans to fly in by helicopter.

On the way, I saw a kaleidoscope of contemporary rural Korea—villagers in the fields; women walking alongside the road gracefully balanced loads on their heads; men pushing handcarts with cabbage for kim-chi or carrying towering cargoes on shoulder-strapped A-frames resting on their backs; 2½-ton trucks and jeeps unrolling dust clouds; kids playing and shouting and running; quonsets and camouflage and uniforms everywhere; the omnipresent rocky hills, with gun emplacements and bunkers on those near the border.

A REMINDER OF BERLIN WALL

In Korea, the heavy military presence is an accepted part of the scenery and a Cold War fact of life. In the north the Communists have 350,000 soldiers, equipped by the Russians, trained by the Chinese. In the south are 50,000 U.S. troops and 560,000 Koreans, the Free World's third largest force.

The vast majority of the Korean troops are in the army, with 26,000 in the air force, 24,000 in the marine corps, 17,000 in the navy. Other than Americans, the Thais are the only other foreign combat troops—350 stationed with the U.S. 7th Division. Turkey pulled out last summer, except for a token honor guard.

As the car moved along, I suddenly saw barbed wire on both sides of the road and signs warning of land mines in the surrounding countryside. I was almost at the DMZ, the demilitarized zone which divides and serves as buffer between the north and south. (I began to feel as I had when I first saw Checkpoint Charlie and the Berlin Wall).

This was the front line on which the Free World and Communist forces faced each other when a truce was signed on July 27, 1953. Negotiations had begun on July 10, 1951 in a teahouse at Kaesong, in North Korean territory, but Admiral C. Turner Joy, the senior U.S. spokesman, was so harassed there that he insisted upon changing the site to Panmunjom, then a devastated village.

SOME 18 MILLION WORDS LATER

At first the meetings were held in tents by representatives of the U.N. on one side, of the Korean People's Army (KPA) and Chinese People's Volunteers (CPV) on the other.

Two years and 17 days, 225 meetings and 18 million words later, the 18 copies of the armistice agreement were signed and opposing negotiators walked out without speaking. The Republic of Korea (ROK), having had an observer status, did not sign the pact but abides by it.

The agreement provided for a political conference on unification and withdrawal of foreign troops, and one was held in Geneva in April, 1954. But the Communists, under China's Chou En-lai, scuttled it.

Thirteen years later, the uneasy northbound boundary remains the DMZ, marching 151 miles across the Korean peninsula. It is two and a half miles deep and along its center runs the MDL, the military demarcation line, studded with 1,292 warning markers inscribed in Korean and Chinese on the north side, Korean and English on the south.

It is here where up to 1,000 personnel—the agreed maximum—patrol for each side. (The 1,000 in the southern part of the DMZ consist of 300 U.S. and 700 ROK troops). It is here where patrols sometimes clash, usually at night.

And it is also here at Panmunjom—in a circular "Joint Security Area" a half-mile wide—where the Military Armistice Commission meets on the complaint of either side. Since 1953 more than 200 meetings have been held.

HOW ARMISTICE SUPERVISED

The armistice commission has five members selected by each side. The top U.N. representative is an American major general or rear admiral, with the post rotated every six months among the U.S. Army, Air Force, Navy and Marines. Serving with him are representatives of the Republic of Korea and of the U.N. Command Advisory Group.

The other side is represented by four North Korean army officers, one of whom is also the senior member, and a Communist Chinese.

As U.N. observers there are Swiss and Swedish delegations on our side, Czech and Polish on the other. Each has eight to nine members, including three general officers and a colonel, and they meet in a building next to the armistice commission's.

I gathered that the Poles and Czechs dislike their duty since they are "virtual prisoners" of the North Koreans, who suspect them as "revisionists" and highly restrict their movements.

At Panmunjom, the U.S.'s four buildings are painted blue, the Communists' four are green. I was told the Communists has pigeons called "peace doves" which are trained to mess up the blue buildings—skipping the green—as a way of showing disdain for the U.N. representatives.

COMPETITION HAS GRIM MOOD

This tactic of trying to demean the opposition is old and standard stuff with the Communists. Admiral Joy has recalled that back at his first Kaesong meeting in 1951, he "almost sank out of sight. The Communists had provided a chair for me which was considerably shorter than a standard chair.

"Across the table . . . General Nam Il (of North Korea) protruded a good foot above my cagily diminished stature. This had been accomplished by providing stumpy Nam Il with a chair about four inches higher than usual . . ."

At first at Panmunjom there was a contest as to who would fly the higher flag. Each side tried to outdo the other, but it got so ridiculous, this field was finally yielded to the Communists.

On the main conference table where the armistice commission holds its official discussions, the miniature green flag of the Communists flies a quarter-inch higher than ours and is just a bit larger.

This would all seem rather juvenile were it not in an atmosphere of grimness and tension where implacable enemies stare icily through each other and fire official insults, sometimes for hours on end.

(Small things loom large here. The Communists once convened a meeting to bitterly complain that an American MP had thrown a snowball at a North Korean soldier.)

AVERAGE SESSION 4 HOURS

The demarcation line bisects the armistice commission's four-foot-wide table, so that the Communists are sitting in North Korea,

the U.N. delegates in South Korea. (Outside, where visitors are reasonably free to wander about within the Joint Security Area, this is the only place where an American or South Korean can stand on North Korean soil without being shot or arrested.)

The average armistice commission meetings last four hours. The shortest has been under an hour, the longest 10 hours. Once the main representatives sit down at the table—their staffs behind them—they remain without a recess until the meeting ends, whatever its length.

I was told that they prepare like athletes for these sessions. The day before they dehydrate themselves since there are no restroom breaks. Such are the distorted symbols of the Cold War that for anyone on either side to leave the table, for whatever reason, would be a sign of weakness. No place for weak wills or weak bladders.

The side whose allegation of armistice violations has brought the meeting opens up first, with translations in English, Korean and Chinese blaring out in the room, in other buildings and on the outside as well, through a loudspeaker system.

Once charges are voiced, they are met with counter-charges and the battle of psychology and propaganda is joined.

EASY TO LOSE PATIENCE

The top U.N. commander when I visited was Major General Richard G. Ciccolella, who had come from a Strike Command post at McDill Air Force Base, Tampa, Florida. I asked him about the patience level in his job.

"It's easy to lose your patience," Ciccolella said. "They regard themselves as being at war with us. They're completely hostile. They come prepared with a sheaf of propaganda and rarely address themselves to the issue at hand."

The meeting I witnessed, looking through windows and listening to the PA system, had been called by the Communists to complain of an alleged infringement of a North Korean waterway.

Ciccolella noted the charges and said he would investigate. But first he demanded to know why the Communists had not responded to his earlier complaint over the killing of six American soldiers and one South Korean during a night patrol.

Ciccolella's tone was cold and measured. He used phrases such as "vicious bloodthirsty killers," which are mild compared to the Communists' language.

(Arthur H. Dean, who was the key U.N. and U.S. negotiator at post-armistice talks at Pammunjom, recently recalled in a New York Times Sunday magazine article that he'd habitually been called "a capitalistic crook, a rapist, thief, robber of widows, stealer of pennies from the eyes of the dead, mongrel of uncertain origin . . . a murderer lying in the gutter with filthy garbage . . .").

TALK BETTER THAN GUNFIRE

Ciccolella knew he would get nowhere—the Communists have admitted to only two of more than 5,000 alleged violations, and this very early in the game.

But the monologues are part of the Cold War ritual. And talking is preferable to big-scale shooting. The U.N. Command has admitted about 90 of more than 42,000 Communists charges, most of which are brought for propaganda rather than substance.

(In April, to counter claims by the North Korean senior delegate that the U.S. is an enemy of the Korean people, Ciccolella showed a film of Seoul's thunderous welcome to President Johnson last fall. The North Koreans walked out—the lesser aides reluctantly—but in 10 minutes some of the staff returned. Ciccolella complained of the "illegal disruption.")

Each side at Panmunjom apparently feels that it picks up points by permitting visitors. From the Free World last year came some 30,000 visitors, compared to 18,000 in 1965. From the north came about 500, down from 1,100 in 1965.

In winter, the temperature on the truce line drops to 10, sometimes 20, below zero, because of the chill blasts from Manchuria. I was there on a mild day, but still needed woolen pants and shirt, a sweater, a corduroy jacket and topcoat.

After watching the stern commission proceedings for a while, I went to the duty officer's building. The arguments followed me over the loudspeaker system.

COMMIES WARY OF DEFECTION

In this office two duty officers, an American and a North Korean, meet each noon, except on Sundays and holidays, to convey messages to their seniors and discuss such routine matters as arrival and departure of military personnel.

(The conference area is policed by both U.S. and North Korean soldiers, with no more than 35 allowed for either side at one time. I had been told that some 90 per cent of the North Koreans in uniform at Panmunjom are Communist Party members. "They never walk by themselves because the government is wary of defection").

Over a cup of coffee, I chatted with the U.N. duty officer, Lt. Cmdr. Philip A. Barnes, a Sacramento native. He has been in Hawaii several times dating back to 1950 and said he might retire in the Islands.

In one end of the office was a bookcase, with highly varied contents: paperbacks such as "The Story of Jazz" and "The Last of the Mohicans," the current issue of Army Digest, a hardcover book, "Korea Moves Ahead" and then—donated by Polish and Czech observers—"Contemporary Art in Czechoslovakia," a concise Statistical Yearbook of Poland, 1964" and issues in English of two Life-sized magazines, "Life in Poland" and "Czechoslovak Life."

I moved outside again and saw "Freedom House," a temple like building put up in September, 1965 by the Republic of Korea and given to the U.N. commission. Inside are exhibits of art and industry. Nearby, I saw the "peace pagodas" erected by the Communists.

As I continued walking, I couldn't help but notice the Communists' buildings were heavily curtained and built on a more permanent basis than ours. Presumably, they expect the talks to go on for a long, long time.

PLANNING ARMED HAMLETS

Meanwhile, the propaganda battle even extends to two villages permitted in the area. One in ROK territory is "Freedom Village," with a population of 221, in 37 families.

It is self-governing and the people pay taxes to their own little government and not to the Republic of Korea. Medical care and other help are provided by the U.S. Army. A man can bring a bride back to the village, but a woman can't bring a groom.

From the village, propaganda is broadcast across the line to a Communist "Freedom Village," which claims 2,000 population. However, intelligence sources say there are only about 100 caretakers there, with windows painted on empty shacks and with no farming of any consequence.

Currently, the Republic of Korea is planning to establish a system of 100-family "reconstruction hamlets" immediately south of the DMZ, in an area previously barred to regular farming. Two pilot projects will be set up this year, with 200 families; the goal for 1968 is 2,000 families, for 1971 some 13,000 families.

One objective is to raise needed grain. But another is to provide a defense system modeled after Israel's kibbutzim along the Arab borders, where farmers can use a gun as well as a plow. To protect themselves against Communist infiltrators from the north, the Korean farmers will receive military training and equipment and each hamlet will be commanded by a former soldier.

Thus continues the Korean War, a war now essentially of words, occasionally of bullets and increasingly of frustration.

A VISIT TO A ROK LOOKOUT

After visiting Panmunjom, I traveled in an armed jeep to a mountain-top observation post of the 25th ROK Division.

I was met by Colonel Tae Hyong Pak, the chief of staff, and escorted through a sandbagged entrance to a parapet which gave an unobstructed view of opposing territory, valleys and mountains, for many miles.

A large table held a model of the terrain, appropriately marked. I checked one point on the model, then aiming binoculars through the lookout slots located the actual place a long way ahead of the OP.

When I asked about several smoke plumes out forward, the colonel explained these had been set by U.N. forces to prepare clearer fields of fire. This was an important OP because the area was one used by agents infiltrating into the south. The OP's job was to spot such movements. Needless to say, such a visit reminded that these people are on a no-nonsense war footing.

On the return to Seoul, threading through the rocky hills, it was easy to envision what fighting in such terrain was like and how such names as Bloody Ridge, Old Baldy, the Punchbowl, Pork Chop Hill and Heartbreak Ridge became part of our geography lesson.

The current scene was more like that associated with maneuvers, except the installations looked more permanent. A company nestled here, a signal corps detachment there, a battery just down the road. And everywhere, especially in U.S. areas, the three flags—ROK, U.S. and UN Command.

Korean youngsters who've known nothing else think it's this way every place.

RED TEAMS TRYING TO SUBVERT SOUTH KOREA

(By George Chaplin)

North Korea, in addition to its raids on DMZ outposts, seeks through subversion, infiltration and propaganda to build an underground organization and create unrest in South Korea.

The Seoul government reported in mid-June that 30 well-armed North Korean guerrillas had managed to infiltrate into the southeast, presumably to raid and sabotage.

An operation of this size is exceptional. Usually, one knowledgeable source said, the Communists work in much smaller units, such as three-man teams.

There are probably 250 North Korean agents in the south at any one time, I was told. They're well supplied with three currencies—green money (meaning U.S. dollars) Japanese yen and South Korean won.

"One of the team is a hard-liner assigned to make sure none of them is taken alive. Some of them do get caught or killed trying to cross the border from the north; (South Korean) soldiers receive a bonus for getting infiltrators. But a lot of them get through safely."

TRYING TO DISRUPT SOUTH

At the ROK Defense Ministry I was told that the Communist operations are primarily psychological warfare:

"They try to undermine, to create dissension, to make people wonder if we can really spare troops for South Vietnam or whether the internal threat here is so real as to make it better to keep the troops at home.

"North Korea is not happy with the progress made in the south. The Communists know that our stability of power depends upon the stability of the economy.

"So," the spokesman continued, "they want to slow the pace in the economic area by breeding disquiet in the social structure and by trying to create doubts internationally about our stability and thus inhibit investments.

"But we feel we have the situation under control."

The south matches the Communist propa-

ganda with its own broadcasts to the north. There is, I was told, this difference—people in the south can listen to the north, but in the north it's a jailable offense to listen to the south.

NORTH PUMPS IN PROPAGANDA

"There's plenty of reason for vigilance here," an American with extensive duty in Korea said.

"This country lives on the border of communism. It has fought against communism. And it has more adults who have lived under communism and fled than any other place in the world.

"Some were refugees from the Russians (who occupied the north) in 1945. There was a steady flow in the rest of the 1940's and then, during the Korean War (1950–53), a big upsurge.

"A million came down at one time with our army during the retreat from the Yalu.

"But the young people in the south have had no direct experience with communism. This propaganda from the north sweeps into them. The kids wonder why north and south can't unify."

This frustration is just what North Korean Premier Il Sung Kim wants. He dare not again take on U.S. and South Korean forces in conventional combat. Instead, he hopes to overthrow the South Korean government through disruption and unrest.

Kim has said at (Communist) Workers' Party congresses: To win "against imperialism and feudalism, it is necessary for the South Korean people to take Marxism-Leninism as guidance and have a revolutionary party which represents the interests of the workers, farmers and general public broadly."

SEEKS A COMMUNIZED SOUTH

He has also said that "after the unification . . . it is our duty to carry out a democratic reform in South Korea, including land reform and nationalization of important industries.

"The achievement of the democratic revolution will be followed by socialist building and after that our country will gradually become a Communist state. We can say that we have fulfilled the mission assigned to us in world revolution when we have carried out all of these successfully."

So to Kim "peaceful unification" and communizing the south are the same.

The question is on the United Nations agenda each year. (The U.N. regards the Republic of Korea as the only legitimate government on the peninsula.) The so-called Stevenson Plan voices the U.S. and South Korean position that unification should be achieved as soon as possible by free elections under U.N. supervision.

The Communists want a resolution condemning the U.S. and the Republic of Korea, want U.S. troops removed forthwith and say they can achieve unification by South and North Korea getting together with the help of Asian nations.

NATIONALISM RUNS STRONG

Last December, the U.S. came out as well numerically in the U.N. vote against North Korea as in the past. Washington didn't altogether oppose seating North Korea delegates to discuss the issue, but wanted them first to recognize the legitimacy of the U.N. and its presence in Korea. South Korea's government went along—but the north predictably refused to.

It must be remembered that on reunification, the Koreans are genuinely nationalistic.

"Look at their history," one Western student of the country observed. "This little band of ethnically unique people have preserved this integrity for 4,000 to 5,000 years with the Japanese, Chinese and Mongols pressing them.

"One Korean was asked if he'd ever heard of the Koreans being described as 'the Irish of the Orient'. No. he said, but he had heard of the Irish as 'the Koreans of Europe.' "

In short, they're proud of their national identity and want reunification. But in the south they don't want it on Communist terms.

The North Koreans have picked up some propaganda points by offering postal exchanges. And there is some feeling that the south should present a less rigid posture about at least exploring such modest possibilities.

PART OF A LARGER PICTURE

A basic impression I got during my visit is that President Park is trying to build an economy, then move politically toward unification. But any meaningful action is years off—for Korea is part of the larger contest between the Free and Communist worlds.

As one substantial American military figure said to me:

"Sometimes people look toward Korea, Southeast Asia, India separately. This is a mistake. Our position in Korea is a major element of our deterrent to Communist China."

"Our position, unless attacked, is defensive. Our strength here is pretty real. There is a full and ample deterrent against North Korea and they're aware of this. If the Chinese Communists joined up with them again, we would have to use additional strength—but we have it in pocket.

"From the Chinese Communist point of view, this is a hunk of land on the Asian continent which defends Japan. From their view, this is close to Peking and close to 75 per cent of Chinese heavy industry—including the small military industry in the old Manchurian industrial crescent involving Harbin and Mukden.

"In terms of power politics, this is a local area which the Chinese do not disregard when they think of military advance in Asia, particularly Southeast Asia."

He leaned back in his chair and continued.

"The U.S. in 10 years has produced a good ROK army, navy and air force. Some hotheads even say they wish North Korea would start something. But Park is trying to move the country along.

MILITARY EDUCATES KOREANS

"The U.S. military has helped considerably—by training soldiers, by sending thousands of Korean officers and non-coms back to the States. The people who have been to Benning and Leavenworth were exposed to the meaning of American democracy. There's been 10 years of osmosis.

"In Korean military camps we have helped teach the soldiers electronics and technical skills and in the process began to inculcate the idea of the military man serving his country rather than himself.

"Kids from all over Korea have been given a reasonably good several-year science education, with a leavening of social studies and economics. They learn about 'duty, honor, country.' There's now a pretty widespread military conception of duty-above-self.

"It's had a good impact on the younger generation."

He said a combination of three things has changed Korea, in the sense of a nation coming of age in the modern world:

The first is the beginning of an economic upswing.

The second is the contribution to the defense of the Free World.

"It warms the heart to hear them say, 'You came and fought for us, now we are the only ones in Asia to fight for the Vietnamese defense of freedom.'

"The Koreans in Viet Nam are our best propagandists. They tell the Vietnamese, 'Don't talk about Americans like they were French. We know. They saved our country and they don't want anything for it.'

"They're really effective in Vietnam. The Koreans are proud, they're standing tall—not like the inferiority complex of a decade ago."

RAPPORT THIN, BUT THERE

The third thing, he said, which has changed Korea is the very genuine beginning of being an important political force. They generated ASPAC—the Asian and Pacific Council. They're gung ho. Before the Manila conference (in late '66), Asian countries talked about Asia; Korea shifted it to the Pacific.

"In Korea, we've begun to establish a mutuality of understanding with a genuinely Asian country on a sound basis. The rapport is only one layer deep, but it's there."

KOREAN DEMOCRACY IS YOUNG, FRAGILE

(By George Chaplin)

Korea's hopes continue to ride on a small, wiry, taciturn farmer's son who came to power in a military coup, then went on to win two national elections, the second one last May.

President Chung Hee Park is small in size—five feet four inches; about 130 pounds—and stony-faced. He's neither baby-kisser, nor handshaker, and he probably was appalled at the way President Johnson "worked" the Seoul crowds last fall.

But Park is tall in his sense of mission, in the feeling that his role in history is to draw Korea up out of the morass and make something of it. With his own brand of political magic, he effectively conveys this to most of the Korean public.

"The growth of Korean confidence, from a mendicant status to real gung ho, is almost frightening," one authoritative American observer said to me. "Park is responsible for much of this. He himself has grown a great deal."

"It's been fascinating to watch him—a soldier who came to power in 1961 knowing only the military—adapt himself to the political environment. Now he'll listen to an economist for three hours, take notes, then ask embarrassing questions of his own advisors."

HE HAS SUCCESS STORIES

Were it not for Park, there probably would have been no settlement of long-time differences between Korea and Japan. There probably would be no South Korean troops in Vietnam, and inflation likely would be worse.

Three years ago student-and-professor demonstrations and rioting against the Korea-Japan treaty threatened the country with crisis. An American there at the time told me that "only about 150 to 200 started the whole thing."

He quoted Park that, "I think students have the right to study and professors have a right to teach and I intend to protect that right."

"Park closed the local Ivy League for some months. Later some of the professors and students involved were reinstated—and the treaty is a fact of life which is good for Korea.

When Park's junta first took control, it began with an extremely authoritarian government—which has been transformed into an elected civilian administration.

In the 1963 election, Park got 43 per cent of the votes for president, only 156,000 more than his nearest rival, former president Po Sun Yun. His party received only 34 per cent in the subsequent National Assembly elections. Park, who comes from Taegu, did well in the southern area but failed to carry Seoul, the capital, and the northern countryside.

I was told that "the election was fair enough, but some people resented the junta."

WON BY CONSIDERABLE MARGIN

Park worked hard to improve the economy and broaden Korean influence in Asian affairs. His success in both paid off in his reelection this past May 3 when he drew more than 50 percent of the votes.

Eighty-two percent of the eligible voters

turned out—11.5 million. Park got close to six million ballots, with his only serious contender, again Po Sun Yun, receiving under five million. Five minor rivals split the rest.

Park once more lost Seoul to Yun, but only by 80,000, as against 430,000 last time.

The election was monitored by the U.N. Commission for the Unification and Rehabilitation of Korea, which spot-checked polls and tallying centers.

Its members, foreign observers and American newsmen generally agreed with Park's claim that it was the "fairest and freest" election in Korea's exposure to democratic procedures.

DEMOCRACY STILL NEW IDEA

That exposure, it should be remembered, covers only 20 years, and even that period was interrupted by war and chaos. Before then, the Japanese occupied Korea for 35 years and there was no way to learn democracy. A long-time student of the Korean political scene put it to me this way:

"In more than 4,000 years, democracy is something the Koreans never had. Nowadays, the educated understand it. As yet, the vast majority don't.

"Lots of Koreans, through missionaries, had an American education. At certain levels there is a strong feeling for democracy, but no real training for it among the rest.

"Even so, Korea has the institutions of democracy in the elected President and National Assembly, which criticizes and modifies legislative proposals by the administration. The government has to take the assembly into account. It can crack the whip but it's no dictatorship.

"A bipartisan policy is as yet unknown. The opposition's idea is to oppose, flat out. The emphasis is on personal power and prestige and not on the issues. But remember that the democratic process is a very young and fragile thing here."

INTIMIDATION IN JUNE VOTE

This was borne out on June 8, just a month after Park's re-election, when balloting was conducted for the 175-seat unicameral National Assembly.

The Democratic Republican Party, which held 110 seats, faced possible inroads from the New Democratic Party—and this led to the discouraging use of muscle by pro-administration elements.

Opposition voters and election watchers were intimidated by boisterous groups, newsmen were manhandled and at least one election official was stabbed.

The violence caused Dr. Chin-o Yu, the leader of the New Democratic Party, which won 44 seats while the DRP rose to 130, to exclaim, "This is not an election, but a war."

There'd been vote-buying on both sides, but Korean students and the press felt the actions of the government and the Democratic Republican Party to be the more reprehensible because of their abuse of power.

Thousands of students clashed with police and as the rock-throwing protests continued, Seoul National University and more than 20 others, as well as many high schools, suspended classes.

SITUATION NOW IN STALEMATE

Interestingly, despite President Park's limited campaigning for his party's assembly candidates, most lost by wide margins in major cities, including some where he had piled up a landslide vote a few weeks before.

He instructed the prosecutor's office to act on some 1,200 charges of election law violations—but the vast majority of these were against opposition party backers.

The political scene is now in deadlock. The opposition has refused to enter the National Assembly and is insisting that President Park must:

1. Apologize to the people and admit that the elections were totally rigged;

2. Arrange for new national elections;

3. Dismiss the high officials responsible for the election rigging;

4. Guarantee that constitutional measures will be taken to ensure no repetition of election irregularities.

For its part, the government and the Democratic Republican Party maintain that they have done all they legally can to correct the situation.

President Park, unwilling and possibly legally unable to meet all of the demands, insists that the opposition should seek redress for its grievances through the courts and by taking part in the Assembly.

Until four days ago the government and Democratic Republican Party were unwilling to operate the Assembly unilaterally. But with the budget pending, something had to give, and they decided to convene the Assembly despite the opposition boycott.

HISTORY ONE OF RESTRICTION

This all adds up to the fact that it will take time for Korea to work itself away from the tradition of authoritarian governments and rigged elections. Most of its experience has been sadly restrictive.

After the Japanese surrender at the end of World War II, U.S. forces ran a military government for three years. When efforts to unify Korea failed, the Republic of Korea was established in the south, elections were held in the summer of 1948 under U.N. supervision and Syngman Rhee became president.

Rhee had been in exile much of his adult life because of his views against the monarchy and later the occupying Japanese. He had pleaded the cause of Korean independence in the U.S. and before the League of Nations. When he returned to Korea in 1945 he was already an old man of 70.

That he deeply loved his country and was a rallying point in resistance to communism is beyond question. But he was excessively self-centered, often harsh and repressive, and increasingly out of touch. Many close to him exploited the relationship, with resultant graft and corruption.

BRUTALITY, RIOTS AND EXILE

Political opposition to Rhee was actively discouraged—with methods ranging to the extreme—and he won several re-elections. But his fourth—in March, 1960—occurred in an atmosphere of rigged balloting, growing violence and intolerable police brutality, especially against students.

When police shot more than 100 youths during a Seoul protest march, the explosion point was reached. Full-scale rioting began—with the military in accord—and on April 27, Rhee resigned and fled to his final exile in Hawaii.

That August of 1960 Po Sun Yun was elected president and John Myun Chang became prime minister.

Their party was democratic, with true local autonomy, but it had inherited a mess which it was unable to clean up. Corruption, black-marketing, inflation rocked the country.

The following May the military took over and after some junta in-fighting General Park emerged as the chairman. His nephew-in-law, Chong Pil Kim, then head of Korea's extremely potent Central Intelligence Agency and the architect of the revolutionary coup, ranked second.

Yun continued as a presidential figurehead, but quit in March, 1962. Park took over as acting president, then resigned his army commission as a general and won popular election in 1963—running for the new Democratic Republican Party which Chong Pil Kim had organized after resigning from the C.I.A. and the junta.

AN INTERVIEW WITH KIM

Next to Park, Kim continues as probably the most powerful man in Korea, as chairman of the ruling party. He is also a member of the National Assembly.

In an hour-long interview at party headquarters, Kim talked articulately and persuasively about progress and stability, about Park's record. Korea, he said, is a "cardinal example of how much competent leadership can achieve in a country so unstable in the past." It was, he observed, a good example for other developing nations.

Kim cited the Korea-Japan treaty "after 300 years of hostility"; the sending of Korean troops to Vietnam; the fact that "we no longer have hunger and starvation—Korea has been brought to a point where famine is eliminated."

He said his country "cannot forget the positive part played by the United States. We have begun to repay (commercial) debts and obligations (to the U.S.) and have started making contributions to the Asian Community. If we continue this pace for a few more years we will be able to lay a firm foundation for the country."

Kim and President Park are very close politically, with Kim's marriage to Park's niece representing a highly important relationship because of the close Korean family traditions. But in a sense it inhibits Kim as the junior member of the relationship.

This is difficult for Kim, for his ability is matched by his ambition. He has been characterized as "the Bobby Kennedy of Korea," with the strongest aspirations for the Presidency.

POLITICALLY, WHAT LIES AHEAD?

Park cannot run in 1971 without a constitutional amendment permitting a third term. This would require a two-thirds approval in the National Assembly, plus a majority vote in a national referendum.

Park has stated he does not intend to seek a third-term amendment. Should he change his mind, opposition from all sides, including some ambitious persons within his own party, would be such that Park would have to use extremely forceful measures.

Even so, he could not be certain that the army would tolerate the flouting of public will.

As against a possible third-term provision, there is speculation that perhaps an effort might be made to lengthen Park's second term. But knowledgeable observers regard this as highly unlikely.

One of them said to me, "Instead of asking about a change in presidential terms, a more realistic question would be about prospects for dictatorship." He added he was not suggesting an apprehension, but a possibility.

The only certainty on the political scene is that whatever happens in the next few years will tell how near to democracy—or how far from it—the Korea of our time really is.

VOCAL PRESS LARGELY FREE

The press in Korea is as free as any in the Far East excepting Japan, Hong Kong and the Philippines.

It's extremely vocal and, traditionally, has been predominantly in opposition to government. The government controls the newsprint supply and could cut it off in reprisal, but this has not kept the press from taking the administration to task.

In the summer of 1964 the government tried to ramrod through a so-called press ethics law. The newspapers violently objected and although the government was able to pass the law, it has not implemented it.

The press then formed its own ethics commission to keep an eye on newspaper performance. A number of incidents have been reviewed.

There has been one example of what most journalists regard as a grossly improper use of the press. This concerned B. C. Lee, a tycoon who not only has a powerful press combine but is in many other businesses.

When an executive of a fertilizer company dominated by Lee was involved in the smuggling of saccharine, Lee and his operations were defended by his own journalistic em-

pire. The rest of the press took a dim view of this.

Some things the press can't do. Most importantly, it can't violate the anti-Communism law, which is an extremely broad statute. I was told, as an example, that a local dealer handling a Time or Newsweek issue containing "pretty pictures" of North Korea or China had better rip them out or expect a ban on distribution.

Highly blatant or exceedingly reckless criticism of the government is almost sure to bring action. Example: a magazine editor was jailed for falsely calling the President the mastermind of a smuggling ring.

Too often, several sources observed to me, some Korean newspapers will print rumors without checking them out. Since advertising revenue is small, most papers depend on circulation income and tend toward sensationalism in news treatment.

U.S. AID NOW CAN CUT BACK

U.S. aid to Korea has taken two forms—money and advice. Both have been of great help.

From 1957 until 1966, the U.S. put in $200 to $250 million a year in direct economic aid—on top of the substantial military aid (exclusive of our own military costs there).

Now, direct economic grant aid has dropped to $45 million a year and is declining annually. Military aid has dropped some, but still enables Korea to support 28 divisions. Korea has thus made up many millions a year that used to come from America.

(In 1956–60, for example, the country exported only $24 to $32 million annually, mostly such primary items as tungsten and other materials, seaweed and fish. Last year exports reached $250 million, with more than half in manufactured goods).

U.S. economic aid has been going through several phases, similar to the program in Taiwan, which phased out two years ago this July.

The first step involves grants for the "foundation"—harbors, railroads, power, agriculture.

Next come "soft loans"—that is, long-term, extremely low-interest loans, both to government and private enterprise. Gradually, as private investment grows, loans get "harder," shorter terms and higher interest rates. At some point, the local government and industry can do just as well obtaining money elsewhere.

(When Taiwan phased out, its credit rating was such that it could go to the World Bank or other world financing sources for loans).

Presently, Korea is still in the "soft loan" stage, but it's clear the loans will get "harder."

A few years from now, one high Korean official said to me, the half-billion dollars in foreign aid on which they used to depend will gradually be cut to zero.

"President Park has urged the people to find their own way. The people and government must work together."

For a population of Korea's size, there are many competent technical people for government service.

At the same time, the Korean administrators have been eager for U.S. counsel, much of which they have put to good use.

Four years ago each government department had its own set of statistics. The U.S. suggested one set and they went to it. People in different departments working on the same problems met, in many cases, for the first time, and this broke down, agency walls.

The office of National Taxation has been assisted by U.S. tax advisors. A new accounting system was installed for railroads. With U.S. advice, Korea liberalized its exchange rate and reorganized its credit system. In agriculture, the latest U.S. techniques have been demonstrated in soil testing and fertilizing use and vocational training.

In short, the Koreans have taken U.S. ideas and modified them to fit local circumstances. Most have worked.

SENATOR ALEXANDER WILEY

Mr. PROXMIRE. Mr. President, I ask unanimous consent that an eloquent editorial on the career of the late Senator Alexander Wiley, who died last week, published in the Milwaukee Journal, be printed in the RECORD.

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

ALEXANDER WILEY

The distinction that Wisconsin voters accorded to Alexander Wiley, who died Thursday in his 84th year, was to keep him in the United States senate longer than any other senator in the history of the state—four full terms, 24 years. The Senators La Follette, sr. and jr., served 19½ and 22 years.

Seniority thus made the proudly self-styled country boy from Chippewa Falls the highest ranking senator Wisconsin ever had. He was the longtime ranking Republican on both the judiciary and the foreign relations committees of the senate and chaired each one at a different time of party ascendancy—the latter in the important early years of the Eisenhower administration.

Sen. Wiley won two splendid distinctions for himself. He became a convert to high principled internationalist views that served his country well in the postwar era. And he became officially a father of the St. Lawrence seaway, a great boon to his home state, by assuming the leadership for it at the time of ripening. His name is perpetuated in one of the seaway works, the Wiley-Dondero canal.

After a warmup run for governor in 1936, Wiley became a party hero two years later by recapturing a senate seat from the New Deal, defeating F. Ryan Duffy, sr. Three terms later, in 1956, he was the central figure in one of Wisconsin's most memorable political dramas, from which he came out bruised but triumphant.

In a bitter irony, he was the intended victim of his own loyalty to the first Republican national administration in 20 years. The party still had its Eisenhower and Taft wings, and Taftites were in command of a strong Wisconsin machine. Shabbily and cruelly they set out to get rid of Alex Wiley for his "betrayal" of isolationism and his independence of bossism. An apparently doomed, almost pathetic figure, he found a majority of Republican primary voters still with him; they turned aside the grab for his seat by the organization man, Congressman Glenn Davis.

When he tried for still another term in 1962 he was overtaken by his irascible old age and by Gaylord Nelson. Wisconsin knew him no more; he lived out his last years a recluse in Washington.

Sen. Wiley made up for a lack of intellectual pretensions with wisdom to be a learner and with courage of conviction. World War II shook him completely out of his instinctive rural midwestern isolationism. As a disciple of the great Sen. Vandenberg he came to give both Presidents Truman and Eisenhower valiant and valuable backing in all manifestations of America's world role—Marshall plan, Atlantic treaty and all—very nearly earning the name of statesman in that work.

He was a warm hearted, high spirited, jovial man, yet a sturdy battler on occasion. He was a decent and honorable man. A pleasant story of him is how he once could have blocked an appointment of the man who had just been his election opponent, Thomas E. Fairchild. He cordially endorsed the appointment instead.

His state owes him an affectionate memory; his party and historians of the Eisenhower administration would rightly acknowledge substantial debts to Alexander Wiley of Wisconsin.

FOREIGN MEDICAL PERSONNEL

Mr. MONDALE. Mr. President, Mr. Richard D. Lyons wrote an excellent article on the brain drain involving foreign medical personnel.

The situation Mr. Lyons outlines would be serious indeed if the only ramifications were on the quality and competence of medical care in the United States. But it involves far more than that. Each one of the foreign doctors who comes to the United States and remains here constitutes the loss of an extremely valuable resource to his native country. It is a loss, not only in terms of health services and standards in his country, but also a loss of a potential leader to a developing nation, which desperately needs every bit of its talent and leadership working for national development.

Mr. President, I ask unanimous consent that this well-documented article be printed in the RECORD.

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

FOREIGN PHYSICIANS, MANY UNQUALIFIED, FILL VACUUM IN UNITED STATES

(By Richard D. Lyons)

The national shortage of doctors and the rising demand for health services has led to the immigration of thousands of foreign physicians, many of doubtful ability who may arrive to practice in American medical institutions sight unseen and quality untested.

The influx of doctors from overseas has become so great in the last 20 years that as many foreign-trained physicians enter the health care system of the United States each year as are graduated from American medical schools.

About 45,000 doctors who were trained in foreign medical schools now reside in this country, and the number is increasing at the rate of 10 per cent a year.

Many of the foreign doctors, possibly as many as 5,000, have been unable to pass tests of basic medical knowledge and are practicing medicine without licenses, sometimes because of loopholes in state certification rules and sometimes with the knowledge of the hospitals in which they work.

Interviews with medical educators, hospital executives and public officials showed that some American hospitals were so short-staffed that they were advertising for doctors overseas and paying their travel expenses to come here, ostensibly for post-graduate study but often for use as cheap help.

MORE FROM POOR NATIONS

The paradox of the migrant doctor problem is that the countries with the better medical schools and standards of health care have far fewer physicians migrating to the United States than those nations whose levels of medical education and services are poor.

England, France, Japan and the Scandinavian nations enjoy higher longevity and lower infant mortality rates than the United States, a reflection of national systems of health care at least as good if not better, but relatively few doctors from there come to this country.

A much larger number enter from such underdeveloped nations as India, Iran and the Dominican Republic, countries with lower standards of health care and a doctor shortage of their own, and these physicians may have only the sketchiest knowledge of both English and medicine.

"This is a major national scandal and there has been no policing of foreign doctors because no central organization is responsible for them," said Dr. Harold Margulies of Washington, assistant director of the American Medical Association's Division of Socio-Economic Activities.

Dr. Margulies, who has studied the problem for six years, estimated that from 2,000 to 5,000 foreign-trained doctors were practicing medicine in the United States without licenses.

SUBSTANDARD CARE SEEN

"I have personally seen unlicensed foreign medical graduates working in hospitals," he said. "We have been meeting our manpower shortage in the United States with substandard people who are offering substandard care in our institutions."

While some of the foreign doctors practicing medicine without licenses do so in violation of state laws, the shortage of physicians has been so acute that many regulatory groups have not moved against them. Penalties vary widely between jurisdictions.

Some hospital officials said that the employment of foreign medical graduates was dictated through necessity as the demands increased for the staffing of emergency rooms, hospital wards and psychiatric institutions.

"Patients in many state hospitals have no hope of getting out and many doctors are uninterested in drab surroundings and uninteresting work," said one hospital executive in Chicago, who added bluntly: "So why not bring in doctors who have 'read' medicine for only six months?"

Dr. Edwin L. Crosby, director of the American Hospital Association in Chicago, attributed the influx of foreign-trained physicians to the increased demand for medical services that opened "thousands of more internship and residency posts in American hospitals, along with the desire "of many foreign graduates for training in the United States."

Dr. Crosby stressed, however, that the hospital association "does not believe that the presence of the vacancies and the need for physician coverage should be used to permit the employment of inadequately trained physicians or those with a substantial language barrier."

An official of the American Medical Association in Chicago said that according to association records almost 7,000 foreign doctors enter the United States every year, yet only half had passed a formal test of medical knowledge prepared by the Educational Council for Foreign Medical Graduates in Philadelphia.

Without certification that he has passed this test, a foreign doctor cannot enter a post-graduate training program in a good hospital, which was probably what attracted him to the United States in the first place.

MAY BE LISTED AS ORDERLIES

"We feel that a lot of these guys end up by working in state institutions and marginal hospitals," the A. M. A. official said. "They may be on the books as broom handlers and orderlies even though they may be actually practicing medicine."

Several medical educators agreed, however, that the instruction foreign doctors receive in this country produces many fine physicians who practice high-quality medicine whether they choose to remain here or return home. But no one knows how many do eventually leave the United States.

According to A.M.A. records, there are 45,749 graduates of foreign medical schools residing in the United States. The figure includes 5,722 graduates of Canadian schools, whose standards are as high as American institutions. The countries of origin and numbers of others are: the Philippines, 5,055; Germany, 4,150; Italy, 2,811; Switzerland, 2,313; the United Kingdom, 2,110; India, 1,833; Mexico, 1,201; Korea, 1,060, and Iran, 1,000.

Federal surveys have shown that last year 3,000 foreign medical graduates entered the United States, while 4,500 more came here on exchange visas. In addition, 500 United States citizens returned home after receiving doctorates of medicine at foreign schools. Thus, a total of 7,500 foreign medical graduates entered the United States last year while American medical schools graduated 7,574.

The drain on medical manpower has become so acute in India that this month she refused to allow physicians to take an examination that would qualify them for practice in the United States.

As one Pennsylvania medical educator said: "This country is simply stealing talent and stealing it from countries that can least afford it."

The doctors coming here, he said, "are not being educated—they're being used" by hospitals that cannot "afford to hire competent doctors."

A study by the Association of American Medical Colleges seemed to bear him out. One-quarter of the positions open to interns and residents in American hospitals were being filled by foreign medical graduates, but most of the foreign doctors were not going to the best institutions.

"Most of those who do not have licenses disappear to state hospitals and some states grant special licenses to practice medicine only in that state and only in that institution," he said.

According to a list of state licensing requirements printed in the Journal of the American Medical Association, 20 states have limited licensing arrangements allowing physicians to practice medicine even though they have not been licensed to do so.

But half of the 3,000 foreign medical graduates who take state licensing examinations every year fail the tests, according to the Association of American Medical Colleges. And passing the examinations may not be a true indication of a doctor's proficiency.

NONE FAILED IN THREE STATES

Dr. Robert C. Derbyshire, past president of the Federation of State Medical Boards and Secretary of New Mexico's Board of Medical Examiners, conducted a study of state licensing procedures between 1955 and 1965.

During that period, he said, the boards in Oklahoma, Idaho and Tennessee "did not fail a single candidate" for a license to practice medicine. In addition, Kentucky, Wyoming, Michigan, Minnesota, Alabama and South Carolina failed only 14 applicants. "The nine states with the lowest failure rates examined 10,455 candidates, with a failure rate of less than 0.14 percent," he said.

Armand L. Bird, executive secretary of the Idaho Board of Medical Examiners, said that the failure rate was low because "applicants for licensure are screened well in advance of the test" to see if they are competent. But Mr. Bird declined to estimate how many applicants had been turned down before the formal test was given.

The Oklahoma Board of Medical Examiners reported that 20 applicants failed in the last two years, and that some failed in previous years, but that the statistics had become garbled.

The administrative assistant to the Tennessee board, Mrs. Gertrude Moore, said that 13 applicants had failed since 1964 but that they were not listed as "failures." She said that the 13 were given a second chance to pass the test and that most did.

Dr. G. Halsey Hunt, executive director of the Educational Council for Foreign Medical Graduates, said that "the licensing each year of close to 1,500 graduates of foreign schools is not a good thing for the United States."

"If these doctors stay in this country," Dr. Hunt said, "they drain something out of the economy of their homeland. They come here because it looks like greener pastures with interns making $400 a month and residents $600, even though the American graduates get the good jobs and the foreign medical graduate gets what's left."

Council statistics showed a high failure rate among those foreign doctors taking the council's test, which is given at United States embassies and consulates. About 60 per cent of those taking the test for the first time overseas fail. Dr. Hunt said, although 98 per cent of Americans would pass it.

But Dr. Hunt pointed out that many of those who failed took the examination again and that 65 per cent eventually passed. "Anyone who has passed the ECFMG is a person who has a degree of medical knowledge comparable to 98 per cent of American medical graduates," he said.

The council's test is a one-day examination containing 360 questions taken from the National Board of Medical Examiners tests that many American medical students take in place of state licensing tests. The passing score is 75. Yet only 12 per cent of foreigners score above 80, as opposed to 80 per cent of Americans.

"The ECFMG examination is a meaningless, watered down test," said Dr. Margulies of the A.M.A. He contended that while the questions were taken from the national board tests, "the most difficult questions are eliminated to allow a larger percentage to pass."

The council's annual report for 1965 says: "It must not be assumed, however, that passing the ECFMG examinations means the same as passing National Board Examinations. Questions that have been judged to be very difficult for American graduates have not been included in the ECFMG examinations."

"To use 75 as a passing grade for this exam would be okay if those who came here returned home again after specialized training," Dr. Margulies said. "But giving them patient responsibility is simply unsatisfactory."

Failure rates for graduates of foreign medical schools vary widely depending on the institution. Last year graduates of the University of Santo Tomas in Manila passed 170 state licensing examinations and failed 110. Istanbul University graduates took 158 tests and failed more than half. University of Bologna graduates passed 48 tests and failed 44. Graduates of British and Scandinavian medical schools passed 100 examinations and failed only nine.

"We are pretending that every medical degree is the same," one medical educator said. In many overseas medical schools, he added, students attend lectures for four years "and never see a patient until they come to the United States to serve as internes."

The curriculum of American medical schools devotes the first two years to instruction in the basic medical sciences, while the second two are used for clinical teaching in which the students work with patients under the tutelage of experienced physicians.

Most foreign-trained doctors entering this country are tested to determine minimum competence, but there has apparently been only one attempt to rate their over-all performance as doctors.

Dr. Erwin Hirsch, director of medical education at the Princeton (N.J.) Hospital, has been giving the same test of basic medical knowledge to American-trained doctors and physicians trained overseas for more than a year.

"The test does not pretend to prove that a man is a good doctor because you can't rate a doctor by an exam alone," Dr. Hirsch said. "But it is a devilishly clever test and the best gauge we have of measuring clinical competence. The test takes a full day and comes pretty close to judging the art of being a doctor. Actual cases and their management are presented, including motion pictures of patients."

Thus far 60 Americans and 129 foreign doctors have taken the test, which has been given at the beginning and end of their internships. Dr. Hirsch said that there was only one American failure both times. One-third

of the foreign graduates passed the test the first time, he said, but after internship two-thirds of them passed.

Dr. Hirsch said that hospitals were using a variety of "recruiting drives" for foreign medical graduates. A director of medical education in a nearby state said he received monthly letters from travel agencies in New York offering to arrange delivery of foreign medical graduates. One of these agencies is the Korea Travel Service in Manhattan, directed by Peter Ohm.

"Business is booming," Mr. Ohm told a recent visitor. He estimated that in the last three years he had placed 120 graduates of South Korean medical schools in American hospitals.

Mr. Ohm said that South Korean doctors who want to come to the United States get in touch with his office in Seoul "and we contact the hospitals here." The American hospitals advance the money for tickets to his travel agency, he said, and the Seoul office gives the tickets to the Korean doctors.

"Today if I call a hospital and say I have a doctor for them they would pay me immediately," Mr. Ohm said.

Mr. Ohm said that internship "used to be slavery, but it's not any more." He explained that some small hospitals will give the air fare to the doctor as a bonus, as well as furnishing him with an apartment and a salary of $600 a month.

He said that the Korean doctors seemed to be satisfied with their new jobs. "Most don't go back home once they get here," he said, even though the Government in Seoul has been trying to persuade them to return.

Attempts to limit the influx of foreign doctors have failed in part because of changes in the immigration regulations.

At one time ECFMG certification was almost mandatory. Then the regulations were relaxed to let foreign doctors enter the country without certification if they had a medical degree and had practiced for at least two years in their own countries. This year the law was changed again to allow in any graduate of a medical school.

"Something should be done about it," Dr. Hunt of the educational council said.

Something is being done about it—in Canada. Medical licensure boards there are studying means of developing uniform requirements for medical licenses that would apply in all 10 provinces, said Dr. J. C. C. Dawson, registrar of the Ontario College of Physicians and Surgeons.

Dr. Dawson said that Canada's foreign doctor problem was more acute than America's because "when your immigration people tell them [the foreign doctors] to move on they come here."

But Dr. Dawson, like his American colleagues, did not envision any quick solution because of the difficulties of getting 10 provincial or 50 state boards to agree on uniform standards.

Many American private health groups are seeking to involve the Federal Government, not only in the foreign doctor problem but also in the whole range of troubles of the American system of health care, including the financing of medical schools.

One panel of leading medical educators estimated in a report to the Federal Government that the cost of expanding medical schools to the point that they could start to produce as many new American doctors each year as are entering from overseas could be as high as $1 billion. Yet many American medical schools are on the verge of bankruptcy.

WALTER REUTHER SUPPORTS A PROGRAM OF SALES HOUSING FOR THE LOWER INCOME FAMILY

Mr. MONDALE. Mr. President, at this session the Housing and Urban Affairs Subcommittee of the Committee on Banking and Currency has devoted much of its energy to the problem of developing a broad program for homeownership for the lower income family. Until last year this was one of the major missing links in our housing policy. Representative SULLIVAN established the first such program with the 221(h) program which is now being implemented in St. Louis, Milwaukee, Philadelphia, and other cities.

However, this is a small program, tied to rehabilitation and requiring the use of FNMA special assistance funds. There is still the need for a larger program. There has been a recognition of this need as exemplified by the large number of proposals for homeownership which were introduced this session. The Housing and Urban Affairs Subcommittee held over 2 weeks of hearings this session, and the vast majority of the testimony was about homeownership. The conclusion of this testimony is that a program of homeownership for the lower income family is a useful supplement to our existing housing legislation. It will offer one more alternative to the lower income family as it tries to better its housing condition.

Upon completion of the hearings the distinguished chairman of the subcommittee, the Senator from Alabama [Mr. SPARKMAN], submitted a plan for sales housing to the subcommittee which will be the basis for the final bill reported from the subcommittee. However, the chairman also suggested that the junior Senator from Illinois [Mr. PERCY] and I develop modifications that would reflect our two positions. Such a compromise has been developed, and it is my hope that this compromise, along with the chairman's ideas, will be the basis for a bill to be reported at this session.

Mr. President, this morning I received a telegram from Mr. Walter Reuther, president of the United Automobile Workers, which supports this compromise and recommends the inclusion of it in the 1967 omnibus housing bill. Mr. Reuther has been a leader in developing and supporting proposals to benefit America's poor. He is truly one of America's leading citizens. It is indeed a compliment to this proposal that Mr. Reuther has seen fit to endorse and support it. Mr. President, I ask unanimous consent that the text of the telegram from Walter Reuther be printed in the RECORD.

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

DETROIT, MICH.,
October 27, 1967.

Senator MONDALE,
Senate Office Building,
Washington, D.C.:

Through the cooperation and support of Chairman Sparkman, a viable compromise provision to establish sales housing program for the less advantaged based on proposals by Senators Mondale and Percy can be included in the proposed Housing and Urban Development Act. On behalf of the United Automobile Workers, I urge support for this provision in the Banking and Currency Committee.

WALTER P. REUTHER.

MILWAUKEE SENTINEL SUPPORTS PROPOSED NEW BUDGET

Mr. PROXMIRE. Mr. President, in a recent editorial the Milwaukee Sentinel writes:

Difficult as the budget reform task is said to be, every effort ought to be made to put the single-budget concept into effect as soon as possible.

The prospect of bringing the federal budget under control, making it structurally sound as well as financially sound, ought to be started at least with the budget President Johnson is to submit next January.

This forthright support for prompt use of the new budget comes from a paper which has been consistently critical of the administration's fiscal policies and has a deep concern for economy.

If the President is to propose his financial plans next January in the new budget form—and I join the Sentinel in hoping that he does—then Congress has a great deal of homework ahead of it.

This is why the hearings of the Joint Economic Committee which will be underway shortly can be so useful to Congress in winning an understanding in detail of the new budget proposals.

Mr. President, I ask unanimous consent that the Milwaukee Sentinel editorial supporting the single-budget idea be printed in the RECORD.

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

SINGLE BUDGET

Combining the federal government's three budgets into one budget would seem so eminently sensible that one might think it should be done forthwith.

Unfortunately, as logical and desirable as the president's budget study commission recommendation is, it is no simple and easy task to make the changeover. Consequently, it is believed highly unlikely that the reform can be instituted by next January, when the next budget is to be submitted. There just isn't enough time, we're being told.

As is all too well known, the federal budget is out of control two ways. One of the ways is fiscally. The long spell of spending beyond our means has reached a point where the budget is practically meaningless, with soaring deficits making a mockery of spending estimates.

The other way the federal budget is out of control is structurally. Through many administrations, the budgetary system has grown more and more complicated, until it has become a virtual shell game with the spending pea lost to even the sharpest eyes during the shuffling of the shells of the administrative budget, the consolidated cash budget and the national income accounts budget.

Combining these three budgets into one clearer package, it is important to note, will not automatically bring the budget under control fiscally. The only way this can be done is to quit spending more than is taken in year after year.

But consolidating three budgets into one will go a long way toward bringing the federal budget under control structurally. This, in turn, could help bring the budget under control fiscally by giving the public a clearer understanding of Washington's spending policies. To put it the other way around, it would be harder for an administration to sell the public the notion that the nation can eat its cake and have it, too.

Therefore, difficult as the budget reform task is said to be, every effort ought to be made to put the single budget concept into effect as soon as possible.

The process of bringing the federal budget under control, making it structurally sound as well a financially sound, ought to be started, at least, with the budget President Johnson is to submit next January.

PRESIDENT JOHNSON OPENS NEW CHAPTER IN AMERICAN-MEXICAN FRIENDSHIP

Mr. MONTOYA. President Johnson and Mexican President Diaz Ordaz opened a new era of American-Mexican friendship by writing the final chapter to the century-old Chamizal land dispute.

Since a southward change of course in the Rio Grande altered our common boundary 105 years ago, the controversy over ownership of the Chamizal has aggravated United States-Mexican relations.

Every American President since 1925 has been deeply embroiled in the dispute, but not until the Kennedy-Johnson administration was an honorable solution negotiated. Courage was required and Presidents Kennedy and Johnson acted courageously to return the Chamizal to its rightful owners—the Mexican people.

President Johnson's transfer of the territory to Mexico transforms the Chamizal from a division of friction into a borderline of friendship. What for 100 years has symbolized disagreement now—in the President's words—"has become—for both of our peoples—an inspiring symbol of friendship and mutual respect."

The proud people of Mexico now have back what a quirk of nature took away. They also have—thanks to the vision of Presidents Johnson and Diaz Ordaz—a closer, warmer relationship with their neighbors to the north than at any time in recent history.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

REDWOOD NATIONAL PARK

Mr. BYRD of West Virginia. Mr. President, for the purpose of laying down the pending business for tomorrow, I move that the Senate proceed to the consideration of Calendar No. 624, S. 2515, the Redwood National Park.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. S. 2515, to authorize the establishment of the Redwood National Park in the State of California, and for other purposes.

The motion was agreed to, and the Senate proceeded to consider the bill.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 12 noon tomorrow.

The motion was agreed to; and (at 1 o'clock and 29 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, October 31, 1967, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate October 30, 1967:

IN THE COAST GUARD

The following named officers to be permanent commissioned officers of the Coast Guard in the grade of commander:

Frank M. Sperry	Joseph A. McDonough, Jr.
Robert P. Harmon	William C. Nolan
Eugene G. Verrett	Clyde T. Lusk, Jr.
Glenn N. Parsons	George H. Wagner
Harold W. Woolley	Billy E. Richardson
James A. Kearney	Thomas R. Tyler
Harris A. Pledger, Jr.	Albert C. Tingley, Jr.
Laurence O. Bates	James A. Wilson
Edward Nelson, Jr.	Charles F. Hahn
William B. Clark	Beverly V. Billingslea
Nathaniel C. Spadafora	Nelson G. Emory
Jack A. Howell	Richard K. Simonds
Russell P. Combs	Joseph P. Dawley
William E. Heath	Leigh A. Wentworth
Richard A. Bauman	Daniel S. Bishop
Arthur Solvang	Jack E. Buttermore
Arthur W. Gove	Albert E. Reif, Jr.
George J. Weidner	Rex R. Morgan
Raymond W. Bernhardt	Victor R. Robillard
Edward F. Davis, Jr.	Arnold M. Danielsen
Robert C. Pittman	James L. Fear
Calvin E. Crouch	Robert T. Getman
Harry J. Oldford, Jr.	Norman E. Fernald
William E. Smith	Eugene L. Davis
Rudolph V. Cassani	Dewey F. Barfield
Marshall K. Phillips	Robert R. Houvener
Kenneth M. Lumsden	Frank J. Diersen
Thomas H. Rutledge	Henry N. Helgesen
Ernest L. Murdock	Sidney O. Tharrington, Jr.
Paul Nichiporuk	Gordon D. Hall
Eugene P. Baumann	Robert F. Mercier
Louis H. Mense	Robert L. Sullins
Walter E. Goldhammer	James C. Knight
William P. Kozlovsky	Norman A. Toon
Edwin L. Parker	Alfred E. Sporl
Paul E. Schroeder	Maynard J. Fontaine
Ralph W. Judd	Harold W. Doan
William T. Sheppard	Edgar S. Hutchinson
James C. Morrow	Merrill K. Wood
James I. Doughty	George F. Merritt
Richard G. Kerr	David B. Flanagan
John M. Culbertson	Henry Haugen
John N. Wilkinson	David L. Green
William J. Tillo	Martin J. Kaiser
Gerald J. Budridge	Alban Landry
Dwight T. Ramsay	Charles B. Glass
Charles L. Clark	William N. Spence
James L. Howard	Ira L. Krams
Francis H. Molin	Kenneth W. Forslund
Kenneth A. Long	Irwin W. Lindemuth
Alfred F. Bridgman, Jr.	James E. Ferguson
George T. Seaman	Joseph L. Coburn, Jr.
John R. Kirkland	Richard Nielsen, Jr.
Henry Lohmann	Richard Rounsevelle
Milton Y. Suzich	Leon T. Dankiewicz
Carlton W. Swickley	Robert L. Cook
Arthur E. Ladley, Jr.	Carmen J. Blondin
Jack E. Coulter	Bobby F. Hollingsworth
Richard T. Brower	Leo Jordan
Raymond J. Copin	Charles A. Biondo
Guy W. Mizell	Howard M. Veillette
Clyde E. Robbins	Arthur E. Gerken
Verne E. Cox	Charles F. McFadden
Robert B. Bacon	Howard B. Thorsen
Philip J. Danahy	Robert E. Larsen
Charles Leddy	Charles A. Millradt
Edward W. Murphy	Henry Suski
Thomas C. Lutton	Richard L. Brown
John J. Dirschel, Jr.	Frederick F. Herzberg, Jr.
George E. Walton	Herbert H. H. Kothe
William J. Bickford	

The following-named officers to be permanent commissioned officers of the Coast Guard in the grade of lieutenant:

Jack C. Rittichier	Charles A. Carleon
William J. Minor	Roderick Martin III
Joseph T. Lersch	Warren A. Baker
Jerome T. Wallace	William H. Solley, Jr.
John W. Lockwood	Karl A. Luck
Marion T. Tilghman	William R. Wilkins
Martin F. Heatherman	Theodore H. Hofer
Dennis G. McDaniel	

The following-named officers to be permanent commissioned officers of the Coast Guard in the grade of lieutenant (junior grade):

William J. Loefstedt
John A. McCullough

IN THE ARMY

The following-named person for appointment in the Regular Army, by transfer in the grade specified, under the provisions of 10 U.S.C., sections 3283, 3284, 3285, 3286, 3287, 3288, and 3290:

To be first lieutenant

Baggett, John A., [redacted].

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of 10 U.S.C., sections 3283, 3284, 3285, 3286, 3287, and 3288:

To be majors

Boudinot, Burton S., [redacted].
Carter, Leonard E., [redacted].
Casteel, Raymond K., [redacted].
Miller, George W., [redacted].
Steverson, James R., [redacted].
Tate, Clyde J., [redacted].
Trapp, Turner J., [redacted].

To be captains

Ault, John W., Jr., [redacted].
Benson, J. D., [redacted].
Boone, Howard, [redacted].
Butler, Lyle W., Jr., [redacted].
Byrd, Melvin L., [redacted].
Catlett, Richard W., [redacted].
Conforti, Gilbert, [redacted].
Cotton, Thomas B., [redacted].
Dantzler, William D., Jr., [redacted].
Ferriani, Robert P., [redacted].
Fitzpatrick, James J., Jr., [redacted].
Gray, Robert O., [redacted].
Guarino, Harold B., [redacted].
Hagan, Joe P., [redacted].
Henderickson, Richard E., [redacted].
Langrehr, Michael J., [redacted].
Mackintosh, Hartley B., [redacted].
Monzingo, Harold L., [redacted].
Moody, Rosser L., Jr., [redacted].
Myers, Ernest L., [redacted].
Naylor, Robert H., II, [redacted].
Perham, John E., [redacted].
Pratt, Robert H., [redacted].
Roberson, Clayton S., [redacted].
Scanlan, Walter G., [redacted].
Searcy, James W., [redacted].
Showalter, Robert A., [redacted].
Tebo, Robert J., [redacted].
Todd, Jackson E., [redacted].
Torsani, Joseph A., Jr., [redacted].
Vickery, Ellison B., Jr., [redacted].
Wainwright, Oliver O., [redacted].
Wheeler, Philip A., [redacted].
Witt, Billy J., [redacted].
Woodle, Kenneth J., [redacted].

To be first lieutenants

Arnold, Richard L., [redacted].
Arter, Jerome S., [redacted].
Bacon, Douglass P., [redacted].
Bawell, Walter A., [redacted].
Behr, Steven, [redacted].
Bianco, Charles, [redacted].
Booth, Clinton A., [redacted].

Brafford, Robert, xxxx
Buford, William C., xxxxxxxx
Burr, Jacky A., xxxxxxxx
Burrell, Victor F., xxxxxxxx
Butler, Perry C., xxxxxxxx
Campbell, William H., xxxxxxxx
Chien, Kenneth, xxxxxxxx
Coniglio, James V., xxxxxxxx
Counts, Edward T., xxxxxxxx
Cowgill, Perry B., xxxxxxxx
Crawford, William R., xxxxxxxx
Crigger, Donald E., xxxxxxxx
Czerwonka, August E., xxxxxxxx
Daniel, Eugene L., xxxxxxxx
Dean, David E., xxxxxxxx
Deckett, Paul E., xxxxxxxx
Dibble, George B., Jr., xxxxxxxx
Ellington, Jimmy R., xxxxxxxx
Fischer, Donald C., Jr., xxxxxxxx
Foye, David M., xxxxxxxx
Frazier, Robert D., xxxxxxxx
Fullerton, Robert J., xxxxxxxx
Hakola, John A., xxxxxxxx
Hardy, Robert S., Jr., xxxxxxxx
Hawkins, Spencer E., xxxxxxxx
Houdyshell, Walter L., xxxxxxxx
Hunt, Robin R., xxxxxxxx
Jones, Philip R., xxxxxxxx
Keefer, Marvin E., xxxxxxxx
Kreinik, Herbert, xxxxxxxx
Lazzari, Joseph D., xxxxxxxx
Lee, Stephen H., xxxxxxxx
Long, William P., xxxxxxxx
Mailki, Donald B., xxxxxxxx
Masi, Herbert C., xxxxxxxx
McLaughlin, Joseph P., Jr., xxxxxxxx
McLeskey, Frank R., xxxxxxxx
Miller, Donald W., xxxxxxxx
Morris, Hollis L., xxxxxxxx
Mycock, James S., xxxxxxxx
Needham, James P., xxxxxxxx
Quamo, George, xxxxxxxx
Quigley, George, xxxxxxxx
Ritter, James W., xxxxxxxx
Robinson, Dwight K., xxxxxxxx
Sands, Thomas J., xxxxxxxx
Scheer, Robert O., xxxxxxxx
Schwartz, Wayne E., xxxxxxxx
Seybold, Calvin C., xxxxxxxx
Singhaus, Robert L., xxxxxxxx
Slagle, Benny L., xxxxxxxx
Smith, Clarence R., xxxxxxxx
Spoonemore, Bobby B., xxxxxxxx
Strassburger, Gustav A., xxxxxxxx
Supinski, Richard E., xxxxxxxx
Tillman, Samuel J., xxxxxxxx
Tragesser, John N., II, xxxxxxxx
Velezis, James A., xxxxxxxx
Vencill, Carleton P., xxxxxxxx
Voelz, James H., xxxxxxxx
Walburn, Richard L., xxxx
Zick, Robert E., xxxxxxxx

To be second lieutenants

Adams, Melville W., xxxxxxxx
Blaylock, Norman R., xxxxxxxx
De Frain, Dennis A., xxxxxxxx
De Vaughn, Kermit L., xxxxxxxx
Douglass, David G., xxxxxxxx
Fitzpatrick, Joseph W., Jr., xxxxxxxx
Griffin, Linwood, xxxxxxxx
Hall, Charles W., xxxxxxxx
Hink, William M., xxxxxxxx
Holmes, Edward A., xxxxxxxx
Hookness, Robert S., xxxxxxxx
Howard, Thomas A., xxxxxxxx
Kelliher, John J., xxxxxxxx
Krantz, Kenneth A., xxxxxxxx
Laubecher, Ralph G., xxxxxxxx
Leet, James L., Jr., xxxxxxxx
Mann, Thomas R., xxxxxxxx
Mattioli, Ronald B., xxxxxxxx
Maughan, Franklin D., Jr., xxxxxxxx
McCullough, David D., Jr., xxxxxxxx
Owens, John M., III, xxxxxxxx
Senninger, Theodore J., xxxxxxxx
Sims, Benjamin A., xxxxxxxx
Snow, Glen L., xxxxxxxx
Thornton, Harold E., xxxxxxxx
Voisine, Victor K., xxxxxxxx
Wagner, Joseph B., xxxxxxxx

Wagner, Robert L., xxxxxxxx
Whitt, Walter F., III, xxxxxxxx
Wiedenfeld, Kenneth W., xxxxxxxx

The following-named persons for appointment in the Regular Army of the United States, in the grades and branches specified, under the provisions of 10 U.S.C., sections 3283, 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3293, 3294, and 3311:

To be lieutenant colonel, Medical Corps

Jensen, Robert T., xxxxxxx

To be major, Medical Service Corps

Campbell, William A., xxxxxxxx

To be captains, Army Nurse Corps

Bauman, Jerome H., xxxxxxxx
Beckman, Ronald, J., xxxxxxxx
Burton, Robert W., xxxxxxx
Clayton, Sanford A., xxxxxxxxx
Collins, Neal W., xxxxxxxxx
Fladeland, Donovan L., xxxxxxxxx
Gonzales, Luis J., xxxxxxxxx
Hart, John B., xxxxxxxxx
Harvey, John J., Jr., xxxxxxxxx
Hauck, Leonard N., xxxxxxxxx
Martin, Melvin M., xxxxxxxxx
Maziarski, Frank T., xxxxxxxx
Newton, Donald H., xxxxxxxxx
Smith, Roy D., xxxxxxxxx
Stepulis, John J., xxxxxxxxx
Storey, Billy M., xxxxxxxxx
Zitzelberger, John J., xxxxxxxxx

To be captains, chaplain

Beck, Frank S., xxxxxxxx
Cochran, Keric J., xxxxxxxx
Gibbs, Charles R., III, xxxx
Rivers, William H., xxxxxxxx
Shannon, Sylvester L., xxxxxxxx
Starnes, William B., xxxxxxxx

To be captains, Dental Corps

Everett, Gaither B.,
Klonaris, Nick S., xxxxxxxx
Parmer, Dennis E., xxxxxxxx
Politowicz, Edward P., xxxxxxxx
Welsch, Stephen L., xxxxxxxx

To be captain, Judge Advocate General's Corps

Suarez, Philip M., xxxxxxxx

To be captains, Medical Corps

Allen, Frank H., xxxxxxxx
Brown, Samuel A., xxxxxxxx
Dearnbarger, Norman E., xxxxxxxx
Giddens, Warren W., xxxxxxxx
Golembiewski, Richard S., xxxxxxxx
Graven, Richard M., xxxxxxxx
Leslie, James R., xxxxxxxx
Manning, John J., xxxxxxxx
O'Kieffe, Donald A., Jr., xxxxxxxx
O'Regan, Thomas J., xxxxxxxx
Padgett, Robert A., xxxxxxxx
Parker, David N., xxxxxxxx
Peter, Peter R., xxxxxxxx
Slaughter, William G., xxxxxxxx
Smith, Robert D., xxxxxxxx
Stamps, Phil., xxxxxxxx

To be captain, Women's Army Corps

Gibson, Gwen, xxxxxxxx

To be first lieutenant, Army Medical Specialist Corps

Evans, Ida S., xxxxxxxx

To be first lieutenants, Army Nurse Corps

Bouleau, Paul J., xxxxxxxxx
Christner, John K., xxxxxxxxx
Churchill, Frank E., Jr., xxxxxxxxx
Diez, Sarah G., xxxxxxxx
Holder, Richard A., xxxxxxxxx
Johnson, Tony B., xxxxxxxxx
McDowell, Boyce N., xxxxxxxxx
Michel, George H., xxxxxxxx
Sauter, Joseph G., Jr., xxxxxxxxx
Stanfield, John C., xxxxxxxxx
Tiers, Sharon M., xxxxxxxx
Umphenour, Jo H., xxxxxxxx
Weddell, Rose M., xxxxxxx
Westmoreland, Carolyn A., xxxx
Wolf, Jo Ellen, xxxxxxxx

To be first lieutenants, Chaplain

Cooke, James P., xxxxxxxx
Hunt, Henry L., xxxxxxxx

To be first lieutenant, Dental Corps

McCoy, Clark H., xxxxxxxx

To be first lieutenant, Judge Advocate General's Corps

Wilson, George E., xxxxxxxx

To be first lieutenants, Medical Corps

Almquist, Howard T., xxxxxxxx
Ammel, Theodore J., xxxxxxxx
Babcock, William S., xxxxxxxx
Bell, Thomas D., xxxxxxxx
Bollman, Charles S., xxxxxxxx
Brannon, Julian W., xxxxxxxx
Bridenbaugh, Robert H., xxxxxxxx
De Villez, Richard L., xxxxxxxx
Larson, Arthur W., Jr., xxxxxxxx
Leman, Milton H., Jr., xxxxxxxx
Lovelace, Dallas W. III, xxxxxxxx
Mahakian, Charles G., xxxxxxxx
Martin, Carroll M., Jr., xxxxxxxx
Maybee, David A., xxxxxxxx
McManus, Lawrence F., xxxxxxxx
Shuger, Richard D., xxxxxxxx

To be first lieutenants, Medical Service Corps

Crissey, Melvin P., Jr., xxxxxxxx
Jorlett, Joel, xxxxxxxx
McCauley, Charles L., xxxxxxxx
McClinton, Gaylon M., xxxxxxxx
Parsons, Ray E., xxxxxxxx

To be second lieutenants, Medical Service Corps

Lyon, Wendell K., xxxxxxxx
Wofford, Donald R., xxxxxxxx

To be second lieutenants, Army Medical Specialist Corps

Cronin, Martha A., xxxxxxxx
Dishongh, Sharron J., xxxx

To be second lieutenants, Army Nurse Corps

Berry, Richard L., xxxxxxxx
Christenson, Larry D., xxxxxxxx
Huntington, Theodore L., xxxxxxxx
Reed, Richard T., xxxxxxxx

The following-named distinguished military and scholarship students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under the provisions of 10 U.S.C., sections 2106, 2107, 3283, 3284, 3286, 3287, 3288, 3290:

To be second lieutenants, Medical Service Corps

Austin, Henry III.
Goldammer, Robert M.
Nakayama, Harvey K.

To be second lieutenants

Amox, Ronald L.
Aoyagi, Gordon A.
Arnold, John W.
Asher, Samuel E.
Askwig, Glenn W., Jr.
Baker, Jon F.
Barrett, William J.
Bauman, Stephen A.
Bay, Thomas R.
Black, Ronald L.
Bowers, Larry E.
Boyd, Richard S.
Bray, David R.
Brown, Willie, III
Brunson, Eliehue
Burns, James C.
Burton, James M.
Bustamante, Arturo
Carlson, John A.
Carr, William L., III
Collings, Laurence K.
Cunningham, Jesse M.
Dahl, Gary A.
Darrow, Arthur C., III
Davis, John F.
Davis, William E.
Denmark, Robert A.
Donahue, John L.
Douglas, John W., Jr.
Dunham, Dale L.
Edmonds, James T., III
Estey, Allan E.
Ferezan, Daniel M.
Fleming, Weldon G., Jr.
Ford, Curtis M.
Fredine, Richard E.
Gardenhire, Gary W.
Geoghegan, William C.
Glass, Stephen S.
Glover, Donald H.
Godwin, Carroll M.
Guthrie, Paul J.
Haggar, Michael J.
Hamilton, James N.
Harbor, John D.
Hess, James M.
Hobdy, Harrell H.
Hollywood, John H.
Horne, William L., Jr.
Howell, Clifford N.
Hull, Scott W.
Hutson, Thomas M., III
Jones, Michael G.
Kaiser, Charles A.
Kamerath, David E.
King, Dennis R.
Kirk, Joseph S., Jr.

Korb, Kenneth W.	Reinaas, Phillip K.
Kroon, Jerry D.	Robinson, Donald L.
Lamborn, George, L.	Russell, Robert G., III
Lay, Russell	Sakaki, Carl H.
Lee, M. Clark	Sakamoto, Richard Y.
Luckett, James S., II	Schaden, Richard T.
Main, Roger L.	Sepic, Joseph
Malone, Dennis A.	Simmons, Ronald J.
Marty, Edward J.	Simpson, Michael J.
Mealing, Robert A.	Smith, Nelson F., Jr.
Mills, James I., Jr.	Snyder, Robert G.
Moore, Earl E., Jr.	Stephens, Thomas C.
Morris, Joe S.	Tripp, Peter L.
O'Connor, Terry A.	Turner, Randy V.
Olson, John D., Jr.	Uranker, Gerald A.
Owens, Gerald B.	Vick, Charles E.
Parker, David L.	Watson, Albert J.
Peltier, Kenneth N.	Wattawa, Thomas J.
Perkins, Thomas H., III	Westmark, Ronald A.
	Wood, Clifford M., Jr.
Pew, Larry, G.	Wulf, Timothy B.
Pilotte, Robert E.	Wymore, William R.

HOUSE OF REPRESENTATIVES

MONDAY, OCTOBER 30, 1967

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Our soul waiteth for the Lord: He is our help and our shield.—Psalm 33: 20.

Eternal God, the sustainer of life and the Father of all men, in Thy presence we pause in silence knowing that with Thee all our labor is worthwhile. We pray that our lives and the life of our Nation may be built upon the rock of eternal truth and invincible good will. So we dedicate ourselves anew to Thee who art the way, the truth, and the life.

We thank Thee for our country, for our glorious heritage, for this challenging hour, and for the faith with which we can meet the days that lie ahead. Bless Thou our President—give him wisdom as he leads our people through these troubled times. Bless these Representatives and help them ever to look to Thee who art the fountain of wisdom and the source of all good. Bless our men and women in Vietnam—strengthen them in every noble endeavor and hasten the day when war shall cease and peace rule in the hearts of men and of nations.

May Thy mighty spirit surging through us and our people translate our principles into practices and our dedication to Thee into a greater devotion to truth and freedom. In the Master's name. Amen.

THE JOURNAL

The Journal of the proceedings of Friday, October 27, 1967, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1260. An act to amend the Northwest Atlantic Fisheries Act of 1950 (Public Law 81–845);

S. 1602. An act to create a Northwest Regional Services Corporation to provide a central location for various training centers and programs, and for other purposes;

S. 1752. An act to amend the act prohibiting fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels;

S. 1798. An act to amend section 4 of the Fish and Wildlife Act of 1956, as amended;

S. 2047. An act to exempt certain vessels engaged in the fishing industry from the requirements of certain laws;

S.J. Res. 64. Joint resolution to establish a Commission on Balanced Economic Development; and

S.J. Res. 103. Joint resolution to authorize and direct the Secretary of the Interior to conduct a survey of the coastal and freshwater commercial and recreational fishery resources adjacent to the United States, including the resources within the territorial waters of the Great Lakes, the territories and possessions of the United States, and the Commonwealth of Puerto Rico, and to make available to the public and Congress information gained from such survey.

SIGNING OF ENROLLED BILLS

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Friday, October 27, 1967, he did on that day sign the following enrolled bills of the House:

H.R. 1499. An act to provide for the striking of medals in commemoration of the 300th anniversary of the explorations of Father Jacques Marquette in what is now the United States of America;

H.R. 5894. An act to amend titles 10, 32, and 37, United States Code, to remove restrictions on the careers of female officers in the Army, Navy, Air Force, and Marine Corps, and for other purposes;

H.R. 10105. An act to provide for the striking of medals in commemoration of the 150th anniversary of the founding of the State of Mississippi;

H.R. 10160. An act to provide for the striking of medals in commemoration of the 50th anniversary of the founding of the American Legion;

H.R. 10196. An act making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1968, and for other purposes; and

H.R. 13212. An act to provide for the striking of medals in commemoration of the 200th anniversary of the founding of San Diego.

JOHN McCORMACK, SPEAKER OF THE HOUSE

Mr. SIKES. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SIKES. Mr. Speaker, it is most disappointing to note that questions have been raised about the Democratic leadership in the House. JOHN MCCORMACK is Speaker and rightfully so, and Speaker he will remain. He is Speaker because the House trusts him, because he understands the problems of its Members, because he is tolerant, because he believes in democratic principles of Government, because by experience and ability he is the best man for the job. I am certain that if there were an election today, the Florida delegation and the House would vote solidly for him, just as it did on the day he was first elected Speaker. His is proven leadership.

FOWL PLAY IN ALLOCATION OF RESOURCES

Mr. RYAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RYAN. Mr. Speaker, there was a little item which appeared in last week's New York Times which puts into perspective the dispute over whether to allocate minimal or subminimal funds for the eradication of poverty and other critical domestic ills.

The Times noted on October 25, and I quote:

SPENDING ON PETS EXCEEDS OUTLAY BY UNITED STATES FOR THE POOR

PORTLAND, OREG.—Dr. Richard T. Frost, a political science professor at Reed College, contends that Americans spend $3-billion yearly on house pets, but only $1.7-billion on the Federal war on poverty.

Dr. Frost asserted that Americans also spent $55-million on the care and feeding of migrant birds, but only $40-million on aid to migrant workers.

Mr. Speaker, I hope that my colleagues will keep these figures in mind before embarking upon another round of budget cuts.

A NEED TO OVERHAUL THE FEDERAL PENAL SYSTEM

Mr. PUCINSKI. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PUCINSKI. Mr. Speaker, last Friday two policemen were murdered when they attempted to interrupt a bank robbery in Northlake, Ill.

These two brave policemen fell victims to a gun battle which ensued between themselves and three bank robbers, two of whom were recently released from the Federal maximum security prison at Marion, Ill. Both of these men had served time in the Federal prison for earlier robberies.

The two former Federal prisoners are still at large and a mass manhunt is in progress to assure their capture.

Mr. Speaker, I have today asked the Federal Bureau of Prisons for a report on what steps are being taken by the Federal Government to reduce the alarming rate of recidivism among those incarcerated both in Federal and State prisons.

Nothing will bring back these two Northlake policemen who were brutally and savagely slain when they interrupted the bank robbery. But I think their wanton murder should serve as a clarion call for the entire American community to inquire why so many of those we incarcerate in our prisons return to crime al most immediately upon their release.