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Congressional Record

PROCEEDINGS AND DEBATES OF THE 90th CONGRESS, FIRST SESSION

SENATE

WEDNESDAY, FEBRUARY 8, 1967

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

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

O Thou, Father of our spirits, who hearest prayer, breathe upon us now, we beseech Thee, the benediction of Thy holy calm. Soothe the anxieties of our baffled minds so that with the shield of Thy peace and the sword of Thy truth we may face whatever tests this day may bring, free and fearless.

Kindle on the altar of our hearts a flame of devotion to freedom's cause in all the world that, in its white heat, shall consume every grosser passion. Heal the divisions which shorten the arm of our national might as we stand at this crossroads of history. Override the errors of our faulty judgments.

In spite of all the evil that stalks the earth, we thank Thee for human kindness, for hope that shines undimmed, for faith that is dauntless, and for all the qualities of high personality that cannot be bought.

Let Thy beauty, O Lord, be upon us, that our spirits may be radiant as in Thy strength we face the perplexities of these troubled days.

So may Thy kingdom come and Thy will be done in all the earth.

In the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. LONG of Louisiana, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, February 7, 1967, was dispensed with.

MESSAGE FROM THE PRESIDENT

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

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. LONG of Louisiana, and by unanimous consent, the following subcommittees were authorized to meet during the session of the Senate today:

The Subcommittee on Government Research of the Committee on Government Operations;

The Subcommittee on Air and Water Pollution of the Committee on Public Works.

LIMITATION ON STATEMENTS DURING THE TRANSACTION OF ROUTINE MORNING BUSINESS

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

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT ON FEDERAL CONTRIBUTIONS PROGRAM, EQUIPMENT AND FACILITIES—OBLIGATIONS BY STATES

A letter from the Acting Director of Civil Defense, Department of the Army, Washington, D.C., transmitting, pursuant to law, a report on the Federal contributions program, equipment and facilities—obligations by States, for the quarter ended December 31, 1966 (with an accompanying report); to the Committee on Armed Services.

REPORT OF U.S. TRAVEL SERVICE

A letter from the Acting Secretary of Commerce, transmitting, pursuant to law, a report of the U.S. Travel Service, for the 6-month period ended June 30, 1966 (with an accompanying report); to the Committee on Commerce.

PROMOTION OF U.S. INTERESTS IN VOLUNTARY INTERNATIONAL COMMERCIAL STANDARDS ACTIVITIES

A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to promote and support representation of U.S. interests in voluntary international commercial standards activities, to establish a clearinghouse for commercial and procurement standards, and for other purposes (with an accompanying paper); to the Committee on Commerce.

USE BY POLICYHOLDERS OF CASH SURRENDER VALUE OF CERTAIN LIFE INSURANCE

A letter from the Administrator of Veterans' Affairs, Veterans' Administration, Washington, D.C., transmitting a draft of proposed legislation to authorize the use by policyholders of the cash surrender value or the proceeds of a matured endowment policy of U.S. Government or national service life insurance to purchase annuities (with an accompanying paper); to the Committee on Finance.

AMENDMENT OF PEACE CORPS ACT

A letter from the Director, Peace Corps, Washington, D.C., transmitting a draft of proposed legislation to amend further the Peace Corps Act (75 Stat. 612), as amended (with accompanying papers); to the Committee on Foreign Relations.

REPORT ON PROPERTY DONATED TO PUBLIC HEALTH AND EDUCATION INSTITUTIONS

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report covering personal property donated to public health and educational institutions and civil defense organizations, and real property disposed of to public health and educational institutions, for the 6-month period ended December 31, 1966 (with an accompanying report); to the Committee on Government Operations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on procurement of locomotives for Thailand under the military assistance program, Department of Defense, dated January 1967 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on payment of certain severance benefits to former Foreign Service officers, Department of State, dated January 1967 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on opportunities for reducing Federal contributions by maximizing investment of excess funds held by local housing authorities, Department of Housing and Urban Development, dated January 1967 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on review of planned Federal contribution toward the cost of the State-constructed Del Valle Dam and Reservoir, Alameda County, Calif., Corps of Engineers (Civil Functions), Department of the Army, dated January 1967 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on examination of financial statements, fiscal year 1966, Housing Assistance Administration, Department of Housing and Urban Development, dated January 1967 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on review of recovery procedures relating to excess funds accumulated under an insurance contract for the medical care of old-age assistance recipients in the State of Texas, Welfare Administration, Department of Health, Education, and Welfare, dated January 1967 (with an accompanying report); to the Committee on Government Operations.

PAYMENT OF CERTAIN TRAVEL EXPENSES

A letter from the Chairman, U.S. Civil Service Commission, Washington, D.C.,

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

transmitting a draft of proposed legislation to amend title 5, United States Code, to authorize payment of travel expenses of applicants invited by an agency to visit it in connection with possible employment (with accompanying papers); to the Committee on Government Operations.

ESTABLISHMENT OF A NATIONWIDE SYSTEM OF TRAILS

A letter from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to establish a nationwide system of trails, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

GEOTHERMAL STEAM ACT OF 1967

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the Secretary of the Interior to make disposition of geothermal steam and associated geothermal resources, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

SAFE STREETS AND CRIME CONTROL ACT OF 1967

A letter from the Acting Attorney General, transmitting a draft of proposed legislation to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes (with an accompanying paper); to the Committee on the Judiciary.

CREATION OF U.S. CORRECTIONS SERVICE

A letter from the Acting Attorney General, transmitting a draft of proposed legislation to assist in combatting crime by creating the U.S. Corrections Service, and for other purposes (with an accompanying paper); to the Committee on the Judiciary.

REPORT ON EMPLOYEE PERSONNEL PROPERTY CLAIMS

A letter from the Administrator, National Aeronautics and Space Administration, Washington, D.C., transmitting, pursuant to law, a report on employee personnel property claims, for the calendar year 1966 (with an accompanying report); to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

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

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of Washington; to the Committee on Public Works:

"HOUSE JOINT MEMORIAL 8

"To the Honorable Lyndon B. Johnson, President of the United States, and to the Senate and House of Representatives of the United States of America, in Congress assembled, and to the Secretary of the Department of Transportation:

"We, your Memorialists, the Senate and the House of Representatives of the State of Washington, in legislative session assembled, respectfully represent and petition as follows:

"Whereas the Bureau of Public Roads of the Department of Transportation in late November, 1966, advised all states of a cut in their authority to obligate federal aid highway funds for fiscal 1967 as well as retroactive prohibition on obligating any funds not yet obligated from previous apportionments as of June 30, 1966; and

"Whereas the effect of such cuts on the State of Washington will be in reality a reduction of forty-one percent and not the reported seventeen and one-half percent, which is readily demonstrable as follows:

"Federal funds from prior years (unobligated)	$26,000,000
Original Federal allocation to June 30, 1967	97,000,000
Total funds available to Washington	123,000,000
Less:	
Withheld to protect liquidity	10,000,000
Percentage cutback	15,000,000
Unobligated funds frozen in cutback order	26,000,000
Total withholding, cutback, and freeze	51,000,000
Remaining Federal funds available	72,000,000

"Thus, of the one hundred twenty-three million dollars of federal aid highway funds available to the State of Washington for new highway construction, the state now has remaining seventy-two million dollars, or a cut of forty-one percent; and

"Whereas recent reports indicate that further cuts are threatened which would result in a cut of an additional ten million dollars of the funds available for the State of Washington; and

"Whereas the State of Washington has geared its highway planning and steadily increasing construction in reliance on the promises, announced policies, budgets, statutes, and urgings of the federal government, resulting in the employment of a heavy proportion of construction engineers and consulting engineers; and

"Whereas the private construction industry has increased its employment and capital investments to meet anticipated highway department programs; and

"Whereas the federal aid cut will create employment difficulties in both state government and private industry as well as losses in capital investments; and

"Whereas the federal aid cut will severely curtail this state's efforts to achieve an adequate state highway transportation system and to fulfill its obligations to complete its portion of the interstate highway system; now, therefore, be it

"*Resolved*, That the Senate and House of Representatives of the State of Washington do respectfully urge that the Congress of the United States do at the earliest possible time devise and approve legislation which will restore all federal aid highway funds to the levels in effect and contemplated in November, 1966, prior to the cut-back; be it further

"*Resolved*, That copies of this Memorial be transmitted by the Secretary of State to the President of the United States, to the Senators and Representatives in Congress from the State of Washington, to the Vice President, to the Chairmen of the Committees on Finance and on Commerce of the Senate, to the Speaker and the Chairmen of the Ways and Means and Public Works Committees of the House of Representatives, and to the Secretary of the Department of Transportation.

"Passed the House January 24, 1967.

"DON ELDRIDGE,
"Speaker of the House.

"Passed the Senate January 25, 1967.

"JOHN A. CHERBERG,
"President of the Senate.

"Attest:

"MALCOLM MCBEATH,
"Chief Clerk, House of Representatives."

A joint resolution of the Legislature of the State of Montana; to the Committee on Public Works:

"SENATE RESOLUTION 2

"A joint resolution of the Senate and House of Representatives of the State of Montana to the President of the United States, the Honorable Lyndon B. Johnson; to the Speaker of the House and the President of the Senate; to the Clerk of the House of Representatives and the Secretary of the Senate; to the Committee on Appropriations of the United States Senate; to the Committee on Appropriations of the House of Representatives; to the Committee on Public Works of the House of Representatives; to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the State of Montana; to the Honorable Arnold H. Olsen and the Honorable James Battin, Representatives from the State of Montana; to the Honorable Charles L. Schultze, Director, Bureau of the Budget; to the Honorable Stephen Ailes, Secretary of the Army; to the Honorable Lt. General W. K. Wilson, Jr., Chief of Engineers, Army Corps of Engineers; requesting a review and redefinition of the present land acquisition policy in the Libby Dam area

"Whereas the Kootenai country of Montana was settled by pioneers who by their toil and sacrifice tamed a wild land and left a heritage of work and dignity to the present occupants of the land, and

"Whereas over a period of years the inhabitants of the land have formed deep and meaningful attachments to their land, their homes, and to the gravesites of their loved ones, and these attachments should not be torn and destroyed lightly or without good cause, and

"Whereas the people of Montana are fully cognizant of the benefits to be gained from water development projects like Libby Dam, and

"Whereas the original plan was to provide a three hundred foot wide access strip above the water level of Libby reservoir for recreation but now far more land is being condemned needlessly and at unwarranted expense to the taxpayer, and

"Whereas under the present appraisal system, prices being offered for this land are so low and unrealistic that the land owner has no possibility of being able to provide like accommodations for himself and his family without economic suffering; and that this appraisal policy sorely offends the spirit of the constitutional proscription against taking of private property for public use without just compensation, and

"Whereas the federal government already possesses more than eighty percent of the land area of Lincoln county and any additional taking of land for federal purposes would be detrimental to the prosperity and development of this area, and

"Whereas under the present lease policy of the United States Forest Service, no provision is made for giving present occupants of the land a priority to retain their home sites, and this practice is unduly restrictive and unfair to long-time residents of the area. Now, therefore, be it

"*Resolved by the Senate and House of Representatives of the State of Montana*, That the present land acquisition policy in the Libby Dam area be reviewed by appropriate personnel and that no land in addition to the three hundred foot access strip be taken for recreation. Be it further

"*Resolved*, That the appraisal policy now being carried out be reviewed and redirected in such a manner that no land owner will suffer economic hardship as a result of having his land taken for purposes affiliated with Libby Dam. Be it further

"*Resolved*, That the policy of the United States Forest Service be altered to provide present holders of land and home sites a

preference in leasing land on a fair and equitable basis. Be it further

"*Resolved*, That the secretary of state is instructed to send copies of this resolution to all persons to whom it is addressed.

"Attest:

"JAMES J. PASMA,
"Secretary of the Senate.
"TED JAMES,
"President of the Senate.
"JAMES R. FELT,
"Speaker of the House."

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

"ENROLLED JOINT RESOLUTION 1, SENATE, 39TH SESSION OF THE STATE LEGISLATURE OF THE STATE OF WYOMING

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

"Whereas the Eighty-ninth Congress of the United States of America, at the first session begun and held at the City of Washington on Monday, the fourth day of January, one thousand nine hundred and sixty-five, by a constitutional two-thirds vote in both Houses adopted a Joint Resolution proposing an amendment to the Constitution of the United States, to wit:

"'Joint resolution proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice Presidency and to cases where the President is unable to discharge the powers and duties of his office

"'*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"'"ARTICLE —

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

"'"SEC. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

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

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

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

"Now, therefore, be it resolved, that the Legislature of the State of Wyoming hereby ratifies and adopts this proposed Amendment to the Constitution of the United States.

"Be it further resolved that the Secretary of the State of Wyoming notify the President of the United States, the President pro tempore of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Administrator of General Services of the United States, and each Senator and Representative from Wyoming in the Congress of the United States of this action of the Legislature by forwarding to each of them a certified copy of this Resolution.

"WILLIAM F. SWANTON,
"Speaker of the House.
"RICHARD R. JONES,
"President of the Senate."

A resolution adopted by the Democratic Club of Mesa County, Grand Junction, Colo., relating to the application of the Fair Labor Standards Act and its recent amendment; to the Committee on Armed Services.

A resolution adopted by the mayor and common council of the city of San Bernardino, Calif., favoring the enactment of legislation to provide for uniform, fair, and equitable treatment of persons and businesses displaced by Federal and federally assisted programs; to the Committee on Banking and Currency.

EDUCATION AND WELFARE—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 54)

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate a message from the President of the United States on education and welfare. Without objection, the message will be printed in the RECORD without being read, and will be appropriately referred.

The message from the President is as follows:

To the Congress of the United States:

In 1905, this Nation hummed with industrial growth—and Jane Addams discovered a boy of 5 working for a living by night in a cotton mill.

Thirteen percent of the laborers then in the cotton trade were child laborers. All across the Nation, in glass factories, in mines, in canneries and on the streets, more than 2 million children under 16 worked—full time.

Slowly, what Theodore Roosevelt called "public sentiment, with its corrective power" stirred and raised a cry for action.

"The interests of this Nation," President Roosevelt declared to Congress in 1909, "are involved in the welfare of children no less than in our great national affairs."

By 1912, the Federal Children's Bureau was established. The long battle to end child labor moved toward victory. Congress had pledged its power to the care and protection of America's young people.

Upon that pledge, the Congress, the executive branch, and the States have built public policy—and public programs—ever since.

In the past 3 years, I have recommended and you in the Congress have enacted legislation that has done more for our young people than in any other period in history:

Headstart and other preschool programs are providing learning and health care to more than 2 million children.

The Elementary and Secondary Education Act is improving the education of more than 7 million poor children.

Our higher education programs support more than 1 million students in college—students who might otherwise not have been able to go.

The Neighborhood Youth Corps, the Job Corps, and an expanded manpower development and training program are bringing skills to almost 1 million young Americans who only a few years ago would have been condemned to the ranks of the unemployed.

The "medicaid" program is now extending better medical service to millions of poor children.

In fiscal 1960, the Federal Government invested about $3.5 billion in America's children and youth. In fiscal 1965 that investment rose to $7.3 billion. In fiscal 1968 it will increase to over $11.5 billion—more than three times the amount the Government was spending 8 years ago.

We are a young nation. Nearly half our people are 25 or under—and much of the courage and vitality that bless this land are the gift of young citizens.

The Peace Corps volunteer in Bolivia, the Teacher Corps volunteer in a Chicago slum, the young marine offering up his courage—and his life—in Vietnam: these are the Boy Scouts, the 4-H Club members, the high school athletes of only a few years ago. What they are able to offer the world as citizens depends on what their Nation offered them as youngsters.

Knowing this, we seek to strengthen American families. We also seek to strengthen our alliance with State and local governments. The future of many of our children depends on the work of local public health services, school boards, the local child welfare agencies, and local community action agencies.

Recent studies confirm what we have

long suspected. In education, in health, in all of human development, the early years are the critical years. Ignorance, ill health, personality disorder—these are disabilities often contracted in childhood: afflictions which linger to cripple the man and damage the next generation.

Our Nation must rid itself of this bitter inheritance. Our goal must be clear—to give every child the chance to fulfill his promise.

Much remains to be done to move toward this goal. Today, no less than in the early years of this century, America has an urgent job to do for its young.

Even during these years of unparalleled prosperity:

Five and one-half million children under 6, and 9 million more under 17, live in families too poor to feed and house them adequately.

This year 1 million babies, one in every four, will be born to mothers who receive little or no obstetric care.

More than 4 million children will suffer physical handicaps and another 2 million will fall victim to preventable accidents or disease.

One million young Americans, most of them from poor families, will drop out of school this year—many to join the unhappy legion of the unemployed.

One in every six young men under 18 will be taken to juvenile court for at least one offense this year.

Our Nation can help to cure these social ills if once again, as in the past, we pledge our continuing stewardship of our greatest wealth—our young people.

I recommend a 12-point program for the children and youth of America. With the help of the Congress, we can:

1. Preserve the hope and opportunity of Headstart by a "followthrough" program in the early grades.

2. Strengthen Headstart by extending its reach to younger children.

3. Begin a pilot lunch program to reach preschool children who now lack proper nourishment.

4. Create child and parent centers in areas of acute poverty to provide modern and comprehensive family and child development services.

5. Help the States train specialists—now in critically short supply—to deal with problems of children and youth.

6. Strengthen and modernize programs providing aid for children in poor families.

7. Increase social security payments for 3 million children, whose support has been cut off by the death, disability, or retirement of their parents.

8. Expand our programs for early diagnosis and treatment of children with handicaps.

9. Carry forward our attack on mental retardation, which afflicts more than 125,000 children each year.

10. Launch a new pilot program of dental care for children.

11. Help States and communities across the Nation plan and operate programs to prevent juvenile delinquents from becoming adult delinquents.

12. Enrich the summer months for needy boys and girls.

STRENGTHENING HEADSTART

Headstart—a preschool program for poor children—has passed its first trials with flying colors. Tested in practice the past 2 years, it has proven worthy of its promise.

Through this program, hope has entered the lives of hundreds of thousands of children and their parents who need it the most.

The child whose only horizons were the crowded rooms of a tenement discovered new worlds of curiosity, of companionship, of creative effort. Volunteer workers gave thousands of hours to help launch poor children on the path toward self-discovery, stimulating them to enjoy books for the first time, watching them sense the excitement of learning.

Today Headstart reaches into three out of every four counties where poverty is heavily concentrated and into every one of the 50 States.

It is bringing more than education to children. Over half the youngsters are receiving needed dental and medical treatment. Hearing defects, poor vision, anemia, and damaged hearts are being discovered and treated.

In short, for poor children and their parents, Headstart has replaced the conviction of failure with the hope of success.

The achievements of Headstart must not be allowed to fade. For we have learned another truth which should have been self-evident—that poverty's handicaps cannot be easily erased or ignored when the door of first grade opens to the Headstart child.

Headstart occupies only part of a child's day and ends all too soon. He often returns home to conditions which breed despair. If these forces are not to engulf the child and wipe out the benefits of Headstart, more is required. Followthrough is essential.

To fulfill the rights of America's children to equal educational opportunity the benefits of Headstart must be carried through to the early grades.

We must make special efforts to overcome the handicap of poverty by more individual attention, by creative courses, by more teachers trained in child development. This will not be easy. It will require careful planning and the full support of our communities, our schools and our teachers.

I am requesting appropriations to launch a followthrough program during the first school grades for children in areas of acute poverty.

The present achievements of Headstart serve as a measure of the distance we must still go:

Three out of four Headstart children participate only in a summer program. The summer months are far too brief to close the gap separating the disadvantaged child from his more fortunate classmate.

Only a small number of 3-year-olds are now being reached. The impact of Headstart will be far more beneficial if it is extended to the earlier years.

Headstart has dramatically exposed the nutritional needs of poverty's children. More than 1.5 million preschoolers are not getting the nourishing food vital to strong and healthy bodies.

To build on the experience already gained through Headstart:

I am requesting funds from the Congress and I am directing the Director of the Office of Economic Opportunity to:

First. Strengthen the full-year Headstart program.

Second. Enlarge the number of 3-year-olds who participate in Headstart.

Third. Explore, through pilot programs, the effectiveness of this program on even younger children.

I am recommending legislation to authorize a pilot program to provide school lunch benefits to needy preschoolers through Headstart and similar programs.

CHILD AND PARENT CENTERS

There is increasing evidence that a child's potential is shaped in infancy—and even during the prenatal period. Early in life, a child may acquire the scars that will damage his later years at great cost to himself and to society. No serious effort in child development can ignore this critical period.

In every community, we must attack the conditions that dim life's promise. Today, the Federal Government and the States support a wide range of services for needy children and their parents.

But we have fallen short. Many of these services are fragmented. Many do not provide imaginative and inventive programs to develop a child's full potential. Others fail to enlist the adults of the community in enriching the lives of children and thereby enriching their own lives as well.

The task is to marshal these services—to develop within our comprehensive neighborhood centers a single open door through which child and parent can enter to obtain the help they need.

I am instructing the Director of the Office of Economic Opportunity to begin a pilot program of child and parent centers through its community action program in areas of acute poverty.

I am also instructing the Secretaries of Health, Education, and Welfare and Housing and Urban Development to support these centers with resources from related programs.

These child and parent centers would provide a wide range of benefits—as wide as the needs of the children and parents they must serve:

Health and welfare services.

Nutritious meals for needy preschoolers.

Counseling for parents in prenatal and infant care and instruction in household management, accident prevention and nutrition.

Day care for children under 3 years old.

A training base for specialists in child development.

A typical center might serve a slum neighborhood or a large housing project. Where possible, the centers would be affiliated with universities to provide greater research and experimentation in the fields of child development and education.

TO WORK WITH CHILDREN

A wealthy and abundant America lags behind other modern nations in training qualified persons to work with children.

These workers are badly needed—not only for poor children but for all children. We need experts and new professionals in child care. We need more pre-

school teachers, social workers, librarians, and nurses.

New training efforts must be supported—for day care counselors, parent-advisers and health-visitors. We must train workers capable of helping children in neighborhood centers, in health clinics, in playgrounds and in child welfare agencies. Others must be prepared to support the teacher in the school and the mother in the home.

These jobs promise excellent opportunities for high school and grade school graduates, and for citizens who are retired. They can provide meaningful employment for persons who are themselves economically deprived. In helping needy young children achieve their potential, they can also help to develop themselves.

Two OEO programs, foster grandparents and home health aids, have already proved the value of such services.

To help provide the trained workers needed for America's children, I recommend legislation to increase to 75 percent the Federal matching funds for State child welfare personnel, including training programs.

I am also directing the Secretaries of Labor, and Health, Education, and Welfare, and the Director of the Office of Economic Opportunity, to emphasize through adult education, vocational rehabilitation and other programs, training for "new careers" in child care.

SOCIAL SECURITY INCREASES FOR CHILDREN

Two weeks ago, I proposed legislation to bring the greatest improvement in living standards for those covered under social security since that historic act was passed in 1935.

While this program extends primarily to the older Americans, it also covers a child if the family breadwinner, who is under social security, dies, retires, or becomes disabled.

Today, more than 3 million children receive social security payments. Their average benefit is only $52 a month.

To provide more adequate payments to these children, I recommend legislation to enlarge their benefits—with an average increase of at least 15 percent.

IMPROVING CHILD ASSISTANCE

Enacted during the 1930's the "Aid to Families with Dependent Children"—AFDC—program is a major source of help for the poor child. Under AFDC, Federal financial aid is provided to States to help needy families with children under 21.

There are serious shortcomings in this program:

Only 3.2 million children received benefits last year.

Twelve million children in families below the poverty line received no benefits.

Thirty-three States do not even meet their own minimum standards for subsistence.

Seven States offer a mother and three children $120 a month or less.

Only 21 States have taken advantage of a 1962 law, expiring this year, allowing children with unemployed parents to receive financial assistance. Only 12 States have community work and training programs for unemployed parents to give them the skills needed to protect their family and earn a decent living. A number of States discourage parents from working by arbitrarily reducing welfare payments when they earn their first dollar.

To remedy these deficiencies and give the poorest children of America a fair chance, I recommend legislation to—

Require each State to raise cash payments to the level the State itself sets as the minimum for subsistence, to bring these minimum standards up to date annually, and to maintain welfare standards at not less than two-thirds the level set for medical assistance.

Provide special Federal financial assistance to help poorer States meet these new requirements.

Make permanent the program for unemployed parents, which expires this year.

Require each State receiving assistance to cooperate in making community work and training available.

Require States to permit parents to earn $50 each month, with a maximum of $150 per family, without reduction in assistance payments.

Even well-established State welfare programs lack adequate services to protect children where there is physical abuse or neglect. There should be protection for the child, as well as help for the parent. Other State child welfare programs should expand day-care and homemaker services. New services must be tested, particularly for the mentally retarded, for the child requiring emergency shelter and for the child in the urban slum.

I recommend legislation to authorize a program of project grants to encourage States and local communities to develop new forms of child services.

CHILD HEALTH

Last year, nearly 400,000 needy mothers received care through maternal and child health nursing services. About 3 million children received public health nursing services, including almost 20 percent of all infants under 1 year of age.

But our public health record for children gives us little cause for complacency:

At least 10 other nations have lower infant mortality rates than the United States. Nearly 40,000 babies in America die each year who would be saved if our infant mortality rate were as low as Sweden's.

Nearly 1 million pregnant women receive little or no prenatal care.

More than 3.5 million poor children under 5 who need medical help do not receive it under public medical care programs.

Our whole society pays a toll for the unhealthy and crippled children who go without medical care: a toll of incalculable human suffering, unemployment, rising rates of disabling disease, and expenditures for special education and institutions for the handicapped.

We have made hopeful beginnings toward reducing that toll.

Under the "medicaid" program enacted in 1965, the 25 States now in partnership with the Federal Government will help pay hospital costs and doctors' bills for more than 3.5 million poor children this year. By next year, we expect 23 more States to join "medicaid."

I am requesting increased funds for the medicaid program, including $221 million for medical care for needy children—an increase of some $100 million over last year.

We must also move in another direction. Nearly 500,000 youngsters now receive treatment under the crippled children's program. But more than twice that number need help.

The problem is to discover, as early as possible, the ills that handicap our children. There must be a continuing followup and treatment so that handicaps do not go neglected.

We must enlarge our efforts to give proper eye care to a needy child. We must provide help to straighten a poor youngster's crippled limb before he becomes permanently disabled. We must stop tuberculosis in its first stages, before it causes serious harm.

I recommend legislation to expand the timely examination and treatment of an additional 500,000 poor children in fiscal 1968.

In 1965 I proposed and the Congress enacted a special program to provide comprehensive health care for the poor child. Today, through the work of the Children's Bureau and local public health agencies, thousands of preschool and school children in more than 20 communities across America are being examined and treated. The early success of this program justifies its further expansion.

I am requesting the full authorization of $40 million for the comprehensive health service program for preschool and school children.

There are only 12,000 trained pediatricians and 13,000 obstetricians in the United States today—far too few to provide adequate medical care for all our children and mothers.

Our health goals for children cannot be met unless we develop new patterns of health care. This will require the great energy and skill of the American medical profession. New types of health workers must be trained to help our doctors do more. We must use more effectively the health manpower we have. Above all, the health profession should be encouraged to invent and innovate to give every child the medical care he needs.

I recommend legislation to authorize 10 pilot centers this year to provide research and development in child health care, to train health workers, to test new methods and to provide care for 180,000 needy children and 10,000 mothers.

These new centers will be associated, wherever possible, with medical universities or neighborhood health centers. They will:

Train new types of health workers to assist the pediatrician and obstetrician.

Design and develop more efficient methods and techniques of health care delivery.

Provide needed maternal and child health care.

In addition, I am directing the Secretary of Health, Education, and Welfare to allocate increased funds to help train

more pediatricians, obstetricians, and family doctors.

MENTAL RETARDATION

Each year more than 125,000 infants are born mentally retarded.

This dread disability strikes rich families and poor. The tragedy of mental retardation affects the child, the parents, and the entire community.

In 1958, the late Congressman from Rhode Island, John E. Fogarty, introduced legislation which launched our attack on mental retardation.

For the past 3 years we have intensified that attack on all fronts—in prevention, treatment, rehabilitation, employment, recreation services.

But today, America still lacks trained workers and community facilities to carry on the fight.

I recommend legislation to—

Provide, for the first time, Federal support to assist the staffing of community mental retardation centers.

Extend Federal support for the construction of university and community centers for the mentally retarded.

DENTAL NEEDS

Nearly two out of three disadvantaged children between the ages of 5 and 14 have never visited a dentist. They have five times more decayed teeth than their more fortunate classmates.

To begin meeting the dental needs of poor children, I recommend legislation to—

Authorize a pilot program of dental care for 100,000 children in areas of acute poverty.

Provide training for dental assistants to help bring care to schools and other community agencies.

Explore better methods of furnishing care.

THE JUVENILE DELINQUENCY PREVENTION ACT OF 1967

Youth can mean high spirits, great ambitions, wide intellectual interests, constructive group activities, and the exciting tests of physical and mental power.

But too often it means failure in school, dropouts, the emptiness of unplanned days, joblessness, flights from a broken home, and trouble with the police.

The rapid urbanization of our Nation and the sharply growing numbers of young people can mean new vigor and opportunity for our society—or new crime problems and more wasted lives.

This Nation has already committed itself to enrich the lives of our young people and to free the disadvantaged from the waste and boredom that would otherwise characterize their lives:

The Elementary and Secondary Education Act of 1965 and the Higher Education Act of 1965 are greatly expanding educational opportunities.

The Upward Bound program is preparing disadvantaged boys and girls for entry into college.

Work-study programs, grants, loans, and scholarships are helping to provide an education for young people unable to afford it.

The Manpower Training and Development Act, the Job Corps, and the Neighborhood Youth Corps are providing needed job skills.

Despite these achievements, much remains to be done to fulfill our commitment to young Americans. In later messages, I will propose additional measures that will assist young Americans—in education, in health, and in special employment programs.

But today, I propose to deal with the young American who is delinquent or potentially delinquent. Too many schools and agencies close their doors and minds to a young person with serious behavioral problems, and then pass him on to sterner but frequently less effective authorities. Most youth who commit delinquent acts ultimately grow into responsible adults. But if a youth behaves badly enough or is unlucky enough to enter the courts and correctional institutions, he is more likely to continue in criminal activity as an adult.

The past 5 years of experience under the Juvenile Delinquency Act and the report of the National Crime Commission have shown the need for new approaches for dealing with delinquent and potentially delinquent youth:

Special community-based diagnostic and treatment services for youth in trouble.

The strengthening of ties between the community and the correction and probation system.

The construction of modern correctional facilities employing the most advanced methods of rehabilitation.

We must pursue a course designed not merely to reduce the number of delinquents. We must increase the chances for such young people to lead productive lives.

For the delinquent and potentially delinquent youth, we must offer a new start. We must insure that the special resources and skills essential for their treatment and rehabilitation are available. Because many of these young men and women live in broken families, burdened with financial and psychological problems, a successful rehabilitation program must include family counseling, vocational guidance, education, and health services. It must strengthen the family and the schools. It must offer courts an alternative to placing young delinquents in penal institutions.

I recommend the Juvenile Delinquency Prevention Act of 1967.

This act would be administered by the Secretary of Health, Education, and Welfare. It would provide:

Ninety percent Federal matching grants to assist States and local communities to develop plans to improve their juvenile courts and correction systems.

Fifty percent Federal matching grants for the construction of short-term detention and treatment facilities for youthful offenders in or near their communities.

Flexible Federal matching grants to assist local communities to operate special diagnostic and treatment programs for juvenile delinquents and potential delinquents.

Federal support for research and experimental projects in juvenile delinquency.

The problems of troubled youth do not yield to easy solution. They must be pursued on a broad front. Thus, States and communities must be encouraged to develop comprehensive strategies for coping with these problems.

The facilities they build should be modern and innovative, like the "halfway" houses already proven successful in practice. These facilities should provide a wide range of community-based treatment and rehabilitation services for youthful offenders.

New methods of rehabilitation—establishing new ties between the correctional institution, the job market, and the supporting services a delinquent youth needs when he returns to the community—should be tested.

Local agencies, public and private, should be assisted in providing special diagnostic and treatment services for youth with serious behavioral problems. Other Federal programs for medical care, education, and manpower training should be supplemented to provide the intensive services needed to assist delinquent and potentially delinquent youth to become productive citizens. These efforts must first be concentrated in poor neighborhoods where the risk of delinquency is highest.

These steps must be taken now. But at the same time we must continue and expand our research effort. We must learn why so many young people get into trouble and how best to help them avoid it. To do this, we will look to universities and individuals, State and local agencies, and other institutions capable of adding to our knowledge and improving our methods and practices in this vital area.

SUMMER PROGRAMS FOR YOUNG AMERICANS

Last year, summer took on a new and brighter meaning for millions of needy young citizens:

Headstart served 570,000 preschoolers.

The Elementary and Secondary Education Act provided funds to bring remedial courses and day camps to 2½ million children.

Upward Bound enabled 25,000 high school students to live on college campuses and gain new learning experiences.

The youth opportunity campaign found more than a million jobs for 16- to 21-year-olds.

The Neighborhood Youth Corps offered summer work to 210,000 young people.

Community action and other OEO programs, such as Operation Champ, offered recreation to nearly 1 million children.

This summer we can do more.

We can enable additional schools and playgrounds to remain open when vacation comes.

We can, with the help of public-spirited local organizations, bring fresh air and cool streams to the slum child who has known only a sweltering tenement and who must sleep on a crowded fire escape to get relief from the heat.

We can enlist the volunteer help of many citizens who want to give needy children a happy summer.

To further these purposes, I will:

Establish a Cabinet-level Council headed by the Vice President to promote summer youth opportunities.

Direct this Council to make public facilities available to provide camping opportunities for additional needy children this summer.

Request the Council to call on public and private groups to sponsor and operate these camps and to enlist college students and others to work in them.

Request the Council to call a national "Share Your Summer" conference to encourage more fortunate families to open their vacation homes to disadvantaged children for part of the summer.

In addition, I recommend legislation to provide funds for the construction of summer camp facilities for at least 100,000 children in 1968. These camps would be built only where there is an agreement with a private institution or local government agency to operate and finance them.

I am directing every Federal agency to strengthen its programs which provide summer employment, education, recreation, and health services. These summer programs must become a permanent feature in the year-round effort to develop our children and teenagers for responsible citizenship.

I call upon every city and local community to help make summers happy and productive for the youth of America. It should not take an act of Congress to turn on a fire hydrant sprinkler, to keep a swimming pool open a little longer, or provide lights and supervision for a summer playground.

A NEW PRIORITY

No ventures hold more promise than these: curing a sick child, helping a poor child through Headstart, giving a slum child a summer of sunlight and pleasure, encouraging a teenager to seek higher learning.

I believe that the Congress recognizes the urgency—and the great potential—of programs which open new opportunity to our children and young people.

But beyond these beginnings, there is much to do.

We look toward the day when every child, no matter what his color or his family's means, gets the medical care he needs, starts school on an equal footing with his classmates, seeks as much education as he can absorb—in short, goes as far as his talents will take him.

We make this commitment to our youth not merely at the bidding of our conscience. It is practical wisdom. It is good economics. But, most important, as Franklin D. Roosevelt said 30 years ago, because "the destiny of American youth is the destiny of America."

We can shape that destiny if we act now and if we bring to this task the energy and the vision it demands.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *February 8, 1967.*

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the message received today from the President on education and welfare be jointly referred to the Committee on Labor and Public Welfare and the Committee on Finance.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

Mr. RIBICOFF. Mr. President, the nation that turns its back on the needs of its children, turns its back on the future. The society that tends conscientiously and compassionately to these needs is investing wisely in its own destiny.

I congratulate President Johnson on the proposals he has made in his message on children and youth. They are thoughtful and inventive. They call national attention to the fact that we must devote more of our national resources to the health, education, and well-being of our young people. This year, for instance:

Five and one-half million young children under the age of 6 will live in families without enough money to provide them with decent food, clothing, housing, or medical care;

Millions of children under the age of 6 will spend the year in an institution or the home of a stranger, or will have to shift for themselves while their mothers are away at work; and millions more will become physically handicapped, and more than 2 million will suffer chronic damage to their health from preventable accidents and diseases.

We have taken some constructive first steps on behalf of such children. In the coming year I understand that one-half million children will be in summer Headstart programs which operate 12 months of the year But studies of the children who have participated in the Headstart programs show that the effects may not last unless this same high level of educational stimulation is continued. The President has proposed to make Headstart a year-round operation, and to provide special Federal assistance for followthrough programs in later years. These are sound second steps in the programs we have begun.

I have already introduced S. 590 to provide assistance to the States for the conduct of a National Child Health Census. When I introduced the bill I pointed out that one-third of the chronic conditions that handicap children could be corrected in early life if they were discovered. The President's child health program recognizes the need to reduce infant mortality and to discover and treat crippling and handicapping conditions. When these conditions go untreated they are a burden to the individual and to society.

I have also introduced S. 587 to provide a special program of day care services for preschool children. Day care programs prevent the separation of families; they keep children in their homes, with their parents, but still allow the parents to work.

Existing day care facilities fall far short of our needs—they are but a drop in the bucket. Today they can accommodate only about 310,000 children; it is estimated that there are more than 2½ million who need such care. I am glad to see the recognition in the President's message that we should do more in providing day care services.

Finally, Mr. President, I would like to comment on the President's proposals to enrich the summer months for poor children.

The proposals to help needy children attend summer camps, and to encourage families to invite disadvantaged children to their homes for a part of the summer are sound.

I am greatly encouraged by the tone and direction of President Johnson's message on children and youth. They deserve the careful consideration of the Congress.

Mr. McGOVERN. Mr. President, Congress has just received the President's message on children and youth—a magnificent statement of our country's commitment to its children. I was delighted to see that in this total and comprehensive plan for advancing the well-being of children, a longtime inequity in the child welfare program of the States will be corrected and new authority to stimulate innovation, experimentation, and flexibility of approach to the provision of services for children will be requested together with funds to implement it. It is the public child welfare program initiated over 30 years ago in the Social Security Act that expresses the Government's concern for the child who is deprived, rejected, abused, neglected, exploited, or in danger of becoming delinquent; the child whose home is inadequate and must be strengthened by strong community services.

The President's message highlights the needs of these children and points out ways they can be met. Increased Federal participation in the costs of salaries and training of child welfare personnel is long overdue. One-third of our counties have no child welfare worker—a situation that must be remedied. In our impoverished rural areas and large urban ghettos too few child welfare workers struggle to help save children from the ravages of neglect, abuse, and exploitation.

Many homes can be strengthened and children can remain with their families. For those children who have no families adoptive homes can be found. Those needing temporary care can be placed in foster homes or in group care facilities. But the identification of the problems and the provision of child protective services and child placement services require skilled personnel in sufficient numbers. I am happy to see that the President is proposing $3 in Federal funds for every additional $1 that a State provides for personnel costs. The emphasis in the message on the need for innovation and experimentation in providing the services children need and the proposal for additional Federal matching funds which make such flexibility possible is another giant step toward better services for children.

Mr. KENNEDY of Massachusetts. Mr. President, President Johnson's proposal in his message on America's children and youth to extend the mental retardation facilities legislation is welcome recognition that this important legislation has only begun to meet the Nation's needs for community facilities serving the mentally retarded.

More than 90 percent of all mentally retarded persons remain in their communities—yet only one-fourth are receiving the kinds of medical care appropriate to their needs. We have, now, neither adequate personnel nor adequate facilities for treating these mentally re-

tarded persons. This bill would answer both major needs.

It would help to pay the costs of constructing community facilities connected with a university or college for the treatment of the mentally retarded.

It would provide assistance for the training of medical and other specialized personnel in the techniques of preventing and treating retardation.

It would provide Federal assistance in the staffing of community mental retardation centers. And it would insure that new services and facilities are coordinated with existing ones.

More than 1.5 million retarded patients now need community service care that is simply not available—and another 125,000 children are born each year who are or will be retarded. And over half of all hospital beds in this country are occupied, at the present time, by mental patients.

In his message, the President speaks of "the tragedy of mental retardation." But, with proper facilities, diagnosis, treatment and care, the tragedy need not be so severe as it is today. Extensions of the mental retardation legislation will go a long way toward insuring this proper care.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Res. 44. Resolution to provide for a study of migratory labor (Rept. No. 51);

S. Res. 76. Resolution authorizing the printing as a Senate document of the "Tenth Annual Report on the Status of the Colorado River Storage Project and Participating Projects" (Rept. No. 55); and

S. Res. 80. Resolution to print a report by the Secretary of Health, Education, and Welfare on air pollution caused by motor vehicles as a Senate document (Rept. No. 54).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, with an amendment:

S. Con. Res. 7. Concurrent resolution providing for the printing of 1,500 additional copies of volumes 1 and 2 of its joint committee print entitled "State and Local Public Facility Needs and Financing" (Rept. No. 53).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, with additional amendments:

S. Res. 17. Resolution authorizing the Committee on Labor and Public Welfare to make a complete study of all matters pertaining to poverty (Rept. No. 50); and

S. Res. 74. Resolution to provide additional professional and clerical staff for the Committee on Labor and Public Welfare (Rept. No. 52).

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. RANDOLPH, from the Committee on Public Works:

Lowell K. Bridwell, of Ohio, to be Administrator of the Federal Highway Administration; and

Joe W. Fleming II, of Arkansas, to be Federal cochairman of the Appalachian Regional Commission.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. MORTON:

S. 888. A bill for the relief of Andrew Dunbar Forsythe; to the Committee on the Judiciary.

By Mr. KUCHEL (for himself and Mr. McGEE):

S. 889. A bill to designate the San Rafael Wilderness, Los Padres National Forest, in the State of California; to the Committee on Interior and Insular Affairs.

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

(NOTE.—The above bill was ordered to be held at the desk until February 15, 1967, for additional cosponsors.)

By Mr. PROUTY:

S. 890. A bill to exempt from all taxation certain property of the Washington Psychoanalytic Society and Institute in the District of Columbia; to the Committee on the District of Columbia.

By Mr. LONG of Louisiana (for himself and Mr. ELLENDER):

S. 891. A bill to modify the proposed work of improvement on the Red River below Fulton, Ark., and for other purposes; and

S. 892. A bill declaring a portion of Bayou Lafourche, La., a nonnavigable waterway of the United States; to the Committee on Public Works.

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

S. 893. A bill to amend title II of the Social Security Act to revise and improve the provisions thereof relating to the adjustment of overpayments and underpayments of benefits thereunder; to the Committee on Finance.

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

(NOTE.—The above bill was ordered to be held at the desk until February 15, 1967, for additional cosponsors.)

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

S. 894. A bill to require clinical laboratories which are operated in whole or in part in interstate commerce to comply with minimum standards prescribed by the Surgeon General in the performance of laboratory procedures, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. JAVITS:

S. 895. A bill making the birthday of Abraham Lincoln a legal holiday; to the Committee on the Judiciary.

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

By Mr. JAVITS:

S. 896. A bill for the relief of Rachel Fisher;

S. 897. A bill for the relief of Hilda E. M. Hofstra;

S. 898. A bill for the relief of Maggiorina Magnante;

S. 899. A bill for the relief of Julio Juan Castellanos Lopez;

S. 900. A bill for the relief of Ernesto Sanchez Jerez;

S. 901. A bill for the relief of Branko Ivanov;

S. 902. A bill for the relief of Ernesto Enzo Russo;

S. 903. A bill for the relief of Ngan Hok Ng;

S. 904. A bill for the relief of Doreen Delmege Willis;

S. 905. A bill for the relief of John Theodore Nelson; and

S. 906. A bill for the relief of Luis Tapia Davila; to the Committee on the Judiciary.

By Mr. HARTKE:

S. 907. A bill making the anniversary of Lincoln's Birthday a legal holiday; to the Committee on the Judiciary.

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

(NOTE.—The above bill was ordered to be held at the desk until February 16, 1967, for additional cosponsors.)

By Mr. BARTLETT:

S. 908. A bill for the relief of William D. Pender;

S. 909. A bill for the relief of Paul L., Margaret, and Josephine Kirsteatter; and

S. 910. A bill for the relief of the estate of Patrick E. Eagan; to the Committee on the Judiciary.

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

By Mr. BENNETT:

S. 911. A bill to prohibit certain interstate land sales in violation of State law; to the Committee on the Judiciary.

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

(NOTE.—The above bill was ordered to be held at the desk until February 28, 1967, for additional cosponsors.)

By Mr. BIBLE (by request):

S. 912. A bill to authorize the Secretary of the Interior to make disposition of geothermal steam and associated geothermal resources, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. MAGNUSON (by request):

S. 913. A bill to amend part III of the Interstate Commerce Act to provide for the recording of trust agreements and other evidences of equipment indebtedness of water carriers, and for other purposes; to the Committee on Commerce.

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

(NOTE.—The above bill was ordered to be held at the desk until February 18, 1967, for additional cosponsors.)

By Mr. INOUYE:

S. 914. A bill to authorize the Secretary of the Interior to make a loan and grant to the State of Hawaii for the construction of the Kokee water project, Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McCLELLAN (by request):

S. 915. A bill to provide for the establishment of a Federal Judicial Center; and

S. 916. A bill to assist in combating crime by creating the U.S. Corrections Service, and for other purposes; to the Committee on the Judiciary.

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

(NOTE.—The above bills were ordered to be held at the desk until February 15, 1967, for additional cosponsors.)

By Mr. McCLELLAN (for himself, Mr. ERVIN, Mr. HART, Mr. HRUSKA, Mr. SCOTT, Mr. BYRD of West Virginia, Mr. JAVITS, and Mr. HARRIS):

S. 917. A bill to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes; to the Committee on the Judiciary.

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

(NOTE.—The above bill was ordered to be held at the desk until February 15, 1967, for additional cosponsors.)

By Mr. GORE:

S. 918. A bill to amend section 320 of title 23 of the United States Code, relating to highway bridges on Federal dams, in order to increase the amount authorized in such section; to the Committee on Public Works.

S. 919. A bill for the relief of Alan Bruce Lancaster and his wife, Marie Nunez Lancaster; and

S. 920. A bill for the relief of Wing Wong; to the Committee on the Judiciary.

S. 921. A bill to amend section 218 of the Social Security Act to extend for an additional year the period during which certain State and local employees may be brought under social security coverage pursuant to Federal-State agreement; to the Committee on Finance.

By Mr. GORE (for himself, Mr. TOWER, and Mr. YARBOROUGH):

S. 922. A bill for the relief of Euphemia King Hartley, James Hartley, and James Holmes Hartley; to the Committee on the Judiciary.

By Mr. BARTLETT:

S. 923. A bill to improve the safety of railroad transportation under the jurisdiction of the Department of Transportation; to the Committee on Commerce.

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

(NOTE.—The above bill was ordered to be held at the desk until February 18, 1967, for additional cosponsors.)

By Mr. DIRKSEN (for himself and Mr. LONG of Missouri):

S. 924. A bill to amend section 9 of the Administrative Procedure Act of the act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to fair and impartial agency practices, 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. DOMINICK (for himself, Mr. ALLOTT, and Mr. HANSEN):

S. 925. A bill to direct the Secretary of the Treasury to establish a reserve of at least 165 million ounces of silver for national defense purposes; to the Committee on Banking and Currency.

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

By Mr. HRUSKA:

S. 926. A bill to provide for the return of obscene mail matter; to the Committee on Post Office and Civil Service.

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

By Mr. MAGNUSON (for himself, Mr. COTTON, Mr. BARTLETT, Mr. BREWSTER, Mr. HART, Mr. HARTKE, Mr. MOSS, Mr. GRIFFIN, Mr. MORTON, Mr. PROUTY, and Mr. SCOTT):

S. 927. A bill to amend the Interstate Commerce Act, as amended, in order to make unlawful, as unreasonable and adjust discrimination against and an undue burden upon interstate commerce, certain property tax assessments of common carrier property, and for other purposes; to the Committee on Commerce.

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

(NOTE.—The above bill was ordered to be held at the desk until February 18, 1967, for additional cosponsors.)

By Mr. LONG of Missouri:

S. 928. A bill to protect the right of privacy by prohibiting wire interception and eavesdropping, and for other purposes; to the Committee on the Judiciary.

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

(NOTE.—The above bill was ordered to be held at the desk until February 24, 1967, for additional cosponsors.)

By Mr. PELL (for himself and Mr. PASTORE):

S. 929. A bill to amend the Tariff Schedules of the United States with respect to the tariff classification of braided rugs composed of tubular braids with a core; to the Committee on Finance.

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

(NOTE.—The above bill was ordered to be held at the desk until February 17, 1967, for additional cosponsors.)

By Mr. CASE (for himself and Mr. RANDOLPH):

S. 930. A bill relating to the construction, modification, alteration, repair, painting, or decoration of buildings leased for public purposes; to the Committee on Public Works.

By Mr. THURMOND:

S. 931. A bill to amend title 28, United States Code, to withdraw from courts of the U.S. jurisdiction with respect to State legislative apportionment proceedings;

S. 932. A bill to provide for a jury trial in all cases of criminal contempt in the U.S. courts;

S. 933. A bill to amend the provisions of the United States Code with respect to the jurisdiction of courts of appeals of the United States to review orders of administrative officers and agencies, and for other purposes; and

S. 934. A bill to amend title I of the Internal Security Act of 1950; to the Committee on the Judiciary.

S. 935. A bill to amend the Internal Revenue Code of 1954 to provide a 20-percent credit against the individual income tax for certain educational expenses incurred at an institution of higher education; to the Committee on Finance.

S. 936. A bill to equalize the treatment of Reserves and Regulars in the payment of per diem; and

S. 937. A bill to amend title 10, United States Code, to change the method of computing retired pay of certain enlisted members of the Army, Navy, Air Force, or Marine Corps; to the Committee on Armed Services.

S. 938. A bill to permit a taxpayer carrying on a trade or business in the conduct of which 10 or less persons are engaged to elect to take a standard deduction, in lieu of itemized deductions, for expenses attributable to such trade or business; to the Committee on Finance.

S. 939. A bill to provide increased punishment for a person convicted in the District of Columbia of a fourth or subsequent felony; to the Committee on the District of Columbia.

S. 940. A bill to amend the Fair Labor Standards Act of 1938 in order to exempt employees employed in the shelling of shellfish from the minimum wage provisions of such act; to the Committee on Labor and Public Welfare.

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

By Mr. THURMOND (for himself and Mr. TOWER):

S. 941. A bill to amend the Veterans' Readjustment Assistance Act of 1966 in order to authorize the approval of courses in flight training under such act; to the Committee on Labor and Public Welfare.

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

By Mr. DIRKSEN (for himself and Mr. MANSFIELD):

S.J. Res. 31. Joint resolution proposing an amendment to the Constitution of the United States providing for representation in the Congress for the district constituting the seat of Government of the United States; to the Committee on the Judiciary.

By Mr. SCOTT:

S.J. Res. 32. Joint resolution to establish a Joint Committee on Urban Affairs; to the Committee on Banking and Currency.

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

(NOTE.—The above joint resolution was ordered to be held at the desk until February 18, 1967, for additional cosponsors.)

By Mr. MAGNUSON (for himself, Mr. COTTON, and Mr. BREWSTER):

S.J. Res. 33. Joint resolution to establish a National Commission on Product Safety; to the Committee on Government Operations.

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

By Mr. BREWSTER (for himself and Mr. TYDINGS):

S.J. Res. 34. Joint resolution to amend the Agricultural Adjustment Act of 1938, as amended, with respect to the lease and transfer of tobacco acreage allotments; to the Committee on Agriculture and Forestry.

By Mr. ANDERSON:

S.J. Res. 35. Joint resolution consenting to an extension and renewal of the Interstate Compact to Conserve Oil and Gas; to the Committee on Interior and Insular Affairs.

By Mr. THURMOND:

S.J. Res. 36. Joint resolution proposing an amendment to the Constitution of the United States relating to the process of amending the Constitution; to the Committee on the Judiciary.

S.J. Res. 37. Joint resolution expressing declaration of will of the American people and purpose of their Government to achieve complete victory over the forces of the world Communist movement; to the Committee on Foreign Relations.

S.J. Res. 38. Joint resolution proposing an amendment to the Constitution of the United States providing for the establishment of a Court of the Union; and

S.J. Res. 39. Joint resolution proposing an amendment to the Constitution of the United States relative to the balancing of the budget; to the Committee on the Judiciary.

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

RESOLUTION

AMENDMENT OF RULE XVI RELATING TO AMENDMENTS TO APPROPRIATION BILLS

Mr. THURMOND submitted a resolution (S. Res. 81) to amend rule XVI relative to amendments to appropriation bills, which was referred to the Committee on Rules and Administration.

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

SAN RAFAEL WILDERNESS AREA

Mr. KUCHEL. Mr. President, I introduce for appropriate reference a bill to establish the San Rafael Wilderness in the Los Padres National Forest in California.

In 1964 the Wilderness Act was signed into law. The present occupant of the chair, the Senator from Montana [Mr. METCALF], and I coauthored that legislation. This farsighted act provided that designated areas be incorporated into a great wilderness preservation

system. This legislation preserved for all time more than 9 million acres of land in their original and unspoiled beauty. The legislation also called upon the President of the United States to recommend the inclusion of further wilderness areas after the investigation of their wilderness characteristics. If passed, the San Rafael Wilderness will be the first such area to be added to the wilderness system since the passage of the act in 1964.

The San Rafael Wilderness is an area of nearly 143,000 acres located between the cities of Santa Barbara and Santa Maria in southern California. The area is located within a 2-hour drive of 6 million people. With the ever-increasing population of southern California—in less than 25 years, 50 million people will be living in my State—it doubtless will be proximate to many million more in the future. The area is characterized by its rugged configuration and dense chaparral. More importantly, the area is free from the imprint of man. Indeed, when man comes, it is only as a visitor.

I, personally, have ventured into the area and have marvelled at the Indian pictographs inscribed on the rocks and in the caves in much of the locale. The colors in these graphics were derived from the natural barks and foliage by the indigenous Indians of the area. Rough trails invite the hardy to hike, ride, fish, and camp in this fine example of nature's works.

Because of its location in the San Rafael and Sierra Madre Mountain Ranges, its climatic conditions dictate its use during the winter and spring months when its high temperatures and dangerous fire hazard are absent. This is an important departure from most other wilderness areas which are snowbound in the winter and usable in the summer and fall months only.

I am happy to report that the San Rafael Wilderness proposal has met with enthusiastic support and recommendation from all concerned—the Secretary of the Interior, the Department of Agriculture, the Department of Commerce, the Department of Defense, the State of California, the County of Santa Barbara, and the wildlife and natural resource agencies within them.

The preservation of significant areas of land in our country in their natural state is mandatory. These areas provide present and future generations examples of the workings of nature unimpeded by human invasion. The areas are just as they would be if man had never come upon the earth. As the availability of such areas is reduced by the advance of man, the value of retaining them is amplified.

This measure would be of enormous benefit to ourselves, our children and, indeed, all those who come after us.

Mr. President, I ask unanimous consent that the bill lie on the desk until next Wednesday for additional cosponsors.

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

The bill (S. 889) to designate the San Rafael Wilderness, Los Padres National Forest, in the State of California, introduced by Mr. KUCHEL (for himself and Mr. MCGEE), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

Mr. MCGEE. Mr. President, I ask unanimous consent that my name may be added as cosponsor of the bill which has just been introduced by the Senator from California [Mr. KUCHEL].

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

Mr. KUCHEL. I thank the Senator.

ADJUSTMENT OF OVERPAYMENTS AND UNDERPAYMENTS OF BENEFITS UNDER TITLE II OF SOCIAL SECURITY ACT

Mr. MONDALE. Mr. President, on August 8, 1966, with my distinguished colleague, the Senator from Oklahoma [Mr. HARRIS], I introduced proposed legislation to eliminate an unjustified legal barrier preventing payment of social security benefits owed to families of deceased beneficiaries. I noted when introducing that bill, S. 3682, that due to the urgent need for this technical change in the Social Security Act, over 64,000 cases of underpayments were pending for action. As of December 31, 1966, there were 83,286 such cases pending, and what was a pressing need for the adoption of this proposal last summer has now become a matter of urgency.

Mr. President, the fact is that as presently worded, this law is inequitably drawn and until it is changed thousands of survivors of social security beneficiaries will probably not be paid that which is clearly owed to them.

In 1965, the Social Security Administration requested legislative authorization to pay amounts due a beneficiary at the time he dies because the provision in the law was ambiguous and had been variously interpreted in the courts. During consideration of the Social Security Amendments of 1965, which included the medicare program, the Senate Finance Committee adopted an amendment similar to the one I proposed last August and to the bill I am introducing again today. This provision was passed by the Senate, but was significantly altered in the conference committee. The law as enacted has been extremely difficult to administer, as is evidenced by the large and growing number of unresolved cases.

Under present law, where the amount owed to a deceased beneficiary at the time of his death is equal to 1 month's social security benefit or less, it can be paid to the surviving spouse who was living with the deceased beneficiary at the time he died. If the amount owed is more than 1 month's benefit, the underpayment can be made only to a legal representative of the deceased person's estate.

My bill would provide specific statutory direction for the Secretary of Health, Education, and Welfare to pay such amounts to the survivors in a simple manner. If the amount due is less than $1,000, which almost all such amounts are, the payments would be made in the following order of priority: First. To the surviving spouse; second, to the surviving children, divided equally among them; third, to the legal representative of the estate if one is appointed within 3 months of the decedent's death; and fourth, to persons who are entitled under State law to inherit personal property from the deceased. If the payment is more than $1,000, it would then be made only to the legal representative.

Under the most ideal conditions, the requirement that the underpayment be paid to a legal representative is unjustifiably and unnecessarily costly and time-consuming. Moreover, the requirement frequently results in the blocking of payment entirely because the cost to survivors of claiming the underpayment through a legal representative exceeds the underpayment itself. Requiring a widow or child of a deceased beneficiary to pay the expense of a legal representative and to bear the burden of probate and other court costs is exceedingly difficult to justify since the average of these underpayment amounts is about $100. Approximately 35 percent of the underpayments involve amounts of $50 or less. There is no problem when the estate is one that would be probated anyway, but many social security beneficiaries have little or no assets and when they die the unpaid social security benefits constitute the entire estate.

The justification for the technical change I have proposed is further enhanced by the fact that the requirement that most amounts owed deceased social security beneficiaries must be paid to a legal representative is exceptional among benefit paying programs. Distribution of amounts due but not paid to deceased civil servants, members of the Armed Forces, and veterans are governed by statutes setting forth priorities of payment. The Railroad Retirement Board pays such amounts first to the surviving spouse living with the decedent, and then on the basis of equitable entitlement to persons paying the decedent's burial expenses. Only the Social Security Administration is required to give such high priority to the legal representatives.

A similar deficiency in the medicare law itself has resulted in a related problem involving the disbursement of medical insurance benefits in situations where the beneficiary dies before being reimbursed for covered services or before making an assignment of the benefits to his physician or treatment center for services rendered. I am gratified to find that very recently, the Social Security Administration has acted to alleviate this particular problem administratively.

We can, Mr. President, and I believe we must terminate the confusion which this legal inadequacy has created. In so doing we will be permitting the Social Security Administration to perform its task where problems of underpayments and overpayments are concerned with appropriate swiftness and in a manner clearly prescribed by statute. We will also be restoring public confidence in the payment system for we will be rectifying a situation which many Americans, myself included, find to be inequitable and without justification.

I invite my colleagues to join with me

in sponsoring this legislation which will ease the burden facing thousands of older Americans when one of their loved ones dies. Mr. President, I ask unanimous consent that the bill remain at the desk for 1 week to permit other Senators to add their names as cosponsors. I also ask unanimous consent that the full text of the bill be printed at the conclusion of my remarks.

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

The bill (S. 893) to amend title II of the Social Security Act to revise and improve the provisions thereof relating to the adjustment of overpayments and underpayments of benefits thereunder, introduced by Mr. MONDALE (for himself and Mr. HARRIS), was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 893

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 204(a) of the Social Security Act is amended to read as follows:

"(a) Whenever the Secretary finds that more or less than the correct amount of payment has been made to any person under this title, proper adjustment shall be made, under regulations prescribed by the Secretary, as follows:

"(1) with respect to payment to an individual of more than the correct amount, the Secretary shall decrease any payment under this title to which such overpaid individual is entitled, or, if such overpaid individual dies before adjustment is completed, the Secretary shall decrease any payment under this title payable to any other person on the basis of wages and self-employment income which were the basis of the payments to such overpaid individual;

"(2) with respect to payment to an individual of less than the correct amount, the Secretary shall make payment of the balance of the amount due such underpaid individual, or, if such person dies before payments are completed or before negotiating one or more checks representing correct payments, disposition of the amount due shall be made—

"(A) if the amount due exceeds $1,000, to the legal representative of the estate of such deceased individual, or

"(B) if the amount due does not exceed $1,000—

"(i) to the person, if any, determined by the Secretary to be the surviving spouse of such deceased individual;

"(ii) if there is no person who meets the requirements of clause (i), to the child or children, if any, of such deceased individual (and, in case there is more than one such child, in equal parts to each such child);

"(iii) if there is no person who meets the requirements of clause (i) or (ii), to the legal representative of the estate of such deceased individual; or

"(iv) if there is no person who meets the requirements of clause (i) or (ii) and, if at the end of the three-month period which begins on the date such deceased individual died, no legal representative of the estate of such deceased individual has been appointed, to the person or persons who would be entitled to share in the personal property of such deceased individual (if he had died intestate (under the laws of intestate succession of the State of residence of such deceased individual and in an amount or amounts determined pursuant to such law."

(b) Section 204 (d) of such Act is hereby repealed.

SEC. 2. The amendments made by the first section of this Act shall take effect on the first day of the second month following the month in which this Act is enacted.

CLINICAL LABORATORY LICENSING ACT OF 1967 TO PROVIDE FEDERAL STANDARDS FOR LAB OPERATING INTERSTATE

Mr. JAVITS. Mr. President, I introduce for myself and the Senator from California [Mr. MURPHY] the Clinical Laboratory Licensing Act of 1967. This legislation is designed to eliminate substandard and dangerous practices in clinical laboratories engaged in interstate commerce. The bill would provide the inspection and licensing of these laboratories which render essential services to the diagnosis and treatment of diseases, by requiring the Suregon General to establish minimum standards.

This measure is an updated version of a similar bill which I introduced with Senator MURPHY in July 1965. It is patterned after the New York State and New York City laws which are considered by most authorities to be model statutes in the field.

In addition to licensing, the bill would:

First. Provide for inspection and evaluation by the Surgeon General of the effectiveness of these laboratories, including submission of test samples for analysis;

Second. Establish standards and certification of laboratory directors in microbiology, chemistry, hematology, biophysics, cystology, and pathology; and

Third. Provide for the revocation, suspension or limitation of laboratory licenses for failure to meet standards, incompetence of employees, misrepresentation or similar causes. Hearings and judicial review procedures are provided.

Clinical laboratories operated by State or local governments or by physicians, osteopaths, dentists, or podiatrists for their own patients would not be affected by the bill. The measure is patterned after the New York State and New York City laws which are considered by most authorities to be model statutes in the field.

Today adequate medical care is impossible without adequate and efficient laboratories providing information for the diagnosis and treatment of disease and the assessment of the patient's medical condition. Repeated investigations and studies show that an important proportion of clinical laboratories are substandard and have uncovered instance after instance of incorrect diagnosis which have resulted in unnecessary hospitalization, unneeded operations, inappropriate treatment, injury, or even death.

The latest example, was the testimony given before the Senate Antitrust Subcommittee Monday by Dr. David J. Sencer, director of the National Communicable Disease Center.

Dr. Sencer told the Antitrust Subcommittee that about one quarter of the medical laboratory tests processed each year in this country are erroneous. This is a shocking indictment, expecially since it is a restatement of facts revealed to the public by myself and many others many times before. This requires immediate congressional action, and I urge my colleagues to schedule early hearings on the bill introduced today.

A widely publicized 1965 study revealed that 88 percent of 17 mail-order laboratories which were surveyed were wrong on one or more of the tests they undertook. More recently, last year a New York laboratory performing 150,000 tests annually had its license suspended under the stringent New York City law because of inaccurate and alleged dishonest reporting. Among other things it was accused of finding hormones in samples of distilled water colored yellow and disguised as urine.

This bill is needed. Only 10 States require laboratory licensing. In addition, it is generally conceded that the regulation of clinical laboratories under medicare is insufficient to cover adequately the mail order clinical labs.

Dr. Morris Schaeffer, the distinguished director of New York City's Bureau of Laboratories, has stated that clinical laboratory and blood bank practices in this country are "generally extremely poor and require considerable upgrading. One of the important problems is lack of regulation."

Last September, in Senate hearings on the health of the elderly, Dr. Ralph E. Theirs, director of Clinical Chemistry Laboratory at the Duke University Medical Center, stated:

> The American patient today gets, in the main, mediocre-to-poor quantitative laboratory services.

He reported that a committee of physicians had found that "many serious analytical errors are made."

Of course, most laboratories are competently run and do their work very well—many of these laboratories support my bill. However, erroneous diagnoses are so dangerous to health that any breakdown in standards is vital.

Other examples of inefficient practices by clinical laboratories, in addition to the case histories cited by Dr. Sencer, include:

First. An Illinois test alleging that four out of every 10 laboratories failed to determine the correct blood group and Rh type on a testing sample;

Second. A Pennsylvania test reportedly showing that nine out of every 10 laboratories were unable to test accurately for the presence of parasites in a stool specimen.

It is such practices and dangers which the bill we introduce today seeks to correct.

Mr. President, we had a good example of this dangerous situation in making the corrections we have had in the bill, in the field; and it has now been updated and revised. The difficulties which it seeks to deal with have been spread all over the press and if we fail to help ourselves, it will be our own fault.

I hope very much that we will get hearings on the bill. I shall press for it very hard in committee and hope, at long last, we will get some action upon this matter.

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

The bill (S. 894) to require clinical laboratories which are operated in whole or in part in interstate commerce to comply with minimum standards prescribed by the Surgeon General in the performance of laboratory procedures, and for other purposes, introduced by Mr. JAVITS (for himself and Mr. MURPHY), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

Mr. MURPHY. Mr. President, once again I am pleased to cosponsor with the Senator from New York [Mr. JAVITS], legislation requiring clinical laboratories transacting business in interstate commerce to comply with minimum standards in the performance of labortary procedures.

As Senators may recall, Senator JAVITS and I introduced a similar measure on June 23, 1965. I pointed out at that time that most Americans have the utmost faith and confidence in their doctor and the team of health professionals that help and assist him, but that the clinical laboratories may be a weak link in an otherwise strong medical team. And we know full well that the medical team can only be as strong as its weakest link.

No action was taken by the 89th Congress on the Javits-Murphy bill, S. 2184, but I can assure Senators that the problem is still with us. Laboratory licensing is required in only 10 States, and only nine States have regulations setting requirements for the laboratory director. Dr. Howard L. Bodily, chief, division of laboratories of the California State Department of Public Health, recently pointed out that the regulations established for laboratories participating in the medicare program are not adequate. Congress must face up to this problem in this session of Congress and thereby insure all Americans of the quality of medical care to which they are accustomed and entitled.

Dr. Bodily this week testified before the Senate Judiciary Subcommittee on Antitrust and Monopoly, and he confirmed the need for regulations of these clinical laboratories. He stated:

> There is a lack of standards for adequate direction and supervision of clinical laboratories. There is one area, however, where federal legislation may be needed to adequately control the activities of certain laboratories. These are the ones which operate an interstate business. The lack of regulation has permitted some of these, as well as some laboratories operating only intrastate, to engage in overtly dishonest or unethical practices.

Also, Mr. President, Dr. David J. Sencer of the Public Health Service of the Department of Health, Education, and Welfare, stated at the same hearings:

> Serious deficiencies have been demonstrated to exist in the Nation's clinical laboratories. Studies by the National Communicable Disease Center and others indicate that unsatisfactory performance is demonstrated by 10 to 40 percent of laboratories in bacteriological testing; by 30 to 50 percent in various simple clinical chemistry tests; by 12 to 18 percent in blood grouping and typing; by 20 to 30 percent in hemoglobin measurements; by 40 to 80 percent in differential characterization of blood cells; and by 20 to 30 percent in measurement of serum electrolytes. There also exists considerable variation in results from laboratory to laboratory. This information indicates that erroneous results are obtained in more than 25 percent of all tests analyzed by these studies.

Mr. President, this study indicating that erroneous results were obtained in one-fourth of the tests analyzed is shocking and should be remedied by prompt congressional action.

Although California has adequate laws on this subject, and in fact has been the pioneer in the regulation of clinical laboratories, the citizens of California are not completely protected because under present law there is no way that they can be protected from substandard out-of-State laboratories.

Mr. President, I feel very strongly about this matter, for when we are dealing with the health and life of human beings careless work and inadequate standards cannot be tolerated, for the stakes are far too high when human life is involved and when mistakes are frequently fatal.

As a member of the Senate Labor and Public Welfare Committee, I intend to do everything in my power to bring about early hearings on this subject.

Mr. President, I ask unanimous consent that my Senate floor statement of June 23, 1965, and the statements of Dr. Bodily and Dr. Sencer be printed in full at this point in the RECORD.

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

[From the CONGRESSIONAL RECORD, July 23, 1965]

REGULATION OF CLINICAL LABORATORIES

Mr. MURPHY. Mr. President, most Americans when they submit to a medical test have complete confidence in the doctor and in the team of health professionals that help and assist him. And well they might, for Americans enjoy a quality of medical care unparalleled anywhere on the globe. Therefore, I know all Americans are shocked to hear and read of the deplorable condition of some of our medical laboratories across the country. The laboratories may examine blood, tissues, and make other tests to determine evidence of disease. The results of these tests are then forwarded to the physician who prescribes the patient's treatment.

The following examples illustrate that there may very well be a weak link in an otherwise strong medical team.

In New York, 50 private laboratories were given bacterial samples to identify and 26 of these laboratories failed.

McCall's magazine reported that in a paternal suit, a young man was ordered to provide financial support for a child, although he was not the father. The court's decision resulted from erroneous blood tests performed in a laboratory that lacked the technical skill to do them accurately.

A New York survey taken in 1959 disclosed that only 1 in 4 private laboratories perform an Rh factor study accurately. A year later over half the laboratories failed to give correct answers to blood sugar and other tests.

In 1962, 300 laboratories in the State of Illinois were asked to determine the blood group and the Rh type on a group of people. Over one-third failed to perform the test accurately.

Several years ago in my own State various types of urine samples were sent to out-of-State laboratories, some of which had a few drops of blood deliberately added. The results were grossly in error. When the results were received, the report was "no blood."

Dr. W. Max Chapman, chief of the laboratory field services of the California Department of Public Health, recalls a case when an owner of a laboratory purchased from a salvage dealer a supply of supposedly new slides. One carton contained 500 slides, each smeared with cells for a Pap examination and bearing the name of the doctor and the patient. When it was discovered that none of these slides had been examined, the California Health Department investigated. The doctors replying to the investigation all indicated that they had sent the samples to a New York laboratory. Who can say what happened to these patients? As Dr. Chapman stated:

"We just don't know. But when reports on 500 slides are faked, the consequences in some cases may be lethal."

Mr. President, I am naturally very proud of the fact that the State of California is a pioneer in the regulation of these clinical laboratories. The first law in my State was passed in 1937 following 15 years of voluntary certification of clinical personnel and laboratories. The law as it exists today became effective in 1952. Enactment of the California law resulted from the efforts and cooperation of many groups, including the California Medical Laboratory Technologists, the California Society of Pathologists, California Medical Association, the California Association of Clinical Laboratories, California Osteopathic Association, the hospital association and the State department of public health. It is my understanding that opposition to this legislation was very limited.

Despite this pioneering effort, California citizens are not completely protected because there is no present way that they can be protected from substandard out-of-State laboratories. As Dr. Chapman has stated:

"We have been faced with a problem relative to out-of-State clinical laboratories for about 5 years. Some of the these mail-order laboratories tried to establish themselves in California, but because of a law which forbids unearned rebates, refunds and discounts, unearned considerations and that sort of thing, they were not able to set up in California. Our attorney general backed us up because they did not choose to operate except on a flat rate basis (so much a month for all the tests you want). However, one of these laboratories set up in another State and started work."

Mr. President, legislation which I am introducing today with Senator JAVITS would regulate clinical laboratories and personnel that are engaged in interstate commerce. This legislation will enable States to protect themselves from falling prey to some of the out-of-State mail-order laboratories.

I wish to make it clear, Mr. President, that the honest laboratories have nothing to fear. This legislation aims only to protect the health and welfare of the general public and not to interfere in any way with the legitimate laboratory. It should be noted that provision is made for judicial review of any determination of the Surgeon General. In addition, the legislation allows the Surgeon General to permit States which are properly regulating these laboratories to continue to do so.

Mr. President, I cannot emphasize too strongly the depth of my feelings on this matter. This is a field wherein careless work and inadequately trained personnel cannot be tolerated. The stakes are far too high when a human life is invloved and where mistakes are frequently fatal.

I am certain my colleagues are aware that there is a precedent for Federal action in this field. The National Institutes of Health, Public Health Service, for many years has licensed blood banks—a procedure which incidentally has worked very well. Any blood bank shipping blood across State lines has to be federally licensed. Once a license is granted, the blood bank is thoroughly inspected, its techniques and personnel are checked out and it is reinspected from time to time.

Mr. President, I think recent magazine articles and the series that Walter Cronkite

is doing on CBS News will focus the attention of the American people to this serious problem. I am hopeful that it will spur all the States to make certain that their laboratories continue to reflect what has always been the watchword of the medical profession—quality service for all Americans.

[From the CONGRESSIONAL RECORD, July 15, 1965]

Mr. MURPHY. Mr. President, on June 23, Senator JAVITS and I introduced S. 2184, to require clinical laboratories transacting business in interstate commerce to comply with minimum standards in the performance of laboratory procedures. Since the introduction of this bill, I have been most encouraged by the reaction and support which this bill has received. In view of this great interest, I am hopeful that the distinguished chairman of the Senate Labor and Public Welfare Subcommittee on Health, Senator HILL, will find it possible to schedule hearings on this legislation this session.

As I stated when the legislation was introduced, the honest laboratories in this country have nothing to fear, for S. 2184 is only aimed at the unscrupulous laboratory and will not in any way interfere with the legitimate laboratory.

I wish to make it crystal clear, Mr. President, that there are many laboratories which do receive specimens through the mail and perform tests in a manner which properly enjoys the full confidence of the public. In my own State, the people may be fully assured of the quality of work performed by any California laboratory for all laboratories are subjected to the most rigid requirements. Having pioneered in 1937 the regulations in the clinical laboratory field, the State of California has frequently updated its standards, and today the California laboratories enjoy a reputation that makes them a showplace for the Nation.

Despite the stringent qualifications in my State, citizens of California are not completely protected; for some out-of-State substandard laboratories continue to do business. These substandard out-of-State laboratories will be the ones which will oppose this legislation and are the ones that were exposed by Walter Cronkite in his brilliant television series, entitled, "Mail Order Laboratories." I ask unanimous consent that at this point in my remarks, Mr. President, a letter from Mr. S. Louis Gaines, chairman of the board of Biochemical Procedures, Inc., to Mr. Frank Stanton, president of the Columbia Broadcasting System, be inserted in the RECORD.

As Mr. Gaines points out, it is important in discussing this problem that we clearly distinguish between the legitimate laboratory which operates with uncompromising accuracy in the finest tradition of American medicine and the illegitimate laboratory. We must not allow the general public to confuse the two.

Many of the outstanding laboratories of the State have communicated with me and have pledged their complete support for this legislation. Indicative of this support is a paragraph from a letter I received from Mr. Gaines. He states:

"Biochemical Procedures, Inc., is ready to serve you in advising and assisting you in any possible way to implement the passage of national legislation raising the standards of clinical laboratories throughout the United States. Our staff of experts is at your disposal at any time, here or in Washington."

Mr. President, when I addressed the Senate on the introduction of S. 2184, I inadvertently failed to include the name of the California Association of Clinical Laboratories. This is regretful for this group made substantial contributions to the formulation and passage of the original California legislation. Their interest and support continued during the further development of the legislation. Their interest and support continue today.

I ask unanimous consent at this point in my remarks that a press release of the California Association of Clinical Laboratories pledging its wholehearted support of S. 2184 be inserted in the RECORD.

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

"BIOCHEMICAL PROCEDURES,
"North Hollywood, Calif., June 24, 1965.

"Mr. FRANK STANTON,
President, Columbia Broadcasting System, New York, N.Y.

"DEAR MR. STANTON: We are in accord with your documentary approach to an exposé of unprofessionally operated 'mail order laboratories,' aired over television and radio Tuesday and Wednesday, June 22 and 23, and appreciate the factual manner in which they have been portrayed. However, we believe that you must assume a responsibility for clarifying more substantially and positively the difference between the above and the reference laboratory facilities medically operated.

"The U.S. mails are used for basic communication between laboratories and for the rapid transfer of medical specimens. Mail services have been, and will continue to be utilized as an essential communication link by Federal, State, local, and privately operated laboratories. In such a context it is important to make any unsophisticated audience aware of the basic difference between a necessary form of communication and the unfortunate connotation now made implicit in the term 'mail order laboratories.'

"Biochemical Procedures is a specialized reference laboratory operating under the stringent public health laws of the State of California, whose standards for laboratory and laboratory personnel licensing are used as a model for other States. This laboratory supports laboratory research and service activities of several medical schools, hundreds of pathologists directly and several thousand pathologists indirectly via their directorship of hospitals supported by our laboratory facilities. As a pathologist directed laboratory, we perform our laboratory services in a professionally responsible manner, following the traditional function of American pathology.

"Our letterhead was one of those displayed during your program as representative of California laboratories who refused to perform certain analyses upon specimens sent through the mails because of their instability.

"Our letterhead was flashed quickly across the screen, enough to be clearly identifiable, immediately followed by the unprofessional practices being portrayed. We have already been besieged by phone calls regarding our laboratories. Unfortunately, there now exists a confusion that we were one of the unethical laboratories.

"Our reputation, hard won over many years is now subtle but widely and repetitively linked with a philosophy and practice we deplore. We strongly request your demarcation of those research and testing laboratories, like Biochemical Procedures, Inc., which demonstrably acted in a responsible manner from those whose activities are a symptom of faulty philosophy and practice.

"As chairman of the board of Biochemical Procedures, I am certain that you will want to set the record straight in a prompt reply to us.

"Sincerely yours,
"S. LOUIS GAINES,
"Chairman of the Board.

"CALIFORNIA ASSOCIATION
OF CLINICAL LABORATORIES,
"Fremont, Calif., June 24, 1965.

"The California Association of Clincial Laboratories today pledged its wholehearted support of a proposed legislation which would exercise strict control over mail-order laboratories engaged in interstate activities.

"The California Association of Clinical Laboratories is the statewide organization of licensed bioanalysts and licensed bioanalyst laboratory directors founded in 1937.

"Don Amsbaugh, president of the association, has just issued the following statement:

" 'California bioanalysts are among the Nation's best qualified and best trained in the highly specialized field of clinical laboratory direction. This is because California has the oldest and strictest laws of the Nation's 10 States which currently have legislation and licensure governing medical laboratories.

" 'California demands rigid educational and training standards, both for directors of medical laboratories and for the technologists who work under them. These same rigid standards apply also to California laboratories which receive mailed-in specimens. Unfortunately, some mail order and other medical laboratories in States which do not have legislation have been shown to be substandard both in the qualifications of their directors and in their operating practices. It is this type of laboratory which has been the subject of investigations carried out by national news media.

" 'For the past 6 years the California Association of Clinical Laboratories has been attempting to obtain legislation preventing unlicensed out-of-State laboratories from performing tests on specimens mailed from California and, conversely, preventing the mailing of specimens from California to these unlicensed out-of-State laboratories.

" 'The California Association of Clinical Laboratories is convinced, therefore, that it is in the best interests of the American public that legislation controlling all medical laboratories be instituted on a nationwide scale.' "

STATEMENT BY DAVID J. SPENCER, M.D., DIRECTOR, NATIONAL COMMUNICABLE DISEASE CENTER, ATLANTA, GA., BEFORE THE SENATE COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON ANTITRUST AND MONOPOLY, FEBRUARY 6, 1967

Mr. Chairman and Members of the Committee:

PROBLEMS IN MEDICAL LABORATORIES IN THE UNITED STATES

Modern medical practice places greater reliance on clinical laboratory results than ever before. Accurate laboratory results, therefore, have a direct bearing on patient care, and are the difference between a healthy, productive life and extended convalescence or death.

There are between 13,000 and 14,000 medical laboratories in the Nation. Of these, about 7,000 are hospital laboratories. State and local public health laboratories number about 400; the remainder are independently operated. There are an estimated one-half billion examinations performed annually. The State and local public health laboratories do no more than 10 percent of these. No information is available concerning the quantity or quality of laboratory examinations which are performed in physicians' offices and in their clinics; however, these examinations must constitute a significant percentage of the national laboratory workload.

Serious deficiencies have been demonstrated to exist in the Nation's clinical laboratories. Studies by the National Communicable Disease Center and others indicate that unsatisfactory performance is demonstrated by 10–40% of laboratories in bacteriological testing; by 30–50% in various simple clinical chemistry tests; by 12–18% in blood grouping and typing; by 20–30% in hemoglobin measurements; by 40–80% in differential characterization of blood cells; and by 20–30% in measurement of serum electrolytes. There also exists considerable variation in results from laboratory to laboratory. *This information indicates that erroneous results are obtained in more than 25% of all tests analyzed by these studies.* The results cited above were derived from

performance evaluation programs and may represent the *best* which laboratories can do.

MAJOR PROBLEMS WHICH CONTRIBUTE TO SUBSTANDARD LABORATORY PERFORMANCE

Lack of information. We can only estimate the number of the Nation's clinical laboratories. We do not know how much training and experience persons performing work in these laboratories have had, and we need to know much more about the nature and proficiency of the work performed. A major cause of this lack of knowledge has been the absence of State legislation requiring registration and/or licensure of clinical laboratories. Laboratories can operate in most communities without control of performance or even a business license.

Shortage of Educated, Trained, and Experienced Personnel. There is a Nation-wide shortage of educated, trained, and experienced laboratory personnel at all levels. According to a survey made by the NCDC in 1965, 32 percent of the 2,600 professional and technical personnel employed in State laboratories had less than four years' experience; 9 percent had less than one year experience; and 8 percent of those holding professional level positions in the laboratories did not have a college degree. Much less is known about personnel in independent and hospital laboratories. Hospital laboratories employ 52,900 medical technologists and require many more to meet current urgent needs. The demand for medical technologists is increasing faster than they are being trained.

Universities and colleges have few clinical chemistry training programs, and there has been little show of interest in encouraging young men and women to enter the field of medical laboratory sciences. The number of clinical laboratories which employ technologists has expanded tremendously; however, there has not been concomitant expansion of effort to recruit and train personnel. Only about 40 percent of available training positions in American Medical Association-approved schools of medical technology presently are filled.

Recruitment of young people into the laboratory field has not received sufficient emphasis, although notable efforts have been made, particularly by the National Committee for Careers in Medical Technology and the American Society of Clinical Pathologists. High school and college counselors are poorly apprised of career opportunities in the clinical laboratory field. In addition, salaries currently paid to medical technologists, bacteriologists, and clinical chemists are too low to attract young people to the field.

The same shortage of adequately trained and experienced personnel prevails at the supervisory level. Studies have reported that there is a strong positive correlation between the education of the supervisor and the quality of laboratory performance.

As a result of these various deficiencies, much technical work is done by personnel with qualifications below those required for accurate performance of laboratory tests. However, a significant step forward has recently been taken through enactment of legislation to assist in the training of such personnel. The Allied Health Professions Training Act of 1966 is designed to strengthen training opportunities for individuals interested in careers such as medical technology.

Obsolescence of Personnel. The knowledge gained by research leads by years the widespread, effective exploitation of technological advances in equipment, reagents, procedures, and automation. Laboratorians frequently continue to use obsolete techniques which they learned years before rather than adopt more up-to-date procedures.

Need To Educate Clinicians in Critical Evaluation and Proper Use of Laboratories. Many physicians tend to accept the results of laboratory tests at face value and they are often not in a position to evaluate laboratories critically and select those which can best perform the tests they request.

Poorly Controlled Technical Methods. Adequate controls must be included in each step of laboratory procedures; otherwise, the results will be unreliable. Proper internal and external quality controls have not been instituted by many clinical laboratories to check and monitor procedures, equipment, reagents, standards, and proficiency. Continuing work must be done to furnish guidelines for satisfactory laboratory quality control programs.

Lack of Standardized Procedures. Many procedures and modifications of procedures are available for use in clinical laboratories; unfortunately, many are unreliable. For example, the published literature reports that there are at least 29 methods for the determination of cholesterol, most of which give inaccurate results.

Lack of Standardized Reagents. The quality of reagents used in examination of specimens directly influences the accuracy of test results. The National Communicable Disease Center (NCDC) tested 1,023 final packaged and 50 pre-packaged microbiological reagents produced by 21 commercial producers from 1957 through 1965. Eighteen percent of the final packaged products and 24 percent of the pre-packaged products were unacceptable by NCDC standards. Additional quality standards are needed for reagents in other fields.

Absence of Established Standards of Performance. While standards for laboratory proficiency testing already exist in many cases, and could be applied, there still remain a number of areas where the many technical aspects necessary for standards development have not yet been fully investigated.

Insufficient Performance Evaluation. Many groups are conducting performance evaluation programs, most of which are voluntary, and participation is far from universal. Such performance evaluation as does exist relates in the main to specific tests or to laboratories with superior standards that are most concerned with improving the quality of their performance. State public health laboratory directors have reported to NCDC that nonparticipation in such voluntary evaluation is significantly correlated with substandard laboratory performance.

Lack of Regulation of Laboratories. Only three States, New York City, and Puerto Rico require some form of licensure or permit for independent clinical laboratories. In most States, anyone, without regard to training or experience, can operate or direct a clinical laboratory. Furthermore, these individuals can transact business in interstate commerce. It has long been recognized that unregulated "mail order" laboratories offer a threat to the health of both the individual and the public. States such as California and New York, which have enacted regulatory legislation, are not protected from laboratories in other States which offer mail-order services.

Failure To Recognize Limitations. Small laboratories often attempt to perform tests beyond their capabilities. Each clinical laboratory can no longer offer all tests which may be requested by physicians. Although the College of American Pathologists has a listing of laboratories for all types of procedures in all sections of the country, and the American Association of Blood Banks has established 4 central and regional laboratories, there is no organized system by which primary laboratories may refer specimens for comparison to expert laboratories with recognized and established competence in a specialty field.

Inadequate Facilities. Many independent and hospital laboratories are overcrowded, ill-equipped, and poorly maintained. Inadequate air handling systems endanger employees and contaminate work areas and other parts of the building. Lack of suitably controlled lighting, temperature, and humidity contributes to laboratory error.

Overt Dishonesty. Overtly dishonest operation of laboratories has been reported. A major contributing factor is the lack of regulation of clinical laboratory operation.

Lack of Funds for Improvement. There is a demonstrated need for additional funds at all levels of government for programs directed at improving the quality of laboratory performance.

EXAMPLES OF MISDIAGNOSIS, PROLONGED ILLNESS AND DEATH RESULTING FROM LABORATORY ERROR

Summarized below are actual examples in which clinical laboratory errors resulted in misdiagnosis, mistreatment, prolonged illness or death.

The death of twin boys born to an Rh negative woman twice typed as positive by the clinical laboratory is an example of fatalities related to error in blood typing. The twins were born with erythroblastosis fetalis and died. Both deaths could have been prevented had the laboratory result been correct. The parents were awarded settlement in Torts Claim Court.

In a recent study of 328 neonatal deaths from hemolytic disease, it was found that death could have been definitely prevented in 23.3% of the cases, and probably prevented in an additional 36.9% of the cases by correction of either patient factors, hospital factors, physician factors, or laboratory factors. One or more avoidable laboratory factors were identified in 34.5% of the deaths These factors included personnel which were inadequately trained or not available when needed, inadequate facilities resulting in a poorly done or omitted procedure, faulty methodology or technique and deficiencies in reporting laboratory tests.

Blood coagulation tests are extremely difficult to control, and when erroneous results occur the treatment of the patient may be inappropriate. A falsely short prothrombin time was reported for a 26-year-old newspaper reporter under anticoagulant treatment for phlebitis. The error caused the physician to continue this treatment, which slows the blood clotting time. A fatal gastrointestinal hemorrhage ensued. The potential magnitude of this problem is evident from the fact that approximately 700,000 persons are presently under anticoagulant treatment for prevention of coronary thrombosis or for other thrombosis or for other thromboembolic disease.

Specimens from 33 suspected cases of malaria were recently submitted to the NCDC for confirmation. These specimens had been diagnosed as positive and the patients treated for malaria. The NCDC found that all of the specimens were negative for malaria. Specimens of bone marrow had been removed 8 times from one of the above cases and blood had been drawn 12 times for smears and a serologic test. This patient underwent these many unnecessary diagnostic procedures and was treated for malaria in spite of not having the disease. Another patient had bone marrow specimens removed twice, and blood drawn for smears and a serologic test for malaria. Again, the results although reported as positive, could not be confirmed at the NCDC. One of these false positive cases was published in a medical journal as a report of resistance to drugs. This publication has caused much confusion.

A young mother of two children was diagnosed on the basis of laboratory tests as having pulmonary tuberculosis and confined to a sanatorium. Subsequent studies in the sanatorium proved that she did not have tuberculosis, and the woman was released 3 weeks later to return to her family.

The examples cited above show the need for high quality laboratory performance.

The overwhelming magnitude of the problem which results from substandard work in the laboratory cannot even be suggested by a recitation of these few case histories.

STATEMENT OF HOWARD L. BODILY, PH. D., BEFORE THE U.S. SENATE COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON ANTITRUST AND MONOPOLY

My name is Howard L. Bodily. I am Chief, Division of Laboratories, of the California State Department of Public Health.

For the past 21 years I have had direct responsibility for the administration of laws regulating California clinical laboratories and establishing standards for the personnel working therein. The California laws were established in 1937 and have been revised periodically since that time. These laws have permitted California to resolve most of the problems which now confront nearly all other States. I would like to state the major problems some of which are similar to those in S. 260 relating to the sale of drugs.

There is a lack of standards for adequate direction and supervision of clinical laboratories. For many years California was the only State which set legal requirements for the director of a clinical laboratory. Today only 8 other States and Puerto Rico have regulations of any kind which set legal requirements for the director. Even in these States many types of laboratories, such as hospital laboratories, are exempt. In all other States anyone regardless of his training can legally establish and operate a clinical laboratory.

Also, there are many laboratories whose director is out of the laboratory so much of the time that all of the direction is in effect left to the technician who is frequently very poorly trained. As a consequence, most of the States are poorly prepared to accept the responsibilities imposed on them by the Medicare requirements. The regulations are established for laboratories participating in the Medicare program set requirements for the director and supervisors in a laboratory, but this applies only to a segment of the laboratories. As a matter of fact, the Medicare program has established one set of regulations for independent laboratories and, through the Joint Commission of Hospital Accreditation of the American Medical Association, another set of standards for hospital laboratories in physicians' offices, including group practices. Furthermore, those laboratories not participating in the Medicare program are not subject to any standards except in a handful of States. Thus, there is a wide variation in the quality of the direction and supervision of laboratories throughout the Nation. This situation is largely due to the failure of States to enact appropriate laws.

There is also a lack of adequately trained personnel engaged in the work of the laboratory. Aside from California, only six States have any legal standards for laboratory technologists. The situation is well described in an article by Dr. Henry Bauer appearing in the February issue of *Hospital Practice* entitled "The National Laboratory Crisis." In most States it is believed that there is an acute shortage of trained personnel although the actual situation in any State is not well known. In contrast, in California, where standards have been set for many years, there is a good supply of well-trained technologists. A recent survey of 6,000 positions revealed an 8 percent vacancy rate which is the lowest it has been for more than 15 years. Approximately 1,000 college graduates take the California examinations for licensure each year.

The American Society of Clinical Pathologists is the only national organization which for many years has maintained an active program of training for technologists and upgrading of their requirements. This program has not met the needs and, being a voluntary program, has not prevented the employment of inadequately trained personnel.

The standards for training, as well as the facilities for good training, have been sadly neglected. Aside from the training program of the American Society of Clinical Pathologists, there has been no Nation-wide effort to promote good training in clinical laboratory technology. Commercial schools of varying but generally substandard quality have flourished in several States. Some of these have been nothing but diploma mills and others have falsely led students to believe that their short-term, high-priced training program would prepare the student to work in the clinical laboratory. Two such schools operated in California until 1951 when laws were enacted requiring them to upgrade their programs so that their students could qualify for the examination for licensure or discontinue their schools. The latter was the result. Now the training is done only in approved hospital laboratory schools and laboratories approved to take a limited number of trainees. However, substandard schools still exist in some States.

Colleges and universities have become less interested in providing the basic education for employment in the clinical laboratory and have directed their efforts to preparing students for graduate study in the basic and theoretical areas of science. While attention should be given to these areas, the applied areas have been sadly neglected. As a result only a very few colleges and universities offer courses which prepare a person to work in a clinical laboratory. Very few universities offer training in clinical chemistry or microbiology. As a result, there is a dearth of persons sufficiently well-trained in these areas to establish good practices and effective quality controls in these specialties of the clinical laboratory.

It is hoped that the Allied Health Professions Training Act passed by the 89th Congress will receive sufficient financial support to encourage the educational institutions of the Nation to give greater attention to the preparation of students for work in clinical laboratories.

There is a lack of appropriate continuing education programs to update the knowledge of those working in the laboratory to keep pace with the rapid changes in clinical laboratory technology. A few of the professional organizations and some State Health Department Laboratories occasionally provide training in limited areas of laboratory activity. A few universities provide similar short-term courses occasionally. All of these efforts amount to only a token of what should be done. The result is that many laboratories are working with outdated methods and equipment, and without adequate control of the quality of work performed.

Reference in many articles has pointed to the poor performance in medical laboratories. Studies conducted by Dr. Schaeffer in New York City, by Dr. Bauer in Minnesota, as well as others, indicate that a large number of clinical laboratories can not produce accurate results. Much of this is referable to the lack of training of the technologist. As a result of studies conducted in Minnesota, Dr. Bauer states that "Not surprisingly, this study documented the fact that laboratory performance drops as the educational level of laboratory personnel falls. The smaller hospitals (more often than not staffed with non-college trained personnel working without pathologist supervision) not only performed at the lowest levels of accuracy but gave the least amount of cooperation to the study." A similar correlation between training and accuracy of performance was reported by Snavely in the Connecticut Medical Journal in 1949, 1951 and 1952. Dr. Schaeffer's studies in New York also confirms this observation.

In the absence of regulation many laboratories fail for one reason or another to apply known methods of internal quality control of laboratory tests. Until the advent of Medicare, only a few States made any effort to test the performance in the clinical laboratories. Performance evaluation has, however, been conducted by the professional organizations, principally the College of American Pathologists, the American Society of Clinical Pathologists and the American Association of Bioanalysts. These programs, however, have reached only a fraction of the laboratories. The Medicare regulations will require the States to conduct or approve professional programs for performance evaluation of independent laboratories, but this is limited only to those laboratories whose Director does not have an M.D. or other doctoral degree. The application of quality control procedures and performance testing should apply to all laboratories as a means of maintenance of good quality of performance and to provide information as to what subjects should be emphasized in training.

Many of these problems have been a concern to the National Communicable Disease Center as well as the State laboratory directors. I hope that support can be given to the National Communicable Disease Center to assist the State in the improvement of laboratory services.

There is one area, however, where Federal legislation may be needed to adequately control the activities of certain laboratories. These are the ones which operate an interstate business. The lack of regulation has permitted some of these, as well as some laboratories operating only intrastate, to engage in overtly dishonest or unethical practices.

Perhaps one of the most outstanding examples of such practices occurred in 1961. Early in that year we were informed that a director of a California laboratory had purchased a shipment of laboratory specimen containers from a salvage dealer in Los Angeles. Upon inspection of these containers, the laboratory director discovered that they contained unexamined specimen-covered slides which had been prepared for examination by the Papanicolaou Technic. It was obvious that the slides had never been examined, and the director gave the slides and the accompanying request slips to our Department. The slides were from 250 patients involving 70 or more physicians who had sent them to a laboratory for examination. We selected 25 physicians and wrote to them to inquire if they had ever received a report of these specimens. Eighteen physicians replied that they had received such reports. A second letter was sent to the 25 physicians and the original letter to the remaining 45 physicians. Some physicians (from seven States) sent the actual reports which had been sent by the laboratory. In which instance the identification data agreed exactly with the date on the packets containing the unexamined slides in our possession. It was obvious that reports had been sent to the physicians even though the slides had never been examined.

Laboratory violations have occurred in California laboratories, but court or disciplinary action has required such laboratories to close or comply with the laws. Just recently a California laboratory engaged in a form of advertising in other States which we believed was illegal and a misrepresentation of facts. Disciplinary action against this laboratory brought about compliance.

In several instances it has come to our attention that individuals whose licenses have been revoked or who was denied licenses because of illegal practices have gone to other States and engaged in laboratory work.

Another related and unresolved problem is that of discounts, rebates, fee-splitting, etc., which occurs in both intra- and interstate laboratory situations. These problems relate directly to the purpose of S. 260. Many

arrangements have been made between the physician and the laboratory, including:

1. A flat rate contract with the physician for laboratory services permitting the physician to charge the patient at the going rate.

2. "Discounts" for the collection of specimens by the physician or for billing the patient.

3. Discounts to physician owners of the building where a laboratory leases space, permitting the physician to charge the full fee.

The anti-rebate laws in California prohibit such arrangements with result in unearned rebates, discounts or fee-splitting. Disciplinary action for violations of this law has been taken against some laboratories, and others have complied with illegal financial arrangements were called to their attention. However, we have no control over the laboratory which operates in another State where no regulation exists but solicits work from California physicians. Cheaper laboratory fees are frequently offered as an inducement for a physician to use a laboratory thousands of miles from his instead of the laboratories in his own community. Furthermore, we believe it is grossly unfair to the people of California to require high standards in California laboratories in order to assure competent laboratory work, only to have laboratory work performed in other States by laboratories which do not meet California standards. It is impossible for any other State to control this situation.

Your interest in the subjects included in S. 260 is to be encouraged and possibly extended to laboratory activities. There is, however, a substantial difference between the dispensing of drugs and the procurement of laboratory services. Since laboratory work is an aid to the physician in diagnosis and treatment of illness in patients, there should be no restrictions against the physician using any laboratory he wishes. On the other hand, requirements should be established which will demand that laboratories produce accurate results.

I appreciate the opportunity to appear before your Committee. If I can be of further assistance, I will be pleased to do so.

LINCOLN'S BIRTHDAY—LEGAL HOLIDAY

Mr. JAVITS. Mr. President, speeches on the virtues and accomplishments of Abraham Lincoln are not necessary to recall to my colleagues the man whose birthday we will commemorate this week. As President during a time of great crisis for the Nation, as humanitarian and Great Emancipator, and—of particular importance to those of us on this side of the aisle—as founder of the Republican Party, Lincoln holds a revered place in the hearts of all Americans.

Many States have honored Lincoln by celebrating his birthday as a holiday. The Federal Government has not yet taken this step, but now, more than 100 years after his death, it is hoped that the Union which he died to preserve will honor his memory in an appropriate manner.

I send to the desk for appropriate reference, a bill to make February 12, Lincoln's birthday, a national holiday.

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

The bill (S. 895) making the birthday of Abraham Lincoln a legal holiday, introduced by Mr. JAVITS, was received, read twice by its title, and referred to the Committee on the Judiciary.

LINCOLN'S BIRTHDAY—NATIONAL HOLIDAY

Mr. HARTKE. Mr. President, next Sunday, February 12, we celebrate again the birthday of one of our most celebrated Presidents — Abraham Lincoln. Remarkably, however, we have yet to officially designate that date as a national holiday. Therefore, Mr. President, I am sending to the desk a bill to make such a designation.

There is no need to recite reasons for this special observance. It is but one more appropriate recognition of the man. Facing the Capitol Building from the other end of the historic Washington Mall, we have erected a permanent monument—a symbol of his character and a commemoration of his contribution to the Nation's endurance. In recent years, as we passed the centenary mark of the most significant events of his Presidency, we have taken special note of his achievements. On the steps of the Capitol in 1961, and again in 1965, we reenacted his inaugurations of a hundred years before.

Mr. President, it is fitting that we take this further step in recognition of President Lincoln. So that my colleagues may join in cosponsoring this measure, I would ask that this bill remain at the desk until the close of business on February 16.

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

The bill (S. 907) making the anniversary of Lincoln's birthday a legal holiday, introduced by Mr. HARTKE, was received, read twice by its title, and referred to the Committee on the Judiciary.

ESTATE OF PATRICK E. EAGAN

Mr. BARTLETT. Mr. President, I introduce, for appropriate reference, a bill which would provide relief for the estate of Patrick E. Eagan.

Mr. Eagan was an employee of the Post Office Department beginning on October 19, 1956. From that time until April 27, 1962, Mr. Eagan received overpayments from that Department in the amount of $4,271.36.

The overpayments from the Post Office Department were the result of an administrative error by an employee of the Department who failed to deduct from Mr. Eagan's salary the amount of a civil service retirement annuity Mr. Eagan was receiving.

This was not a case where Mr. Eagan had failed to report the annuity in his application for employment. He did report the annuity. Unfortunately, it was not noticed by clerical assistants in the Department until April 27, 1962. The record should be clear that Mr. Eagan accepted the overpayment in good faith, having had no knowledge of the Department's failure to note that he was receiving an annuity and believing he was being paid only that amount to which he was entitled. On September 10, 1962, 4 months after the error was discovered, Mr. Eagan was separated from the Federal service. On October 3, 1962, the Post Office Department submitted a Government claim to the Civil Service Commission and from October 19, 1962, until August 8, 1964, the Civil Service Commission withheld Mr. Eagan's annuity payments totaling for that entire period $1,639.60.

In the 88th Congress, more specifically, on January 22, 1963, I introduced a bill for the relief of Patrick E. Eagan, S. 416. That bill was reported favorably with an amendment by the Senate Judiciary Committee on September 14, 1964, Senate Report No. 1543, and passed the Senate on September 24, 1964. S. 3144 received favorable consideration by the Senate in the 89th Congress but again it was too late for House action.

Unknown to me and to the Senate, Mr. Eagan had died on August 8, 1964, of cancer for which he had been hospitalized for some time. Mr. Eagan was survived by his widow who now resides at Yakima, Wash. Technically, there is a balance of $1,229.11 owing the Government. This amount may legally be charged against Mr. Eagan's estate. It is my belief this legal technicality should be removed by a private bill. It is my intention by introducing this bill today to remove not only that technicality but to repay to the estate that which already has been withheld.

Removing further liability for the amount still outstanding is obviously fair and just and should be done. Repaying to the estate the amount withheld by the Government during Mr. Eagan's life is justified in my view for several reasons. First of all, the overpayment was made as a result of an administrative error. Second, Mr. Eagan received the overpayments without knowledge of the error and in good faith. Third, the withholding of Mr. Eagan's retirement annuity after he had been separated from the Post Office Department to repay the debt technically owed the Government was an extreme hardship on Mr. Eagan and his wife, especially after he had been hospitalized for cancer. Further, the annuity was withheld after January 1963 until Mr. Eagan's death in August of 1964 contrary to a promise made to me by the Post Office Department in January 1963 that further annuity checks would not be withheld pending consideration of my bill S. 416. Necessary steps were not taken within the Post Office Department to carry out the promise made to me in writing. I was completely unaware that the annuity checks were continuing to be withheld until after Mr. Eagan's death in August 1964.

In summary, Mr. Eagan and his wife were placed under extreme economic hardship as a result of not one but two administrative errors on the part of the Post Office Department. I have been unable to discover that Mr. Eagan was in any way at fault in this matter. I feel the U.S. Government should correct this injustice to two of its citizens.

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

The bill (S. 910) for the relief of the estate of Patrick E. Eagan, introduced by Mr. BARTLETT, was received, read twice by its title, and referred to the Committee on the Judiciary.

INTERSTATE LAND SALES

Mr. BENNETT. Mr. President, I introduce for appropriate reference a bill for the purpose of assisting State authorities in their responsibility to bring an end to the fraudulent sale of land to individuals residing within their boundaries by out-of-State sales organizations.

Fortunately, all but a very few developers of land tracts for sale as building sites or investment opportunities are completely legitimate and build their business on the basis of satisfied purchasers. However, it is evident that there continue to be individuals who attempt to make a fast buck by improperly representing that which they are selling. It is encouraging to realize that there are far fewer fraudulent land sales schemes in operation today than there were just a few years ago. I feel that this improvement is a result of the efforts of a number of States to improve their statutes dealing with such problems and also the postal statutes against the use of the mails to distribute fraudulent literature. Despite the improvement that has been made, there are still some fraudulent land sale schemes, and it is the responsibility of the Congress to get involved in the solution of the problem.

Realizing that we have a responsibility, the question which naturally follows is what is the best method of approaching a solution.

I am firmly convinced that the solution must leave legitimate land developers free from unnecessary shackles, so that they are not prohibited either by law or through the difficulty of complying with the law from developing new areas. On the other hand, a means must be provided through which responsible authorities may deal with those who prey upon the unsophisticated who are a ready mark for those who promote get-rich-quick schemes, neglecting to inform prospective purchasers of important facts or misrepresenting the product which they are attempting to sell.

Last session, a bill was introduced which would make the Securities and Exchange Commission responsible and give the agency authority to set up standards of disclosure and registration which would have to be met by land developers using any form of interstate commerce or the mails in the promotion of their developments.

During the hearings which were held in the Securities Subcommittee of our Senate Banking and Currency Committee, many witnesses opposed the proposed legislation. One might discount some of the testimony perhaps as being biased, but most of it, in my judgment, was based on sound reasoning. Among the over two dozen opposition witnesses that appeared, presented statements, or made comments are the Department of Justice, the Department of Commerce, and the Postmaster General.

These Departments did not condone the fraudulent sale of land, nor did any of the opposition witnesses. In fact, some of the opposition witnesses have been working on the problem for years.

Land sales and their regulation has always been a State responsibility, and there are many with unimpeachable motives who feel that it should remain a State responsibility.

Too often, little or no recognition is given for all of the progress that is being made on the local and State level. Too often an immediate national solution is sought for something that needs a great deal of study and a full understanding of the problem and the operations of reputable segments within the industry.

Some States have taken great strides in protecting their citizens from unscrupulous out-of-State land solicitation through the enactment of effective statutes regulating such sales. Among the standards included in such State statutes are the following:

First. Demonstration that the promoter is able to deliver a clear title.

Second. Demonstration that the promoter is adequately financed to complete improvements that are scheduled.

Third. Demonstration that the parcels of land can be used for the purpose for which they are offered.

Fourth. Demonstration that when land is being sold under an installment contract, the payments received be escrowed or that some means be set up to guarantee that the buyer will receive an unencumbered title when he has completed his payment schedule.

These are requirements that protect the purchaser which every land developer should be willing to meet. Those who cannot meet such requirements would be unable to sell land in the State.

Perhaps more important than the present law of any one State is the work that has been done by the National Conference of Commissioners on Uniform State Laws. This is a highly respected group of individuals appointed by the Governors of the various States. It drafted the Uniform Commercial Code which now has been enacted by all but three States.

On August 4 of last year, the National Conference of Commissioners approved a Uniform Land Sales Practices Act. The act is a comprehensive one recommended to State legislatures for State enactment. I ask unanimous consent that the text of the act approved by the National Conference of Commissioners on Uniform State Laws be included in the RECORD at this point.

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

UNIFORM LAND SALES PRACTICES ACT APPROVED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, AUGUST 4TH, 1966

SECTION 1. [*Definitions*] When used in this Act, unless the context otherwise requires:

(1) "disposition" includes sale, lease, assignment, award by lottery, or any other transaction concerning a subdivision, if undertaken for gain or profit;

(2) "offer" includes every inducement, solicitation or attempt to encourage a person to acquire an interest in land, if undertaken for gain or profit;

(3) "person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;

(4) "purchaser" means a person who acquires or attempts to acquire or succeeds to an interest in land;

(5) "subdivider" means any owner of subdivided land who offers it for disposition or the principal agent of an inactive owner;

(6) "subdivision" and "subdivided lands" mean any land which is divided or is proposed to be divided for the purpose of disposition in to [25] or more lots, parcels, units or interests and also includes any land whether contiguous or not if [25] or more lots, parcels, units, or interests are offered as a part of a common promotional plan of advertising and sale.

SEC. 2. [*Administrative Agency.*] This Act shall be administered by [insert appropriate administrative agency and any related provisions on selection and remuneration of personnel, budget, annual reports, fees and other administrative provisions which are appropriate to the particular state] which hereinafter is called the agency.

SEC. 3. [*Exemptions.*]

(a) Unless the method of disposition is adopted for the purpose of evasion of this Act, the provisions of this Act do not apply to offers or dispositions of an interest in land:

(1) by a purchaser of subdivided lands for his own account in a single or isolated transaction;

(2) if fewer than [25] separate lots, parcels, units or interests in subdivided lands are offered by a person in a period of [12] months;

(3) on which there is a residential, commercial, or industrial building, or as to which there is a legal obligation on the part of the seller to construct such a building within [2] years from date of disposition;

(4) to persons who are engaged in the business of construction of buildings for resale, or to persons who acquire an interest in subdivided lands for the purpose of engaging, and do engage in the business of construction of building for resale;

(5) pursuant to court order;

(6) by any government or government agency;

(7) as cemetery lots or interests.

(b) Unless the method of disposition is adopted for the purpose of evasion of this Act, the provisions of this Act do not apply to:

(1) offers or dispositions of evidences of indebtedness secured by a mortgage or deed of trust of real estate;

(2) offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any state or federal statute;

(3) a subdivision as to which the plan of disposition is to dispose to 10 or fewer persons;

(4) a subdivision as to which the agency has granted an exemption as provided in Section 10;

(5) offers or dispositions of securities currently registered with the [Commissioner of Securities] of this State; and

(6) offers or dispositions of any interest in oil, gas or other minerals or any royalty interest therein if the offers or dispositions of such interests are regulated as securities by the United States or by the [Commissioner of Securities] of this State.

SEC. 4. [*Prohibitions on Dispositions of Interests in Subdivisions.*] Unless the subdivided lands or the transaction is exempt by Section 3:

(1) no person may offer or dispose of any interest in subdivided lands located in this State, nor offer or dispose in this State of any interest in subdivided lands located without this State prior to the time the subdivided lands are registered in accordance with this Act;

(2) no person may dispose of any interest in subdivided lands unless a current public offering statement is delivered to the purchaser and the purchaser is afforded a rea-

sonable opportunity to examine the public offering statement prior to the disposition.

SEC. 5. [*Application for Registration*]

(a) The application for registration of subdivided lands shall be filed as prescribed by the agency's rules and shall contain the following documents and information:

(1) an irrevocable appointment of the agency to receive service of any lawful process in any non-criminal proceeding arising under this Act against the applicant or his personal representative;

(2) a legal description of the subdivided lands offered for registration, together with a map showing the division proposed or made, and the dimensions of the lots, parcels, units or interests and the relation of the subdivided lands to existing streets, roads, and other off-site improvements;

(3) the states or jurisdictions in which an application for registration or similar document has been filed, and any adverse order, judgment, or decree entered in connection with the subdivided lands by the regulatory authorities in each jurisdiction or by any court;

(4) the applicant's name, address, and the form, date, and jurisdiction of organization; and the address of each of its offices in this State;

(5) the name, address, and principal occupation for the past five years of every director and officer of the applicant or person occupying a similar status or performing similar functions; the extent and nature of his interest in the applicant or the subdivided lands as of a specified date within 30 days of the filing of the application;

(6) a statement, in a form acceptable to the agency, of the condition of the title to the subdivided lands including encumbrances as of a specified date within 30 days of the date of application by a title opinion of a licensed attorney, not a salaried employee, officer, or director of the applicant or owner, or by other evidence of title acceptable to the agency;

(7) copies of the instruments which will be delivered to a purchaser to evidence his interest in the subdivided lands and of the contracts and other agreements which a purchaser will be required to agree to or sign;

(8) copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrance upon the title and copies of the instruments creating the lien or encumbrance, if any, with data as to recording;

(9) if there is a lien or encumbrance affecting more than one lot, parcel, unit or interest a statement of the consequences for a purchaser of failure to discharge the lien or encumbrance and the steps, if any, taken to protect the purchaser in case of this eventuality;

(10) copies of instruments creating easements, restrictions, or other encumbrances, affecting the subdivided lands;

(11) a statement of the zoning and other governmental regulations affecting the use of the subdivided lands and also of any existing tax and existing or proposed special taxes or assessments which affect the subdivided lands;

(12) a statement of the existing provisions for access, sewage disposal, water, and other public utilities in the subdivision; a statement of the improvements to be installed, the schedule for their completion, and a statement as to the provisions for improvement maintenance;

(13) a narrative description of the promotional plan for the disposition of the subdivided lands together with copies of all advertising material which has been prepared for public distribution by any means of communication;

(14) the proposed public offering statement;

(15) any other information, including any current financial statement, which the agency by its rules requires for the protection of purchasers.

(b) If the subdivider registers additional subdivided lands to be offered for disposition, he may consolidate the subsequent registration with any earlier registration offering subdivided lands for disposition under the same promotional plan.

(c) The subdivider shall immediately report any material changes in the information contained in an application for registration.

SEC. 6. [*Public Offering Statement.*]

(a) A public offering statement shall disclose fully and accurately the physical characteristics of the subdivided lands offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting the subdivided lands. The proposed public offering statement submitted to the agency shall be in a form prescribed by its rules and shall include the following:

(1) the name and principal address of the subdivider;

(2) a general description of the subdivided lands stating the total number of lots, parcels, units, or interests in the offering;

(3) the significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations affecting the subdivided lands and each unit or lot, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect the subdivided lands;

(4) a statement of the use for which the property is offered;

(5) information concering improvements, including streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities and customary utilities, and the estimated cost, date of completion and responsibility for construction and maintenance of existing and proposed improvements which are referred to in connection with the offering or disposition of any interest in subdivided lands;

(6) additional information required by the agency to assure full and fair disclosure to prospective purchasers.

(b) The public offering statement shall not be used for any promotional purposes before registration of the subdivided lands and afterwards only if it is used in its entirety. No person may advertise or represent that the agency approves or recommends the subdivided lands or disposition thereof. No portion of the public offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement unless the agency requires it.

(c) The agency may require the subdivider to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of the subdivision may be made after registration without notifying the agency and without making appropriate amendment of the public offering statement. A public offering statement is not current unless all amendments are incorporated.

SEC. 7. [*Inquiry and Examination.*]

Upon receipt of an application for registration in proper form, the agency shall forthwith initiate an examination to determine that:

(1) the subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer, and when appropriate, that release clauses, conveyances in trust or other safeguards have been provided;

(2) there is reasonable assurance that all proposed improvements will be completed as represented;

(3) the advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the agency in its rules and afford full and fair disclosure;

(4) the subdivider has not, or if a corporation, its officers, directors, and principals have not, been convicted of a crime involving land dispositions or any aspect of the land sales business in this State, United States, or any other state or foreign country within the past [10] years and has not been subject to any injunction or administrative order within the past [10] years restraining a false or misleading promotional plan involving land dispositions;

(5) the public offering statement requirements of this Act have been satisfied.

SEC. 8. [*Notice of Filing and Registration.*]

(a) Upon receipt of the application for registration in proper form, the agency shall issue a notice of filing to the applicant. Within [90] days from the date of the notice of filing, the agency shall enter an order registering the subdivided lands or rejecting the registration. If no order of rejection is entered within [90] days from the date of notice of filing, the land shall be deemed registered unless the applicant has consented in writing to a delay.

(b) If the agency affirmatively determines, upon inquiry and examination, that the requirements of Section 7 have been met, it shall enter an order registering the subdivided lands and shall designate the form of the public offering statement.

(c) If the agency determines upon inquiry and examination that any of the requirements of Section 7 has not been met, the agency shall notify the applicant that the application for registration must be corrected in the particulars specified within [10] days. If the requirements are not met within the time allowed the agency shall enter an order rejecting the registration which shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for [20] days during which time the applicant may petition for reconsideration and shall be entitled to a hearing.

SEC. 9. [*Annual Report.*]

(a) Within [30] days after each annual anniversary date of an order registering subdivided lands, the subdivider shall file a report in the form prescribed by the rules of the agency. The report shall reflect any material changes in information contained in the original application for registration.

(b) The agency at its option may permit the filing of annual reports within [30] days after the anniversary date of the consolidated registration in lieu of the anniversary date of the original registration.

SEC. 10. [*General Powers and Duties.*]

(a) The agency shall prescribe reasonable rules which shall be adopted, amended, or repealed [in compliance with the administrative procedure act] [after a public hearing with notice thereof published once in a newspaper or newspapers with statewide circulation not less than 5 days nor more than 15 days prior to the hearing and mailed to all subdividers not less than 5 days nor more than 15 days prior to the public hearing]. The rules shall include but not be limited to provisions for advertising standards to assure full and fair disclosure; provisions for escrow or trust agreements or other means reasonably to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for; provisions for operating procedures; and other rules as are necessary and proper to accomplish the purpose of this Act.

(b) The agency by rule or by an order, after reasonable notice and hearing, may require the filing of advertising material relating to subdivided lands prior to its distribution.

(c) If it appears that a person has engaged or is about to engage in an act or practice

constituting a violation of a provision of this Act, or a rule or order hereunder, the agency, with or without prior administrative proceedings may bring an action in the [insert the name of the appropriate court] to enjoin the acts or practices and to enforce compliance with this Act or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver or conservator may be appointed. The agency is not required to post a bond in any court proceedings.

(d) The agency may intervene in a suit involving subdivided lands. In any suit by or against a subdivider involving subdivided lands, the subdivider promptly shall furnish the agency notice of the suit and copies of all pleadings.

(e) The agency may:

(1) accept registrations filed in other states or with the federal government;

(2) contract with similar agencies in this State or other jurisdictions to perform investigative functions;

(3) accept grants in aid from any source.

(f) The agency shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and common administrative practices.

(g) The agency may exempt a subdivision of [——] or fewer lots, parcels, units or interest from the provisions of this Act if it determines that the plan of promotion and disposition is primarily directed to persons in the local community in which the subdivision is situated.

SEC. 11. [*Investigations and Proceedings.*]

(a) The agency may:

(1) make necessary public or private investigations within or outside of this State to determine whether any person has violated or is about to violate this Act or any rule or order hereunder, or to aid in the enforcement of this Act or in the prescribing of rules and forms hereunder;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the agency determines, as to all the facts and circumstances concerning the matter to be investigated.

(b) For the purpose of any investigation or proceeding under this Act, the agency or any officer designated by rule may administer oaths or affirmations, and upon its own motion or upon request of any party shall subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

(c) Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the agency may apply to [insert name of appropriate court] for an order compelling compliance.

[(d) Except as otherwise provided in this Act, all proceedings under this Act shall be in accordance with the Administrative Procedure Act.]

SEC. 12. [*Cease and Desist Orders.*]

(a) If the agency determines after notice and hearing that a person has:

(1) violated any provision of this Act;

(2) directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of an interest in subdivided lands;

(3) made any substantial change in the plan of disposition and development of the subdivided lands subsequent to the order of registration without obtaining prior written approval from the agency;

(4) disposed of any subdivided lands which have not been registered with the agency;

(5) violated any lawful order or rule of the agency; it may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the agency will carry out the purposes of this Act.

(b) If the agency makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the agency whenever possible by telephone or otherwise shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held [promptly] [within —— days] to determine whether or not it becomes permanent.

SEC. 13. [*Revocation.*]

(a) A registration may be revoked after notice and hearing upon a written finding of fact that the subdivider has:

(1) failed to comply with the terms of a cease and desist order;

(2) been convicted in any court subsequent to the filing of the application for registration for a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions;

(3) disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of subdivision purchasers;

(4) failed faithfully to perform any stipulation or agreement made with the agency as an inducement to grant any registration, to reinstate any registration, or to approve any promotional plan or public offering statement;

(5) made intentional misrepresentations or concealed material facts in an application for registration.

Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(b) If the agency finds after notice and hearing that the subdivider has been guilty of a violation for which revocation could be ordered, it may issue a cease and desist order instead.

SEC. 14. [*Judicial Review.*]

[(a) A person who exhausted all administrative remedies available within the agency and who is aggrieved by an order pertaining to registration, a cease and desist order, an order of revocation, or any other final decision of the agency is entitled to judicial review under this Act. This Section does not limit utilization of or the scope of judicial review available under other means of review, redress, relief, or trial *de novo* provided by law. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

(b) Proceedings for review are instituted by filing a petition in the [insert the name of appropriate court] within [30] days after [mailing notice of] the final decision of the agency or, if a rehearing is requested, within [30] days after the decision thereon. Copies of the petition shall be served upon the agency and all parties of record.

(c) The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon appropriate terms.

(d) Within [30] days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(f) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(g) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(1) in violation of constitutional or statutory provisions;

(2) in excess of the statutory authority of the agency;

(3) made upon unlawful procedure;

(4) affected by other error of law;

(5) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

[Proceedings for judicial review shall be in accordance with the administrative procedures act].

SEC. 15. [*Penalties*]. Any person who willfully violates any provision of this Act or of a rule adopted under it or any person who willfully, in an application for registration makes any untrue statement of a material fact or omits to state a material fact is guilty of a [misdemeanor] [felony] and may be fined not less than [$1,000] [$5,000] or double the amount of gain from the transaction, whichever is the larger but not more than [$50,000]; or he may be imprisoned for not more than [6 months] [2 years]; or both.

SEC. 16. [*Civil Remedy.*]

(a) Any person who disposes of subdivided lands in violation of Section 4, or who in disposing of subdivided lands makes an untrue statement of a material fact, or who in disposing of subdivided lands omits a material fact required to be stated in a registration statement or public offering statement or necessary to make the statements made not misleading, is liable as provided in this section to the purchaser unless in the case of an untruth or omission it is proved that the purchaser knew of the untruth or omission or that the person offering or disposing of subdivided lands did not know and in the exercise of reasonable care could not have known of the untruth or omission, or that the purchaser did not rely on the untruth in omission.

(b) In addition to any other remedies, the purchaser, under the preceding subsection, may recover the consideration paid for the lot, parcel, unit or interest in subdivided lands together with interest at the rate of 6% per year from the date of payment, prop-

erty taxes paid, costs, and reasonable attorneys fees less the amount of any income received from the subdivided lands upon tender of appropriate instruments of reconveyance. If the purchaser no longer owns the lot, parcel, unit or interest in subdivided lands, he may recover the amount that would be recoverable upon a tender of a reconveyance less the value of the land when disposed of and less interest at the rate of 6% per year on that amount from the date of disposition.

(c) Every person who directly or indirectly controls a subdivider liable under Subsection (a), every general partner, officer, or director of a subdivider, every person occupying a similar status or performing a similar function, every employee of the subdivider who materially aids in the disposition, and every agent who materially aids in the disposition is also liable jointly and severally with and to the same extent as the subdivider, unless the person otherwise liable sustains the burden of proof that he did not know and in the exercise of reasonable care could not have known of the existence of the facts by reason of which the liability is alleged to exist.

There is a right to contribution as in cases of contract among persons so liable.

(d) Every person whose occupation gives authority to a statement which with his consent has been used in an application for registration or public offering statement, if he is not otherwise associated with the subdivision and development plan in a material way, is liable only for false statements and omissions in his statement and only if he fails to prove that he did not know and in the exercise of the reasonable care of a man in his occupation could not have known of the existence of the facts by reason of which the liability is alleged to exist.

(e) A tender of reconveyance may be made at any time before the entry of judgment.

(f) A person may not recover under this section in actions commenced more than 4 years after his first payment of money to the subdivider in the contested transaction.

(g) Any stipulation or provision supporting to bind any person acquiring subdivided lands to waive compliance with this Act or any rule or order under it is void.

SEC. 17 [*Jurisdictional.*] Dispositions of subdivided lands are subject to this Act, and the [insert name of appropriate courts] of this State have jurisdiction in claims or causes of action arising under this Act, if:

(1) the subdivided lands offered for disposition are located in this State; or

(2) the subdivider's principal office is located in this State; or

(3) any offer or disposition of subdivided lands is made in this State, whether or not the offeror or offeree is then present in this State, if the offer originates within this State or is directed by the offeror to a person or place in this State and received by the person or at the place to which it is directed.

SEC. 18. [*Interstate Rendition*]. In the proceedings for extradition of a person charged with a crime under this Act, it need not be shown that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding or other state.

SEC. 19. [*Service of Process.*]

(a) In addition to the methods of service provided for in the [Rules of Civil Practice] service may be made by delivering a copy of the process to the office of the agency, but it is not effective unless the plaintiff (which may be the agency in a proceeding instituted by it):

(1) forthwith sends a copy of the process and of the pleading by [certified] [registered] mail to the defendant or respondent at his last known address, and

(2) the plaintiff's affidavit of compliance with this Section is filed in the case on or before the return day of the process, if any or within such further time as the court allows.

(b) If any person, including any nonresident of this State, engages in conduct prohibited by this Act or any rule or order hereunder, and has not filed a consent to service of process and personal jurisdiction over him cannot otherwise be obtained in this State, that conduct authorizes the agency to receive service of process in any non-criminal proceeding against him or his successor which grows out of that conduct and which is brought under this Act or any rule or order hereunder, with the same force and validity as if served on him personally. Notice shall be given as provided in subsection (a).

SEC. 20. [*Uniformity of Interpretation*]. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SEC. 21. [*Short Title*]. This Act may be cited as the Uniform Land Sales Practices Act.

SEC. 22. [*Severability*]. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

SEC. 23. [*Repeal*]. The following Acts and parts of Acts are repealed:

(1)
(2)
(3)

SEC. 24. [*Effective Date*]. This Act shall take effect [not less than 90 days after enactment].

Mr. BENNETT. Mr. President, in my judgment, this provides a means to attack the problems which exist in interstate land sales. This gives the States a pattern after which to enact reasonable yet effective legislation.

Just 1 month after the uniform act had been approved, a meeting attended by industry representatives and officials of the regulatory agencies of various States was held here in Washington. It was agreed that States would move rapidly to enact legislation patterned after the proposed Uniform Land Sales Practices Act.

It was pointed out in our hearings of last session, however, that even States with good laws are unable to take the action that they would desire against an out-of-State promoter who uses the mails or telephone or other means of communication but does not actually have an operation in the State. Of course, an injunction can be received from a State court, but if the promoter chooses to ignore the injunction, a State cannot enforce it. A State authority finds it equally difficult to obtain an injunction in another State where the developer has his promotional headquarters or where the land being developed is located. State law is unable to solve this jurisdictional problem, so it is necessary that it be supplemented by Federal statute.

I am therefore introducing a bill that would make it a violation of Federal law to use any means of transportation or communication in interstate commerce, or the mails, to sell, or offer to sell lots or land parcels in violation of State laws in effect in the State of residence of the prospective purchaser. This proposal has received widespread support from State authorities and responsible land developers.

It is simple and would bridge the gap between what the States are able to do and what needs to be done. It would not result in overlapping jurisdiction or unnecessary burden or expense on land developers. I am sure that it would provide incentive for the enactment of better State laws, and the Federal Government would do only that which the States are not willing or able to do for themselves. We hear about creative federalism and its virtues on every hand. Part of creative federalism is that the Federal Government act in those instances where States cannot act for themselves.

This proposal is not without precedent. The Webb-Kenyon Act, prohibiting the transportation of liquor into a State in violation of the State law, the Connally Hot Oil Act, forbidding transportation of oil across State borders in violation of State law, and the action of Congress in 1961 making it a Federal offense to carry out certain racketeering enterprises which were prohibited by State law are all similar to this proposal. It seems to me that this type of legislation is in the real spirit of Federal-State coordination and cooperation.

I therefore introduce this bill to make it a violation of Federal law to use any means of interstate communication or transportation or the mails to offer for sale parcels of land in violation of State laws in effect in the State of residence of the prospective purchaser. I ask unanimous consent that the bill be printed at this point in the RECORD and that it lie on the table for cosponsors until February 28.

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

The bill (S. 911) to prohibit certain interstate land sales in violation of State law, introduced by Mr. BENNETT, 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. 911

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part I of title 18, United States Code, is amended by adding at the end thereof the following:

"CHAPTER 119.—INTERSTATE LAND SALES

"Sec.

"2451. Definitions.

"2452. Sales in violation of State law.

"Section 2451. Definitions

"As used in this chapter—

"(1) The term 'subdivision' means any land which is divided or proposed to be divided into twenty-five or more lots, parcels, units, or interests, whether contiguous or not, for the purpose of sale.

"(2) The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any possession of the United States.

"Section 2452. Sales in violation of State law

"Whoever, in pursuance of a promotional plan to sell lots, parcels, or interests in a subdivision to persons residing outside the State in which such subdivision is located, uses any means of transportation or communication in interstate commerce, or the mails, to sell, or offer to sell, any such lot, parcel, or interest to any such person with

knowledge, or reasonable grounds for believing, that such sale or offer is made in violation of laws in effect in the State of residence of such person specifically regulating the sale of lots, parcels, or interests in subdivisions, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 2. The analysis of part I of title 18, United States Code, is amended by adding at the end thereof the following:

"119. Interstate land sales----------2451".

DISPOSITION OF GEOTHERMAL STEAM AND ASSOCIATED GEOTHERMAL RESOURCES OF THE PUBLIC LANDS—NOTICE OF HEARINGS

Mr. BIBLE. Mr. President, I introduce, by request, a bill to authorize the Secretary of the Interior to make disposition of the geothermal steam and associated geothermal resources of the public lands of the United States.

This measure was drafted by the Department of the Interior and transmitted by executive communication to the Congress. I ask unanimous consent, Mr. President, that the text of the Interior Department's communication be printed in the RECORD at the end of my remarks.

It is my expectation that the Subcommittee on Minerals, Materials and Fuels of the Senate Interior Committee will consider the administration draft of this proposed legislation at the time of the hearing on S. 23, the geothermal leasing measure I sponsored for myself and 10 distinguished Senators of both parties. Hearings on this bill have been scheduled for March 21 and 22.

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

The bill (S. 912) to authorize the Secretary of the Interior to make disposition of geothermal steam and associated geothermal resources, and for other purposes; introduced by Mr. BIBLE, by request, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

The letter presented by Mr. BIBLE is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 2, 1967.

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

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "To authorize the Secretary of the Interior to make disposition of geothermal steam and associated geothermal resources, and for other purposes".

We recommend that this bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

Legislation to authorize the Secretary of the Interior to issue geothermal steam leases covering lands administered by him and lands within the national forests was considered by both the 88th and 89th Congresses. No final action was taken by the 88th Congress, but a bill (S. 1674) for this purpose was adopted by the 89th Congress and on November 15, 1966, President Johnson withheld his approval.

In withholding his approval, the President said that geothermal steam legislation would be proposed in the 90th Congress "to transform the potential of this national treasure into a reality". In his recent message on "Protecting Our National Heritage", the President reiterated this statement and directed that draft legislation be transmitted to the Congress. The enclosed bill will carry out the President's objective.

S. 1674 provides the framework for the enclosed proposal. Many of the provisions of the enclosed bill are identical both in substance and form with those in S. 1674. We are enclosing a complete explanation of all of the changes.

The principal provisions of the bill are:

1. An authorization for the Secretary of the Interior to issue geothermal leases competitively covering lands administered by him and by the Secretary of Agriculture through the Forest Service, except for lands within the National Park and National Wildlife Refuge Systems, lands administered for fish hatchery purposes, national recreation areas, and Indian-owned trust or restricted lands;

2. An authorization of a minimum rate of royalty for steam or the byproducts therefrom produced under a geothermal lease and sold or utilized or reasonably susceptible of sale or utilization;

3. An authority to reinstate geothermal leases terminated because of a nominal deficiency in the rental payment, or because of a failure to pay the rental timely or to pay the full amount and such failure was justifiable or not due to a lack of reasonable diligence;

4. An authorization to issue a geothermal lease for a primary term of 10 years with the right to continue thereafter so long as geothermal steam is produced or utilized in paying quantities but not to exceed an additional 50 years from the date production is begun, as determined by the Secretary;

5. A provision giving the geothermal lessee a right to extend his lease, upon application therefor, when the Secretary determines (a) that the steam is incapable of further commercial production or utilization, and (b) that the byproducts—either leasables or locatables, or both—are capable of further production or utilization, for so long as one or more of the byproducts are produced or utilized in paying quantities;

6. A requirement that the byproducts and the lands covered by the geothermal leases shall not be subject to appropriation under the United States mining laws during the lease term or extension thereof or after termination or relinquishment thereof, unless and until such lands are opened by the Secretary;

7. A requirement that each geothermal lease shall cover not more than 2,560 acres;

8. A requirement that no lessee shall acquire any direct or indirect interest in geothermal leases issued under this bill totaling more than 10,240 acres per State;

9. A requirement that each lease contain a renegotiation clause;

10. An authority to issue regulations to prevent waste, to conserve the resources within the lease area, to protect the surface, and to prevent pollution, among other things;

11. An authority for the Attorney General to institute legal proceedings to quiet title to geothermal resources underlying lands conveyed with a mineral reservation;

12. An authority to issue geothermal leases for the geothermal resources underlying the surface of lands conveyed by the United States with a reservation for the geothermal steam to the United States;

13. A requirement that where lands are patented, granted, or otherwise conveyed under other provisions of law subject to a reservation of any mineral such reservation shall also include geothermal steam and associated geothermal resources; and

14. A requirement that the ownership of oil, hydrocarbon gas, and helium found under a geothermal lease shall be retained by the United States.

This proposal was prepared in consultation with the Acting Attorney General and he recommends that it be enacted.

The Bureau of the Budget has advised that the enclosed legislative proposal is in accord with the President's program.

Sincerely yours,

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

AMENDMENT TO THE INTERSTATE COMMERCE ACT TO PERMIT WATER CARRIER EQUIPMENT TRUST CERTIFICATES

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend part III of the Interstate Commerce Act to provide for the recording of trust agreements and other evidences of equipment indebtedness of water carriers, and for other purposes.

Under this proposed legislation water carriers advise that they would be able to provide shippers, consumers, and communities with more modern and efficient equipment through equipment trust financing.

Our Nation's railroads and our Nation's airlines have available to them a similar type of financing enabling them to obtain funds for capital improvements through the medium of equipment trust certificates. Because a considerable portion of a water carrier's total assets is invested in floating equipment, equipment trust certificates financing would also aid large and small water carriers to obtain capital funds.

The proposed legislation is strictly permissive and can only be utilized where both the water carrier and the financial institution mutually desire to take advantage of this type of financing.

Section 1 of this bill would amend part III of the Interstate Commerce Act to provide for the recording of security instruments with the Interstate Commerce Commission in much the same manner as equipment trust certificates of the railroads are presently recorded with the ICC, and security agreements of the airlines are recorded with the Federal Aviation Agency. Section 2 of this bill would amend section 116 of the Bankruptcy Act to provide that the titleholder under a title retention security agreement could repossess or take physical possession of the equipment even though the debtor is in a chapter 10 reorganization.

This bill is similar to S. 3732—89th Congress—which I introduced, by request, on August 16, 1966. The only difference is the addition of two clauses in section 1 to make clear that this proposed legislation is not to be construed to alter or amend, in any way, the Ship Mortgage Act, 1920, as amended.

I ask unanimous consent to have printed in the RECORD following my remarks a letter dated February 1, 1967, from Mr. J. W. Hershey, chairman of the executive committee, the Common Carrier Conference of Domestic Water Carriers, in support of this bill.

The ACTING PRESIDENT pro tem-

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

The bill (S. 913) to amend part III of the Interstate Commerce Act to provide for the recording of trust agreements and other evidences of equipment indebtedness of water carriers, and for other purposes, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The letter, presented by Mr. MAGNUSON, is as follows:

THE COMMON CARRIER CONFERENCE
OF DOMESTIC WATER CARRIERS,
Washington, D.C., February 1, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: I am enclosing for your consideration a draft of a bill regarding the recordation of equipment trust agreements and the exemption of certain title retention security agreements from the provisions of the Bankruptcy Act by the amendment of Section 323 of Part III of the Interstate Commerce Act and Section 116, Chapter 10 of the Bankruptcy Act (11 U.S.C. 516).

The water carrier industry has in the past, and will most certainly in the future, be faced with problems of equipment obsolescence and the resulting need for capital improvements as the industry continues to modernize its fleet for service to the public. Of course, this problem is not peculiar to water carriers, and I am sure that the nation's railroads and airlines have been involved in similar modernization programs.

Obviously, a substantial portion of the funds for these capital improvements must be obtained from financial institutions rather than from working capital. Because a great deal of a water carrier's total assets is represented by floating equipment, the logical and only available security for financing is the towboats and barges being purchased by the carrier. This, I understand, is also generally true of the airlines, and I also understand that most of the railroad equipment modernization is via the medium of equipment trust certificates.

Both the railroads and the airlines presently have available to them a type of financing which is somewhat exempt from the provisions of the Bankruptcy Act in that a lender's title in financed equipment, and his concurrent right to repossess that equipment, may not be restricted, limited or hindered by the trustee in a reorganization of a railroad or of an airline. The existence of this legislation has enabled both the rail and air carriers to obtain financing from sources which may not have been otherwise available at relatively favorable interest rates.

In 1957 Congress amended Section 116 of the Bankruptcy Act thereby providing this type of exemption for the financing of aircraft, aircraft engines and related equipment, and our proposed legislation follows the same general format as that enacted in 1957 in H.R. 7671 and S. 2205.

Enactment of the proposed legislation would greatly assist the inland and coastwise water carrier industry in the modernization of its floating equipment and would place such water carriers on a par with both railroads and airlines in attracting capital for fleet improvements. The amendment would prove of benefit to both large and small water carriers particularly in view of the increasing costs of both barges and towboats. It should also be noted that the proposed legislation cannot possibly harm either a water carrier or a financial institution as it is strictly permissive and can only be utilized where both the water carrier and the financial institution mutually desire to take advantage of this particular type of financing.

In the event the Congress sees fit to enact the proposed amendment to the Bankruptcy Act, it would appear that creditors could be best protected from unknown liens on equipment by amending Part III of the Interstate Commerce Act so as to provide for the recordation of instruments evidencing equipment indebtedness at one central and easily accessible location. Railroad equipment trust certificates must be recorded with the Interstate Commerce Commission under Section 20(c) of the Interstate Commerce Act, and because water carriers are likewise subject to regulation by that Commission, it seems logical to designate that Commission as the place for recordation in the same manner as was done for railroads. It is my understanding that equipment indebtedness instruments on aircraft are recorded with the Federal Aviation Agency in much the same manner as we propose to record vessel indebtedness instruments with the Commission. This procedure would not burden the Commission nor require an expansion of the Commission's existing staff or facilities as the small amount of work could be easily handled by those persons presently responsible for the recording of instruments under Section 20(c) of the Act.

I would be most happy for the opportunity to fully discuss the proposed legislation with either you, a member of your committee, or your staff any time at your convenience.

Sincerely,

J. W. HERSHEY.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that a bill which I introduced today to amend the Interstate Commerce Act lie on the table for 10 days for additional cosponsors.

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

FEDERAL JUDICIAL CENTER

Mr. McCLELLAN. Mr. President, I am also today introducing by request a third measure to which the President referred in his crime message of February 6.

This bill would establish a Federal Judicial Center in the Administrative Office of the U.S. courts.

In 1922, at the instigation of Chief Justice Taft and other Federal judges, Congress created the Conference of Senior Circuit Judges which in the course of time has evolved into the Judicial Conference of the United States. The purpose of both the Conference of Senior Circuit Judges and the Judicial Conference has been to promote efficiency in the courts.

Since then, the Congress has substantially increased the number of judgeships in the U.S. district courts.

Despite these two major developments over the years, we continue to have congestion and delay in our courts.

The proposed Judicial Center is intended to enable the courts to embark on a program of self-analysis, of research and planning, such as is being undertaken by all forward-moving institutions, both public and private.

One of the major functions to be performed by the Federal Judicial Center will be the stimulation, development, and conducting of programs of continuing education and training for personnel in the judicial branch of Government. Although our courts are efficient and effective, it is hoped the enactment of this bill will make them even more so.

I ask that the text of the legislation be printed following this statement, and that this measure be retained at the desk for 1 week so that Senators who desire to do so may become cosponsors.

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

The bill (S. 915) to provide for the establishment of a Federal Judicial Center, introduced by Mr. McCLELLAN, by request, 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. 915

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 28 United States Code is amended by inserting immediately following section 610, a new chapter 42 to be composed of sections 620 through 627 as follows:

"Chapter 42.—Federal Judicial Center

"Sec.
"620. Federal Judicial Center
"621. Board
"622. Board Meetings and Reports
"623. Powers of the Board
"624. Administrator and Staff
"625. Compensation of the Administrator
"626. Retirement of the Administrator
"627. Appropriations and Accounting

"Sec. 620. Federal Judicial Center.

"There is established in the Administrative Office of the United States Courts a Federal Judicial Center for the following purposes:

"(1) To stimulate, coordinate and conduct research and tests in all aspects of federal judicial administration.

"(2) To stimulate, develop and conduct programs of continuing education and training for personnel in the judicial branch of Government, including but not limited to, judges, referees, court clerks, probation officers and United States commissioners.

"(3) To provide staff, research and planning assistance to the Judicial Conference of the United States and its committees.

"Sec. 621. Board.

"The activities of the Center shall be supervised by a Board to be composed of the Chief Justice of the United States, two judges of the United States Courts of Appeals, three judges of the United States District Courts, and the Director of the Administrative Office of the United States Courts.

"Each of the judges of the United States Courts of Appeals and the United States District Courts shall be elected as members of the Board by a vote of the members of the Judicial Conference of the United States.

"The judges of the Courts of Appeals first named to the Board shall continue in office for terms of two and four years respectively from the date of the enactment of this chapter, the term of each to be designated by the Chief Justice following election by the Judicial Conference.

"The judges of the United States District Courts first named to the Board shall continue in office for terms of two, three and four years, respectively, from the date of the enactment of this chapter, the term of each to be designated by the Chief Justice following election by the Judicial Conference.

"The successors of the first judge-members of the Board shall be elected for a term of four years from the date of the expiration of

the term for which his predecessor was elected, except that any judge elected to fill a vacancy occurring prior to the expiration of the term for which his predecessor was elected shall be elected only for the unexpired term of such predecessor. No judge-member shall be eligible to reelection as a member of the Board.

"The Chief Justice of the United States shall be the Chairman of the Board.

"Sec. 662. Board Meetings and Reports.

"The Board shall meet quarterly to develop programs of research, training, continuing education and administration in all areas of Federal judicial administraiton. It shall make recommendations to the Judicial Conference of the United States and to other appropriate officials to improve Federal judicial administration and to assure the coordination and integration of policies respecting the administration of the training and treatment of the supporting personnel of the Federal courts. It shall also consider measures to promote improvements in Federal judicial administration and suggest appropriate studies in this connection to be undertaken by agencies, both public and private. Special meetings of the Board may be held from time to time upon the call of the Chairman or upon the request of any three members, and members of the Board shall serve without additional compensation.

"The Board shall submit to the annual meeting of the Judicial Conference of the United States, at least two weeks prior thereto, a report of the activities of the Center and the Administrator's recommendations, which report, data and recommendations shall be public documents.

"The Board shall also submit to Congress copies of the report and recommendations submitted to the Judicial Conference of the United States.

"Sec. 623. Powers of the Board.

"For the purpose of carrying out any function authorized by section 620 of this title, the Board may accept donated funds and services, both public and private, and the use of such funds to pay the salaries of the officers or employees of the Center shall not be subject to the provisions of section 209 of title 18, United States Code.

"The Board is authorized to request from any department, agency, or independent instrumentality of the Government any information it deems necessary to carry out its functions under this Act; and each such department, agency and instrumentality is authorized to cooperate with the Board and, to the extent permitted by law, to furnish such information to the Board, upon request made by the Chairman. The Board shall utilize insofar as possible the services or facilities of any agency of the Federal Government, and, without regard to section 10 of the Act of March 2, 1861, as amended (41 U.S.C. 5), of any appropriate State or other public agency. The Board may, without regard to section 10 of the Act of March 2, 1861, as amended (41 U.S.C. 5), utilize the services or facilities of any private agency, organization, group, or individual, in accordance with agreements between the head of such agency, organization, or group, or such individual, and the Board. Payment, if any, for such services or facilities shall be made in such amounts as may be provided in such agreement.

"Sec. 624. Administrator and Staff.

"(a) The Board may appoint and fix the duties of an Administrator of the Center who shall serve at the pleasure of the Board.

"(b) The Administrator shall supervise the activities of persons employed in the Center and shall perform such other duties as are assigned to him by the Board.

"(c) The Administrator, subject to the civil service laws, may appoint necessary employees of the Center. The Administrator may also procure personal services as authorized by section 15 of the Act of August 2, 1946, as amended (5 U.S.C. 55a), at rates not to exceed $75 per diem for individuals. The Administrator is authorized to incur travel and other miscellaneous expenses incident to the operation of the Center.

"(d) The Administrator, with the approval of the Board, may be authorized to contract with governmental or private agencies for research projects.

"Sec. 625. Compensation of the Administrator.

"(a) An Administrator who is a United States judge or justice, in active or retired status, shall serve without additional compensation.

"(b) The compensation of an Administrator to whom the provisions of subdivision (a) of this section do not apply, shall be the same as that of a judge of a United States District Court, and his appointment and salary shall not be subject to the civil service laws or Classification Act of 1949, as amended.

"Sec. 626. Retirement of the Administrator.

"(a) An Administrator may elect to waive his right to any benefits under the Civil Service Retirement Act and receive an annuity as provided by this section. Such election shall be made by filing a written notice with the Administrative Office of the United States Courts within six months after the date on which the Administrator takes office.

"(b) An Administrator who attains the age of 70 years shall be retired from his office.

"(c) An Administrator who retires, after having served at least 15 years and after having attained the age of 65 years, shall receive an annuity for life equal to 80 per centum of the salary of the office.

"(d) An Administrator who has served at least 10 years, but who is not eligible to receive an annuity under subsection (c), may elect to retire and receive an annuity for life equal to that proportion of 80 per centum of the salary of the office which the number of years of his service bears to fifteen, reduced by one-quarter of 1 per centum for each full month, if any, he is under the age of 65 at the time of separation from service.

"(e) An Administrator who becomes permanently disabled from performing the duties of his office shall be retired and shall receive an annuity for life equal to 80 per centum of the salary of the office if he has served at least 15 years, or equal to that proportion of 80 per centum of such salary which the aggregate number of years of his service bears to fifteen if he has served less than 15 years, but in no event less than 50 per centum of such salary.

"(f) For the purpose of this section, service means service, whether or not continuous, as Administrator, and any service not to exceed five years as a Judge of the United States, a Senator or Representative in Congress, a civilian official appointed by the President by and with the advice and consent of the Senate.

"(g) The annuities provided by this section shall be paid by the Administrative Office of the United States Courts.

"Sec. 627. Appropriations and Accounting.

"There is hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be necessary to supplement funds and services accepted by the Board. The Administrative Office of the United States Courts shall provide accounting, disbursing, auditing and other fiscal services for the Center."

SEC. 2. The table of contents to "Part III.—Court Officers and Employees" of title 28, United States Code, is amended by inserting after

"41. Administrative Office of United States Courts..... 601"

a new chapter reference as follows:

"42. Federal Judicial Center..... 620"

The letter accompanying Senate bill 915 is as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., February 8, 1967.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal "To assist in combating crime by creating the United States Corrections Service, and for other purposes".

A primary goal of law enforcement is the rehabilitation of offenders and their return to useful citizenship. Too often we fail to attain this goal. One study of the Federal corrections process reflects that 35 percent of those who have been convicted of a Federal offense later commit a serious crime, while another study finds that this rate of repeat is as high as 48 percent.

One of the deficiencies in our corrections process results from its fragmentation—probation and parole supervision being conducted as a part of the court system and prisons and other institutional services being the responsibility of the Executive Branch.

As you know, the 89th Congress enacted legislation which provides three important techniques for use in achieving prisoner rehabilitation (P.L. 89–176). This legislation authorizes the Attorney General to place prisoners in residential community treatment centers, to permit them to take emergency or rehabilitative leave, and to permit them to work at paid employment or participate in community training programs. As a result, new techniques involving prerelease and work release programs are being perfected in the hope we will more often return useful, rehabilitated citizens to their communities.

The instant proposal would constitute a further step in the improvement of our corrections process. It would establish a United States Corrections Service which would combine under a single direction the supervision of convicted persons, irrespective of whether they are confined in an institution, totally in the free community on probation or parole, or somewhere between complete confinement and complete freedom—for example, in a halfway house. This consolidation of responsibility for the supervision and rehabilitation of Federal offenders certainly has the potential of being more effective.

The proposal would also make several changes in the membership and responsibility of the Advisory Corrections Council. The Council would be composed of four United States judges, and, ex officio, the Chairman of the Board of Parole, the Chairman of the Youth Division of the Board of Parole, the Director of the Youth Division of the Board of Parole, the Director of the United States Corrections Service, and a physician designated by the Secretary of Health, Education, and Welfare. This Council would continue to consider problems of treatment and correction and would also consider problems of coordination and integration of policy among the branches of the Government having statutory responsibilities in this area. It would make recommendations to the Attorney General and to the Judicial Conference of the United States relating to these responsibilities and to the improvement of the administration of criminal justice. In addition, the Council would be authorized to employ an Executive Director and other necessary personnel to carry out its expanded functions.

Last Congress, the Department of Justice submitted a proposal similar to this one, but broader. It would have transferred the United States Probation Service from the courts to the Department of Justice, lodging with this Department all of the functions of the Service, including responsibility for the preparation of presentence reports. Unlike the earlier proposal, however, the cur-

rent measure continues the Probation Service as a part of the court system with the responsibility for preparing presentence reports for the use of district judges.

The continued increase in crime warrants the prompt, close attention of the Congress to this proposal. I urge its early introduction and consideration.

The Bureau of the Budget has advised that there is no objection to the submission of this legislation from the standpoint of the Administration's program.

Sincerely,

RAMSEY CLARK,
Acting Attorney General.

SAFE STREETS AND CRIME CONTROL ACT OF 1967—U.S. CORRECTIONS SERVICE

Mr. McCLELLAN. Mr. President, in his historic message on crime delivered to the Congress on February 6, the President charted a course of action which may be expected substantially to reduce crime throughout the United States. I am today, by request, introducing two of the measures proposed by the President.

The keystone proposal would be known as the Safe Streets and Crime Control Act of 1967. On this bill I am joined by Senators ERVIN, HART, HRUSKA, SCOTT, BYRD of West Virginia, JAVITS, and HARRIS as cosponsors.

The legislation, outlined by the President in his message and described more fully in the letter of Acting Attorney General Ramsey Clark with which it was transmitted, provides for a 5-year program of planning and program grants to States and local governments. The President has expressed his intention to request $350 million over the course of the next 2 years to implement the program.

Recognizing the basic responsibilities of State and local governments to deal with crime and recognizing the Federal responsibility to augment State and local efforts, the measure is based on the principle that the States and local governments must plan and execute programs to improve their police, courts, and correctional systems.

A sliding scale of grants is established. For planning, the Federal Government will provide up to 90 percent of the cost to communities which qualify for assistance; up to 60 percent of the cost of executing action programs will be borne by the Federal Government; up to 50 percent of the cost of certain new construction will be assumed by the Federal Government; finally, up to 100 percent of the cost of certain research will be assumed by the Federal Government.

As an indication of the importance of the program in the eyes of the President, I call your attention to that provision of the measure which provides for the Attorney General to be assisted in its administration by a Director appointed by the President with the advice and consent of the Senate.

The second measure which I introduce today by request is a proposal to create a U.S. Corrections Service. Both the President and the Acting Attorney General, the former in his crime message and the latter in the letter submitting the legislation, pointed out the inefficiency of our existing fragmented system of corrections.

I am persuaded that our corrections process may well be a more effective one if we provide, as called for in the legislation, for the supervision of lawbreakers by one agency, irrespective of whether these lawbreakers are behind bars or conditionally released on probation or parole.

The proposal also makes changes in the membership and responsibility of the Advisory Corrections Council so as to make the Council a more effective instrument for considering problems of treatment and correction and problems of coordination and integration of policy among the agencies of government having responsibilities with respect to the administration of criminal justice.

Particular attention should be paid to a major difference between this proposal and a similar proposal submitted for the consideration of the 89th Congress. Unlike its predecessor, this measure leaves the U.S. Probation Service in the court system, providing that the Service shall continue to discharge the responsibility of preparing presentence reports for the use of district judges.

In my judgment, these measures, and a number of other measures that have been proposed demand the immediate consideration of Congress. I request that these two bills remain at the desk for 1 week to give other Senators an opportunity to become cosponsors, if they so desire.

Mr. President, I ask unanimous consent that the text of the measures and the executive communications transmitting them be printed in the CONGRESSIONAL RECORD following my remarks.

The ACTING PRESIDENT pro tempore. The bills will be received and appropriately referred; and, without objection, the bills will be printed in the RECORD, and held at the desk, as requested by the Senator from Arkansas.

The bills, introduced by Mr. McCLELLAN, by request, were received, read twice by their titles, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

By Mr. McCLELLAN (for himself, Mr. ERVIN, Mr. HART, Mr. SCOTT, Mr. BYRD of West Virginia, Mr. JAVITS, and Mr. HARRIS) (by request):

S. 917. A bill to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Safe Streets and Crime Control Act of 1967".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby declares it to be the policy of the United States to promote the general welfare by improving law enforcement and the administration of criminal justice. Crime is essentially a local problem that must be dealt with by State and local governments. But sustained and substantial national assistance is necessary to aid these governments in coping with the lawlessness that has become a serious problem of national significance.

It is the purpose of this Act to increase the personal safety of the people of the Nation by reducing the incidence of crime; to stimulate the allocation of new resources and the development of technological advances and other innovations for preventing crime; to increase the efficiency and fairness of law enforcement and criminal justice through improved manpower, training, organization and equipment; and to encourage coordination in planning, operations and research by law enforcement and criminal justice agencies throughout the Nation.

TITLE I—PLANNING GRANTS

SEC. 101. It is the purpose of this title to encourage States and units of general local government to prepare and adopt comprehensive plans based on their evaluation of State and local problems of law enforcement and criminal justice.

SEC. 102. The Attorney General is authorized to make grants to States, units of general local government, or combinations of such States or units, for preparing, developing or revising the plans described in section 204: *Provided, however,* That no unit of general local government or combination of such units shall be eligible for a grant under this title unless it has a population of not less than 50,000 persons.

SEC. 103. A Federal grant authorized under section 102 shall not exceed 90 per centum of the total cost of the preparation, development or revision of a plan.

TITLE II—GRANTS FOR LAW ENFORCEMENT AND CRIMINAL JUSTICE PURPOSES

SEC. 201. It is the purpose of this title to authorize grants to States and units of general local government for new approaches and improvements in law enforcement and criminal justice. The purposes for which grants may be made may include but shall not be limited to:

(a) Public protection, including the development, demonstration and evaluation of methods, devices, equipment and design to increase safety from crime in streets, homes and other public and private places.

(b) Equipment, including the development and acquisition of equipment designed to increase the effectiveness and improve the deployment of law enforcement and criminal justice personnel.

(c) Manpower, including the recruitment, education and training of all types of law enforcement and criminal justice personnel.

(d) Management and organization, including the organization, administration and coordination of law enforcement and criminal justice agencies and functions.

(e) Operations and facilities for increasing the capability and fairness of law enforcement and criminal justice, including the processing, disposition and rehabilitation of offenders.

(f) Community relations, including pubic understanding of and cooperation with law enforcement and criminal justice agencies.

(g) Public education relating to crime prevention, including education programs in schools and community agencies.

SEC. 202. (a) Beginning January 1, 1968, the Attorney General is authorized to make grants to States, units of general local government, or combinations of such States or units for the purposes described in section 201. The amount of any such grant shall not exceed 60 per centum of the improvement expenditure of the applicant: *Provided, however,* That

(1) No grant under this section shall be used for the construction of any building or other physical facility; and

(2) Not more than one-third of any grant under this section shall be expended for the compensation of personnel, except that this limitation shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs and specialized personnel performing innovative functions.

(b) Improvement expenditure is the amount by which the proposed operating budget, or the amount by which the pro-

posed operating budget per capita, whichever is greater, of the applicant for law enforcement and criminal justice purposes for the fiscal year for which the grant is sought exceeds the applicant's qualifying expenditure.

(c) Qualifying expenditure is—

(1) 105 per centum of the base expenditure if the application is for funds to be used in the applicant's fiscal year ending in the calendar year 1968;

(2) 110 per centum of the base expenditure if the application is for funds to be used in the applicant's fiscal year ending in the calendar year 1969;

(3) 115 per centum of the base expenditure if the application is for funds to be used in the applicant's fiscal year ending in the calendar year 1970;

(4) 120 per centum of the base expenditure if the application is for funds to be used in the applicant's fiscal year ending in the calendar year 1971;

(5) 125 per centum of the base expenditure if the application is for funds to be used in the applicant's fiscal year ending in the calendar year 1972;

(6) 130 per centum of the base expenditure if the application is for funds to be used in the applicant's fiscal year ending in the calendar year 1973.

(d) Base expenditure is the applicant's operating expenditures or operating expenditures per capita, as the case may be, for law enforcement and criminal justice purposes for the fiscal year completed next preceding January 1, 1968: *Provided, however,* that if the applicant's base expenditure includes substantial and extraordinary amounts and the Attorney General is of the opinion that the requirements of this section constitute an unreasonable restriction on the applicant's eligibility for a grant under this section, the Attorney General may reduce such requirements to the extent he deems appropriate.

SEC. 203. (a) The Attorney General is authorized to make grants to States, units of general local government, or combinations of such States or units for the construction of buildings or other physical facilities which fulfill a significant, innovative function. The amount of any such grant shall not exceed 50 per centum of the cost of such construction.

(b) An applicant shall be eligible for a grant under this section only if such applicant would also be eligible for a grant under section 202.

SEC. 204. (a) The Attorney General is authorized to make grants to an applicant under this title only if such applicant has on file with the Attorney General a current law enforcement and criminal justice plan which conforms with the purpose and requirements of this Act. Each such plan shall—

(1) Unless it is not practicable to do so: (A) encompass a State, unit of general local government, or combination of such States or units; and (B) be applicable to a population of not less than 50,000 persons;

(2) Incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement and criminal justice dealt with in the plan, including descriptions of: (A) general needs and problems; (B) existing systems; (C) available resources; (D) purposes for which Federal funds are sought (with specific reference to their sequence, timing and costs); (E) systems and administrative machinery for implementing the plan; (F) the direction, scope and types of improvements to be made in the future; and (G) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems.

(b) In implementing this section, the Attorney General shall—

(1) Encourage State and local initiative in developing comprehensive law enforcement and criminal justice plans;

(2) Encourage plans which encompass the entire metropolitan area, if any, of which the applicant is a part;

(3) Encourage plans which deal with the problems and provide for the improvement of all law enforcement and criminal justice agencies in the area encompassed by the plans;

(4) Encourage plans which provide for research and development;

(5) Encourage plans which provide for an appropriate balance between fund allocations for the several parts of the law enforcement and criminal justice systems covered by the plans;

(6) Encourage plans which demonstrate the willingness of the applicant to assume the costs of improvements funded under this title after a reasonable period of Federal assistance; and

(7) Encourage plans which explore the costs and benefits of alternative courses of action and promote efficiency and economy in management and operations.

TITLE III—RESEARCH, DEMONSTRATION AND SPECIAL PROJECT GRANTS

SEC. 301. It is the purpose of this title to encourage research and development for the purpose of improving law enforcement and criminal justice and developing new methods for the prevention and reduction of crime .

SEC. 302. The Attorney General is authorized to make grants to, or enter into contracts with, institutions of higher education and other public agencies or private organizations to conduct research, demonstrations or special projects which he determines will be of regional or national importance or will make a significant contribution to the improvement of law enforcement and criminal justice.

SEC. 303. The Attorney General is authorized to make grants to institutions of higher education and other public agencies or private nonprofit organizations to establish national or regional institutes for research and education pertaining to the purpose of this Act.

SEC. 304. A Federal grant authorized under section 302 or 303 may be up to 100 per centum of the total cost of each project or institute for which such grant is made. The Attorney General shall require, whenever feasible, as a condition of approval of a grant under this title, that the recipient contribute money, facilities, or services to carry out the purpose for which the grant is sought.

SEC. 305. The Law Enforcement Assistance Act of 1965 (79 Stat. 825) is repealed and superseded by this title: *Provided, however,* That

(a) The Attorney General may award new grants, enter into new contracts or obligate funds for the continuation of projects in accordance with the provisions of the Law Enforcement Assistance Act, based upon applications received under that Act prior to the effective date of this Act;

(b) The Attorney General is authorized to obligate funds for the continuation of projects approved under the Law Enforcement Assistance Act prior to the effective date of this Act, to the extent that such approval provided for continuation; and

(c) Any awarding of grants, entering into contracts or obligation of funds under subsection (a) or (b) of this section and all activities necessary or appropriate for the review, inspection, audit, final disposition and dissemination of project accomplishments with respect to projects which are approved in accordance with the provisions of the Law Enforcement Assistance Act and which continue in operation beyond the effective date of this Act may be carried on with funds appropriated under this Act.

TITLE IV—ADMINISTRATION

SEC. 401. (a) There shall be in the Department of Justice a Director of Law Enforcement and Criminal Justice Assistance who shall be appointed by the President, by and with the advice and consent of the Senate, whose function shall be to assist the Attorney General in the performance of his duties under this Act.

(b) Section 5315 of Title 5 of the United States Code is amended by the addition of the following at the end thereof:

"(78) Director of Law Enforcement and Criminal Justice Assistance."

SEC. 402. The Attorney General is authorized to appoint such technical or other advisory committees to advise him in connection with the administraton of this Act as he deems necessary. Members of such committees not otherwise in the employ of the United States, while attending meetings of the committees, shall be entitled to receive compensation at a rate to be fixed by the Attorney General, but not exceeding $100 per diem, and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

SEC. 403. To insure that all Federal assistance to State and local programs for law enforcement and criminal justice is carried out in a coordinated manner, the Attorney General is authorized to request any Federal department or agency to supply such statistics, data, program reports and other materials as he deems necessary to carry out his functions under this Act. Each such department or agency is authorized to cooperate with the Attorney General and, to the extent permitted by law, to furnish such materials to the Attorney General. Any Federal department or agency engaged in administering programs related to law enforcement and criminal justice shall, to the maximum extent practicable, consult with and seek advice from the Attorney General to insure fully coordinated efforts.

SEC. 404. The Attorney General may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of his functions under this Act, and, as necessary or appropriate, delegate any of his powers under this Act with respect to any part thereof, and authorize the redelegation of such powers.

SEC. 405. The Attorney General is authorized—

(a) to conduct research and evaluation studies wtih respect to matters related to this Act; and

(b) to collect, evaluate, publish, and disseminate statististics and other information on the condition and progress of law enforcement and criminal justice in the several States.

SEC. 406. Payments under this Act may be made in installments, and in advance or by way of reimbursement, as may be determined by the Attorney General.

SEC. 407. Whenever the Attorney General, after reasonable notice and opportunity for hearing to a grantee under this Act, finds that, with respect to any payments made under this Act, there is a substantial failure to comply with—

(a) the provisions of this Act;

(b) regulations promulgated by the Attorney General under this Act; or

(c) the law enforcement and criminal justice plan submitted in accordance with the provisions of this Act; the Attorney General shall notify such grantee that further payments shall not be made (or in his discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure.

SEC. 408. Nothing contained in this Act shall be construed to authorize any department, agency, officer or employee of the

United States to exercise any direction, supervision or control over any police force or other agency of any State or local law enforcement and criminal justice system.

SEC. 409. Unless otherwise specified in this Act, the Attorney General shall carry out the programs provided for in this Act during the fiscal year ending June 30, 1968, and the four succeeding fiscal years.

SEC. 410. Not more than 15 per centum of the sums appropriated or allocated for any fiscal year to carry out the purpose of this Act shall be used within any one State.

SEC. 411. The Attorney General, after appropriate consultation with representatives of State and local governments, is authorized to prescribe such regulations as may be necessary to implement the purpose of this Act, including regulations which—

(a) Provide that a grantee will from time to time, but not less often than annually, submit a report evaluating accomplishments and cost-effectiveness of activities funded under this Act;

(b) Provide for fiscal control, sound accounting procedures and periodic reports to the Attorney General regarding the application of funds paid under this Act; and

(c) Establish criteria to achieve an equitable distribution among the States of assistance under this Act.

SEC. 412. On or before August 31, 1968, and each year thereafter, the Attorney General shall report to the President and to the Congress on activities pursuant to the provisions of this Act during the preceding fiscal year.

SEC. 413. For the purpose of carrying out this Act, there is hereby authorized to be appropriated the sum of $50,000,000 for the fiscal year ending June 30, 1968; and for each succeeding fiscal year such sums as the Congress may hereafter appropriate. Funds appropriated for the purpose of carrying out this Act shall remain available until expended.

TITLE V—DEFINITIONS

SEC. 501. As used in this Act—

(a) "Law enforcement and criminal justice" means all activities pertaining to crime prevention or the enforcement and administration of the criminal law, including but not limited to, activities involving police, prosecution or defense of criminal cases, courts, probation, corrections and parole.

(b) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa and the Trust Territory of the Pacific Islands.

(c) "Unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State.

(d) "Combination" as applied to States or units of general local government means any grouping or joining together of such States or units including a grouping or joining together for purposes only of preparing, developing and implementing a law enforcement and criminal justice plan.

(e) "Metropolitan area" means a standard metropolitan statistical area as established by the Bureau of the Budget, subject however to such modifications and extensions as the Attorney General may determine to be appropriate.

(f) "Public agency" means any State, unit of general local government, combination of such States or units, or any agency or instrumentality of any of the foregoing.

(g) "Construction" means the erection, acquisition, expansion or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor.

(h) "Innovative function" means a function which will serve a new or improved purpose within the particular law enforcement and criminal justice system into which it is introduced.

The letter accompanying Senate bill 917 is as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., February 8, 1967.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: The President, in his State of the Union Address and in his recent Message on Crime in America, stressed the fact that we must combat crime with every means at our command. He stated that crime must be rooted out in local communities by local authorities, and that the National Government can, and expects to, help. He indicated that, among other things he would recommend the enactment of the "Safe Streets and Crime Control Act of 1967" to provide this assistance. Accordingly, there is enclosed for your consideration and appropriate reference a legislative proposal "To assist state and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes."

As the President stated in his Crime Message, the National Crime Commission's report "gives us an extraordinary insight into the nature of crime and criminal justice" in the United States. Lawlessness in this country has become a serious problem of national concern. Farsighted programs are already underway to assist State and local governments in eradicating the conditions which breed crime—bad housing, inferior education and unemployment. Equally bold and imaginative action must be taken by our government to assist law enforcement and criminal justice systems at the State and local levels.

This legislative proposal contains broad and comprehensive authority for the efficient and effective channeling of substantial resources to State and local government for the improvement of all law enforcement and criminal justice throughout the Nation. As the President stated in describing this proposal, "It will enable us to assist those States and cities that try to make their streets and their homes safer, and their police forces better, and their corrections systems more effective and their courts more efficient."

Title I of the proposal encourages state and local governments to prepare and adopt comprehensive plans for meeting their particular crime problems. Each plan will include a detailed outline of priorities for the improvement and coordination of law enforcement and criminal justice in the geographic area encompassed by the plan and a description of the proposed means of accomplishing needed changes. Planners are required to incorporate innovations and advanced techniques and encouraged to provide for research and promote efficiency and economy in operations. The proposal would authorize the Attorney General to approve grants not to exceed 90 per cent of the total cost of the preparation, development or revision of such plans.

Title II of the proposal authorizes the Attorney General to make grants to State and local governments which have formulated a plan such as has been described. These grants may be used for the entire range of new approaches and improvements in law enforcement and criminal justice, including improvements in police equipment; the recruitment, education and training of personnel; the application of modern management techniques to police and criminal justice operations; and the development and use of new approaches in the enforcement, prosecutorial, judicial and correctional stages of the criminal process.

Grants under title II are on a matching basis. The Federal share may be up to 60%. It is keyed to a requirement that the applicant exceed a 5 per cent annual increase in law enforcement and criminal justice expenditures in order to qualify for a Federal grant. This requirement is designed not only to provide Federal financial assistance but also to stimulate increased State and local spending for law enforcement and criminal justice purposes. In the case of construction, the Federal share is limited to 50 per cent and may only be used for such a purpose where the new facility will serve a significant, innovative function. Up to one third of a grant may be applied to salaries.

Title III of the proposal will carry on the functions of the Law Enforcement Assistance Act of 1965 by authorizing grants of up to 100 per cent for research, demonstration or special projects which the Attorney General determines will have regional or national importance or will make a significant contribution to the improvement of law enforcement and criminal justice. This title also provides for the making of grants to establish national or regional institutes for pertinent educational and research activities.

In summary, the proposed legislation is a substantial and far-reaching anti-crime program which works with and through State and local government agencies to bring technology and improved capability into the battle against crime. It provides incentives for State and local authorities to work out effective plans for combatting crime in their areas and authorizes Federal financial assistance in implementing these plans. Its objective is a safer, more crime-free, Nation.

The Bureau of the Budget has advised that enactment of this legislation is in accord with the Program of the President.

Sincerely,

RAMSEY CLARK,
Acting Attorney General.

By Mr. MCCLELLAN (by request):

S. 916. A bill to assist in combating crime by creating the U.S. Corrections Service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby created within the Department of Justice a United States Corrections Service through which the Attorney General may discharge the responsibilities imposed upon him by section 4012 of title 18, United States Code. The United States Corrections Service shall be administered by a Director, who shall receive compensation at the rate provided in level IV of the Federal Executive Salary Schedule. This position shall be in addition to those provided in section 303(d) of the Federal Executive Salary Act of 1964 (78 Stat. 417).

SEC. 2. (a) Section 3653 of title 18, United States Code, is amended by striking out the words "probation officer" whenever they appear, including in the catchline, and inserting in lieu thereof the words "community correctional officer".

(b) The analysis of chapter 231 of title 18, United States Code, immediately preceding section 3651 thereof, is amended by striking out the item "3653. Report of probation officer and arrest of probationer." and inserting in lieu thereof "3653. Report of community correctional officer and arrest of probationer."

SEC. 3. Section 3655 of title 18, United States Code, is amended to read as follows:

"§ 3655. Duties of Probation Officers.

"The probation officer shall provide the court with such information as may be relevant to the court's decision on the imposition of sentence.

"He shall keep records of his work and shall make such reports to the Director of the Administrative Office of the United States Courts as the Director may at any time require; and shall perform such other duties as the court may direct.

"Each probation officer shall perform such duties with respect to persons on parole or

on probation as the Attorney General shall request."

SEC. 4. (a) The first paragraph of section 4001 of title 18, United States Code, is amended by inserting immediately after the word "institutions" the words "and services".

(b) The second paragraph of such section is amended by striking out the words "classify the inmates" and inserting in lieu thereof "programs and classify the inmates and participants".

SEC. 5. (a) Chapter 301 of title 18, United States Code, is amended by adding at the end thereof a section 4012, as follows:

"§ 4012. Responsibilities of Attorney General.

"The Attorney General, through community correctional officers and other officers and employees as he may designate, shall—

"(1) have charge of the management and regulation of all Federal penal and correctional institutions;

"(2) shall provide suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States, or held as witnesses or otherwise;

"(3) provide for the protection, instruction, and discipline of all persons charged with or convicted of offenses against the United States;

"(4) use all suitable methods, not inconsistent with conditions imposed by the sentencing court or the Board of Parole, to supervise and aid probationers and parolees and to bring about improvements in their conduct and condition;

"(5) establish a program of continuous research and experimentation which shall, to the maximum extent consistent with orderly administration, be incorporated into and guide the daily operation of the corrections system;

"(6) furnish each probationer under his supervision a written statement of the conditions of probation and instruct him regarding the same;

"(7) keep informed concerning the conduct and condition of each probationer under his supervision and report thereon to the court placing such person on probation; and

"(2) perform such other duties as he deems desirable with respect to probationers, prisoners, parolees, or other persons charged with or convicted of crimes against the United States."

This section shall not apply to military or naval penal correctional institutions or the persons confined therein.

(b) The analysis of chapter 301 of title 18, United States Code, immediately preceding section 4001 thereof, is amended by adding:

"4012. Responsibilities of Attorney General."

SEC. 6. (a) Subsection (b) of section 4208 of title 18, United States Code, is amended by striking out the words "Director of the Bureau of Prisons" and inserting in lieu thereof of the words "Attorney General".

(b) The first paragraph of subsection (c) of such section is amended (1) by striking out the words "Director, under such regulations as the Attorney General may prescribe," and inserting in lieu thereof the words "Attorney General" and (2) by striking out the word "make" in the last sentence and inserting in lieu thereof the word "require".

SEC. 7. (a) Section 4042 of title 18, United States Code, is repealed.

(b) The analysis of chapter 303 of title 18, United States Code, immediately preceding section 4041 thereof, is amended by striking out the item:

"4042. Duties of Bureau of Prisons."

SEC. 8. Section 5002 of title 18, United States Code, is amended to read as follows:

"§ 5002. Advisory Corrections Council.

"(a) There is hereby created an Advisory Corrections Council composed of four United States judges designated by the Chief Justice of the United States, and, ex officio, the Chairman of the Board of Parole, the Chairman of the Youth Division of the Board of Parole, the Director of the United States Corrections Service, and a physician designated by the Secretary of Health, Education, and Welfare. The judges first appointed to the Council shall continue in office for terms of one, two, three, and four years, respectively, from the date of the amendment of this section, the term of each to be designated by the Chief Justice at the time of his appointment. Their successors shall each be appointed for a term of four years from the date of the expiration of the term for which his predecessor was appointed, except that any judge appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of such predecessor. The chairman shall be designated annually by the Chief Justice.

"(b) The Council shall meet annually and at special sessions which may be held from time to time upon the call of the chairman.

"(c) The Council shall consider problems of treatment and correction of persons convicted of offenses against the United States and shall make recommendations to the Attorney General, the Judicial Conference of the United States, and other appropriate officials to improve the administration of criminal justice and assure the coordination and integration of policies respecting the disposition, treatment, and correction of all persons convicted of crime. It shall also consider measures to promote the prevention of crime and delinquency and suggest appropriate studies in this connection to be undertaken by agencies both public and private.

"(d) The Council shall give attention to orders addressed to probation officers or community correctional officers by the United States judges, the Board of Parole, and the United States Corrections Service. It shall seek to resolve inconsistencies and clarify ambiguities and may make recommendations to that end to the Attorney General, the Judicial Conference, and the Board of Parole.

"(e) The Council shall keep under continuous review the standards and practices of the presentence investigations and reports and may make recommendations to the Attorney General and the Judicial Conference to increase their utility at every stage of the correctional process.

"(f) The Council shall review and evaluate research by the United States Corrections Service and may make recommendations concerning the adequacy of such research to the Attorney General and to the Judicial Conference.

"(g) The Council is authorized to request from any department, agency, or independent instrumentality of the Government any information or records it deems necessary to carry out its functions, and each such department, agency, and instrumentality is authorized to cooperate with the Council and, to the extent permitted by law, to furnish such information and records to the Council, upon request made by the chairman or by any member when acting as chairman.

"(h) (1) The Council shall appoint an Executive Director and such other personnel as may be necessary to carry out its functions. The Executive Director shall supervise the activities of persons employed by the Council and shall perform such other duties as the Council may direct.

"(2) The Council may also procure services to the same extent as is authorized for the departments by section 15 of the Act of August 2, 1946, as amended (5 U.S.C. 55a), at rates not to exceed $100 per day.

"(i) The members of the Council shall serve without compensation but necessary travel and subsistence expenses as authorized by law shall be paid from available appropriations of the Department of Justice."

SEC. 9. Subsection (a) of section 5003 of title 18, United States Code, is amended by striking out ", when the Director shall certify that proper and adequate treatment facilities and personnel are available,".

SEC. 10. Section 5006 of title 18, United States Code, is amended by striking out subsections (c) and (d) and redesignating the remaining subsections as (c) through (f), respectively.

SEC. 11. Sections 5007, 5011, 5013, 5014, 5015, and 5025, and subsections (a) and (e) of section 5017 of title 18, United States Code, are amended by striking out the word "Director" and inserting in lieu thereof the words "Attorney General".

SEC. 12. Section 5008 of title 18, United States Code, is amended by striking out the second sentence thereof.

SEC. 13. Section 5012 of title 18, United States Code, is amended by striking out the word "Director" and inserting in lieu thereof the word "he".

SEC. 14. Section 5016 of title 18, United States Code, is amended to read as follows: "The Attorney General shall cause periodic examinations and reexaminations to be made of all committed youth offenders and shall report to the Division as to each such offender and as to any other youth offender under the supervision of the Attorney General, as the Division may direct.

SEC. 15. Section 5019 of title 18, United States Code, is amended to read as follows:

"§ 5019. Supervision of released youth offenders.

"Committed youth offenders permitted to remain at liberty under supervision or conditionally released shall be under the supervision of the Attorney General and such voluntary supervisory agents as he may appoint. The Attorney General is authorized to encourage the formation of voluntary organizations composed of members who will serve without compensation as voluntary supervisory agents and sponsors. The powers and duties of voluntary supervisory agents and sponsors shall be limited and defined by regulations adopted by the Attorney General."

SEC. 16. Section 5020 of title 18, United States Code, is amended by striking out the words "a United States probation officer, an appointed supervisory agent, a United States marshal, or any officer of a Federal penal or correctional institution" and inserting in lieu thereof the words "an officer of the United States Corrections Service, any other supervisory agent appointed by the Attorney General, or a United States marshal".

SEC. 17. The analysis of chapter 402 of title 18, United States Code, immediately preceding section 5005 thereof, is amended by striking out the item:

"5015. Powers of Director as to placement of youth offenders."

and inserting in lieu thereof:

"5015. Powers of Attorney General as to placement of youth offenders.".

SEC. 18. The fourth paragraph of section 5034 of title 18, United States Code, is amended:

(1) by striking out of the second sentence the words "Director of the Bureau of Prisons, under such regulations as the Attorney General may prescribe," and inserting in lieu thereof the words "Attorney General"; and

(2) by striking out the word "Director" wherever it appears and inserting in lieu thereof the words "Attorney General".

SEC. 19. Section 5036 of title 18, United States Code, is amended by striking out the words "Director of the Bureau of Prisons" and inserting in lieu thereof the words "Attorney General".

SEC. 20. There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the purposes of this Act.

SEC. 21. Until such time and to such an

extent as the Attorney General shall certify to the Director of the Administrative Office of the United States Courts that probation officers are no longer needed in a particular district to supervise parolees and probationers, probation officers shall continue to perform all supervision functions being performed by them under existing law, and to execute apprehension warrants issued under section 5020 of title 18, United States Code.

SEC. 22. This Act shall be effective on July 1, 1967.

The letter accompanying Senate bill 916 is as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., February 8, 1967.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal "To assist in combatting crime by creating the United States Corrections Service, and for other purposes".

A primary goal of law enforcement is the rehabilitation of offenders and their return to useful citizenship. Too often we fail to attain this goal. One study of the Federal corrections process reflects that 35 percent of those who have been convicted of a Federal offense later commit a serious crime, while another study finds that this rate of repeat is as high as 48 percent.

One of the deficiencies in our corrections process results from its fragmentation—probation and parole supervision being conducted as a part of the court system and prisons and other institutional services being the responsibility of the Executive branch.

As you know, the 89th Congress enacted legislation which provides three important techniques for use in achieving prisoner rehabilitation (P.L. 89–176). This legislation authorizes the Attorney General to place prisoners in residential community treatment centers, to permit them to take emergency or rehabilitative leave, and to permit them to work at paid employment or participate in community training programs. As a result, new techniques involving prerelease and work release programs are being perfected in the hope we will more often return useful, rehabilitated citizens to their communities.

The instant proposal would constitute a further step in the improvement of our corrections process. It would establish a United States Corrections Service which would combine under a single direction the supervision of convicted persons, irrespective of whether they are confined in an institution, totally in the free community on probation or parole, or somewhere between complete confinement and complete freedom—for example, in a halfway house. This consolidation of responsibility for the supervision and rehabilitation of Federal offenders certainly has the potential of being more effective.

The proposal would also make several changes in the membership and responsibility of the Advisory Corrections Council. The Council would be composed of four United States judges, and, ex officio, the Chairman of the Board of Parole, the Chairman of the Youth Division of the Board of Parole, the Director of the United States Corrections Service, and a physician designated by the Secretary of Health, Education, and Welfare. This Council would continue to consider problems of treatment and correction and would also consider problems of coordination and integration of policy among the branches of the Government having statutory responsibilities in this area. It would make recommendations to the Attorney General and to the Judicial Conference of the United States relating to these responsibilities and to the improvement of the administration of criminal justice. In addition, the Council would be authorized to employ an Executive Director and other necessary personnel to carry out its expanded functions.

Last Congress, the Department of Justice submitted a proposal similar to this one, but broader. It would have transferred the United States Probation Service from the courts to the Department of Justice, lodging with this Department all of the functions of the Service, including responsibility for the preparation of presentence reports. Unlike the earlier proposal, however, the current measure continues the Probation Service as a part of the court system with the responsibility for preparing presentence reports for the use of district judges.

The continued increase in crime warrants the prompt, close attention of the Congress to this proposal. I urge its early introduction and consideration.

The Bureau of the Budget has advised that there is no objection to the submission of this legislation from the standpoint of the Administration's program.

Sincerely,

RAMSEY CLARK,
Acting Attorney General.

Mr. ERVIN. Mr. President, on February 6, 1967, the President sent to Congress his message on crime in America. In his message the President made it plain that this Nation has to do something immediately to halt the spread of crime in our country.

Today, the distinguished Senator from Arkansas [Mr. MCCLELLAN] introduced one of the President's recommended measures to fight crime—the Safe Streets and Crime Control Act of 1967. This measure would provide Federal assistance to State and local governments to improve law enforcement techniques and the training of law enforcement officials.

Because the problem of increasing crime is one of the gravest issues facing our Nation, and this problem is intimately related to the effectiveness of law enforcement, I am joining Senator MCCLELLAN in introducing this measure. One of the most important steps that have been taken thus far in upgrading law enforcement activities was the Law Enforcement Assistance Act of 1965. The Crime Control Act of 1967 will be a great step forward in extending the Law Enforcement Assistance Act and it is urgently needed in our Nation's war on crime.

Included in the bill would be Federal grants to States, cities, and regional and metropolitan bodies to assist them in developing plans to improve their police, courts, and correctional systems. Also, additional Federal grants would be available to approved programs already in action. Additionally, grants for the construction of new types of physical facilities such as police academy centers and crime laboratories will be available. A new Office of Law Enforcement and Criminal Justice Assistance would be established in the Department of Justice.

By the end of 1969 appropriations under this bill should amount to $350 million. After that expenditures will depend upon the response from the State and local governments. I am confident that the local enforcement officials around our Nation are eager to work with the grants and assistance which will be provided by this act to increase their effectiveness in combating the alarming increase in the crime rate.

The amount of funds we seek is indeed modest to meet the grave problem we face. In fact, I will say it is the biggest bargain in the administration's budget.

This bill recognizes that the principal enforcement responsibility rests with the State and local governments. It also recognizes, however, that there are methods, facilities, and funds which the Federal Government can provide which will enable the States and local governments to better exercise their responsibility to the American people. For instance, under this act there could be coordinated programs designating better training methods for criminal justice programs, and new and innovative techniques to fight crime can be developed. We must provide our law enforcement officials with the most modern training, detection devices and rehabilitation programs.

This Nation is in trouble and our rising crime rate proves it. It is clear that we do not know all of the answers and we must begin immediately to find them out. In my opinion, the bill is a most important part of the administration's program and I urgently ask that the Senate give its earliest consideration to this bill.

PROHIBITION OF OBSTRUCTION OF CRIME INVESTIGATIONS TO PERMIT COMPELLING OF TESTIMONY

Mr. MCCLELLAN. Mr. President, in the President's message on crime, he made reference to two other proposals for needed legislation. I have a letter from the Acting Attorney General today. These measures would deal with chapter 73, title 18, United States Code, to prohibit the obstruction of crime investigations of the United States, permit the compelling of testimony with respect to certain crimes, and granting immunity in connection therewith.

I have previously introduced bills at this session of Congress, S. 676 and S. 677 respectively, dealing with these problems.

At the conclusion of a letter written to me on this date by the Acting Attorney General, I read as follows:

S. 676 and S. 677 will effectuate these recommendations of the President and the Department heartily endorses their enactment. The Bureau of the Budget has advised enactment of this legislation would be in accord with the Program of the President.

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

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

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., February 8, 1967.

Hon. JOHN L. MCCLELLAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCCLELLAN: You recently introduced in the Congress for yourself and Senator Hruska, two bills which if enacted would greatly assist in prosecuting and convicting the leaders of organized crime in this nation: S. 676, "To amend Chapter 73, Title 18, United States Code, to prohibit the obstruction of criminal investigations of the United States" and S. 677, "To permit the compelling of testimony with respect to certain crimes, and the granting of immunity in connection therewith."

The first, S. 676, would make it an offense willfully to endeavor by means of bribery,

misrepresentation, intimidation, force, or threats of force to obstruct, delay or prevent the communication of information to a criminal investigator concerning a violation of a federal criminal statute. It would also proscribe injuring a person or his property because he or another had given information to a criminal investigator. A violation of either proscription would be punishable by a fine of not more than $5,000 or imprisonment for not more than five years, or both. A "criminal investigator" is defined as an individual duly authorized by a department, agency or armed force of the United States to conduct or engage in investigations or prosecutions for violations of federal criminal statutes.

Experience has evidenced that potential witnesses or their families are often intimidated, threatened or even gravely injured during the investigative preliminaries to a criminal prosecution. Existing law pertaining to the obstruction of justice prohibits influencing or impeding witnesses or jurors in judicial proceedings, witnesses in proceedings pending before departments or agencies, and witnesses in inquiries or investigations before either House of Congress or by a committee of either House. But there is no protection under present law for potential witnesses prior to the institution of court proceedings.

The second, S. 677, would amend certain federal criminal laws so as to provide a statutory method for compelling witnesses to testify or produce documentary evidence of criminal violations, notwithstanding their objections that such testimony or evidence might be self-incriminating, by granting them immunity from prosecution as to matters they are compelled to reveal. Section 1 would add an immunity provision to section 1952 of title 18, United States Code, which prohibits interstate and foreign travel in aid of racketeering enterprises. Sections 2, 3, and 4 would similarly amend section 1503 of the title, pertaining to the obstruction of justice by intimidation of witnesses or jurors, chapter 9 pertaining to bankruptcy frauds, and chapter 11 pertaining to bribery, graft and conflict of interest offenses, respectively.

The principal targets in virtually every attack on organized crime are the top leaders of the crime syndicates. However, owing to the layer-upon-layer hierarchial organization of the syndicates, the leading racketeers of the underworld are often able to direct vast criminal empires without openly engaging in anything illegal themselves, and without ever running directly afoul of the law. In recent years, our experience in prosecuting organized crime has indicated that virtually the only means of obtaining incriminating evidence against the underworld leaders is through the testimony of minor participants who have valuable knowledge of the syndicate's operations. The enactment of the proposed immunity legislation would enable government prosecutors to compel the testimony of underlings who prove to be reluctant witnesses without depriving them of the privilege against self-incrimination conferred by the Fifth Amendment.

President Johnson in his message on "Crime in America", delivered on February 6, 1967, recommended that Congress enact legislation to make it a federal crime to coerce or threaten a person willing to give information to federal investigators, thus extending protection to potential witnesses at the beginning of an organized crime investigation before a grand jury has convened, and to extend federal immunity provisions to crimes associated with racketeering in order to assist the gathering of competent evidence for criminal prosecutions. S. 676 and S. 677 would effectuate these recommendations of the President and the Department heartily endorses their enactment.

The Bureau of the Budget has advised that enactment of this legislation would be in accord with the Program of the President.

Sincerely,

RAMSEY CLARK,
Acting Attorney General.

RAILROAD SAFETY

Mr. BARTLETT. Mr. President, I introduce, for reference to the appropriate committee, a bill to promote the safety of railroad employees and travelers upon railroads by limiting the hours of service of railroad employees.

At a time when the Nation, through Congress, has expressed an interest in developing faster rail service, I feel it is most important that Congress take a good look at present laws affecting the safe operation of railroads.

Quite obviously, as the speed of trains increases, so does the opportunity for accidents. While development of new and better equipment will help reduce the potential for accidents, in the final analysis the safety of our railroads will depend on the skill and alertness of the men who operate the system.

It is agreed by many persons knowledgeable in the field, that there has been a recent increase in the number of train accidents. While these same experts differ on the causes for the increase, I think it would be most foolish to reject out of hand the possibility that at least some of the accidents might have been caused because the reactions and alertness of railroad employees had been dulled after too many hours on the job without a break.

The present law limits the service of railroad employees to no longer than 16 consecutive hours and establishes regulations which require rest periods between duty hours.

The bill I introduce today limits the number of consecutive hours a railroad employee may be on duty to 12 hours. It also provides regulations which require certain off-duty hours between periods of service.

The aim of the legislation is to improve the safety record of railroads. I do not think any person could argue with that aim.

Mr. President, I ask unanimous consent that the bill lie at the desk for 10 days so that other Senators may cosponsor it, if they so desire.

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

The bill (S. 923) to improve the safety of railroad transportation under the jurisdiction of the Department of Transportation, introduced by Mr. BARTLETT, was received, read twice by its title, and referred to the Committee on Commerce.

ISSUANCE OF PRESS RELEASES BY GOVERNMENT AGENCIES

Mr. DIRKSEN. Mr. President, the Subcommittee on Administrative Practice and Procedure, under the chairmanship of my good friend, the distinguished Senator from Missouri [Mr. LONG], has been conducting a study over a long period of time with respect to the issuance of press releases by certain Government agencies at the time complaints are filed against individuals and businesses.

Substantial evidence has been received by the subcommittee that injury done to those concerned is irreparable even though they are eventually cleared. The bill would amend section 9 of the Administrative Practice and Procedure Act to give an equal opportunity to persons affected by agency news releases to publicize their statements in the same document.

On behalf of Senator LONG and myself I introduce this measure which I now ask unanimous consent be printed at this point in the RECORD.

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

The bill (S. 924) to amend section 9 of the Administrative Procedure Act of the Act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to fair and impartial agency practices, and for other purposes, introduced by Mr. DIRKSEN (for himself and Mr. LONG of Missouri), 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. 924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Act of June 11, 1946 (60 Stat. 238), is amended by adding a new subparagraph (c):

"(c) PUBLICITY.—If a reviewing court finds that publicity which was issued by the agency or any officer, employee, or member thereof, did discredit or disparage a person under investigation or a party to an agency proceeding, that court may hold this to be prejudicial error and may set aside any action taken by the agency against such person or party or enter such other order as it deems appropriate. It shall not be deemed prejudicial error, however, if such person or party has been given an equal opportunity to publicize his comments at the same time and in the same document in which the agency publicity was issued.

Mr. LONG of Missouri. Mr. President, there has been much discussion in recent months over the so-called "free press-fair trial" issue. There are those who tell us that first amendment guarantees of free press are on a collision course with sixth amendment guarantees of fair trial. The American Bar Association's Advisory Committee on Fair Trial and Free Press, under the able chairmanship of Judge Paul C. Reardon of Boston, Mass., is currently studying this problem with a view toward making certain recommendations to their upcoming convention this summer. Recently, the American Newspaper Publishers Association issued their fine study on this subject.

Last year, the President signed into law the Freedom of Information bill, which will become effective on July 4 of this year. It is our understanding that the Department of Justice, under the able guidance of Assistant Attorney General Frank Wozencraft is attempting to work out implementation of the law, and to issue an Attorney General's manual

on the implementation of the Freedom of Information Act.

Thus our concern for the availability of Government information is not merely a passing one. We shall continue to exercise our legislative function in making Government information available to the public.

But the information which Government agencies release must not be issued merely to satisfy the whims and fancies of the Government agency; it must be released to enable our citizens to make proper decisions and to understand what their Government is doing. Accordingly, the information which Government agencies release must be fair, it must be accurate, and it must not be designed merely to discredit or disparage any person.

My Senate Subcommittee on Administrative Practice and Procedure has, on too many occasions, received complaints where agencies of our Government have issued damning press releases while an individual was under investigation by that agency. In our opinion, the agency press release was issued primarily for the purpose of trying the case in the newspaper. As a result, innocent individuals and businesses are often damaged; and the guilty are prematurely injured.

Perhaps the most flagrant illustrations of this practice can be found in such agencies as the Federal Trade Commission, the Food and Drug Administration, and the Securities and Exchange Commission. We have found, for example, that when the Federal Trade Commission issues a complaint, it simultaneously issues a press release informing the general public about the complaint. Surely the American public has a need and a right to know about this matter, but the press release too often leaves the impression that the subject of the complaint has already been found guilty.

Mr. President, I am pleased to join today with the distinguished senior Senator from Illinois [Mr. DIRKSEN] in introducing a bill to amend section 9 of the Administrative Procedure Act by adding a provision that:

> If a reviewing court finds that publicity which was issued by the agency or any officer, employee, or member thereof, did discredit or disparage a person under investigation or a party to an agency proceeding, that court may hold this to be prejudicial error and may set aside any action taken by the agency against such person or party or enter such other order as it deems appropriate. It shall not be deemed prejudicial error, however, if such person or party has been given an equal opportunity to publicize his comments at the same time and in the same document in which the agency publicity was issued.

Basically, this bill is the same as section 9(b) of S. 1336 which passed the Senate last year. All that is added in the bill which we today introduce is qualifying language explaining what prejudicial error means. The Subcommittee on Administrative Practice and Procedure intends to hold early hearings on this bill. There may be some changes and corrections; we do not believe the bill is necessarily perfect. When dealing with this area of freedom of information, there are, of course, many problems involved. It must be clearly understood that this bill does not restrict and should not be used to restrict information in any way. When an agency issues a complaint, that complaint is a public record. Our bill is aimed at preventing the disparaging press release which an agency often issues pursuant to the complaint for the sole purpose of degrading the subject of the complaint. Let no Federal agency think this bill would in any way give them the right to violate the freedom of information law. Let no agency think that it can withhold information the public has a right to know. What our bill demands of each agency is honesty and fairness in dealing with extremely vital and sensitive matters of public interest. It is our belief that if the principles of this bill are enacted, we would not only insure freedom of information but equality and fairness of information.

RETURN OF UNSOLICITED OBSCENE MAIL MATTER

Mr. HRUSKA. Mr. President, I introduce a bill to provide for the return of unsolicited obscene mail matter, and request that it be appropriately referred.

My colleague from Nebraska, Congressman GLENN CUNNINGHAM, has for many years led the fight to protect our society from obscene and pornographic material which has been circulating through the mails in ever-increasing quantities, and I wish to commend him for his persistent efforts.

While a number of laws directed to this problem have been enacted, and many more proposed, the evidence, indicates that we are losing the battle. Each Member of Congress can attest to this since it is documented by the increasing number of complaints from outraged constituents. With this in mind, Congressman CUNNINGHAM introduced in the 88th and 89th Congresses, a bill which would have enabled the recipient to put a stop to unsolicited mailings of pornographic material. Both bills passed the House by a substantial vote. Unfortunately time did not allow consideration by the Senate. Congressman CUNNINGHAM has again introduced in the House, H.R. 426 which is substantially similar to the previous two measures. The bill I am introducing today is a companion measure to the House bill and I introduce it in order to expedite Senate passage.

Basically, the bill provides an individual approach. We are all aware of the personal judgments of what is or what is not obscene, and the problem of applying one standard for all persons. We have all heard the charge of censorship and the arguments that stem from it. This bill will avoid this since it meets the problem of obscenity in a direct and responsible manner. It would allow the recipient of obscene mail to return it to the Postmaster General and request that he notify the sender to stop sending such mail to him or his children. The Postmaster General then notifies the sender to stop sending such mail. If after 30 days from the date of such notice, the Postmaster General believes that the sender is sending such mail to the recipient in violation of such notice, a complaint is mailed to the sender and he is given an opportunity for hearing. If the Postmaster General then finds that the sender is violating the notice, he may request the Attorney General to apply for a court order to enforce compliance. If the sender continues to send such mail, he may then be punished for contempt of court.

According to testimony before the Senate subcommittee to investigate juvenile delinquency by Mr. Alvin J. T. Zunbrun, executive director of the Maryland Crime Investigating Commission, "a child may ultimately be the recipient of hundreds of pieces of such mail by showing an interest in one advertisement." This advertisement may be completely innocent and not related to obscenity at all.

In a report by the same commission entitled "Youth, Obscene Materials and the United States Mails," released December 19, 1966, the following suggestion was made relating to the citizens responsibility in this area:

> Parents can exercise reasonable and discreet supervision over the mail received by their children. Children should be told that should they receive indecent materials unsolicited, such materials should be turned over to the parents without any shame or fear of punishment. Such materials should then be turned over to the local Postmaster.

The bill I am introducing today will give parents an effective manner in which to prevent this trash from entering their homes.

On many pieces of legislation the Congress must look to the balancing of competing rights. Here the question is balancing the right of privacy of the addressee with the right of the distributor of freedom of speech or the right to distribute the mail matter to the particular addressee. This bill does achieve an effective and equitable balance.

It is time that parents and other individuals have the protection from the unwanted filth sent through the mails. It is expected that hearings on the measure will be held soon and it is my hope that there will be favorable action, first in the committee and then by the Senate itself.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the CONGRESSIONAL RECORD.

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

The bill (S. 926) to provide for the return of obscene mail matter, introduced by Mr. HRUSKA, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service, and ordered to be printed in the RECORD, as follows:

S. 926

A bill to provide for the return of obscene mail matter

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 51 of title 39, United States Code, is

amended by adding at the end of such chapter the following new section:

"§ 4009. Return of obscene mail matter

"(a) Any person may return to the Postmaster General mail matter which, in the opinion of such person, is obscene, lewd, lascivious, indecent, filthy, or vile and which is addressed to and received by him or any child of his. On making such return such person may request the Postmaster General to notify the sender not to send additional such mail to him or any child of his, except mail which he has solicited. The request shall be signed by the person making it, and shall contain a statement that in his opinion the mail is obscene, lewd, lascivious, indecent, filthy, or vile; also the name and date of birth of each child to whom the request pertains; and the person's residence or business address or both to which further such mail should not be sent. The Postmaster General shall promptly notify the sender of such request and the information contained therein by registered or certified mail, and direct that, effective on or after the thirtieth day after the date of the notice, the sender, or anyone acting on behalf of the sender with knowledge of such notice, shall not send mail in violation of its terms. The Postmaster General's notice shall apply to a sender under any name or designation.

"(b) Whenever the Postmaster General believes that the sender or anyone acting on behalf of the sender has violated or is violating the notice given under subsection (a) of this section, he shall serve upon the sender by registered or certified mail a complaint stating the reasons for his belief and request that any response thereto be filed in writing with the Postmaster General within fifteen days after the date of such service. If the Postmaster General, after appropriate hearing if requested by the sender, and without a hearing if such a hearing is not requested, thereafter determines that the notice given under subsection (a) has been or is being violated, he is authorized to request the Attorney General to make application, and the Attorney General is authorized to make application, to a district court of the United States for an order directing compliance with such notice.

"(c) Any district court of the United States within the jurisdiction of which any mail matter shall have been sent or received in violation of the notice provided for by subsection (a) of this section shall have jurisdiction, upon application by the Attorney General, to issue an order commanding compliance with such notice. Failure to observe such order may be punished by the court as contempt thereof.

"(d) For the purposes of this section—

"(1) Mail addressed to a specific address without designation of a specific addressee shall be considered as addressed to the head of the household at that address.

"(2) The term 'child' means an unmarried child who has not attained his nineteenth birthday including (A) a stepchild, (B) an adopted child, and (C) a child who is the ward of, or in the custody of, the person concerned, or who is living with such person in a regular parent-child relationship.

"(e) Receipt of mail matter thirty days or more after the effective date of a notice or of a court order provided for by this section shall create a rebuttable presumption that such mail was sent after such effective date.

"(f) The provisions of subchapter 2 of chapter 5, and chapter 7 of title 5 of the United States Code shall not apply to any action or proceeding under this section."

SEC. 2. The analysis of chapter 51 of title 39, United States Code, is amended by adding

"4009. Return of obscene mail matter."

immediately below

"4008. Communist political propaganda."

DISCRIMINATORY TAXATION OF COMMON CARRIERS

Mr. MAGNUSON. Mr. President, I introduce, for myself and for Senators COTTON, BARTLETT, BREWSTER, HART, HARTKE, MOSS, GRIFFIN, MORTON, PROUTY, and SCOTT, for appropriate reference, a bill to amend the Interstate Commerce Act to make unlawful, as unreasonable and unjust discrimination against and an undue burden upon interstate commerce, discriminatory taxation of common carrier transportation property.

This bill has both a substantive and a procedural aspect. First, it would amend the Interstate Commerce Act to declare unlawful, as an unreasonable and unjust discrimination against and an undue burden upon interstate commerce, the assessment, or collection of any tax on that portion of the assessment of transportation property of a common carrier which bears a higher ratio to its true market value than the assessed value of all other property in the taxing district subject to the same tax levy; or the collection of any ad valorem property tax on such transportation property at a tax rate higher than tax rates applicable to any other property in the taxing district. Second, it would provide a remedy in the Federal courts for such carriers against the collection of any tax based on such unlawful assessment.

This bill varies from S. 2988, which was introduced on February 28, 1966, in three respects. Subparagraph (1)(a) of the bill is clarified by the addition of a parenthetical clause: "but only to the extent of any portion based on excessive values as hereinafter described." The purpose of this change is to make clear that only the collection of any tax on the discriminatory portion of an assessment is unlawful. Subparagraph (1)(a) is also clarified by adding the word "transportation" before the word "property," and certain other related word changes, to emphasize that the bill only applies to discriminatory taxation of transportation property of common carriers.

The third change adds a new subparagraph (1)(c) to the bill to extend coverage to discriminatory tax rates as well as discriminatory tax assessment practices.

This bill would in no way alter the freedom of a State to tax its taxpayers so long as common carriers are accorded equal tax treatment with other taxpayers. Further, the burden of proving inequality of tax treatment would be placed on the carrier seeking relief. In the majority of States which grant equality of treatment to all taxpayers, passage of this bill would have no effect on State property tax assessments. Even in those few States which could be affected, only after a carrier had proved in court that it is unlawfully being discriminated against in transportation property tax assessments would a change be required under the provisions of this bill.

I know the reluctance of many Members to support Federal action in this field because of the belief that the States should be given every opportunity to correct their outdated procedures which result in discriminatory taxation of common carriers. Year after year goes by, however, and discriminatory taxes on railroad property alone amount to over $75 million per year. It would appear that unless Federal action is taken these discriminatory tax practices will burden our transportation system for years to come.

Ultimately, the shipper and the consumer pays the bill for discriminatory taxation. Not only are such taxes reflected in the cost of transportation to the consumer, but also the citizens of States which do not discriminate are forced to share the cost of these burdensome tolls.

Since this problem was forcefully called to the attention of the Committee on Commerce by the special study group on transportation policy in its 1961 report, it is estimated that over one-half billion dollars in discriminatory taxes have been assessed against the railroad industry alone. The amendment to the Interstate Commerce Act, which I am today introducing, will remove this discriminatory tax barrier affecting our national transportation system without altering the freedom of our State to equally assess and collect taxes on transporation property.

I ask unanimous consent that this bill lie on the table for 10 days so that other Senators who wish to do so may join in cosponsoring this bill, and that the text of the bill be printed in the RECORD.

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

The bill (S. 927) to amend the Interstate Commerce Act, as amended, in order to make unlawful, as unreasonable and unjust discrimination against and an undue burden upon interstate commerce, certain property tax assessments of common carrier property, and for other purposes, introduced by Mr. MAGNUSON (for himself and other Senators), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Interstate Commerce Act, as amended, is amended by inserting after section 25 thereof a new section 25a as follows:

"SEC. 25a. (1) The following action by any State, or subdivision or agency thereof, whether such action be taken pursuant to a constitutional provision, statute, or administrative order or practice, or otherwise, is hereby declared to constitute an unreasonable and unjust discrimination against and an undue burden upon interstate commerce and is hereby forbidden and declared to be unlawful: (a) the assessment (but only to the extent of any portion based on excessive values as hereinafter described), for purposes of a property tax levied by any taxing district, of transportation property owned or used by any common carrier subject to this Act engaged in transportation of persons or property in interstate commerce at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other property in the taxing district subject to a

property tax levy bears to the true market value of all such other property; (b) the collection of any tax on the portion of said assessment so declared to be unlawful; or (c) the collection of any ad valorem property tax on such transportation property at a tax rate higher than tax rates applicable to any other property in the taxing district.

"(2) Notwithstanding the provisions of section 1341, title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, upon complaint and after hearing, to issue such writs of injunction or other proper process, mandatory or otherwise, as may be necessary to restrain any State, or subdivision or agency thereof, or any person from doing anything or performing any act declared by paragraph (1) hereof to be unlawful: *Provided, however,* That such jurisdiction shall not be exclusive of that which any Federal or State court may otherwise have."

RIGHT OF PRIVACY ACT OF 1967

Mr. LONG of Missouri. Mr. President, it is with real pleasure and satisfaction that I today introduce, for appropriate reference, the proposed Right of Privacy Act of 1967, recommended by the President.

During the past three decades, several administrations have sought legislation to reduce the protection of privacy afforded by current law. But, today, President Lyndon B. Johnson sends to the Congress a bill to strengthen and expand the statutory protection of the right of privacy.

In 1934, the Congress enacted the Federal Communications Act, Section 605 of the act prohibited the interception and divulgence of telephone calls. In 1937, the Supreme Court held that section 605 applied to law-enforcement officers as well as private citizens. After several unsuccessful probes to find a weakness in the statute, the Justice Department in 1941 came up with a unique and strained interpretation of section 605. It was held by the Attorney General that a violation of section 605 required both interception and divulgence outside the Government. Thus, Government agents could wiretap so long as the Government did not divulge wiretap information in the courts.

This ruling as a practical matter cut the heart out of section 605. It opened the door to Federal law-enforcement wiretapping. With Federal officers tapping, the Department has not felt it could prosecute State and local officers even when they have publicly violated section 605 by divulging wiretap evidence in court. This same attitude has affected the prosecution of private wiretappers so that only a handful has been brought to court during the three decades since 1934.

This wiretap policy has also had its effect on bugging and other forms of electronic snooping where there is no Federal statutory law.

The results of this legal situation and departmental policies have been documented by the Administrative Practice and Procedure Subcommittee over the past 2 years. To put it mildly, electronic anarchy has existed and the victim has been the American people. It was my intention to draft and introduce a bill of my own to prohibit wiretapping and electronic eavesdropping. But when the President in his state of the Union message called for legislation to cure this dreadful situation, I was pleased to await his bill before introducing a measure. The President and Acting Attorney General Ramsey Clark deserve the deepest gratitude of the American people for their quick action in submitting this much needed legislation to Congress. They also are to be commended for the actions already taken by the Justice Department to review and take corrective steps in Federal prosecutions where electronic snooping was used.

The goal we hope to achieve, the protection of privacy, is simple to express, but, for several reasons, legislation in this area must be quite technical and complex. While I introduce the Administration bill, I do not intend to indicate that I am committed to each of its provisions just as they are written. Comprehensive hearings will be held, and the views of many experts will be heard. It is my hope that in the very near future, there can be brought before the Senate the soundest bill possible to regain and maintain that right referred to by Justice Brandeis as the right most valued by civilized men, the right of privacy.

Mr. President, I ask unanimous consent that the text of the bill and the letter of transmittal, be printed at this point in the RECORD; and I also ask unanimous consent that the bill lie on the table for cosponsors until the close of business on February 24.

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

The bill (S. 928) to protect the right of privacy by prohibiting wire interception and eavesdropping, and for other purposes, introduced by Mr. LONG of Missouri, 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. 928

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Right of Privacy Act of 1967."

SEC. 2. The Congress hereby finds and declares that—

(a) Wire communications are normally conducted through the use of facilities which form part of an interstate network. The same facilities are used for both interstate and intrastate communications. In order effectively to protect the integrity of interstate wire communications and the privacy of parties to such communications it is necessary for the Congress to prohibit the interception of any wire communication using such facilities.

(b) Electronic, mechanical, and other eavesdropping devices are being used to overhear private conversations.

The manufacture, distribution and use of these devices are facilitated by interstate commerce. To secure the privacy of conversations, it is necessary for the Congress to exercise its power under the Constitution to prohibit such manufacture, distribution and use.

SEC. 3. Title 18, United States Code is amended by inserting immediately following section 2424 a new chapter, to be composed of sections 2510 through 2515 as follows:

"CHAPTER 120.—WIRE INTERCEPTION AND EAVESDROPPING

"Sec.

"2510. Wire Interception.

"2511. Eavesdropping.

"2512. Manufacture and Distribution of Wire Interception and Eavesdropping Devices.

"2513. Confiscation of Wire Interception and Eavesdropping Devices.

"2514. National Security.

"2515. Definitions.

"SEC. 2510. WIRE INTERCEPTION.

"(a) Any person who, whether acting under color of law or otherwise,

"(1) willfully intercepts or attempts to intercept any wire communication without the consent of at least one sender or receiver of such communication; or

"(2) willfully discloses or attempts to disclose, or uses or attempts to use, any information, knowing or having reason to know that such information was obtained in violation of paragraph (1) of this subsection—

"Shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(b) It shall not be unlawful under this section (1) for an operator of a switchboard, or an officer, employee or agent of any communications common carrier whose facilities are used in the transmission of wire communications, to intercept, disclose or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident of the rendition of service; or (2) for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the Commission in the enforcement of the Federal Communications Act, to intercept a wire communication while it is being transmitted by radio, or to disclose or use the information thereby obtained.

"SEC. 2511. EAVESDROPPING.

"(a) Any person who, whether acting under color of law or otherwise, willfully uses or attempts to use any electronic, mechanical or other device for the purpose of eavesdropping without the consent of at least one party to the conversation when

"(1) Such device is affixed to any wire, cable, or other connection used in wire communication; or

"(2) Such device transmits communications by radio; or

"(3) Such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce; or

"(4) Such use or attempted use (A) takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or (B) obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or

"(5) Such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; or

"(b) Any person who, whether acting under color of law or otherwise, willfully discloses or attempts to disclose, or uses or attempts to use, any information, knowing or having reason to know that such information was obtained in violation of subsection (a) of this section—

"Shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"SEC. 2512. MANUFACTURE AND DISTRIBUTION OF WIRE INTERCEPTION AND EAVESDROPPING DEVICES.

"Any person who

"(a) Except as a common carrier in the usual course of its business, sends through the mail or sends or carries in interstate or foreign commerce any electronic, mechanical or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of wire interception or eavesdropping; or

"(b) Manufactures or assembles any electronic, mechanical, or other device, the design of which renders it primarily useful for the purpose of wire interception or eavesdropping, knowing or having reason to know that such device or any component thereof has been or will be sent through the mail or transported in interstate or foreign commerce; or

"(c) Places in any newspaper, magazine, handbill or other publication any advertisement of

"(1) Any electronic, mechanical or other device, the design of which renders it primarily useful for the purpose of wire interception or eavesdropping; or

"(2) Any other electronic, mechanical or other device, where such advertisement promotes the use of such device for the purpose of wire interception or eavesdropping,

knowing or having reason to know that such advertisement will be sent through the mail or transported in interstate or foreign commerce—

"Shall be fined not more than $25,000 or imprisoned not more than one year, or both.

"SEC. 2513. CONFISCATION OF WIRE INTERCEPTION AND EAVESDROPPING DEVICES.

"Any electronic, mechanical or other device used, sent, carried, manufactured or assembled in violation of section 2510, 2511 or 2512 shall be seized and forfeited to the United States. All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs law; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof; except that such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of electronic, mechanical or other devices under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

"SEC. 2514. NATIONAL SECURITY.

"Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1103; 47 U.S.C. 605) shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power or any other serious threat to the security of the United States, or to protect national security information against foreign intelligence activities. No information obtained directly or indirectly, in the exercise of such power, by wire interception or eavesdropping otherwise prohibited by this chapter shall be received in evidence in any judicial or administrative proceeding. Neither shall such information be otherwise used or divulged except as necessary to implement such power.

"SEC. 2515. DEFINITIONS.

"In this chapter—

"(a) The term 'wire communication' means any communication made in whole or part by aid of wire, cable, or other connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

"(b) The term 'intercept' means the act of acquiring all or any part of any wire communication from the facility transmitting the communication through use of any electronic, mechanical, or other device.

"(c) The term 'eavesdropping' means surreptitiously listening to, monitoring, transmitting, amplifying, or recording a private conversation.

"(d) The term 'electronic, mechanical, or other device' does not include—

"(1) an extension telephone instrument furnished to the subscriber or user by a communications common carrier in the ordinary course of its business; or

"(2) a hearing aid or similar device used by a person with impaired hearing, for the purpose of overcoming the impairment and permitting the hearing of sounds ordinarily audible to the human ear."

SEC. 4. The table of contents to "Part I.—Crimes" of title 18, United States Code, is amended by inserting after—

"117. White slave traffic.....1421"

a new chapter reference as follows:

"120. Wire interception and eavesdropping..... 2510".

SEC. 5. Section 605 of the Communications Act of 1934 (48 Stat. 1103; 47 U.S.C. 605) is hereby amended to read as follows:

"No person receiving or assisting in receiving, or transmitting, or assisting in transmitting, any interstate or foreign communication by wire or radio shall divulge or publish the existence, contents, substance, purport, effect, or meaning thereof, except through authorized channels of transmission or reception, to any person other than the addressee, his agent, or attorney, or to a person employed or authorized to forward such communication to its destination, or to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, or to the master of a ship under whom he is serving, or in response to a subpoena issued by a court of competent jurisdiction, or on demand of other lawful authority; and no person not being authorized by the sender shall intercept any radio communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person; and no person not being entitled thereto shall receive or assist in receiving any interstate or foreign communication by wire or radio and use the same or any information therein contained for his own benefit or for the benefit of another not entitled thereto; and no person having received any intercepted radio communication or having become acquainted with the contents, substance, purport, effect, or meaning of the same or any part thereof, knowing that such information was so obtained, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of the same or any part thereof, or use the same or any information therein contained for his own benefit or for the benefit of another not entitled thereto: *Provided, however,* That this section shall not apply to receiving, divulging, publishing, or utilizing the contents of any radio communication broadcast for the use of the general public, or transmitted by amateurs or others, or relating to ships in distress."

SEC. 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

The letter, presented by Mr. LONG of Missouri, is as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., February 8, 1967.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: The President, both in his State of the Union address and in his recent Crime Message, stressed the fact that we must protect the right of privacy by outlawing all wiretapping—public and private—except when the security of the Nation itself is at stake. He further declared that we should exercise the full reach of our constitutional powers to outlaw electronic eavesdropping on private conversations. He stated in the Crime Message that he would recommend the enactment of the "Right of Privacy Act of 1967" to accomplish these purposes. Accordingly, there is enclosed for your consideration and appropriate reference a legislative proposal "to protect the right of privacy by prohibiting wire interception and eavesdropping, and for other purposes."

Section 2 of the proposed legislation contains brief legislative findings and lays the constitutional predicate for the subsequent provisions.

The heart of the bill is Section 3. It establishes a new chapter, composed of Sections 2510–2515 in Title 18 of the United States Code. Section 2510(a) is a blanket provision prohibiting wire interception without the consent of one of the parties to the communication. The disclosure or use of any information so obtained is also barred. The sole exception in Section 2510 from this far-reaching prohibition is the minor exclusion in Section 2510(b) for routine activities by employees of a communication common carrier or the Federal Communications Commission. The maximum criminal penalty for violation of Section 2510 is a $10,000 fine or five years imprisonment, or both.

Section 2511 deals with eavesdropping. It contains a series of provisions which, taken together, constitute a comprehensive ban on the use of electronic, mechanical or other devices to eavesdrop on a private conversation without the consent of a party to the conversation. It also bars the disclosure or use of any information so obtained. As is the case with Section 2510, the maximum criminal penalty for violation of Section 2511 is a $10,000 fine or five years imprisonment, or both.

In order to cut off the source of supply of the devices used by wiretappers and eavesdroppers, Section 2512 contains sweeping prohibitions banning the manufacture, shipment, or advertisement of devices useful for the purpose of wire interception or eavesdropping. Violations of this Section carry a maximum criminal penalty of a $25,000 fine or one year imprisonment, or both.

Section 2513 is a confiscation provision. It authorizes the seizure and forfeiture of any device used, shipped or manufactured in violation of Sections 2510, 2511 or 2512.

Section 2514 excludes the application of this legislation to the activities of the President in circumstances where the security of the Nation is at stake. Even in this narrow area, however, the proposal prohibits the use of any information obtained by wiretapping or eavesdropping as evidence in judicial or administrative proceedings. Other use or disclosure of such information is prohibited except as necessary in the interest of national security.

Finally, Section 5 of the proposal introduces minor amendments to Section 605 of the Communications Act of 1934 (48 Stat. 1103; 47 U.S.C. 605), in order to render that Act consistent with the prohibition on wire interception and disclosure contained in Section 2510 of the proposal.

In summary, the proposed legislation will provide broad protection for the right of privacy of our citizens in their communications with one another.

The Bureau of the Budget has advised that enactment of this legislation is in accord with the Program of the President.

Sincerely,

RAMSEY CLARK,
Acting Attorney General.

IMPORTATION OF BRAIDED RUGS

Mr. PELL. Mr. President, on behalf of myself and the distinguished senior Senator from Rhode Island [Mr. PASTORE] I introduce, for appropriate reference, a bill designed to correct a serious inequity in our tariff laws, as presently interpreted, with regard to the importation of braided rugs.

This is a problem of special concern to me because our domestic braided rug industry is highly concentrated in my home State of Rhode Island. The Braided Rug Manufacturers Association of the United States, which has its headquarters in Rhode Island, lists eight of its 16 member companies from our State. The rest are located in California, Georgia, Tennessee, Massachusetts, Illinois, and Pennsylvania. Approximately 500 Rhode Islanders depend on this industry for their livelihood.

This small but concentrated industry argues persuasively that its market opportunities have been sharply curtailed in recent years by massive influxes of imports allowed into this country because of adverse interpretations of our customs laws.

Industry figures show that braided rug imports have increased to 116 million square feet as opposed to 58 million square feet in 1960. Domestic production has remained amost level at less than 43 million square feet for the last 6 years.

I ask unanimous consent that I may insert in the RECORD at this point a letter from Mr. A. Taraborelli of Johnston, R.I., president of the Braided Rug Manufacturers Association of the United States, together with accompanying charts, which explain the current state of the industry.

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

BRAIDED RUG MANUFACTURERS ASSOCIATION OF THE UNITED STATES,
Johnston, R.I., January 16, 1967.

Senator CLAIBORNE PELL,
Senate Office Building
Washington, D.C.

DEAR SENATOR: I would appreciate hearing from you regarding any plans you may have relative to the introduction of a bill similar to that you introduced last session on tubular braided rug tariffs.

For your information, imports of braided rugs increased thirty percent in the first nine months of 1966 compared to the similar period in the previous year.

At the present time, while imports are continuing in steadily increasing volume, each of the sixteen member manufacturers of this Association is running on severely curtailed production schedules.

Imports presently command over 75 percent of the domestic market.

Enclosed is a comparison of imports and domestic production for the years 1960 through 1965 which clearly illustrates the plight of the domestic industry as well as the mounting threat to its future existence.

Thanking you for your continuing efforts on behalf of our industry, I am

Sincerely yours,

BRAIDED RUG MANUFACTURERS ASSOCIATION,
A. TARABORELLI.

Comparison of imports to domestic production of braided rugs

[In million square feet]

	Imports	Domestic
1960	58.0	[1] 39.2
1961	53.8	[1] 41.6
1962	82.5	[1] 39.1
1963	84.1	38.5
1964	114.7	42.7
1965	116.6	42.6

[1] Industry figures.

Source: Imports, U.S. Imports of Merchandise for Consumption FT-110; domestic, U.S. Department of Commerce.

Imports of braided rugs by type

Year	Quantity (million square feet)		Value (in millions)	
	Flat	Tubular	Flat	Tubular
1960	2.06	56.5	$0.36	$6.2
1961	2.70	51.0	.57	6.9
1962	5.20	79.0	1.09	12.2
1963	.98	82.8	.26	13.1
1964	4.50	109.8	.91	19.3
1965	2.90	112.6	.80	18.2

Source: U.S. Imports of Merchandise for Consumption, FT-110.

Mr. PELL. Mr. President, the industry maintains that 95 percent of all of these imports are being incorrectly classified for tariff purposes and thus are permitted to enter at a much lower rate of duty than is really intended.

The root of the problem was a 1944 Customs Court decision in a dispute over the classification of novelty braid used for trimming shoes and ladies' handbags. The question at issue was whether a tubular braided sheath around a filler core was truly a braid. The court ruled in effect that it was not, thus placing such tubular braided constructions in a lower tariff classification.

Although this ruling related in particular to braid used in trimming shoes and handbags, it has been seized upon by foreign manufacturers of braided rugs made of tubular type braids and it is through this tariff loophole that these rugs are being imported as tubular mats at a much lower rate of duty—about 16 percent, as opposed to the prescribed 42.5-percent rate which would apply if they were brought in under the proper classification.

Once the tubular mats enter the American market they cease to have any distinguishing differences from braided rugs. They are, in fact, sold as braided rugs and thus are directly competitive with the products made in my State, despite the fact that they enter this country at a duty rate which is less than half the rate intended for these products.

The bill which we are introducing today would simply provide that any and all braided material—whether or not it surrounds a core or filler—is in fact a true braid as far as customs law is concerned and therefore uniformly dutiable at the rate of 42.5 percent.

This reform would provide fair and long overdue relief to our industry. Without it, our plants must labor under the disadvantage of unclear law and precedent which is being interpreted to our disadvantage.

Mr. President, this is not the first time this bill has come before the Senate. My colleague and I introduced it in the first session of the 89th Congress, first as a separate bill and later as an amendment to the Tariff Schedule correction act. Our amendment was withdrawn when the distinguished floor manager of that bill assured us he would give consideration to our proposal in the Finance Committee.

Last session, the staff of the committee had begun to make arrangements for a hearing on our bill when it became apparent that the committee would be preoccupied with the major revenue bills relating to the Vietnam conflict. We readily deferred, under these circumstances, and were given assurances that the committee would make an effort to take the matter under consideration in the 90th Congress if the measure were again introduced. It is my sincere hope that our efforts this time will bear fruit.

I ask unanimous consent that the bill be held at the desk for cosponsorship until February 17.

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

The bill (S. 929) to amend the Tariff Schedules of the United States with respect to the tariff classification of braided rugs composed of tubular braids with a core, introduced by Mr. PELL (for himself and Mr. PASTORE), was received, read twice by its title, and referred to the Committee on Finance.

JOINT COMMITTEE ON URBAN AFFAIRS

Mr. SCOTT. Mr. President, I introduce, for appropriate reference, a joint resolution to establish a Joint Committee on Urban Affairs. I ask unanimous consent that the text of my resolution be printed at the end of my remarks and that the resolution remain at the desk for 10 days.

My resolution provides for this committee to be composed of 14 members, seven from the Senate and seven from the House of Representatives. The committee would be empowered to study the problems of our urban areas and the Federal-aid programs designed to assist in their solution. While the committee would have no legislative authority, it would be directed to file an annual report containing its findings and recommendations with regard to urban problems, including the administration and effectiveness of existing Federal aid programs, and suggesting any new legislation needed to assist in the solution of these problems.

The problems of our cities and metropolitan areas are rightfully receiving considerable public attention these days. Unfortunately, however, Congress does

not have any committee which is appropriately situated to take an overall and continuing look at these problems.

The Joint Committee on Urban Affairs, which I propose, would have the same advisory and educational function as presently formed in the field of national economic policy by the Joint Economic Committee.

In closing, Mr. President, it may be of interest that the proposal to establish a Joint Committee on Urban Affairs is recommended in the 1966 statement of national municipal policy of the National League of Cities, an association of approximately 14,000 cities and towns throughout the United States.

The ACTING PRESIDENT pro tempore. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the RECORD, and lie at the desk as requested.

The joint resolution (S.J. Res. 32) to establish a Joint Committee on Urban Affairs, introduced by Mr. SCOTT, was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

S.J. RES. 32

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a Joint Committee on Urban Affairs (hereinafter referred to as the "joint committee") to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

SEC. 2. It shall be the function of the joint committee—

(1) to make a continuing study of matters relating to urban affairs and of Federal-aid programs designed to assist in the solution of urban problems; and

(2) as a guide to the several committees of the Congress dealing with legislation providing Federal assistance with respect to urban problems, (A) to file an annual report with the Senate and the House of Representatives containing its findings and recommendations with respect to urban problems, including the administration and effectiveness of existing Federal-aid programs, and the need, if any, for new legislation designed to assist in the solution of such problems; and (B) from time to time, to make to the Senate and House of Representatives such other reports and recommendations with respect to urban affairs as it deems advisable.

SEC. 3. A vacancy in the membership of the joint committee shall not affect the powers of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as the original appointment was made. The joint committee shall select a chairman and a vice chairman from among its members.

SEC. 4. In carrying out its duties, the joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The joint committee may make such rules respecting its organization and procedures as it deems necessary. Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or by the joint committee, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses. Members of the joint committee, and its employees and consultants, while traveling on official business for the joint committee, may receive either the per diem allowance authorized to be paid to Members of Congress or its employees, or their actual and necessary expenses provided an itemized statement of such expenses is attached to the voucher.

SEC. 5. The joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and staff employees as it deems necessary and advisable. The joint committee is authorized to utilize the services, information, facilities and personnel of the departments and establishments of the Government.

SEC. 6. The expenses of the joint committee shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee, upon vouchers signed by the chairman of the joint committee or by any member of the joint committee duly authorized by the chairman.

ESTABLISHMENT OF A NATIONAL COMMISSION ON PRODUCT SAFETY

Mr. MAGNUSON. Mr. President, I introduce on behalf of myself, the distinguished senior Senator from New Hampshire [Mr. COTTON], and the senior Senator from Maryland [Mr. BREWSTER], a joint resolution to establish a National Commission on Product Safety.

All too often in our history, national safety legislation has been enacted as a direct consequence of some large-scale disaster, a crusading campaign by an aroused segment of the public directed toward a specific hazard, a book which has opened the eyes of the Nation to a serious problem, or the persevering efforts of a public servant following his or her duty to the exclusion of all other considerations.

Fortunately, Congress has responded appropriately to these special situations and, when the need justified action, Congress has not hesitated to take whatever action the public interest required. But is this the best way to handle the general problem? Is this the best way to attack conditions which cost thousands of lives and millions of injuries every year through accidents occurring in and around the home? Must we wait for more blazing headlines? Must we witness new scenes of tragedy and suffering on the television screens? Must we be prodded into action under the headline of some public outrage at some new threat to life and limb?

In my view, there has never been a clearer example of an area of public interest, where foresight must replace hindsight, than we have before us in the field of product safety.

On the one hand, consumers and users must be physically protected from some of the products of modern technology. At the same time, manufacturers need assurance that they will not be subjected to a hodge-podge of varying or conflicting safety regulations, at different levels of Government, and in different parts of the country. This is entirely possible should some household hazard emerge in the future as a matter of great public concern.

Some people honestly believe that Congress has dealt adequately with the problem of product safety. Certainly, the 89th Congress made an outstanding record in this field. But, as before, the legislation was directed toward specific products and specific problems.

Consumers Union has prepared a report for the Commerce Committee analyzing its product testing over the past 10 years. During that period, they found electrical hazards—caused by excessive current leakage—in television sets, table radios, portable phonographs, clock radios, home intercoms, stereo amplifiers, automobile battery chargers, toasters, clothes dryers, waffle irons, blenders, coffee makers, electric frying pans, griddles, vaporizers, fans, heating pads, travel irons, heaters, electric toothbrushes, kitchen ranges, toys, electric drills, and other devices.

Their tests revealed mechanical hazards in electric fans, rotary lawnmowers, food waste disposers, toy cars, and garden sprayers. Fire hazards were found in portable heaters, travel irons, blankets, and carpets. Hazards were discovered in auto seat belts, children's sleds, electric toys, chemistry sets, stuffed toys, and toy guns.

In all, 376 products were adjudged so hazardous as to be unacceptable in the home.

The problem obviously exists across a broad spectrum of manufactured products. But how widespread is the danger? According to estimates of the U.S. Public Health Service, 125,000 injuries a year are caused by faulty heating devices, 100,000 injuries a year from stoves, 100,000 injuries from power mowers, 40,000 injuries from glass doors. The list could go on.

But let us pierce the curtain of statistics and examine the problem in human terms. A man from Stafford, Va., tells of his child being burned by the hot chassis of a table radio. A housewife from Pittsburgh writes that her foot brushed the underside of a new laundry tub, which, unknown to her, was razor sharp. The result was a deep cut, and a scar which may remain for life. A mother in Minnesota, setting up a folding baby walker, unknowingly catches her child's hand in the joint of the walker. There was extensive injury to the bone, nerves, and muscles of the baby's hand. These are, at random, just a few examples.

As Senators are aware, Hazardous Substance Act amendments were passed in the last session, but the proposal that is being introduced at this time was not established then. We joined in the joint resolution with the definite understanding that we would proceed to this phase of the matter in this session.

What, then, is the nature of our proposal?

First, the proposed Commission on Product Safety is not antibusiness. It is designed to help private enterprise properly fulfill its vital function of providing

goods and services to meet the needs of the American people. This joint resolution is not an action fathered by panic. It is a step aimed at the acquisition of knowledge and information. We are not making this proposal out of a transient sense of urgency gripping the Nation. We are making the proposal in the hope and expectation that a calm and reasoned study of the problem of product safety will result in an intelligent base from which we can chart whatever course of action is required.

Against the background I have briefly sketched, the senior Senator from New Hampshire, the Senator from Maryland, and I propose the creation of the National Commission on Product Safety. The Commission is to be composed of seven members appointed by the President from among persons specially qualified to serve by virtue of their education, training, or experience, with a chairman and a cochairman designated by the President.

The Commission is directed to—

Conduct a comprehensive study and investigation of the scope and adequacy of measures now employed to protect consumers against injuries which may be caused by hazardous household products. Such study and investigation shall include consideration of the following:

First. The identity of household products which are determined to present an unreasonable hazard to the health and safety of the consuming public.

Second. The extent to which self-regulation by industry affords such protection.

Industry has practiced much self-regulation. Most industry is doing the best job it knows how to do in this field, with all the confusion that exists.

Third. The protection against such hazardous products afforded at common law in the States, including the relationship of product warranty to such protection; and

Fourth. A review—I stress "review"—of Federal, State, and local laws relating to the protection of consumers against hazardous products, including the scope of coverage, the effectiveness of sanctions, the adequacy of investigatory powers, the uniformity of application and the quality of enforcement.

Finally, the Commission is directed to make interim reports and a final report, not later than January 1, 1969, at which time it shall deliver to Congress and the President its findings and conclusions, including recommendations for such legislation and other remedial action as it deems appropriate.

To carry out these duties, the Commission is given the usual powers to hold hearings and to obtain relevant information, to employ a qualified staff, to utilize the resources of other Federal agencies, and to contract with both private and public agencies for specific research projects. The Commission is to be limited to a total authorization of $2 million.

To make the Commission's workload manageable, and to avoid the expenditure of time and effort on products which have been thoroughly subjected to recent congressional scrutiny, the Commission's studies will not include motor vehicles, food, drugs, cosmetics, cigarettes, or pesticides. Legislation has already been enacted or studies have been made with respect to these items, and we have received much cooperation from the manufacturers of these products.

This proposal is based upon the following premises: First, that the consumer has a right to the reasonable safety of the products which he purchases for his use; second, that manufacturers are entitled to reasonable uniformity and certitude in the laws with which they must comply; and, third, that both of these rights are essential to that orderly flow of interstate commerce which Congress is obliged to preserve.

Senator COTTON, Senator BREWSTER, and I, of course, are highly gratified that the President, in the state of the Union message, endorsed legislation to protect our homes from hazardous household products. We are hopeful that, with the administration's support, this necessary and timely proposal to create a National Commission on Product Safety will receive not only the approval of the Senate which it achieved last year, but prompt and enthusiastic enactment by Congress.

We are also pleased that Congressman Moss, of California, is today introducing a companion measure in the House.

I ask unanimous consent that the text of the joint resolution be printed at the close of my remarks, together with the report from the Consumers Union.

The ACTING PRESIDENT pro tempore. The joint resolution will be received and appropriately referred and, without objection, the joint resolution and the report will be printed in the RECORD.

The joint resolution (S.J. Res. 33) to establish a National Commission on Product Safety, introduced by Mr. MAGNUSON (for himself and other Senators), was received, read twice by its title, referred to the Committee on Government Operations, and ordered to be printed in the RECORD, as follows:

S.J. RES. 33

Whereas the American consumer has a right to be protected against unreasonable risk of bodily harm from products purchased on the open market for the use of himself and his family;

Whereas manufacturers whose products are marketed substantially in interstate commerce are entitled to a reasonable degree of uniformity in the application of safety regulations to such products;

Whereas Federal, State and local laws relating to consumer protection against such hazardous products are widely divergent and fail to provide adequately for consumer protection; and

Whereas it is desirable to establish a commission to review the scope, adequacy and uniformity of existing legislation and self regulation and to make recommendations for appropriate remedial action by the President, the Congress, the States, and private industry: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established a National Commission on Product Safety (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of seven members appointed by the President from among persons who are specially qualified to serve on such Commission by virtue of their education, training, or experience.

(c) Any vacancy in the Commission shall not affect its powers.

(d) The President shall designate one of the members to serve as chairman and one to serve as vice chairman of the Commission.

(e) Four members of the Commission shall constitute a quorum.

DUTIES OF THE COMMISSION

SEC. 2. (a) The Commission shall conduct a comprehensive study and investigation of the scope and adequacy of measures now employed to protect consumers against unreasonable risk of injuries which may be caused by hazardous household products. Such study and investigation shall include consideration of the following:

(1) the identity of household products, except such products excluded in section 6, which are determined to present an unreasonable hazard to the health and safety of the consuming public;

(2) the extent to which self regulation by industry affords such protection;

(3) the protection against such hazardous products afforded at common law in the States, including the relationship of product warranty to such protection; and

(4) a review of Federal, State and local laws relating to the protection of consumers against such hazardous products, including the scope of coverage, the effectiveness of sanctions, the adequacy of investigatory powers, the uniformity of application and the quality of enforcement.

(b) The Commission may transmit to the President and to the Congress such interim reports as it deems advisable and shall transmit its final report to the President and to the Congress not later than January 1, 1969. Such final report shall contain a detailed statement of the findings and conclusions of the Commission together with its recommendations for such legislation as it deems appropriate.

POWERS OF THE COMMISSION

SEC. 3. (a) The Commission, or any two members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by majority vote—

(1) to require, by special or general orders, corporations, business firms, and individuals to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpena or order issued under paragraph (a) of this section, to invoke the aid of any district court of the United States in requiring compliance with such subpena or order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony and the production of evidence in the same manner as authorized under paragraphs (3) and (4) of this subsection; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which an inquiry is carried on may, in case of refusal to obey a subpena or order of the Commission is-

sued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) The Commission is authorized to require directly from the head of any Federal agency available information deemed useful in the discharge of its duties. Each Federal agency is authorized and directed to cooperate with the Commission and to furnish all information requested by the Commission to the extent permitted by law.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) When the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information which would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held confidential and shall not be disclosed by the Commission or its staff: *Provided, however,* That the Commission shall permit business firms or individuals reasonable access to documents furnished by them for the purpose of obtaining or copying such documents as need may arise.

(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designate individuals on its staff and to make such rules and regulations as are necessary for the conduct of its business, except as herein otherwise provided.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 4. Each member of the Commission may receive compensation at the rate of $100 for each day such member is engaged upon work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

ADMINISTRATION

SEC. 5. (a) The Commission is authorized, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, to appoint and fix the compensation of an executive director; and the executive director, with the approval of the Commission, may employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, but no individual so appointed shall receive compensation in excess of the rate authorized for GS–18 by section 5332 of such title.

(b) The executive director, with the approval of the Commission, is authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, but at rates for individuals not to exceed $100 per diem.

(c) The head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to assist in carrying out the duties of the Commission under this Act.

(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amount as may be agreed upon by the Chairman of the Commission and the Administrator of General Services. Regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Administrator for the administrative control of funds shall apply to appropriations of the Commission, but the Commission shall not be required to prescribe such regulations.

(e) Ninety days after submission of its final report, as provided in section 2(b), the Commission shall cease to exist.

DEFINITION

SEC. 6. The term "household products" means products customarily produced or distributed for sale through retail sales agencies or instrumentalities for use by a consumer or any member of his family. Such term does not include products regulated under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the Federal Hazardous Substances Labeling Act (15 U.S.C. 1261 et seq.), the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 et seq.), and the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.).

AUTHORIZATION

SEC. 7. There are authorized to be appropriated such sums, not to exceed $2,000,000, as may be necessary to carry out the provisions of this Act.

The report presented by Mr. MAGNUSON, is as follows:

REPORT TO SENATOR WARREN G. MAGNUSON FROM CONSUMERS UNION ON PRODUCTS TESTED AND RATED SO HAZARDOUS AS TO BE UNACCEPTABLE, FOR THE 10-YEAR PERIOD 1956–66

Products rated not acceptable

SUMMARY

Year	Electrical hazards		Mechanical	Fire	Other	Total	Year	Electrical hazards		Mechanical	Fire	Other	Total
	Electronic	Appliance						Electronic	Appliance				
1956	3	3	3		26	35	1963	1	21	15		3	40
1957	12	8	8			28	1964		4			2	6
1958	9	21	3			33	1965		14	25	7	8	54
1959	3	17	31			51	1966	4	6	10		1	21
1960		8		5	34	47							
1961	8	4	4	8	10	34	Total	56	113	103	20	84	376
1962	16	7	4			27							

ELECTRICAL HAZARD

Product	Hazard	Issue	Product	Hazard	Issue
ELECTRONICS PRODUCTS			APPLIANCES, TOYS, AND TOOLS		
TV sets (2)	Excessive leakage current	February 1956.	Toasters (3)	Excessive leakage current	May 1956.
AM–FM table radios (2)	do	November 1956.	Clothes dryer (1)	Inadequate strain relief	July 1957.
Portable phonographs (7)	do	August 1957.	Waffle irons (2)	Long terminal pins	September 1957.
Home intercoms (1)	do	September 1957.	Waffle iron (1)	Worn insulation	Do.
Hobby kits (4)	do	November 1957.	Blenders (4)	Liquid entered base	November 1957.
AM clock radio (1)	do	June 1958.	Coffeemakers (3)	Excessive leakage current	January 1958.
AM table radios (4)	do	Do.	Coffeemaker (1)	Liquid entering base	Do.
AM portable radios (4) (when used on house current).	do	July 1958.	Frying pans (2)	Long terminal pins	May 1958.
			Frying pan (1)	Excessive leakage current	Do.
TV set (1)	do	January 1959.	Toasters (7)	do	December 1953.
Radio kits (2)	do	February 1959.	Frying pans (2)	Long terminal pins	Do.
Table radios, AM–FM (3)	do	May 1961.	Frying pan (1)	Excessive leakage current	Do.
Table radios, AM (5)	do	August 1961.	Griddle (1)	Long terminal pins	Do.
TV set (1)	do	January 1962.	Griddles (2)	Excessive leakage current	Do.
Do	do	March 1962.	Saucepan (1)	Long terminal pins	Do.
Home intercoms (5)	do	Do.	Vaporizer (1)	Long terminal pins	January 1959.
Portable phonographs (2)	do	June 1962.	Do	Excessive leakage current	Do.
Stereo amplifiers (2)	do	September 1962.	Tabletop oven (1)	Long terminal pins	April 1959.
TV set (1)	do	October 1962.	Do	Excessive leakage current	Do.
Do	do	November 1962.	Sanders (2)	do	May 1959.
Electronic science kits (3)	do	Do.	Fan (1)	do	June 1959.
TV set (1)	do	April 1963.	Food mixers (4)	do	November 1959.
Table radio, AM (1)	do	July 1966.	Coffeemaker (1)	Long terminal pins	December 1959.
Table radio, AM–FM (1)	do	October 1966.	Coffeemakers (5)	Excessive leakage current	Do.
Automobile battery chargers (2)	do	November 1966.	Heating pads (22)	Inadequate strain relief and excessive leakage current.	January 1960.

REPORT TO SENATOR WARREN G. MAGNUSON FROM CONSUMERS UNION ON PRODUCTS TESTED AND RATED SO HAZARDOUS AS TO BE UNACCEPTABLE, FOR THE 10-YEAR PERIOD 1956–66—Continued

Products rated not acceptable—Continued

ELECTRICAL HAZARD—Continued

Product	Hazard	Issue
APPLIANCES, TOYS, AND TOOLS—con.		
TV set (1)	Excessive leakage current	March 1960.
Travel iron (1)	do	June 1960.
Portable heaters (4)	do	October 1960.
Portable heater (1)	Inadequate strain relief	Do.
Blender (1)	Liquid entered base	November 1960.
Outdoor grills	No grounding provisions	June 1961.
Dehumidifier (1)	Exposed terminal	July 1961.
Clothes dryers (2)	do	August 1961.
Dish drier (1)	Excessive leakage current	September 1961.
Steam cooker (1)	Liquid entered base	May 1962.
Electric toothbrush (1)	Excessive leakage current	Do.
Toasters (4)	Inadequate strain relief	June 1962.
Electric toothbrush (1)	Excessive leakage current	August 1962.
Vaporizers (5)	do	January 1963.
Immersible water heater (1)	do	February 1963.
Faucet water heaters (2)	do	June 1963.
Broilers (6)	do	July 1963.
Broilers (5)	Long terminal pins	Do.
Garage door opener (1)	Pinched wire	August 1963.
Hair dryer (1)	Excessive leakage current	November 1963.
High-oven range (1)	Exposed terminal	March 1964.
Frying pans (2)	Excessive leakage current	June 1964.
Electric toy (1)	do	November 1964.
Humidifier (1)	Inadequate strain relief	January 1965.
Do	Exposed terminal	Do.
Broiler (1)	Exposed element	April 1965.
Kitchen ranges (2)	Exposed terminal	September 1965.
Kitchen ranges (4)	do	October 1965.
Portable heaters (3)	Excessive leakage current	Do.
Portable heater (1)	Exposed terminal	Do.
Blenders (1)	Excessive leakage current	November 1965.
Drills (3)	Pinched wire	July 1966.
Heating pads (3)	Excessive leakage current	October 1966.

MECHANICAL HAZARD

Electric fans (3)	Inadequately guarded blades	July 1956.
Lawn mowers, rotary (5)	High discharge	June 1957.
Lawn mowers, rotary (3)	Rearward discharge	Do.
Food waste disposers (2)	Chunks thrown out	August 1959.
Plastic bag toy (1)		Do.
Lawn mowers (19)	Exposed blade	July 1960.
Lawn mowers (6)	Rearward discharge	Do.
Lawn mowers (4)	High discharge	Do.
Lawn mowers (2)	Loose blade	Do.
Drill attachments (4)	No guard under blade	February 1961.
Toy cars	Rigid axles	March 1961.
Wringer washing machines		May 1962.
Electric fan (1)	Inadequately guarded blades	July 1962.
Toothbrush (1)	Lip and gum irritation	August 1962.
Radial arm saws (2)	Could be started inadvertently	November 1962.
Lawn mower (1)	High discharge	July 1963.
Lawn mowers (5)	Exposed blade	Do.
Lawn mowers (9)	Rearward discharge	Do.
Lawn mowers (4)	High discharge	June 1965.
Lawn mowers (10)	Rearward discharge	Do.
Lawn mowers (5)	Exposed blade	Do.
Do	Poor handle	Do.
Blender (1)	Inadvertent start	November 1965.
Food waste disposers (3)	Chunks thrown out	March 1966.
Lawn mowers (1)	Exposed blade	June 1966.
Do	Unshielded belt	Do.
Do	User in path of discharge	Do.
Garden sprayers (2)	Top may blow off	July 1966.
Seat belt retractors (2)	Frayed seat belts	October 1966.

FIRE HAZARD

Travel irons (3)	No thermostat	June 1960.
Portable heaters (2)	Failed drape test	October 1960.
Carpets		Do.
Paint removers (8)	Flammable	October 1961.
Masonry waterproofer	Flammable	January 1964.
Baby blankets		May 1964.
Regular blankets		October 1964.
Portable heaters (7)	Failed drape test	October 1965.

OTHER HAZARDS

Auto seat belts		May 1956.
Auto seat belts (34)		February 1960.
Auto seat belts (10)		October 1961.
Oven cleaners (2)	Pressurized and alkaline	August 1963.
Children's sleds (1)	Sharp points	November 1963.
Electric toys (2)	Hot surfaces	November 1964.
Oven cleaners (1)	Pressurized and alkaline	February 1965.
Bubble bath	Irritation	August 1965.
Slip preventive (1)	Corrosive chemical	September 1965.
Portable heaters (1)	Hot surfaces	October 1965.
Shotguns (1)	Unsafe "safety"	Do.
Chemistry sets (4)	Inadequate caution labels	November 1965.
Stuffed toys	Sharp "eyes"	February 1966.
Toy gun (1)	Deafening	June 1966.
Beads	Poisonous	Do.

PROPOSED LEGISLATION INTRODUCED BY SENATOR THURMOND

Mr. THURMOND. Mr. President, I send to the desk four Senate joint resolutions, one Senate resolution, and 11 bills and ask that they be appropriately referred.

These proposals, along with others which I am cosponsoring with other Members of the Senate, deserve the favorable consideration of the Congress. They represent an effort to strengthen our federal system and would form the base from which this vital task could go forward. Also included are proposals to correct inequities in existing laws which, while not so important to the Nation as a whole, are very important to the individuals involved.

One of the major purposes of the 90th Congress must be not only to encourage the State and local governments in the performance of their duties and responsibilities, but to allow them the opportunity to do so. This will require that the Central Government devote its full attention to the solution of those problems, and only those problems, which are susceptible to solution by legislative enactment of the Congress. To this end, I favor the enactment of a tax-sharing program, although I am not today introducing such a measure. I have given this matter considerable thought and study over the past few years. It is obvious that the States and local municipalities require additional sources of revenue if they are to provide the service to their people which they should. I have concluded after much study that the most feasible solution to this problem is a tax-sharing plan. From a practical standpoint, it is also the most likely to be enacted. There will be many such proposals introduced in both Houses of Congress, and I intend to study each one of them very carefully and formulate what I consider to be the best possible plan of this nature.

Two of the Senate joint resolutions I am introducing today propose amendments to the Constitution of the United States designed to preserve and enhance the authority and responsibility of the several States.

One calls for the formation of a Court of the Union to be composed of the chief justices of the highest courts of the several States. This Court would be empowered to pass upon any decision of the Supreme Court which relates to the rights reserved to the States or to the people by the Constitution and would be the final judgment in such matters. Another of the Senate joint resolutions would provide a new method for amending the Constitution so that the States may initiate proposed constitutional amendments without being required to rely upon Congress to take any action. The next constitutional amendment which I propose would require a balanced budget, except in case of war or other grave national emergency. In the latter case the Congress may suspend the requirement for that fiscal year upon the recommendation of the President.

I am also cosponsoring the proposed constitutional amendment to allow voluntary prayers in our public schools, principally sponsored by the senior Senator from Illinois [Mr. DIRKSEN]. I consider this to be one of the most important proposals to come before the 90th Congress, and I pledge my full energies to the task of having it approved by the Congress and submitted to the States for ratification.

Another Senate joint resolution ex-

presses the indomitable will of the American people and purpose of their Government to achieve total victory over the forces of the world Communist movement. This entails maintaining a substantial military superiority over the forces of communism in order to deter armed aggression, while at the same time demonstrating the resolve to successfully combat their advances by other methods, such as psychological and economic warfare.

The Senate resolution which I am submitting proposes an amendment to rule XVI of the Standing Rules of the Senate and would require the approval of the Appropriations Committee for any proposal authorizing back-door spending. Any bill, amendment to a bill, or joint resolution which authorizes either expenditures from debt receipts or the creation of obligations by contract in advance of appropriations would have to be referred to the Appropriations Committee for approval.

In addition to these proposals, the bills I am introducing are as follows:

First. To withdraw from the Federal courts jurisdiction to hear and decide cases concerning the apportionment of State legislatures.

Second. To provide for a jury trial in all criminal contempt cases in the Federal courts, at the option of the accused.

Third. To change the appellate jurisdiction of Federal circuit courts in appeals from executive agency orders and to empower the district courts of the United States to hear and decide unfair labor practice cases.

Fourth. To clarify and safeguard the right of any officer or employee of a Federal agency or department to testify before a duly constituted and empowered congressional committee or subcommittee without being subjected to reprisals.

Fifth. To provide for a 20-percent credit against individual income tax for certain educational expenses incurred at an institution of higher education.

Sixth. To equalize the treatment of Reserves and Regulars of the armed services in the payment of per diem.

Seventh. To change the method of computing retired pay of certain enlisted members of the Army, Navy, Air Force, and Marine Corps.

Eighth. To permit a taxpayer carrying on a trade or business in the conduct of which 10 or less persons are engaged to elect to take a standard deduction, in lieu of itemized deductions for expenses attributable to such trade or business.

Ninth. To provide a "habitual criminal" act for the District of Columbia simllar to that which has been adopted by many of the States.

Tenth. To amend the Fair Labor Standards Act to exempt employees in the shelling of shellfish from the minimum wage provisions of that act.

Eleventh. On behalf of myself and Mr. TOWER of Texas a bill to amend the Veterans Readjustment Assistance Act of 1966 to authorize the approval of courses in flight training for assistance under that act.

The ACTING PRESIDENT pro tempore. The joint resolutions, bills, and resolution will be received and appropriately referred.

The joint resolutions and bills were received, read twice by their titles, and referred, as follows:

By Mr. THURMOND:

S.J. Res. 36. Joint resolution proposing an amendment to the Constitution of the United States relating to the process of amending the Constitution; to the Committee on the Judiciary.

S.J. Res. 37. Joint resolution expressing declaration of will of the American people and purpose of their Government to achieve complete victory over the forces of the world Communist movement; to the Committee on Foreign Relations.

S.J. Res. 38. Joint resolution proposing an amendment to the Constitution of the United States providing for the establishment of a Court of the Union; and

S.J. Res. 39. Joint resolution proposing an amendment to the Constitution of the United States relative to the balancing of the budget; to the Committee on the Judiciary.

S. 931. A bill to amend title 28, United States Code, to withdraw from courts of the United States jurisdiction with respect to State legislative apportionment proceedings;

S. 932. A bill to provide for a jury trial in all cases of criminal contempt in the United States courts;

S. 933. A bill to amend the provisions of the United States Code with respect to the jurisdiction of courts of appeals of the United States to review orders of administrative officers and agencies, and for other purposes; and

S. 934. A bill to amend title I of the Internal Security Act of 1950; to the Committee on the Judiciary.

S. 935. A bill to amend the Internal Revenue Code of 1954 to provide a 20-percent credit against the individual income tax for certain educational expenses incurred at an institution of higher education; to the Committee on Finance.

S. 936. A bill to equalize the treatment of Reserves and Regulars in the payment of per diem; and

S. 937. A bill to amend title 10, United States Code, to change the method of computing retired pay of certain enlisted members of the Army, Navy, Air Force, or Marine Corps; to the Committee on Armed Services.

S. 938. A bill to permit a taxpayer carrying on a trade or business in the conduct of which 10 or less persons are engaged to elect to take a standard deduction, in lieu of itemized deductions, for expenses attributable to such trade or business; to the Committee on Finance.

S. 939. A bill to provide increased punishment for a person convicted in the District of Columbia of a fourth or subsequent felony; to the Committee on the District of Columbia.

S. 940. A bill to amend the Fair Labor Standards Act of 1938 in order to exempt employees employed in the shelling of shellfish from the minimum wage provisions of such Act; to the Committee on Labor and Public Welfare.

By Mr. THURMOND (for himself and Mr. TOWER):

S. 941. A bill to amend the Veterans' Readjustment Assistance Act of 1966 in order to authorize the approval of courses in flight training under such act; to the Committee on Labor and Public Welfare.

The resolution (S. Res. 81), to amend rule XVI relative to amendments to appropriations bills, submitted by Mr. THURMOND, was referred to the Committee on Rules and Administration, as follows:

S. RES. 81

Resolved, That rule XVI of the Standing Rules of the Senate is amended (1) by striking out the heading thereto and inserting in lieu thereof "AMENDMENTS TO APPROPRIATION BILLS AND AMENDMENTS CREATING A CHARGE ON THE TREASURY", and (2) by adding at the end thereof a new paragraph as follows:

"8. No amendment to a bill or joint resolution shall be received or considered if it authorizes (A) expenditure from debt receipts, or the creation of obligations by contract in advance of appropriations, and (B) is not moved by direction of a standing committee of the Senate."

SEC. 2. Subsection (b) of rule XXV of the Standing Rules of the Senate is amended to read as follows:

"(b) Committee on Appropriations, to consist of twenty-seven Senators, to which committee shall be referred—

"(1) All proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation of the revenue for the support of the Government; and

"(2) All proposed legislation (other than legislation within the purview of paragraph (1) above, or relating to claims against the United States) authorizing expenditures from debt receipts, or the creation of obligations by contract in advance of appropriations; except that any proposed legislation carrying such authority which relates to a substantive matter within the jurisdiction of any other standing committee of the Senate shall be referred first to such committee."

LEGISLATIVE REORGANIZATION ACT OF 1967—AMENDMENT

AMENDMENT NO. 86

Pursuant to the unanimous-consent agreement entered into on February 7, 1967, Mr. BYRD of West Virginia, on behalf of Mr. MORSE, submitted an amendment (No. 86), intended to be proposed by Mr. MORSE, to the bill (S. 355) to improve the operation of the legislative branch of the Federal Government, and for other purposes, which was ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF BILLS

Mr. MONRONEY. Mr. President, I ask unanimous consent that the name of the junior Senator from Idaho [Mr. JORDAN] be added as a cosponsor of the bill (S. 18) to establish a Small Tax Division within the Tax Court of the United States, at its next printing.

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

Mr. MONRONEY. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Washington [Mr. MAGNUSON] be added as a cosponsor of the bill (S. 652) for the relief of certain employees of the Puget Sound Naval Shipyard.

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

ADDITIONAL COSPONSORS OF RESOLUTION

Mr. DIRKSEN. Mr. President, at the next printing of the resolution (S. Res. 8) to create a Standing Committee on Veterans' Affairs—For the Veterans' Administration, I ask unanimous consent that names of the Senator from Tennessee [Mr. BAKER] and the Senator from Iowa [Mr. MILLER] be added as cosponsors.

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

BROADCASTING SKILLS BANK

Mr. JAVITS. Mr. President, the major broadcasting organizations, with group W—the Westinghouse Broadcasting Co.—as the catalyst, have developed what is turning out to be a very productive plan for the recruitment, training, and employment of minority group members. The plan, called the broadcast skills bank, is currently being implemented with the cooperation of the National Urban League.

Besides resulting in important advances in minority group employment, the plan serves another valuable purpose in that the more minority group members are seen on TV as people rather than as stereotypes, the quicker the problems confronting the entire Nation having to do with segregated housing, education, and employment will be overcome.

Mr. President, I ask unanimous consent that the text of a booklet describing this remarkable broadcast skills bank plan, together with various newspaper accounts of the program, be printed at this point in the RECORD.

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

BROADCAST SKILLS BANK PLAN

(The following plan for the Broadcast Skills Bank is the result of conferences involving the National Skills Bank of the Urban League, the three major networks—ABC, CBS, NBC—and the Westinghouse Broadcasting Company.)

THE BACKGROUND

The broadcaster's responsibility to his community, indeed to himself, in these days of rapid change dictates an aggressively affirmative role in the national effort to solve one of the gravest problems facing the country today—the employment of minority group manpower. Where the attempt has been made by the broadcaster to recruit such personnel the results have been inadequate—at least quantitatively.

It has been proposed that the National Urban League's basic Skills Bank concept and broad recruiting experience be utilized in this connection. Also that this effort to recruit, train and employ minority group manpower be mounted on a national basis to include the broad panorama of stations, groups and networks in both the media of radio and television, and the crafts and guilds allied with them.

The vehicle that will serve as a "clearing house" through which this will be accomplished is the Broadcast Skills Bank, established at the national conference of the Urban League of Louisville, Ky., in August, 1964. The Broadcast Skills Bank is structured to include a cross-sectional group of broadcasting management and labor leadership, functioning on a voluntary basis with officials of the Urban League's National Skills Bank. It proposes four areas of concentration and development: (1) Inventory and Employment, (2) Part-time Employment, (3) Additional Training and (4) Scholarships.

(1) Inventory and Employment—The Broadcast Skills Bank will establish an inventory of qualified minority group manpower interested in working in the industry. In addition each participating employer would advise the Bank at the League's headquarters in New York City of all applicants with qualifications for immediate employment in the industry whom that employer cannot use. All participating employers will be permitted to draw from this list. Individuals who can become eligible for employment with additional training will also be listed for the employer. Listed too will be those who apply through any of the 72 local offices of the League located across the U.S. The information on hand would include an interviewer's personal appraisal of the applicant as well as an analysis of any test program which might be administered.

Each of the participating employers would list with the Broadcast Skills Bank openings which would come up within the company for full-time and immediate employment and provide an opportunity for referrals to be given full and complete consideration. The movement of the same minority group personnel between participating employers would be discouraged with the emphasis being placed rather on the entry of additional such manpower into the industry.

(2) Part-Time Employment—Participating employers would be encouraged to provide part-time employment for minority group members who have graduated from high school and who are taking additional educational programs. This would involve part-time work after school and/or on weekends and/or summer employment. Candidates would come from educational institutions such as junior colleges, technical schools, business schools or college level institutions.

Participating employers would in effect "sponsor" such individuals—ideally individuals from their own communities—by providing this additional income to such young men and women who might otherwise not be able to complete their educations. Even more ideally would be the prospect and opportunity of a specific job for the individual at that "home" station at the conclusion of his formal education. The purpose would be threefold: a) the development of an attitude among the minority group community that employment opportunities in the broadcasting industry truly exist; b) afford an exposure of these young men and women to the disciplines and requirements of the work situation; c) spur the development of this latent source of manpower which, once released and properly motivated, could yield an additional source of productive manpower for the broadcaster.

(3) Additional Training—The participating employers, depending on their needs, would establish a formalized on-the-job and/or a rotating-basis training program for minority group members during the course of the year. This program would vary substantially from employer to employer but essentially it would be formal in nature and be supervised by a member of management. Trainees would be recruited from the Broadcast Skills Bank inventory.

(4) Scholarships—Many of the participating employers may already be providing scholarship assistance through formalized programs of one sort or another. This scholarship aspect could be extended and emphasized with the establishment of scholarships at Negro universities, or at major universities, for minority group members or through the expansion of existing programs to provide for participation of minority group members.

It is contemplated the concept of this plan will enlist the diverse, widespread and nationally located facilities of broadcasters along with their ability to effectively assimilate a number of these under-utilized but potentially productive minority group members.

THE INDUSTRY

According to the United States Bureau of Labor statistics, in early 1965, there were 109,300 people employed in commercial broadcasting. Over 55% were employed in radio. The thousands of free-lance performers, writers, actors, singers, comedians, dancers, announcers, are not included in these figures.

These staff employees worked at 690 television stations and at 5,340 radio stations in a variety of jobs in all parts of the country.

The average AM (Amplitude Modulation—heard on most radio sets) radio station had less than 15 employees. The average FM (Frequency Modulation, cannot broadcast as far) station had about 5 employees. The average TV station had about 55 employees. Television stations in the large population centers employed more than 200 people.

The three networks, ABC, CBS and NBC, which provide programs to affiliated commercial stations throughout the nation, employed as of December 31, 1964, nearly 11,000 persons. About one out of four broadcasting jobs is in New York and California, with New York City and Los Angeles the two major centers of orgination of network programs.

Employees at network headquarters or at local stations work in four major areas—programming, sales, engineering and administration. *The Occupational Outlook Handbook* published by the United States Department of Labor, stated in its 1963–1964 edition of *Radio and Television Broadcasting Occupations* that "More than 40% of all full-time staff employees are in programming work. Personnel in the engineering department make up over 20% of staff employment. Workers in the sales, publication and promotion departments account for 15% and the remaining workers—about 25%—are engaged in business management. These percentages vary widely among individual stations depending on station size and type of programming".

INDUSTRY JOBS

Very few fields of activity are as specialized as broadcasting. Thus, the shift by an individual from some other industry to radio or television without prior experience in broadcasting is not an easy step. Entry level jobs such as clerks, production assistants, and secretaries are, in many instances, the most practical way to enter the broadcasting operation. Initiative, imagination, creativity are then called upon to propel a person forward. In highly specialized areas, such as producing, selling and technical operations, there is seldom any substitute for extensive experience and training.

PROGRAMMING

The function of the programming department is to plan prepare and produce radio and television programs. It encompasses such diverse activity as production, production services, scenic services, studio services, script department, announcing, continuity acceptance, news, special events, public affairs and music.

"News" which has the responsibility for daily coverage of news events, employs such personnel as news commentator, news editor, news writer, reporter, "stringer," desk assistant, news director, news producer.

SALES

The successful operation of a commercial broadcast station or network depends primarily on the Sales Department which is responsible for selling all commercial time. Constituting major areas of "sales" are: sales service, sales development, research, advertising and promotion.

"Sales" employees range from account executives (time salesmen) to rating analysts.

The account executive contacts advertising agencies and clients directly selling them time availabilities and programs. He services the account as the station's representative to advertising agency and advertiser. He familiarizes himself with his clients' sales trends as well as audience rating and keeps the client informed of all station promotional activities and changes in format.

ENGINEERING

The Engineering function, basic to the technical operation of a TV station or a network, encompasses such divisions as: facilities, operations, maintenance, recording service, film service, traffic and communications.

Jobs range from staff engineer to film handlers. In the operations division, for ex-

ample, which provides manpower for transmission of sound and pictures from studio and remote (outside studio) locations to home receivers; positions include technical director, video technician, audio-technician, radio recording technician, video recording technician.

ADMINISTRATIVE

The administrative or business management departments at a station are similar to those found in most large business organizations. With a station manager in overall control they include: legal, labor relations, accounting, personnel, purchasing, public relations.

Also, as in other business organizations, clerks, secretaries, and stenographers constitute a sizable portion of a station's staff.

SOME SPECIAL TRAITS FOR BROADCASTING JOBS

Broadcasters are, of course, interested in hiring good employees. The usual characteristics, such as diligence, honesty and loyalty are just as important in broadcasting as in any business.

But, there are some special traits which are desirable in all station employees because they work in a business which is creative, fast-moving, much in the public eye. Whether they are stenographers or salesmen, maintenance technicians or managers, the following traits are found in the best broadcasting employees:

Enthusiasm—a valuable asset in a fast-moving, dynamic business.

Sense of Public Relations—no industry operates in a goldfish bowl more than broadcasting. Every employee must be conscious of the effect of his activities, both during and outside working hours.

Creativity—the essence of programming is creative effort and everybody in broadcasting can make a contribution to this important phase of the business. But creative people must learn to create cooperatively and must accept the fact that their ideas will be changed and melded with the ideas of others.

Balanced Temperament—broadcasting is show business with a stop watch. It is geared to quick decisions and quick action. Employees need the ability to perform work quickly under pressure. There are some jobs for the contemplative man, but not many.

Reliability—the broadcaster sells time. Once gone, it is gone forever. It cannot be warehoused and sold next year. Meeting deadlines and getting a show, or announcement on the air properly is vitally important. The entire effort of a television station often depends on the people who are on duty when something unexpected happens.

Initiative—this trait is desirable in controlled amounts. An inventive and improvising individual can be a great help in a broadcasting station, but if he plunges ahead oblivious to other departments and other people, he is often a headache.

Business Sensitivity—broadcasting is supported by the sale of commercial time to advertisers and the job of advertising is to sell goods and services, a fact that the alert employee keeps constantly in mind.

SCHOLARSHIPS

Many broadcasting trade organizations, electronic companies networks and individual stations, offer fellowships and scholarships of one form or another. Most of them are established for people already in the industry as incentive to further their training in broadcasting or allied areas. Following is a partial listing:

The National Association of Broadcasters (NAB) offers two Harold E. Fellows Memorial Scholarships annually in the amount of $1100 each. They are limited to employees of NAB member stations, or networks, or children of such employees.

The Academy of Television Arts and Sciences Foundation presents the Ernie Kovacs Comedy Fellowship to one or more graduates or graduating students to serve as apprentice to all phases of a comedy television series—writing, producing, directing and even when indicated, performing.

The American Broadcasting Company (ABC) presents seven $5000 Fellowships in Television Playwriting. The program was launched in the fall of 1965 at the Yale University School of Drama and is formally called "Yale University—American Broadcasting Company Writing Talent Development Program."

Eight, $8000 Columbia Broadcasting System (CBS) Foundation News Fellowships are presented annually for academic studies. Applicant must be engaged in news and public affairs work connected with CBS or as a regular staff member of a non-commercial education radio or television station or as a college or university teacher.

The Westinghouse Electric Corporation, parent company of the Westinghouse Broadcasting Company, awards one, $2500 Charles Legeyt Fortesque Scholarship annually to a student of electrical engineering who has received a degree from a recognized college or university for postgraduate work.

The Radio Corporation of America, (RCA) parent company of the National Broadcasting Company offers several, $2500–$4000 (plus tuition and $50 for books) David Sarnoff Fellowships annually for academic studies. Only RCA employees, including NBC, are eligible.

Scholarships awarded in California, illustrate the range of local station participation in providing incentive to enterprising young men and women.

Two, $500 each, offered by station KMPC in Los Angeles.

One, $500, Art Linkletter Scholarship presented annually for staff position on San Diego State College station.

Two, $200, National Broadcasting Company—KNBR Scholarships, Stanford University.

One, $150, Radio-TV Alumni Scholarship, presented annually for academic studies, San Francisco State College.

Two, $200, Westinghouse Broadcasting Company Scholarships, presented annually for academic studies in the Stanford-Radio-TV Film Institute, Stanford, California.

NATIONAL URBAN LEAGUE

The Urban League is a professional community service agency, founded in 1910, to give guidance to Negroes and other similarly disadvantaged groups so that they may share equally the responsibilities and rewards of citizenship. It is non-profit, non-partisan, and interracial in leadership and staff.

The Urban League is nationwide in reach with affiliates in 72 cities and 30 states and the District of Columbia. It has its national headquarters in New York; regional offices in Akron, Atlanta, New York, St. Louis and Los Angeles; and a national bureau in Washington.

The Urban League consults with the management of major national corporations, with leaders of international unions, and with key government officials to help them reach sound hiring, training and promotion practices and solve problems of unemployment. It is equally active in its pursuit of programs to secure better education, better housing and better health and welfare conditions for the disadvantaged.

A trained professional staff conducts the day-to-day activities of the Urban League. The national headquarters staff is supported by a National Board of Trustees elected annually by a national Delegate Assembly. There are more than 600 paid employees in the Urban League movement, and their operations are reinforced by over 6,000 volunteers who bring expert knowledge and experience to racial matters.

The Urban League sponsors a National Conference each year which brings together the representatives of its 72 affiliates, board and staff, and other experts to review and discuss racial issues; to plan the next year's program; and to set new achievement goals. This conference is the nation's largest forum on the economic and social welfare of the Negro population.

An Equal Opportunity Day is observed annually throughout the country under Urban League sponsorship, to remind Americans from all walks of life that the greatness of our country rests upon the principle of equal opportunity for all.

BROADCAST SKILLS BANK

The Broadcast Skills Bank operates as a branch of the Urban League's National Skills Bank, a national clearing house with local branches in the 72 cities where the League has offices. The National Skills Bank brings together skilled or technically trained minority group job seekers and prospective employers. It is guided by the increasingly obvious fact that industry is becoming more skill-conscious and less color-conscious in its search for manpower.

The National Urban League expresses its gratitude and indebtedness to the American Broadcasting Company, the Columbia Broadcasting System, the National Broadcasting Company and the Westinghouse Broadcasting Company—the latter serving as the catalyst—for their cooperation in conceiving and developing the Broadcast Skills Bank Program.

Indeed, this cooperation represents a significant contribution to the nation, at a time when business, industry, labor and government are urgently searching for guidelines to better utilize manpower and increase job opportunities.

Some of the jobs in broadcasting, being performed by individuals who happen to be members of minority groups, are described here. And we explore the possibilities of widening the range of such opportunities to benefit both employers and potential employees.

Broadcasting is important because it is the most potent means of mass communication known to mankind: it entertains, it informs, it broadens the human mind. As the industry continues to grow, increasing its scope nationally and internationally, the need for talented men and women will grow apace. Opportunities—both before and behind the cameras and microphones—will continue to beckon those with the creative talent, the desire, and the training to make the best use of such skills.

We believe that the Broadcast Skills Bank will provide new areas of opportunity in a dynamic industry for many young men and women. And we sincerely hope that this booklet will motivate them to seek fulfillment of their dreams of interesting and profitable careers.

WHITNEY M. YOUNG, Jr.,
Executive Director,
National Urban League.

NEW YORK, N.Y.

[From the New York Times, June 24, 1966]

JOBS IN TV AWAIT RACIAL MINORITIES—NEGROES AND PUERTO RICANS SOUGHT BY NETWORKS

(By George Gent)

American broadcasters are looking for Negro and Puerto Rican job applicants, but they are having trouble convincing members of those groups of their sincerity.

The problem was noted in an interview Tuesday by Donald H. McGannon, President of the Westinghouse Broadcasting Company, one of the principal movers in an industry-wide effort to recruit members of minority groups for jobs in radio and television.

The drive began last fall when four networks—Westinghouse, the American Broadcasting Company, the Columbia Broadcasting System and the National Broadcasting Company—adopted a four-point program to

recruit, train and employ Negroes and Puerto Ricans on a nationwide basis.

Subsequently, the managers of 250 stations, including those in the 50 major-market areas, were invited to cooperate. The response, according to Mr. McGannon, the network committee's chairman, has been strongly in favor of the program.

POOL OF RECRUITS SMALL

The networks and local stations soon discovered that, while many had their own programs for recruiting minority-group applicants, a major problem for all was creating a large enough pool from which to select suitable candidates. To broaden their canvass they agreed to cooperate with the National Urban League in the formation of a Broadcast Skills Bank.

The Broadcast Skills Bank embraces broadcasting management personnel and labor leadership, functioning on a voluntary basis with officials of the Urban League. Agreements with technical and artists' unions are being negotiated.

The skills bank established an inventory of qualified minority-group manpower interested in broadcasting, from which all participating employers will be permitted to draw. The employers notify the bank at the league's headquarters here when anyone applies directly to a station and cannot be immediately employed. The bank also includes individuals who can become eligible for employment with additional training.

TRAINING PART OF PROGRAM

The program calls for employers to provide part-time employment for minority-group members who are high school graduates and are interested in continuing their educations. Wherever possible, employers are to set up formal on-the-job or rotating basic-training programs for minority group members.

Mr. McGannon said members of minority groups interested in broadcasting as a career could apply for enrollment in the Broadcast Skills Bank at any one of the Urban League's 70 local offices throughout the country.

"The program is beginning to build up a head of steam, but not enough Negroes are applying," Mr. McGannon said.

He acknowledged that many Negroes were probably skeptical of such programs because of past disappointments. Mr. McGannon insisted that the broadcasters were sincere in the current campaign.

"We've been missing a vast untapped pool of creative talent by ignoring those groups," he declared.

NEGRO EMPLOYMENT RISES

Westinghouse, he pointed out, with 1,500 employes in 5 TV and 6 radio stations, including WINS here, has doubled the number of Negroes it employs in positions above the laborer's level in the last 18 months. It now has 76 Negroes in such jobs as foreign correspondent, on-the-air newscasters, political commentators, TV drama critic, film editor, traffic manager and sales executive. The Urban League office here could not be reached for an immediate comment on the number of Negroes employed through the skills bank.

"We're not do-gooders in this program," Mr. McGannon said. "This industry eats up talent, and we can't afford to ignore any new source of potential talent. Anyone who is hired under this program, either as a trainee or as a full-time employe, has to cut the cake the same as anyone else if he expects to keep his job or to win promotion. But he has to know that the job is really there, that he is wanted."

[From TV Guide, July 30, 1966]

WILL NEGROES PLEASE APPLY?

Writes an Ohio broadcaster: "We have made a considerable effort to solve the problem? I need not tell you of the difficulties we have encountered."

Writes a Washington, D.C., broadcaster: "We have made very sincere efforts to solve this very perplexing problem."

Writes a St. Louis broadcaster: "We are in complete agreement with your efforts to solve the problem."

These broadcasters' comments are typical of hundreds that have been received by a year-old organization called the Broadcast Skills Bank, which is dedicated to integrating Negroes into broadcasting.

One might suppose that "the problem" is that of finding jobs for Negroes. But this is not so. It is finding Negroes for the jobs. The broadcasting industry, in fact, is very much in the position of the nonplused host who has prepared a lavish banquet for guests who refuse to show up for the party.

It's not that there are no Negroes employed in radio and TV today. There are—both on and off screen. In addition to on-screen performers seen regularly by the viewers, there are Negro sound technicians, cameramen, directors, producers, news reporters, stage managers, continuity-acceptance workers, scenic designers, traffic managers, publicists, time salesmen, staff engineers, film handlers, video- and audio-recording, technicians, projectionists, etc. But, comparatively speaking, the Negroes in broadcasting are so few that one could probably compile a nation-wide list of them without too much difficulty.

The Broadcast Skills Bank was founded to counteract this rarity. A branch of the National Urban League, the "Bank" was established by the League in cooperation with CBS, NBC, ABC and the Westinghouse Broadcasting Company. It provides for an inventory of qualified Negroes, interested in entering the broadcasting industry; it assists in obtaining part-time employment for high school graduates who are continuing with their studies; and it encourages training programs and scholarships for university students. In essence, it functions as a "clearinghouse" for Negro manpower and is organized to channel this manpower into networks, broadcasting chains, individual stations and allied crafts and guilds.

As Donald H. McGannon, president of Westinghouse Broadcasting, and chairman of the Broadcasters' Committee of the "Bank," explains its genesis: "The broadcaster's responsibility to his community and to himself in these days of rapid change dictates an affirmatively aggressive role in the national effort to employ minority manpower."

And broadcasters have been "affirmatively aggressive." According to George Norford, now of Washington, who was, when at NBC, the first Negro to achieve executive status at a network: "The broadcaster has taken the initiative. This is one of the first programs of its kind to be developed by any industry. It is supported by the major elements of the industry."

Mr. McGannon similarly reports, "We're getting excellent cooperation from the broadcasters. I'm very impressed and pleased with it. Every day I get a dozen letters from all over the country, very enthusiastic, promising cooperation. At this point, we have a nation-wide framework organized.

"A lot of recruiting and training programs already exist within the industry. The networks in particular are doing very aggressive work in this field. But the bulk of the stations are small local operations employing under a hundred people. These stations have been limited in whom they can hire. Often there are no training programs available locally. The usual problem is that the time you stumble across a qualified Negro is not the time you have a vacancy. Then there's a vacancy—but there's no qualified Negro. That's why people are enthusiastic about an industry-wide approach. It permits job placement within the industry as a whole."

But if broadcasters, big, medium and little, are responding to this leadership, the Negroes are not. According to Mr. Norford, who devotes his principal energies to the furthering of this project, "People are not registering or applying. There is a real problem here. It's not only that the qualified Negroes aren't applying—they're not applying for the training programs either." It is an ironic fact that while Negro leaders have been denouncing the broadcasting industry for maintaining the color bar, jobs for Negroes within this industry have gone begging, from Coast-to-Coast. About 15 people a month have applied to the Skills Bank, over the last year, for information or guidance. Mr. Norford has no record of actual job placements.

The problem of the absent beneficiary is by no means peculiar to the broadcasting industry. "Other industries are having the exact problem we're having in looking for qualified people," reports Mr. McGannon.

Why is this? Different explanations are offered. "I believe," says Mr. McGannon, "that it's a kind of cynicism. The Negroes have faced a long period of disappointment. I think many of them believe this is window dressing, showcasing. I think that the Negro community may well be expected to have a critical attitude. The solution of the problem will be in the doing. Where there's a sincerity of purpose, they will discover it. But I think it's going to take time to crack."

Mr. Norford calls it a "psychological block." "There's timidity and hesitation on the part of the Negroes. They've not been particularly welcome. They've not been encouraged to apply for jobs no matter how qualified. They're skeptical about the honesty and sincerity of these programs. Also, they've been trained to work and to seek their careers within the Negro world. But this is the big white world: They don't want to step into it."

The most fundamental reason given, however, is that most Negroes—even, in many cases, graduates of Negro colleges—are still unqualified for work in a complex industry. The situation seems largely unchanged since a Negro journalist, Louis Lomax, charged in 1963 that lack of training, not discrimination, was depriving Negro youths of job opportunities.

In a controversial article in a national magazine, entitled "Young Negroes Aren't Ready," Lomax wrote: "Young Negroes are not qualified for the new jobs in industry and government now open to them. . . . Apartness and inequality involve more than the broad denial of opportunities and freedoms. They prescribe the inferior standards exacted of us by white people, and they serve as excuses as we Negroes fail to demand higher standards of ourselves. Thus our students, on the whole, are unready for competition in the general American market place."

A former official of the Urban League, Otis Finley Jr., has also commented: "Our job now is to help our students leapfrog over generations of neglect and frustration into the age of astronauts, automation, cybernetics and mass-communication."

As the broadcasters are now discovering this cultural "leapfrogging" has not yet been accomplished: "Essentially," says McGannon, "a very limited number of people are ready. The great bulk of Negroes are insufficiently educated. But there's a tremendous social movement in progress. It's going to help these people with training and education. We're taking the long-range view of things. The Broadcast Skills Bank is addressing itself to what is going to be happening in the next 20 years."

This is a somewhat anticlimactic outlook for an "aggressively affirmative" project. But the anticlimax applies primarily to mass employment. It does not apply to the constant, if numerically small, flow of talented and able Negroes who are moving into the broadcasting industry on their own steam. As one

of these, George Broderick, a composer who is writing music for commercials, comments: "The Negroes you now see in the industry are actually pioneers. They're the trail blazers who are not afraid to compete in the white world. They're opening up the paths that the others will eventually follow."

[From Race Relations and Industry, vol. 1, No. 3, August 1966]

THE BROADCAST INDUSTRY—ITS DETERMINED EFFORT

Many individual companies have launched affirmative programs to fulfill commitments in the field of equal employment opportunity. One of the most effective examples of the way in which members of an industry can cooperate together, promises to be the program being undertaken by the broadcasting industry, in a sincere effort to recruit minority group manpower. A secondary benefit of this program is the favorable climate, in the field of race relations, that should result for the broadcast industry.

A joint project of the American Broadcasting Company, Columbia Broadcasting System, National Broadcasting Company, and Group W (Westinghouse Broadcasting Company), is the four-point area of concentration and development under a Broadcast Skills Bank. The four points are 1) Inventory and Employment; 2) Part-time Employment; 3) Additional Training; and 4) Scholarships.

With the networks as prime movers, and with cooperation from radio and TV stations throughout the United States, the broadcasting industry has begun actively informing minority group youth that a career awaits them in one of the four major areas of broadcasting—programming, sales, engineering, and administration.

NOT A NEW EFFORT

It is not surprising that the broadcast industry should initiate a minority recruiting project. In its own way, each of the networks has moved toward establishing and implementing firm policies on equal employment opportunity. NBC, for example, has benefited from Negro public relations counsel (provided to its parent company, the Radio Corporation of America, for many years) which has molded favorable public opinion among Negro opinion-makers.

SEEING HAS BEEN BELIEVING

With their high visibility, Negroes have been evident on the nation's TV screens in some major cities, in increasing numbers. This fact alone has contributed greatly to an improved employment posture for the industry, and helped to get across the idea that opportunities do exist for minority group members. When a Negro viewer sees Negroes in sensitive news positions, an automatic, built-in reaction, is produced. It is, of course, a favorable one. Delivering news today are NBC's Bob Teague in New York, and Bill Matney in Chicago (Rafer Johnson is scheduled to begin sportscasting on the West Coast); CBS' Joan Murray in New York; ABC's Mal Goode at the United Nations; Group W's Trudy Haynes at KYW in Philadelphia; and WTOP's Harold Walker in Washington, D.C. Group W's Terry Carter is a critic at WBZ–TV, Boston.

STILL NEED TO CONVINCE

While opportunities are opening up, as Donald H. McGannon, President and Chairman of the Board of Westinghouse Broadcasting Company, said in a recent interview, the industry is having trouble convincing minority group youth that they can obtain jobs in the industry—and some 109,300 total jobs were filled in commercial broadcasting early last year.

McGannon, Chairman of the Broadcast Skills Bank advisory committee, knows that part of its responsibility is to seek out talent, where it exists, for jobs in the industry; and his Group W is showing what can be done. With Westinghouse executive George Norford devoting most of his time at Group W to the problem, the company has doubled the number of Negroes that were employed 18 months ago, in positions above a laborer.

INSIDE INDUSTRY

The American Oil Company, Chicago, is cooperating with the Chicago Urban League in conducting an on-the-job training program for keypunch operators in the company's general office. The 12-week course is being given in American Oil's new electronic data processing department under T. A. Hoedl, manager of computer operations and communications division. The activity is part of the Urban League's overall program to provide skills for inexperienced individuals. *IBM,* National Cash Register Company, and Xerox are also participating in the O–J–T Project of the League.

Philco Corporation has announced the appointment of Dr. F. Ray Finley as manager of bio-medical engineering in Philco's Communications and Electronics Division, according to Dr. W. F. Cartwright, director of advanced technical plans and programs for the division. Dr. Finley joined Philco as staff physiologist with the bio-medical activity in June 1964.

The Chase Manhattan Bank is reporting success with its Business Experience Training (BET) program. Some 70 youths have been through the program. Its objective is to provide high school seniors from disadvantaged areas with business experience that will help them qualify for employment. Most of the BET students are Negroes and Puerto Ricans. BET youngsters, all boys, are selected by Chase Manhattan's Tom O'Reilly and trained by training director, Michael Shipper.

Western Airlines has employed its first Negro flight officer, Frederick M. A. Pitcher, following his completion of the airline's training program. Pitcher, now a second officer on a 720B fanjet, flew with a U.S. Navy anti-submarine squadron for four years. A former *Burroughs Corporation* employee, he established overseas computer training schools for a company division.

Wadsworth Manufacturing Company, Wadsworth, Ohio, has named Don A. Taylor to the newly created post of vice president in charge of product design. Taylor was formerly an engineering draftsman of the Bearfoot Sole Co., Inc., where he designed mold equipment, sole, heel and automotive products.

The Welch Scientific Company, Skokie, Illinois, has reported on a joint study of its teaching machines' use by remedial and dropout-prone students, conducted with the Paterson (N.J.) school system. The study involved 397 volunteer ninth grade students under special classroom conditions over a two-month period. This study of the use of Welch's AutoTutor Mark II, a 46-lb. electromechanical "branching" device which offers up to four levels of learning and permits the student to learn at his own pace, proved that the teaching machines can dramatically increase motivation. "The Paterson Plan" is being watched closely by school administrators in many sections of the U.S. Paterson school system has already purchased 30 of the teaching machines for one of its schools.

Houghton Mifflin Company, Follett Publishing, McGraw Hill Book Company, and *Scott Foresmen and Company* with primary and elementary school readers, and 170 other textbook publishers (history, non-fiction, fiction, and other) have adopted new guidelines—which include the Negro in texts, and references in supplementary material. Expected to help both Negro and white children, respectively, in growing up with a sense of pride, and knowledge of Negro history, in books read in schools. Boston, Philadelphia, Pittsburgh, Chicago, and Detroit among school systems now using new-type texts. Teachers in many systems would like to use to give Negro students needed knowledge and respect for heritage—could aid in motivation.

VIETNAM NEWS CORRESPONDENT

As an example of how it seeks qualified talent, Group W sought out Edmund Dorsey, a Chicago newsman (WIND), and named him Saigon correspondent for the Company. Dorsey speaks Russian, Chinese (several dialects), and holds a Master's Degree from Keio University, Tokyo. Group W also has Carl Rowan, former director of the U.S. Information Agency and Ambassador to Finland, as an on-the-air commentator for radio and TV. In all, Group W now employs Negroes in some 80 positions, including a film editor, traffic manager, sales executive, and on-the-air newscasters.

BANK FOR THE FUTURE

To extend the sweep to recruit minority manpower, in cooperation with the National Urban League, the broadcasting industry has established the Broadcast Skills Bank. Broadcast management personnel and labor leadership, functioning on a voluntary basis with the League, will have an inventory of qualified minority group manpower interested in broadcasting, from which all participating broadcasters will be permitted to draw.

BOOKLET PRINTED

The Broadcast Skills Bank has an important community interest feature going for it—a 36-page booklet that makes it crystal clear to minority group youth the opportunities available in the industry.

The booklet shows Negroes now employed in a wide range of jobs. The picturing of Negroes at work in the broadcast industry gives additional visual impact. Too few booklets encouraging either sole company or industry-wide employment are of sufficient Negro-interest to do an effective job. Notable exceptions are General Electric Company's "At Work in Industry Today," and "You Can Be A Winner," produced by Los Angeles Plans for Progress companies. The Broadcast Skills Bank booklet, "Career Opportunities in Broadcasting," should go a long way toward convincing youth.

WHERE TO GET HELP

The booklet points up some of the traits needed for jobs in broadcasting. It tells to those interested in employment, the additional training that can be acquired, and further explains that scholarship assistance is available.

Race Relations and Industry recommends that a copy of the booklet be obtained as an example of how minority youth can visually be shown that "things are changing." Too often, statistics and an overall view do not allow youth an opportunity to fully understand what is happening, or an interpretation given to him at his level of understanding. For a copy of "Career Opportunities in Broadcasting," write: Broadcast Skills Bank, National Urban League, 55 East 52nd Street, New York 10022.

SCHOOL, COLLEGE EFFORT

The booklet will be distributed to minority group youth through vocational guidance counselors, at Negro and other predominantly racial schools, secondary schools, and college campuses. It will be available and distributed through the 70 offices of the National Urban League. Further, copies of the booklet will be distributed to some 250 stations invited to participate in the industry-wide program.

THE RESULTS SHOULD COME

As former NBC executive and consultant on broadcasting to the New York State Commission for Human Rights, Group W's George Norford, said, when introducing the Broadcast Skills Bank to Pittsburgh radio and TV executives recently, "The Skills Bank represents an affirmative action in the field of equal opportunity." It is a program that

has industry-wide support, backed by top management, which holds promise for minority group youth, and which has interpreted this promise to them. Positive results should be forthcoming for this segment of American business and industry.

The American Plywood Association recently agreed to sponsor training projects in Mississippi, Alabama, Louisiana, and North Carolina, under the Manpower Development and Training Act. In Mississippi alone, some 400 unemployed workers will be trained as plywood mill operators, and 100 in each of the other states. Some 800 unemployed workers are to be trained for eight projected plants. Members of the Plywood Association participating in the Mississippi project include: *A. Dewesse Lumber Company, Southern Plywood Company,* and *St. Regis Paper Company.*

Celutone Plastics, New York, has named Earl T. Johnson as district manager of the company's newly established mid-western division, located in Chicago.

INSIDE GOVERNMENT

The Equal Employment Opportunity Commission has named Mrs. Marie Poston, a career government employee, as deputy director of the EEOC's regional office in Chicago. Mrs. Poston was considered one of the top members of the National Labor Relations Board's investigative staff, and established a pattern for quality investigative techniques for the EEOC. States covered by the Chicago EEOC office include: Illinois, North Dakota, South Dakota, Minnesota, and Wisconsin.

The National Job Corps Program announced that Mrs. Mary M. Chambers will become a consultant to the Office of Plans and Programs in the Corps, to explore and develop new types of training projects. Mrs. Chambers resigned as center director of the Job Corps Center for Women in Cleveland, sponsored by the Alpha Kappa Alpha Sorority, and was the only Negro heading such a post in Cleveland.

COMMUNITY COMMENTARY

The National Urban League has announced the appointment of M. T. Puryear to the newly created post of deputy executive director, according to Whitney M. Young, Jr., executive director. Puryear is now second in command of the interracial agency, assuming full responsibility and authority for the agency's nationwide operation. Puryear established the League's Skills Bank.

The National Urban League's successful Skills Bank program was designed to discover and secure employment for skilled Negro workers who were unemployed or underemployed. Now, the program in operation nationally has screened more than 340,000 applicants and placed over 5,000 in jobs commensurate with their talents and potential as skilled workers. Five hundred were hired in jobs never before held by Negroes.

The NAACP's Labor Director, Herbert Hill, told the organization's 57th annual convention that, unless a higher priority is given Negroes in the film industry; and, if necessary, "ring the nation's movie houses with picket lines." There has been an increased usage in Negro talent by motion picture companies and TV production companies, but unions have presented major problems. Too few starring roles is one criticism voiced by Negro groups; another, by actors themselves, points out that, unless a producer gets a "Poitier or Belafonte," no starring roles are given. Pickets and adverse publicity were employed for "The Longest Day," (20th-Century-Fox) because Negroes were not pictured as participating in D–Day.

[From WJKB–TV, Detroit, Mich., Aug. 29, 1966]

DETROIT BROADCAST SKILLS BANK TO BECOME REALITY

A unique experiment in human relations—a Detroit Broadcast Skills Bank—will take a giant step toward reality as the result of a meeting to be held at noon, Wednesday, August 31 at the offices of the Detroit Urban League.

A group of radio and television executives, representing all stations in the metropolitan area, will have the methods and goals of the "bank" explained to them by George E. Norford, General Executive of the Westinghouse Broadcasting Company; Lawrence M. Carino, Vice President and General Manager of WJBK–TV, who is serving as Chairman of the plan in Detroit; and Francis A. Kornegay, Executive Director of the Detroit Urban League.

Simply, the Broadcast Skills Bank is an extension of the broadcaster's responsibility to the community which he serves and whose thoughts and attitudes he so strongly influences. Specifically, it is a voluntary effort on the part of broadcasters to solve, in part, one of the gravest problems facing our nation today—the employment of minority group manpower.

In practice, the plan will have four integral and important phases:

1. The first step will be an effort to seek out and effectively catalogue the available minority group personnel who could possibly make a contribution to the Detroit broadcasting industry. This step will be effected through the offices of the Urban League and a volunteer force who will seek out, interview, screen and catalogue potential applicants.

2. As part-time vacancies occasioned by vacations occur, the plan foresees the Broadcast Skills Bank being drawn upon to give the broadcaster a chance to get to know the minority group personnel available to him and, equally important, to give the individual an opportunity to gain experience and to "get a foot in the door," something that is so vitally necessary for anyone desiring to enter broadcasting.

3. Under this phase, individuals who have gained experience through step 2 would be considered for full-time vacancies, for which they are qualified, with Detroit-area broadcasting stations. Appreciating the difficulty of arranging the coincidence of job vacancy with the availability of a qualified minority group member, the plan urges its participants to indulge in that degree of additional personnel hiring needed to make the program a success.

4. The final phase is much more long range in concept and forsees the day when scholarships, foundation grants, industry fellowships and the like will enable youthful members of minority groups, who otherwise have both promise and ambition, to overcome their deprived beginnings and obtain the specialized education and training so vital to achieving a position of leadership in the broadcasting industry.

The Detroit Broadcast Skills Bank will be an extension of the national program, which was established under the combined auspices of the three major networks—the American Broadcasting Company, the Columbia Broadcasting System and the National Broadcasting Company, plus the Westinghouse Broadcasting Company—in August 1964.

[From Variety, Sept. 14, 1964]

DETROIT HOPS ONTO BROADCAST SKILLS BANK; CARINO HEADS PLAN

DETROIT, Sept. 13.—A Detroit Broadcast Skills Bank, an extension of the national program established by the three major networks and Westinghouse Broadcasting Co., has been organized.

Organizational meeting was held at Detroit Urban League with George E. Norford, general executive of Westinghouse; Lawrence M. Carino, v.p. and general manager of WJBK–TV, and Francis A. Kornegay, exec director of League, describing the plan to local AM–TV and advertising leaders. Carino is chairman of the plan in Detroit.

The plan is in four parts:

1—Seek out and list the available minority group personnel who could make a contribution to the Detroit broadcasting industry.

2—As parttime vacancies occasioned by vacations occur, the plan forsees the bank being drawn upon to give the broadcaster a chance to get to know the minority group personnel available to him and, equally important, to give the individual an opportunity to gain experience and "to get a foot in the door."

3—Individuals who have gained experience would be considered for fulltime jobs, for which they are qualified. Appreciating the difficulty of arranging the coincidence of job vacancy with the availability of a qualified minority group member, the plan urges its participants "to indulge in that degree of additional personnel hiring needed to make the program a success."

4—The final phase is much more long-range in concept. It forsees the day when scholarships, foundation grants, industry fellowships, etc., will enable youthful members of minority groups to overcome their deprived beginnings and obtain the specified education and training required to achieve a position in the broadcasting industry.

[From Variety, Sept. 28, 1966]

GROUP W'S MCGANNON IN LOS ANGELES TO BEAT DRUMS ON A BROADCAST SKILLS BANK

HOLLYWOOD, Sept. 27.—A score of local TV and radio execs attended a luncheon here last week designed to encourage employment opportunities for Negroes and other minority groups in all phases of broadcasting by utilizing a "Broadcast Skills Bank" set up specifically to provide personnel already trained or capable of being trained.

Successful "banks" already have been established in New York, Detroit and Pittsburgh, according to Donald H. McGannon, prexy and chairman of the board of Westinghouse Broadcast Co. McGannon also is chairman of a national committee that is organizing such banks throughout the country.

McGannon urged local station managers to take an active hand in setting up a program that would use members of minorities as vacation relief, or even to create additional positions so they can be trained. He emphasized that Group W stations have instituted such practices and that those employes soon are "pulling their own weight." Another, but longrange step, would be to set up scholarships that would enable potentially able people from poverty-stricken homes to gain the formal training necessary to qualify them for positions in broadcasting, he said.

McGannon said that the success of such a program here will depend on whether station toppers take active hand in supporting it and not leave it to the personnel department. He added that although past experience has shown that Negroes are, like whites, "more interested in on-air jobs," they should be informed of the wide range of opportunities available in broadcasting, both in blue and white collar areas.

A Greater Los Angeles Broadcast Skills Bank, under the supervision of the National Urban League, already is in existence and has on its rolls several dozen people of various degrees of training who are looking for jobs in the broadcasting industry. While admitting the need for even more people to be added to the rolls for selection, a spokesman said that local stations can help make the idea work only if they make use of the "bank."

George Norford, Westinghouse exec assigned to the project, said his company considers it "a hard-nosed business proposition to take advantage of an untapped reservoir of potentially skilled labor."

A similar national program already is in operation under the combined auspices of the three national networks, Westinghouse and, recently, Metropolitan Broadcasting Television. The pitch for Los Angeles local

cooperation is part of an appeal that will be carried to most major cities.

McGannon stressed that the "bank" idea may not be ideal, but that few alternatives have been proposed. He said that no fundraising is contemplated, as most stations should individually be able to afford the cost of training potential staff members.

THE WAGE-PRICE GUIDEPOSTS

Mr. JAVITS. Mr. President, the Joint Economic Committee has been holding hearings for several days now on the President's Economic Report, and we have had the opportunity to examine a number of witnesses concerning the wage-price guideposts of the President's Council of Economic Advisers.

The press has made much of the fact the President never mentioned the guideposts in his Economic Report this year, in contrast to last year's report, which specifically endorsed the guideposts. The result has been that many observers—in the press and elsewhere—have concluded that the guideposts are dead.

Yet the Council of Economic Advisers' 1967 Report devotes a full 15 pages to the guideposts and makes it very clear that, as far as the CEA is concerned, these guideposts are very much alive. And Secretary of Labor Wirtz yesterday informed the committee that, as far as he was concerned, the "productivity principle"—which is, in essence, the guideposts—is an essential ingredient in anti-inflationary policy.

It is for that reason that I think it is important to keep an eye on these guideposts—and particularly on the way the administration has employed these guideposts "extralegally."

In this connection, Mr. President, I ask unanimous consent that there be printed in the RECORD two documents. First, a copy of a recent letter I have written to the Director of the Federal Mediation and Conciliation Service concerning the use of the guideposts in collective bargaining mediation, and second, a study appearing in the Harvard Law Review of January 1967 entitled "Wage-Price Guidelines: Informal Government Regulation of Labor and Industry," which details the extralegal steps taken by the administration to enforce these guideposts.

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

JANUARY 9, 1967.

Mr. WILLIAM E. SIMKIN,
Director, Federal Mediation and Conciliation Service, Washington, D.C.

DEAR MR. SIMKIN: It is my earnest hope that you and the officials of the Federal Mediation and Conciliation Service will give the most considered attention to avoiding the improper use of the wage-price guidelines at the bargaining table.

I make this request because *I have been convinced by events of the past year that the Administration's insistence on using the guidelines as a rule of collective bargaining rather than as a yardstick to guide the operation of our monetary and fiscal policies has, in many instances, led to the undermining of the collective bargaining process, has not succeeded in restraining inflation and has seriously impeded the functions of mediation agencies.*

An unusually large number of labor-management agreements must be renegotiated this year. Since most experts believe that these agreements will be extremely difficult to negotiate, I feel that next week's meeting of all Federal Mediation officers in Washington would be the appropriate time and place to clear away the confusion over just what these guidelines are and how they should be used.

For this reason, I would urge you and the officials of the Federal Mediation and Conciliation Service to consider the following during your meeting in Washington:

In my judgment, the wage-price guidelines can never reasonably be expected to *do* anything, except indicate when we are in trouble. They are a yardstick—a way of measuring the impact of our fiscal and monetary policies. But they are *not*, nor should they be, a substitute for such policies. Indeed, to the extent that the President has sought to coerce labor to moderate its collective bargaining demands on the basis of these guidelines, or to restrain management from granting such demands when management can afford them and would otherwise have granted them, the guidelines have been abused. As a consequence we have witnessed not only a deterioration of the Government's prestige but also an unfortunate clouding of the real problems—a weakness in our fiscal and economic policies—and an undermining of free collective bargaining.

When wages begin to rise faster than the average national increase in productivity—3.2% as specified in the guidelines—and the price level rises, then the guidelines tell us something. *They tell us, not that it is time to start applying extra-legal White House pressures to force labor and management to adhere to a policy which does not fit the economic climate, but rather that it is time to do something to change that climate.* If profits are high, labor will naturally ask for a larger share. If labor costs go up faster than productivity, management will seek to cover those costs with higher prices. And if the Administration insists on trying to force the parties not to do what they would otherwise naturally do, then (1) the Administration is going to end up being "kicked in the teeth" (to use Secretary Wirtz' phrase) as it was in the airlines strike, (2) the guidelines will be characterized as a "failure" because they "failed" to restrain the parties (which they were never really designed to do in a high inflationary pressure situation), (3) the ordinary processes of collective bargaining will be stymied because of the outside pressure (as was certainly the case in the airlines strike), and (4) the real need will be clouded and camouflaged—the need to meet continued inflation and to finance rising Vietnam costs and essential domestic programs with effective action—a cut in non-essential civilian spending or a temporary tax increase.

I do not mean to suggest for a moment that there is anything improper or even unwise about having a "third seat at the bargaining table." The government has very important roles to play. First, it can supply skilled and knowledgeable mediators. But the proper and only successful role of a mediator is to facilitate compromise—to help the parties seek successfully their own self-interest, and to keep the parties from taking positions in the heat of controversy which, if evaluated calmly and carefully, would turn out to be irrational from the parties' own points of view. And second, the government quite properly has an interest in insuring that services essential to the public interest are not interrupted.

But when the government also tries to sit at the bargaining table and enforce the guidelines, then, if there are strong economic pressures at odds with those guidelines, the occupant of the "third seat at the bargaining table" will be a hindrance, not a help, and will fail to accomplish any of the government's objectives.

The airlines strike is a good case in point. There, the government was trying to accomplish three things. First, it was trying to mediate the dispute—to help the parties reach a compromise which they could both accept. Second, the government was trying to avoid an interruption in essential transportation services. And third, the government was trying to avoid an inflationary wage settlement in "violation" of the guidelines. But because of the third objective, the government failed in all three. How could the mediators foster a "compromise" which was within the guidelines, when the airlines' pre-strike offer already exceeded the guidelines and was rejected by the Union? Conversely, how could the government protect the guidelines without forfeiting the impartiality of its mediators, when the only settlement which would even come close to the guidelines would involve complete capitulation by the Union? And finally, how could the government preserve essential transportation services at the same time that it was trying to restrain the parties from compromising at all? The result: complete failure all around. Indeed, if the parties had been left to their own devices, I suspect they could have reached a settlement within a week, which would not have been any more inflationary than the one they finally signed after an extended strike, extensive damage to the public interest, and much unsuccessful pressure by the government.

I am not suggesting that we now give up the guidelines. But it is clear that the guidelines as presently formulated are no longer either a description of what is happening nor a guide which labor and management can be persuaded to follow. Indeed, *the Administration's readiness to abandon the 3.2% standard in the face of widespread labor demands is merely evidence of the impotence of the guidelines in a rising-price economy.*

After all, the gross average weekly earnings of the factory worker in November 1966 was at an all-time high: $113.99, up from $109.71 a year earlier. That is an increase of over 3.9% in *gross* wages. But during the very same 12-month period, according to the Bureau of Labor Statistics, the *real* wages (in terms of purchasing power) of the average factory worker *declined more than 1.3%. How can we really expect labor to "slow down" when they have to run so hard just to keep from going backward?*

It is my hope that the Joint Economic Committee of the Congress, at the earliest opportunity, will look into the future usefulness of the guidelines in a free market economy, as it considers revisions and alternatives to present fiscal and monetary policies to enable the Government to move more effectively and promptly to cope with economic trends without sacrificing the basic institutions of our society.

I am committed to two objectives: fighting inflation and preserving freedom of collective bargaining. I believe a sound fiscal policy can help accomplish both. But I am equally convinced that reliance on the guidelines, to the exclusion of sound fiscal policy and as a substitute for free collective bargaining, will accomplish neither.

With best wishes,
Sincerely,

JACOB K. JAVITS.

[From the Harvard Law Review, January 1967]

WAGE-PRICE GUIDELINES: INFORMAL GOVERNMENT REGULATION OF LABOR AND INDUSTRY

Giant corporations and powerful unions have become familiar institutions in America. While the "invisible hand" of inexorable market forces may still largely determine prices and wages in most industries, many economists argue that at least in some industries the discretionary decisions of companies and unions have a major impact on

wage and price levels.[1] In an effort to prevent the inflation which is said to result from these discretionary decision without establishing direct government controls over private industry, a program of wage-price guidelines was promulgated by the President and the Council of Economic Advisers. Although the program is voluntary in name, certain sanctions have apparently been used to obtain compliance with it. In this Note the economic justification for the guideline program is not assessed, but its background and operation, certain difficulties in its administration, and its statutory or constitutional bases are examined.

I. BACKGROUND AND OPERATION

Inflation is a perennial problem. Economic theorists have proposed varying diagnoses of its causes and prescriptions for its cure.[2] Most anti-inflationary measures involve the use of the monetary policies operated through the Federal Reserve Board and the Treasury or the fiscal policies implicit in congressional and presidential decisions as to federal taxes and spending. However, in times of great national emergency, when vast government expenditures and the limited availability of goods for domestic consumption drive demand far above supply, direct controls over prices and wages have been employed. During World War II, for example, agencies were established by statute to implement such controls.[3] Though this technique was effective in preventing inflation, it involved pervasive government control of the entire private sector of the economy. Price and wage control was a burden which the country bore in furtherance of the war effort. The controls were removed soon after the war ended, though it was feared that the pent-up demand for goods caused by the accumulation of liquid assets and the exhaustion of consumer durables would result in a considerable degree of inflation.[4] In fact, between 1945 and 1948 the consumer price index rose 35.2 percent and the wholesale price index rose 54.4 percent.[5] Nevertheless, this was preferred to continuing government supervision, which was thought politically and socially undesirable, and less effective in the long run than the free play of market forces in properly allocating the resources of the economy.

Though a new burst of inflation was set off by mobilization for the Korean conflict,[6] inflation has since been somewhat sporadic and relatively mild.[7] While "creeping" inflation of the kind recently experienced may not be intolerable, it is nonetheless undesirable for two principal reasons.[8] First, it results in an arbitrary redistribution of income and wealth to the disadvantage of those with fixed incomes or fixed-income assets. For example, those receiving pension fund benefits find the value of the monthly check gradually diminishing in terms of purchasing power. Second, as American goods become more expensive they become less attractive to foreign purchasers and foreign goods become more attractive to American buyers. As a result, the volume of exports decreases while that of imports increases, and the balance of payments becomes less favorable.

Economists have argued that the creeping post-Korean inflation has not been caused primarily by excess demand (though that cause may be gaining importance of late[9]) but by a "cost-push" inflationary spiral resulting from the interplay of union and management decisions in industries characterized by concentration of private economic power.[10] Unions demand higher wages, and managements acquiesce since the raise can be passed on to consumers in the form of higher prices. Though not all industries are characterized by concentrated economic power, those which are tend to be basic industries, and increased prices there mean increased costs to the many industries using the product. Thus, the inflation spreads. If, it was argued, inflation is caused by these private decisions, then it cannot be controlled effectively by the use of overall fiscal and monetary policies. While it could be attacked directly by coercing the decision makers, government control of industry is antipathetic to the American free enterprise tradition. So, the voluntary program emerged. Though business leaders continue to question the economic premises upon which the program rests,[11] this Note is concerned not with the validity of those premises but with the operational difficulties and legal bases for the program as it has been applied.

The *Annual Report of the Council of Economic Advisers* for 1962, presented to Congress together with the *Economic Report of the President*, announced that in order to achieve overall price stability private price and wage decisions should be based on the rate of productivity increase in the economy as a whole.[12] The general guide for wages was that "the rate of increase in wage rates (including fringe benefits) in each industry be equal to the trend rate of over-all productivity increase."[13] The guidelines called for "price reduction if the industry's rate of productivity increase exceeds the over-all rate . . . an appropriate increase in price if the opposite relationship prevails, and . . . stable prices if the two rates of productivity increase are equal."[14] To allow for special conditions in some industries, several possible exceptions were noted. Wage rates could be responsive to an excess or scarcity of labor in a particular industry, and could be brought into line with prevailing wages in like industries. Prices could respond to a need for capital or a current overcapitalization, and to changes in nonlabor costs. It was suggested that prices should fall where they were based upon excessive market power and resulted in unusually high profits. By doing the technical job of deciding what prices and wages should be in order to prevent inflation, the Council tried to provide standards by which the public could evaluate actual price and wage decisions. The Council outlined what labor and management should do, and relied on their public spirit and the pressure of public opinion to secure compliance. The President's remarks confirmed this interpretation of the guidelines as did the approving report of the Joint Economic Committee after its hearings on the Economic Report.[15]

The effectiveness of the newly instituted guidelines was soon put to public test by events in the steel industry, a traditional economic bellwether and the industry most often charged with major responsibility for the inflation of the 1950's.[16] Wage negotiations were in progress, and the Administration brought its influence to bear in favor of a noninflationary settlement. Council of Economic Advisers Chairman Heller asserted that such a settlement was important to economic stability,[17] and President Kennedy urged progress in negotiation.[18] The agreement, when it came, incorporated no significant wage changes, and was hailed by the President as noninflationary.[19] Just ten days after the settlement, U.S. Steel announced an average price increase in terms of increased labor costs since 1958 when the dollars per ton, justifying the increase in terms of labor costs since 1958 when the last price change had been made.[20] The President acted immediately to bring the pressure of public opinion to bear, excoriating the executives for "irresponsible defiance of the public interest" and "ruthless disregard of their public responsibility."[21] Privately, he was said to remark: "My father always told me that all business men were sons-of-bitches but I never believed it till now!"[22]

The mobilization of public opinion was not, however, the only means relied upon to obtain compliance with the guidelines. President Kennedy conferred with Secretary McNamara, who awarded large defense contracts to the firms which had not raised prices.[23] Congressman Celler, Chairman of the House antitrust subcommittee, scheduled hearings, and the Federal Trade Commission began studying possible violation of a 1951 consent decree barring collusive price fixing.[24] The Internal Revenue Service was said to have begun reconsidering the tax status of executive compensation.[25] When five other major companies followed U.S. Steel by raising their prices, Attorney General Kennedy announced a grand jury investigation of possible Sherman Act violations.[26] In this atmosphere Inland and Kaiser refused to raise their prices, and the other firms soon rescinded their increases.[27] The pressure exerted by the Administration was thought to be a major cause of the rescission,[28] and Republican leaders attacked

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[1] *See generally, e.g.*, H. BRIEFS, PRICING POWER AND "ADMINISTRATIVE" INFLATION (1962); G. MEANS, PRICING POWER AND THE PUBLIC INTEREST (1962).

[2] *See, e.g.*, authorities cited note 1 *supra*; J. SCHUMPETER, HISTORY OF ECONOMIC ANALYSIS (1954); W. THORP & R. QUANDT, THE NEW INFLATION (1959).

[3] ROSS, *Guideline Policy—Where We Are and How We Got There*, in GUIDELINES, INFORMAL CONTROLS, AND THE MARKET PLACE 114–17 (G. Schultz & R. Aliber eds. 1966) [hereinafter cited as GUIDELINES]. *See generally* A. DIRECTOR, DEFENSE, CONTROLS, AND INFLATION 147–253 (1952).

[4] H. MOULTON, CAN INFLATION BE CONTROLLED? 138–42 (1958). *But cf. id.* at 144–46.

[5] 1962 ANN. OF THE COUNCIL OF ECONOMIC ADVISERS 169 [hereinafter cited as COUNCIL REPORT].

[6] H. MOULTON, *supra* note 4, at 147–51.

[7] *See* ROSS, *supra* note 3, at 134–35.

[8] *See generally* S. HARRIS, THE INCIDENCE OF INFLATION: OR WHO GETS HURT? (Joint Econ. Comm. Study Paper No. 7, 1959).

[9] *See, e.g.*, Address by Gardner Ackley, Chairman of Council of Economic Advisers, to the National Industrial Conference Board, Oct. 6, 1966.

[10] *E.g.*, Ackley, *The Contribution of Guidelines*, in GUIDELINES 68–72.

[11] *E.g.*, Lecture by Roger Blough at New York University School of Commerce, Nov. 14, 1966.

[12] 1962 Council Report 186. The idea that prices and wages should reflect productivity had been suggested by the Council under both Presidents Truman and Eisenhower. ROSS, *supra* note 3, at 119.

[13] 1962 Council Report 189.

[14] *Id.*

[15] 1962 Economic Rep. of the President 16–17; Ann. Rep. of the Joint Econ. Comm. on January 1962 Economic Rep. of the Pres., 87th Cong., 2d Sess. 64 (Comm. Print 1962).

[16] *E.g.*, O. Eckstein & G. Fromm, Steel and the Postwar Inflation (Joint Econ. Comm. Study Paper No. 2, 1959).

[17] N.Y. Times, March 18, 1962, at 84, col. 2.

[18] *Id.*, March 8, 1962, at 1, col. 4.

[19] *Id.*, April 1, 1962, at 1, col. 1.

[20] *Id.*, April 11, 1962, at 28, col. 2. For a dramatic account of the entire ensuing episode of price increase and rescission see G. McConnell, Steel and the Presidency (1963).

[21] N.Y. Times, April 12, 1962, at 20, col. 1.

[22] *Id.*, April 23, 1962, at 25, col. 1.

[23] *Id.*, April 18, 1962, at 22, col. 6.

[24] *Id.*, April 12, 1962, at 1, col. 2.

[25] *Id.*, April 20, 1962, at 12, col. 5.

[26] *Id.*, April 13, 1962, at 1, col. 8.

[27] *Id.*, April 14, 1962, at 1, col. 8.

[28] E. FLASH, ECONOMIC ADVICE AND PRESIDENTIAL LEADERSHIP 228 (1965); N.Y. Times, April 14, 1962, at 1, col. 8. *But cf.* G. MCCONNELL, *supra* note 20, at 115. McConnell asserts that the power of the market place rather than that of the President prevailed.

the President for his intervention.[29] The guidelines, however, had survived a public test of effectiveness in limiting both wage and price increases, though they seemed to be less voluntary than their designers had asserted.

In 1963, the steel wage settlement was again noninflationary and the aggregate 1 percent price increase was also within the terms of the guidelines.[30] Chairman Heller said that they were acceptable,[31] and the President, having warned that there would be administration action in case of a general increase,[32] said that the actual price changes showed that the industry had acted with some restraints.[33]

The low 1962 and 1963 steel wage settlements, while noninflationary, were probably due less to respect for the guidelines or fear of administration action than to the high rate of unemployment during the period and the consequently weak bargaining position of the union.[34] By 1964 the employment rate had improved and unions were becoming more aggressive. The 1964 *Economic Report* included a more definite standard: wage increases were generally not to exceed 3.2 percent, the trend rate of productivity increase in the economy as determined by the Council of Economic Advisers, and it was emphasized that the exceptions were intended to apply in "relatively few cases."[35] It was mentioned in passing, perhaps to indicate the ability of the Government to exert pressure for compliance with the price guidelines, that the Government was the country's largest single purchaser.

In this context of improved union bargaining position and a firmer government stance toward implementation of more definite guidelines, wage negotiations were begun in the automobile industry. The United Automobile Workers demanded the largest wage increase in ten years, 4.9 percent, a figure clearly above the guidelines.[36] President Johnson warned that no settlement should be reached which would revive the wage-price spiral and Chairman Heller affirmed that the demands exceeded the guidelines, but Walter Reuther, President of the UAW, announced that there would be no change in his position.[37] In July, the President urged a responsible settlement, hinting that the alternative would be government intervention.[38] However, in a Labor Day speech in Detroit, he did not advert to the wage negotiations.[39] Shortly thereafter Chrysler Corporation made a settlement involving a 4.5 percent increase, soon followed by the other firms.[40] The President called the settlement generous, and hoped it would not set the pattern for contracts in other industries.[41] Conceding that the guidelines had been violated, he pointed out that the industry had also violated them by failing to cut prices despite an above average productivity gain. Thus, while the strong action against the steel companies had been justified by the steel union's noninflationary wage settlement, strong action against the automobile union was less justifiable in view of the automobile manufacturers' inflationary failure to reduce prices.

Against this background of administration acquiescence in 1964, the steel union began to press for higher wages, citing price increases by the steel companies.[42] Chairman Ackley of the Council found that the price changes were noninflationary [43] and the President praised industry cooperation with the Council, urging that there be no strike and that wage settlements be noninflationary.[44] A 3.2 percent increase was agreed upon, just on the guideline figure.[45] The large automobile union's wage increase in 1964 thus began to appear an exception, excused by the failure of the firms to cut prices and perhaps tolerated because of administration reluctance to alienate union members immediately before the election.

Other events in 1965 seemed to confirm the strength of the guidelines. Shortly after the steel settlement, certain leading aluminum companies instituted a price increase.[46] It was reported that President Johnson, "sputtering mad," called a meeting to discuss dumping government stockpiles on the market to increase the supply of aluminum and make the price increase infeasible.[47] Conferences were immediately held to discuss stockpile disposal, but it was denied that they were linked to the price increases.[48] When Alcoa Aluminum Company joined the other major firms in raising its prices,[49] the Government announced plans to release 200,000 tons from its stockpile, though connection with the price increases was again denied. Simultaneously, Chairman Ackley denounced the price increases as inflationary.[50] Two days later, the Government increased its threatened release to 300,000 tons and discussed selling 100,000 tons immediately.[51] The next day, Defense Secretary McNamara, who had led the stockpile conferences, announced rescission of the price increase and said that the Government would resume stockpile talks and perhaps release less than 200,000 tons over an extended period.[52] President Johnson praised the industry's public spirit in rescinding the price increases.[53]

At almost the same time, the Government was engaged in discussion with the copper companies of an 8 percent increase in copper prices. Secret conferences with industry leaders were reported,[54] and Secretary McNamara announced that 200,000 tons of copper from the "permanent stockpile" would be sold to fill requirements of companies engaged in defense production.[55] Even though an immediate effect was not expected, on release of the stockpile the copper companies lowered their prices.[56]

If it was not easy to control price increases in industry, the President soon found that it was also difficult to control the wages of government employees. President Johnson asked a 3 percent raise for civil servants, but Congress voted an even higher increase. The President called the bill "disastrous" to the guidelines,[57] and the figure was reduced to 3.6 percent, which the President was willing to accept.[58] This encounter suggests that the guidelines found their support in the executive branch, rather than in Congress.

The year 1966 began propitiously for the guidelines, with a noninflationary compromise reduction of a January 1 steel price increase after the President had apparently threatened use of defense contracts to discriminate against companies which raised prices.[59] However, the refusal of steel executives to announce price increases to the Council in advance, or to come to Washington to discuss the increases,[60] indicated that industry leaders were still unwilling to consider government interest in their pricing policies as legitimate. In some quarters the compromise was viewed as reflecting decreased administration insistence on maintenance of the guidelines.[61]

The International Association of Machinists began its 1966 airline wage negotiations by asserting that there would be no settlement within the 3.2 percent guideline.[62] A board formed by the President to avert a strike by negotiation immediately announced that it did not regard itself as bound by the guidelines,[63] and at length it recommended a 3.5 percent settlement.[64] When the union rejected the proposal and a strike later ensued,[65] the President was silent and his press secretary said that executive machinery was exhausted.[66] Former Chairman Heller announced his fear of a renewed wage-price spiral,[67] and legislation to permit forced termination of the strike was introduced in Congress. Passage was delayed by disagreement between the President and Congress, neither of which wished to bear the political onus of forcing striking workers back to work.[68] After White House conferences, the President announced a "noninflationary" settlement of over 3.5 percent.[69] The guidelines, it was felt, had been overturned. The union membership, however, voted to reject the agreement their leaders had made and the strike continued.[70] Two days later, the steel corporations began a broad price advance.[71] The President immediately attacked the price increase as irresponsible and inflationary, but the Administration's protests were weak, and Chairman Ackley admitted that the events of the airline wage settlement and the steel price increase constituted defeats for the guidelines.[72]

Experience with the guidelines has shown that, while no formal legal enforcement has been attempted, neither is their enforcement

One possible justification for the high airline wage settlement lies in the fact that by 1966 the economy was generally experiencing some degree of inflation. In these circumstances, unless industries subject to the guidelines are to experience a relative decline in income, the guideline figure must be adjusted upward. The Council has made no explicit adjustment of the guideline figure—perhaps because to do so would be to justify and even promote general inflation; but the failure to do so may be contributing to the program's difficulties in present economic conditions.

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[29] N.Y. Times, April 20, 1962, at 1, col. 1.
[30] Ross, *supra* note 3, at 123.
[31] N.Y. Times, May 11, 1963, at 28, col. 2.
[32] *Id.*, April 12, 1963, at 9, col. 4.
[33] *Id.*, April 20, 1963, at 10, col. 8.
[34] *Cf.* Ross, *supra* note 3, at 123.
[35] 1964 COUNCIL REPORT 119.
[36] N.Y. Times, March 19, 1964, at 44, col. 8.
[37] *Id.*, March 24, 1964, at 1, col. 1; *id.* at 19, col. 1
[38] *Id.*, July 11, 1964, at 6, col. 3.
[39] *Id.*, Sept. 8, 1964, at 34, col. 4.
[40] *Id.*, Sept. 10, 1964, at 1, col. 8; *id.*, Sept. 19, 1964, at 1, col. 4 (Ford); *id.*, Oct. 6, at 1, col. 5 (GM).
[41] *Id.*, Oct. 6, 1964, at 21, col. 5.
[42] *Id.*, Dec. 29, 1964, at 13, col. 1.
[43] *Id.*, Feb. 3, 1965, at 44, col. 3.
[44] *Id.*, Feb. 5, 1965, at 28, col. 1; *id.*, Sept. 5, 1965, at 46, col. 1.
[45] *Id.*, Sept. 10, 1965, at 1, col. 1. Conrad Cooper, a U.S. Steel executive, later claimed that the increase was 3.5%. *Id.*, Oct. 16, 1965, at 9, col. 2.
[46] *Id.*, Oct. 30, 1965, at 45, col. 1.
[47] *Id.*, Nov. 1, 1965, at 1, col. 1.
[48] *Id.*, Nov. 2, 1965, at 1, col. 6.
[49] *Id.*, Nov. 6, 1965, at 1, col. 8.
[50] *Id.*, Nov. 7, 1965, § 1, at 1, col. 8.
[51] *Id.*, Nov. 10, 1965, at 9, col. 8.
[52] *Id.*, Nov. 11, 1965, at 1, col. 1.
[53] *Id.*
[54] *Id.*, Nov. 17, 1965, at 65, col. 1.
[55] *Id.*, Nov. 18, 1965, at 1, col. 1.
[56] *Id.*, Nov. 21, 1965, § 3, at 1, col. 8. It has, in fact been suggested that the industry deliberately sought the confrontation in order to still demands from abroad for price increases.
[57] *Id.*, Aug. 26, 1965, at 14, col. 6.
[58] *Id.*, Oct. 31, 1965, § 1, at 40, col. 5.
[59] *Id.*, Jan. 6, 1966, at 1, col. 1.
[60] *Id.* at 31, col. 2.
[61] *Id.*, Jan. 9, 1966, § 3, at 1, col. 1.
[62] *Id.*, April 16, 1966, at 66, col. 1.
[63] *Id.*, May 7, 1966, at 13, col. 4.
[64] *Id.*, June 9, 1966, at 23, col. 1.
[65] *Id.*, July 9, 1966, at 1, col. 8.
[66] *Id.*, July 16, 1966, at 1, col. 6; *id.* at 50, col. 2.
[67] *Id.*, July 19, 1966, at 24, col. 2.
[68] *E.g.*, *id.*, July 26, 1966, at 1, col. 6.
[69] *Id.*, July 30, 1966, at 1, col. 8.
[70] *Id.*, Aug. 1, 1966, at 1, col. 8.
[71] *Id.*, Aug. 3, 1966, at 1, col. 8.
[72] *Id.*, Aug. 7, 1966, at 24, col. 1.

left entirely to public opinion or moral persuasion. Rather, the President has in some cases brought government force to bear in order to obtain compliance. Procurement policy, stockpile disposal, and by some accounts antitrust and tax enforcement policies have been used with varying degrees of success.

II. ADMINISTRATIVE DIFFICULTIES

Objections to the principles underlying the guidelines seem to have contributed to the failure of business and labor leaders to observe them voluntarily in important instances. As the program has ceased to be entirely voluntary, moreover, it has suffered from the inadequacies and inequalities of the available sanctions. A comparison with voluntary balance of payments programs suggests that these difficulties need not plague all informal government economic programs.

A. Basic objections

1. *To the principles.*—A government policy on wages and prices inevitably affects the distribution of income between wages and profits. Though the guideline program is not aimed at redistributing wealth, or even at maintaining the present distribution, it necessarily affects that distribution. The Council's reports have persistently contended that unions and management may agree to any division of income, so long as the result is noninflationary.[73] But a wage settlement above the guideline figure, explicitly accepted by management as to be paid out of profits and not to be recouped through higher prices, is difficult to imagine. Moreover, if management and labor in one industry agree to a higher wage increase than that contemplated by the guidelines, those higher wages will inevitably be reflected in increased union demands in other industries. Thus, any wage settlement above the guidelines is likely to be inflationary. The guidelines seem to enshrine the status quo and, by tying wages to productivity, operate against any union demand for higher wages for a given level of productivity. Workers, under the guidelines, can get more only as total national wealth increases; they may not increase their share of existing wealth. The guidelines thereby encroach indirectly on an important area previously left to private negotiation and, so far as they are effective, operate to stifle union demands.

Another reason for union rejection of the guidelines may be found in the special interests of union leaders. In the past, wage increases beyond productivity have apparently been offset by price increases, with the result that labor's share of the national income has remained stable.[74] The status of labor leaders may, however, be determined more by increases in apparent money wages than by real wage increases discounted for inflation. In addition, in an economy subject to inflation the exceptional case where real wage decreases are necessary due to falling industry profits or decreased industry demand for labor can be met simply by holding wages constant as the value of the dollar declines. While the same real change could be made in a noninflationary economy by decreasing wages, the direct wage decrease would probably be considerably less palatable to union members than the less visible erosion of their wages by inflation. The union leaders may thus have a vested interest in an inflationary situation in which wages need not be overtly decreased.

Since company income statements are never discounted for inflation, managers may have a similar interest in inflation, because it means high levels of apparent profits.[75] A more significant factor in limiting management acceptance of the guidelines, however, has probably been resistance on general ideological and social or political grounds to the concept of any government policy for control of wages and—especially—profits, reinforced by skepticism toward the economic theory on which the guidelines are based.

2. *To the application.*—Both unions and management may challenge the basic productivity figure which is central to the application of the guidelines.[76] The chief problems in determining productivity change are isolation of the long-term trend from the effects of short-swing business cycles and projection of the long-term trend into the future. In the 1962 and 1963 *Reports* the complexity of the problem was recognized and a range of figures for different time periods and different sectors of the economy was set forth. In 1964, however, a single figure was set as the guideline: 3.2 percent.[77] It was based on the average annual percentage change in output per man-hour during the latest five-year period. The single figure has the advantages of simplicity and an apparently sound economic basis though, as the 1962 *Report* implies, the statistics upon which it is based may be inadequate.[78] By 1966, however, the method of calculation would have yielded a 3.6 percent guidepost.[79] Since "nobody with any sense believes that the steady-state rate of increase of output per man-hour in the private economy is now 3.6 percent annually," [80] the Council chose to stay with the 3.2 percent figure, though the initial justification for it could no longer be cited. In view of its history, the figure appears to be arbitrary and is probably, at best, only a rough approximation. Criticism of it has been widespread,[81] and neither labor nor management is likely to defer voluntarily to a suspect figure.

The application of the guidelines to particular price and wage situations may be open to even more serious challenge. Where a product is changing rapidly, firms can claim that price increases represent improvements in the product. To dispute this claim, the Government would have to undertake a detailed study of productivity although statistics are not often available and reliable. It is notable that the Government has taken action primarily against undifferentiated, stable products, such as steel, copper, and aluminum. The application of the exceptions to the guideposts also involves many fine questions of fact, which the Council may not have sufficient staff to analyze.[82] As a result, the guidelines may be applied only to those cases in which the inapplicability of the exceptions is clear; but this may lead parties to believe that application is discriminatory, consequently increasing reluctance to comply voluntarily.

B. Inadequacy of sanctions

Since the guidelines were designed to be voluntary, no systematic scheme of sanctions for enforcement was devised. The sanctions that have been used or threatened have emerged haphazardly out of ad hoc improvisation. The inadequacies of the resulting enforcement pattern produce inequality among various industries and between management and labor. Thus, even a proponent of the guidelines acknowledged: [83] "In practice, one must admit, the guideposts will operate unevenly; relative prices and resource allocations may thus be affected. One can hope that these effects are second-order."

1. *Wages.*—While price roll-backs have sometimes been achieved as the result of government pressure, there are no effective sanctions which have been used to obtain compliance in the case of wage disputes.[84] This is evident in the automobile and airline settlements, where the unions began by announcing that the guidelines were to be ignored. No stockpiles, government contracts, or antitrust or tax suits are available for use in persuading unions, and the bare power of preachment—the only "sanction" the program admits—has proved inadequate. Even in the airline strike, where union leaders seemed convinced, the members were not persuaded and the strike went on. The President, for political reasons, may be reluctant to lecture the workers on their duties to the public interest, as indicated by his silence on the matter in his Detroit Labor Day speech during wage negotiations and the general tendency to use harsher language about uncooperative managements than about intransigent unions.[85] As a result, it is widely thought that the guidelines have had little if any effect upon wage bargaining.[86] The result of enforcing the guideposts against a company's price increase after its union had exceeded the guidepost would be a government-enforced redistribution of income in favor of the union. In fact, however, a failure of the guideposts on the wage side seems to lead to their breakdown on the price side, perhaps even spreading to other industries, as exemplified by the steel price increase after the airline wage settlement.

2. *Prices.*—Sanctions are not equally available to combat each price increase. The Government holds stockpiles of few goods, and contracts are not always available to grant to firms at a time when they are debating whether to follow a price increase. Further, if all members of an industry raise prices, an event which seemed narrowly averted in the steel episode of 1962, the contracting power would be of no avail since there would be no basis for discrimination unless goods were to be bought abroad, harming the balance of payments, or unless substitution of some other product were feasible. Nor is antitrust or tax harassment, if that is used, equally feasible in each instance, since there may be no colorable cause of action. Finally, there is the likelihood that sanctions will be more readily applied when the application of the guidelines themselves is relatively simple.

In addition, the guidelines require prices to move downward whenever an industry's productivity increase rate exceeds the national average. But sanctions have never been used to force prices downward, and

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[73] *E.g.*, 1962 COUNCIL REPORT 188; 1966 COUNCIL REPORT 91.

[74] *See* Table F–9, National Income by Distributive Shares, 1958 COUNCIL REPORT 126; 1966 COUNCIL REPORT 90.

[75] Profits, in an inflationary period, appear to grow in absolute terms and also as a percentage of assets, carried at deflated values, but not as a percentage of sales.

[76] *See e.g.*, Lecture by Roger Blough at New York University School of Commerce, Nov. 14, 1966; *cf.* Bliss, *Flaw in the Wage-Price Guideposts*, HARV. BUS. REV., May–June 1966, at 73; Friedman, *What Price Guideposts?*, in GUIDELINES 17.

[77] *Compare* 1962 COUNCIL REPORT 185–90 *with* 1964 COUNCIL REPORT 112–20.

[78] 1962 COUNCIL REPORT 185–86 (*semble*).

[79] 1966 COUNCIL REPORT 92.

[80] Solow, *The Case Against the Case Against the Guideposts*, in GUIDELINES 41, 53.

[81] *E.g.*, Bliss, *supra* note 76.

[82] Only two or three staff members work regularly on these problems. Testimony of Chairman Ackley, *Hearings on H.R. 11916 Before a Subcommittee of the Senate Committee on Government Operations*, 89th Cong., 2d Sess. 111 (1966) [hereinafter cited as *Hearings*].

[83] Solow, *supra* note 80, at 51.

[84] *Cf.* Dunlop, *Guideposts, Wages, and Collective Bargaining*, in GUIDELINES 81, 84.

[85] *E.g.*, *compare* N.Y. Times, Nov. 1, 1965, at 1, col. 1 (President Johnson "sputtering mad" at aluminum price increase) *with id.*, July 31, 1966, § 4, at 1 col. 1 (review of presidential inaction during airline strike).

[86] *E.g.*, Dunlop, *supra* note 84.

these changes do not occur voluntarily.[87] Since the guidelines allow price increases to the extent that productivity increases fall below the national rate, the absence of the corresponding price decreases when productivity is high means that there will be inflation. Moreover, firms whose productivity increase is equal to the national rate end up with the same zero price change as firms whose productivity increase is above the national rate, so that the guidelines work unfairly to the advantage of the second group.

Just as failure to control wage increases operates to weaken the price guidelines, failure as to prices may lead to violation of the wage guideline. After the automobile wage negotiations the President, justifying the high wage settlement, pointed out that though the companies had made above average productivity gains they had not lowered prices as the guideposts required.[88] Moreover, when that union was allowed a wage increase of more than 3.2 percent workers in other industries were encouraged in their demands for higher increases, violating the guidelines.

C. Balance of payments programs

On February 10, 1965, President Johnson announced new methods of reducing the balance of payments deficit in a speech to Congress.[89] Among these was a program administered by the Federal Reserve Board to "enroll the banking community in a major effort to limit their lending abroad," and another voluntary program administered by the Secretary of Commerce "to enlist the leaders of American business in a national campaign to limit their direct investments abroad, their deposits in foreign banks, and their holdings of foreign financial assets . . . ." Both the items to be affected by these programs were substantial factors in the balance of payments deficit.

The bank guidelines called for a limitation on lending based on each bank's previous foreign lending and, with some exceptions, they were to apply to all banks.[90] Monthly reports of foreign lending were requested and, when a bank exceeded its target, a meeting would be arranged to discuss methods of improvement; compliance usually followed.[91] The program administered by the Secretary of Commerce called for each of 600 businesses to set up its own balance of payments program, aiming at a 15 to 20 percent improvement, with quarterly reports to be submitted.[92] Participation under both programs has been good, and an initial improvement in the balance of payments took place in these items.[93]

The improvement might have taken place even without the programs, since the decreased demand for foreign loans stemming from the interest equalization tax, and the increased domestic interest rates and decreased availability of money in this country have made domestic loans relatively more attractive.[94] Also, much of the Commerce program's improvement has come from repatriation of short-term funds held abroad, a device which can be used only once. Thus, compliance with the programs was relatively easy for the banks and firms, and it is too early to determine the programs' long-term effectiveness.

Nevertheless, certain other factors may be suggested to explain the apparent initial effectiveness of these programs. First, there was relatively little objection to the principle of government control over foreign investment and business operations, in contrast to pronounced objections to government control of wages and prices. This may be due to the fact that foreign operations are of only peripheral importance to most banks and firms, and no question of the relative distribution of income was involved except that the expansion of new banks into foreign markets was prevented—a principal focus of criticism of the program.[95] Second, it was possible to administer the programs with more apparent fairness, partly because the balance of payments programs were less complicated; there were no problems such as the determinations of productivity or assessment of exceptional circumstances. In addition, the banks were few in number and already had close working relationships with the institution applying the guidelines. Though this was not true of the Commerce program, the affected firms were allowed to set up their own guidelines, and the program was more loosely run. In both programs the possible sanctions involved applied equally to all. Only two threats seem to have been used or implied: loss of the necessary good will of the Federal Reserve Board, and the possibility of legislation that would impose direct controls.[96] The latter threat seems particularly credible here, where foreign affairs are involved. Finally, even-handed administration was facilitated by the fact that in both situations the Government was dealing with only one interest group—the banks or the firms—though of course there were rivalries within the group. In the wage-price situation, on the other hand, the Government was trying to influence two groups; in addition to rivalries within each group, there were strong antagonisms between the groups, making general cooperation much more difficult to obtain.

Examination of the balance of payments programs suggests that a voluntary program accepted in principle, aimed at matters of peripheral importance to the volunteers, administered by an existing agency with close ties to the volunteers, and applied simply and without discrimination is likely to succeed. The wage-price guidelines may attempt too much with too remote an agency, too unwilling volunteers, and too uneven tools.

III. SOURCES OF AUTHORITY FOR THE PROGRAM

Sources of authority must be found first for promulgation of the guidelines and second for utilization of sanctions to obtain compliance with them. Third, assuming this authority, the scheme's conformance with the principles of due process must be considered. Finally, if there is no authority for the program or if the requirements of due process are not met, the question arises whether correction lies entirely in the hands of the administrators or whether affected persons may obtain legal remedies.

A. Authority for promulgation

The legal basis for the guidelines themselves appears to lie in the provision of the Employment Act of 1946 which established the Council of Economic Advisers. The Act asserts that it is the policy of the Government: [97]

"[T]o use all practicable means . . . with the assistance and cooperation of industry, agriculture, [and] labor . . . to coordinate and utilize all its plans, functions, and resources . . . to promote maximum employment, production, and purchasing power."

The following duties of the Council are relevant: [98]

"(1) to assist and advise the President in the preparation of the Economic Report . . . (4) to develop and recommend to the President national economic policies to foster and promote free competitive enterprise, to avoid economic fluctuations or to diminish the effects thereof, and to maintain employment, production, and purchasing power."

A major reason for the Council's formation was legislative fear of a postwar depression and recognition that the Government must use the facilities at its command to avoid such a result.[99] The views of those who dreaded government domination of the private sector were reflected by the inclusion of free enterprise as a goal of the Council.[100] The intent of the Act is thus to be found in a coalition of two often competing goals. There was general agreement, however, that it was to be the function of the Council to advise the President in the use of his existing discretion, so that the impact of his decisions would have a planned and beneficial, rather than random, effect on the economy.[101] This need for coordination of the many government policies affecting the economy was not new, and had been recognized at least since the 1931 proposal to establish a National Economic Council.[102] The rise and fall of the National Resources Planning Board and the transfer of the Bureau of the Budget from the Treasury to the Executive Office of the President were attempts to fulfill this planning function.[103] In the past, however, Presidents had relied on an informally organized group of economic advisers.[104] By institutionalizing this process, Congress may have hoped to place the function partly within its control by congressional determination of duties and salaries. At the same time, however, the Council was a recognition of Presidential leadership in formulating national economic policy.

In practice, the Council's function has been to analyze problems and recommend methods by which others may solve them.[105] It has an excellent vantage point for analysis—directly under the President—but no means

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[87] Testimony of Secretary of Labor Wirtz, *Hearings* 99.

[88] N.Y. Times, Sept. 13, 1964, at 51, col. 1. Imposition of the wage guideline in this situation would mean a government-enforced redistribution of income in favor of profits.

[89] Address to Congress by President Johnson, Feb. 10, 1965, in N.Y. Times, Feb. 11, 1965, at 56, col. 1.

[90] *Guidelines for Banks and Nonbank Financial Institutions*, 51 FED. RESERVE BULL. 371 (1965).

[91] Interview with Messrs. Robert Bolt and George Ricker of the First National Bank of Boston, August, 1966. (Their bank did not exceed the guidelines.)

[92] Letter from Secretary of Commerce Connor to 600 corporate executives, March 12, 1965.

[93] DEPARTMENT OF COMMERCE, 46 SURVEY OF CURRENT BUSINESS 16 (Jan. 1966); Letter from Secretary of Commerce Connor to 900 corporate executives, May 6, 1966. *But see* Johnson, *Balance-of-Payments Controls and Guidelines for Trade and Investment*, in GUIDELINES 165, 175–78; Meltzer, *The Regulation of Bank Credits Abroad: Another Failure for the Government's Balance-of-Payments Programs?*, in GUIDELINES 183. Both writers foresee a choice between failure of the programs and introduction of a greater element of compulsion.

[94] *Cf.* Meltzer, *supra* note 93, at 187–89.

[95] More liberal ceilings for banks with small totals of outstanding loans were established. 51 FED. RESERVE BULL. 1965 (1965).

[96] This possibility was discussed by Reserve Board Chairman Martin before the Subcommittee on International Finance of the Senate Banking and Currency Committee on March 10, 1965, 51 FED. RESERVE BULL. 402 (1965).

[97] 15 U.S.C. § 1021 (1964).

[98] 15 U.S.C. § 1023(c) (1964).

[99] E. FLASH, ECONOMIC ADVICE AND PRESIDENTIAL LEADERSHIP 8–9 (1965).

[100] *Id.*, at 10–11.

[101] *Id.* at 13.

[102] *Id.*

[103] *Id.*

[104] *See* Seligman, *Presidential Leadership: The Inner Circle and Institutionalization*, 18 J. OF POLITICS 410 (1956).

[105] E. FLASH, *supra* note 99, at 325.

save persuasion to implement its plans. Members of the Council have advised the President as to use of his discretion, recommended that he propose legislation, and testified before Congress.[106] The Council has emerged as a sort of personal staff for the President rather than an independent planning institution.[107] Its role, however, has given substance to the notion that there should be overall planning of the effect of government actions upon the economy and that it is the function of the President to do that planning. Of course, the President may act only where power has been delegated by Congress or can be derived from the Constitution. Also, the *Economic Report*, submitted to Congress, is subject to its criticisms and enabling or preventive legislation. But the President is the leader in that he seeks implementing legislation for his economic policies from Congress, rather than following congressional guidance as to what policy to pursue.

Considering the wage-price guidelines in this context, it is clear that the Council had congressional authority to promulgate them: that is, to analyze the change of productivity in the economy and determine what wage and price behavior would result in termination of the inflationary spiral. Further, the Council seems to have authority under the Act to recommend to the President that he coordinate his economic policies to conform to the guidelines and to urge business leaders to comply with them. But the Act provides no explicit authority to enforce the guidelines through any sanctions against deviating private parties.

B. Authority for sanctions

Aside from public and private exhortation by the President, the use or threat of two sanctions is generally thought to have been brought to bear on firms. These are sale of government stockpiles to increase supply and drive prices down, and use of discretion in government contracting policy to deprive firms which raise prices of government business. The Administration now appears to admit the use of these devices, though it refuses to characterize them as sanctions.[108] The use of two other persuasive tools has been alleged and denied: [109] antitrust prosecution and Internal Revenue Service investigation of price-raising firms. Whether or not these methods have been used, the fear that they might be used seems to exist.

1. Stockpiles.—Disposition of government stockpiles has proved the most effective of these methods. By releasing large quantities of a product into a market, the Government can make it difficult for producers to dispose of their output and thus force them to lower prices. By spreading the release of the product over a period of years, on the other hand, the impact on producers can be made much more tolerable to them. The impact of stockpile disposition on producers is not direct, as in a government tax or antitrust investigation or the grant or denial of a contract, but acts through market forces by increasing supply of the product relative to demand. Nevertheless, the effect on the companies is just as real in a practical sense, and the threat may be effective in convincing firms to forgo or rescind a price increase.

Three Congressmen have criticized the use of the stockpiles in this way as contrary to the intent of Congress in delegating the authority to acquire and dispose of the stockpiles.[110] The copper and aluminum in question was acquired under the Defense Production Act of 1950, which asserts in part: "To assist in carrying out the objectives of this Act the President may . . . purchase metals, minerals, and other materials, for Government use or resale . . . *Provided, however* . . . metals shall not be sold at less than . . . the current domestic market price . . . ." [111] Several indicators of congressional intent are present here. First, acquisition of stockpiles was intended only to further the purposes of the Act: that is, facilitation of defense production for the Korean crisis. Second, the provision forbidding sale under market price may be taken as an effort to prevent indirect government subsidy of purchasers. Finally, since the Act included sections establishing direct wage and price controls,[112] the provision here may have been intended to indicate that those controls, and not stockpile sales, should be the means of influencing price. However, the Government could exert pressure by sale of large quantities at current prices and so any intent to protect producers could be overcome without violating the terms of the statute. In any case, there is no affirmative indication that Congress intended the stockpile to be used for price control, and there is an explicit statement of another congressional purpose.

In 1953, the President was authorized to transfer the materials so acquired to the national stockpile,[113] governed by an act of 1939. The purposes of that act were set out as follows:[114]

"The natural resources of the United States in certain strategic and critical materials being deficient . . . it is the policy of the Congress . . . to provide for the acquisition and retention of stocks of these materials . . . and thereby decrease and prevent wherever possible a dangerous and costly dependence of the United States upon foreign nations . . . ."

The stockpiles could be disposed of after a procedure requiring congressional approval, or "on order of the President at any time when in his judgment such release is required for purposes of the common defense . . . ." [115] It thus seems that both in allowing acquisition of the metals and in providing for their transfer to the national stockpile, Congress intended that they be used only in connection with national defense, and not for price control. It is arguable that maintenance of low prices for aluminum and copper facilities defense production by making such production less costly, but Congress seems concerned with the availability of supplies and not their costs, and in any case the Government did not rest its action upon this explanation but denied any connection between price increases and stockpile release. It is possible that the stockpile release was in fact intended not to force price reductions but rather to relieve the shortage of which the price increases were symptomatic. However, in view of the decision to slow the stockpile release when prices were lowered, this seems most unlikely. Furthermore, higher prices would elicit greater production and result in increased availability of the metal, and so the Government's action would tend to defeat one of the objectives of the Act, encouragement of the development of resources. The Attorney General found on an earlier occasion that in view of the legislative history of the stockpile statute the President was authorized to release stockpile materials only for purposes connected with the common defense, and therefore a release solely on economic grounds of stockpile diamonds in exchange for industrial diamonds was not permitted by statute.[116] This official recognition of the limited purpose of the stockpile statute suggests that the Government's reluctance to admit to a connection between stockpile and price policy stems from its consciousness that use of stockpile sales as a sanction is not within the congressional purpose.

2. Contracts.—The Government may act like any other buyer in the market and simply award contracts to firms which have not raised prices. Certainly, where supplies are obtained at the lowest possible cost there can be no complaint. Even when the Government begins placing large orders with firms which have not yet followed a price increase, altering the timing of its purchases to do so, there appears to be no abuse of discretion: it is desirable to make the purchases before all firms raise their rates, and if this has the anti-inflationary effect of causing the leaders to rescind their price increases, so much the better. Similarly, a price change may justify attempts to find substitutes for the product.

It is possible, however, that stronger use could be made of the contracting power. A firm submitting the lowest bid to the Government could be denied a contract if it had raised prices to private purchasers; an entire industry could be discriminated against in this way in favor of some substitute product. Or, where all members of an industry but one or two holdouts have raised prices, the holdouts could be approached privately and told that they are in a pivotal position, with the power to force other companies to rescind their increases by refusing to follow the price changes. It could then be suggested that if they do not follow the increase they will be favored in government contracts, but if they do they will not be considered for such contracts though their prices to private buyers are the same as those of other companies and their bids to the Government are low. The same pressures could be applied to one or two firms which have already raised prices in order to force them to rescind the increases. On a more formal level, the President could, by executive order, insert a clause in government contracts requiring compliance with the guidelines, and specifying loss of the contract or disablement from bidding for future government contracts as a penalty. The possibility of such actions may be suggested by the publicity with which the Government has surrounded its contract decisions in certain guideline disputes. That the Government will act like any rational purchaser, one would expect, would be taken for granted. Public emphasis on government contracting may constitute a veiled threat that procurement policy will be used in extraordinary ways.

Such actions are conceivable in light of past use of the contracting power to attain broad policy objectives. Since 1809 a statute has provided that congressional appropriations be used only for the purpose for which they were made,[117] and the Comptroller General has continued to give effect to the statute through recent years.[118] However, Theodore Roosevelt used the contracting power to implement his policy against convict labor; [119] Herbert Hoover used it to assure payment of prevailing wages in government projects; [120] and Franklin Roosevelt used it against the practice of paying contingent

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[106] *Id. at* 313–19.

[107] *Id.* at 308–25.

[108] Ackley, *The Contribution of Guidelines*, in GUIDELINES 73–75.

[109] N.Y. Times, April 20, 1962, at 1, col. 1 (protest of Republican leaders); Ackley, *supra* note 108, at 74.

[110] Letter from Reps. Curtis, Widnall, and Ellsworth to Rep. Wright Patman, Chairman, Joint Economic Committee, Dec. 1, 1965. Their criticism goes in general to the constitutionality of the guideline program. Letter to *Harvard Law Review*, Oct. 13, 1966.

[111] 50 U.S.C. App. § 2093(a) (1964).

[112] *E.g.*, ch. 932, tit. IV, § 402, 64 Stat. 803 (1950).

[113] 50 U.S.C. App. § 2093(f) (1964).

[114] 50 U.S.C. § 98 (1964).

[115] 50 U.S.C. § 98(d) (1964).

[116] Letter to Arthur S. Fleming, April 27, 1954, 41 OPS. ATT'Y GEN. 174 (1963).

[117] 31 U.S.C. § 628 (1964).

[118] *E.g.*, Letter to the Secretary of Defense, July 2, 1962, 42 DECS. COMP. GEN. 1 (1964).

[119] Exec. Order No. 325A, May 18, 1905.

[120] Exec. Order No. 5778, Jan. 19, 1932.

fees for obtaining extra-contractual relief.[121] The most recent and pervasive use has been in implementing nondiscrimination policy in private employment. Since 1941 a clause requiring equal employment hiring practices has been required by executive order in government contracts,[122] and in 1961 this clause was fortified by provisions allowing cancellation of the contract or debarment from receiving future government contracts if a firm failed to comply.[123] The 1941 executive order vaguely claimed constitutional and statutory authority, citing the defense production effort. But now the national emergency is past, and even were it not, the rationalization for the clause in terms of full utilization of all national manpower seems weak.[124] The clause, however, remains, unsanctioned by any explicit congressional authorization, yet approved by the Comptroller General.[125] Congress, of course, has the power to insert clauses in government contracts, though this power may not be used for unconstitutional ends.[126] But the President, it seems, customarily exercises the power as well, even in the absence of congressional delegation of authority. Thus, the use of the contracting power to enforce the wage-price guidlines would not be unprecedented, though not based on specific authority.

3. Antitrust and tax statutes.—Use of the power to enforce the Tax Code and antitrust statutes in order to obtain compliance with the guidelines presents a somewhat different set of questions. If a price increase involves illegal collusion in fixing prices, an antitrust suit is entirely in order. Likewise, if companies are not paying all their taxes, it is entirely proper to prosecute them for it, whether or not they comply with the guidelines. But the antitrust and income tax laws which the executive is charged with enforcing are most complex, and careful scrutiny of the affairs of any large corporation will probably reveal some colorable cause of action. Companies which do not comply with the guidelines may be subjected to more careful scrutiny, and may be more readily prosecuted on tenuous grounds than other firms. While there will be no final sanction in a case unless the defendent is guilty of some unlawful conduct, the accused will be subjected to the expenses and inconvenience of defense even if eventually found innocent, or though guilty it may be the only one of the violating firms to be prosecuted. Thus, the law could be used for harassment, or to put a firm at a competitive disadvantage by forcing it to adhere to the law while others continue to violate it. As in the case of stockpile and contract powers, the statutory provisions would be used to reach ends not contemplated by Congress.

4. Implicit Delegation.—Even if no specific delegation of congressional authority can be found for utilization of sanctions to obtain compliance with the guideline program, the following argument could be made. When Congress set up the Council of Economic Advisers, it declared its intent that the impact of all of the Government's activity affecting the economy should be planned to have the most beneficial results. To that end, Congress delegated to the Council the authority to draw up such plans and submit them to the President for his approval. However, this authority would be bootless if the plan could not be implemented. Congress could not have so intended. Thus, it is the duty of the President and every administrative agency to consider the objectives of the plan in exercising their discretion. Compliance with the guidelines then becomes a proper consideration in stockpile and procurement policy, and in tax and antitrust enforcement.

There are several difficulties with this reasoning. First, it is doubtful that Congress intended to make the Council, subject to the President's consent, the head planning agency for all government action affecting the economy. Rather, as the performance of the agency seems to show, it was intended as a high-placed lookout, a supplier of information and advice, but on a level coordinate with or even inferior to other agencies as to the decision whether its plans should actually be implemented.[127] Second, even if such broad planning powers were intended, they were probably meant to extend only to actions of the Government in the first instance, such as the balance of the budget, not government actions which are reactions to private decisions and are designed to influence them directly. The language of the act is too mild to support a contention that the Council is meant to be head planner not only for the Government but for the private sector to the extent that the great economic power of the Government can enforce compliance. Such vast authority should not be indirectly inferred. Third, if Congress did intend to establish a powerful new planning agency, one would expect to find more detailed instructions as to its power, standards, and procedures. Indeed, such detail may be constitutionally required; the *Schechter Poultry* case[128] struck down a roving commission to the executive (the NRA) hardly more wide-open than the one resulting from this implicit delegation argument.

5. Inherent presidential power.—If Congress has neither directly nor indirectly delegated authority to use the sanctions, that authority might still be derived by the President directly from the Constitution. The executive powers vested in the President under Article II are not clearly defined, and their scope has been a question of considerable controversy.[129] Judicial decisions on matters of price and wage control provide little basis for the construction of a presidential regulatory power. The limits of this governmental power were blocked out in a series of cases dealing with state legislative schemes, based on the police power and limited by the fourteenth amendment.[130] The state power has been largely superseded by the federal power to regulate wages and prices,[131] based on the commerce clause and the war power, and limited by fifth amendment due process. In all of these cases, however, there is no indication that this is anything but a legislative function. Of course, there may be a concurrent executive power which has been dormant. The existence of such a power was suggested after World War II, in the face of serious inflation, but it was denominated an "emergency power" which could be exercised to save the country from disaster but could not be used after Congress had an opportunity to legislate.[132]

Courts, however, have historically been deferential to the President's own interpretation of the scope of his powers.[133] The most notable recent exception is *Youngstown Sheet & Tube Co. v. Sawyer*[134] in which it was held, during the Korean conflict, that the President was without authority to seize and operate steel mills threatened by a strike. But even as to the actions of administrative bodies in which the President has taken a part, the courts have often shown great deference in exercising judicial review.[135] Presidents themselves have therefore been the chief architects of the theories of their own powers. The stewardship theory, developed by Theodore Roosevelt[136] and attacked by Taft,[137] holds that the President's role is vague and undefined and that hence the President is at liberty to act whenever the public interest requires. This stewardship or emergency or residual power theory has gained increasing currency.[138]

Even under the most expansive view of the Presidency, however, assertions of inherent presidential power should be subject to certain limiting criteria. First, an assertion of presidential power seems more acceptable if the executive branch is better equipped than the legislative to deal with the problem. This may be caused by the relative flexibility of the executive in regulating a new and unfamiliar area. If the justification for a program is the need for experimentation, however, after a few years the program should either receive a congressional blessing or be abandoned; the guideline program is probably past the experimental stage. Another reason for executive rather than legislative action as to guidelines may lie in the Administration's belief that congressional action was not politically feasible. As a justification for executive action without delegated authority, however, this is less appealing; and it may be undermined by the fact that the Administration has discouraged proposed legislation.[139]

Second, presidential power absent congressional delegation may be more acceptable when it operates indirectly against great social organizations rather than against more defenseless individuals. The sanctions connected with the guidelines have all been directed against giant corporations of enormous power, which might reach even into the Congress and so contribute to the difficulty of obtaining congressional action. The use of stockpiles and contracts is also a more or less indirect form of pressure: the former operates through the market, while the latter involves only the denial of what may be regarded as privileges, though some firms may need these "privileges" to exist. Antitrust and tax enforcement, on the other hand, involve direct sanctions, perhaps even prison. The assertion of presidential power to utilize these laws for unauthorized ends may therefore be particularly undesirable. Judge Friendly, among others, has argued that in these areas the President should be limited to very broad statements of policy, leaving the enforcement agencies to exercise the power delegated by Congress in accord with the purposes of the delegation.[140]

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[121] Exec. Order, 6 Fed. Reg. 6787 (1941).

[122] 6 Fed. Reg. 3109 (1941).

[123] 26 Fed. Reg. 1977 (1961). *See generally* Speck, *Enforcement of Nondiscrimination Requirements for Government Contract Work*, 63, COLUM. L. REV. 243 (1963).

[124] A better rationalization can be made out for the use of the contracting power to enforce the guidelines on the theory that overall price stability serves the end of government procurement at low cost.

[125] Letter to Architect of the Capitol, April 21, 1961, 40 DECS. COMP. GEN. 592 (1961).

[126] *See* Speck, *supra* note 123, at 244–247.

[127] E. FLASH, *supra* note 99, at 319–25.

[128] A.L.A. Schechter Poultry Corp. v. United States, 295 U.S. 495 (1935).

[129] *See* E. CORWIN, THE PRESIDENT, OFFICE AND POWERS 1787–1957, at 3–5 (4th ed. 1957).

[130] *Compare* Munn. v. Illinois, 94 U.S. 113 (1877), *with* Nebbia v. New York, 291 U.S. 502 (1934).

[131] Kurland, *Guidelines and the Constitution*, in GUIDELINES 209, 217–18.

[132] Glasser, *Constitutional Power of the President To Control Inflation Without Statutory Authority*, 1 RUTGERS L. REV. 179 (1947).

[133] *See, e.g.*, Mississippi v. Johnson, 71 U.S. (4 Wall.) 475 (1867).

[134] 343 U.S. 579 (1952).

[135] *See generally* Hochman, *Judicial Review of Administrative Processes in Which the President Participates*, 74 HARV. L. REV. 684 (1961).

[136] *See* T. ROOSEVELT, AUTOBIOGRAPHY 362–65 (1927).

[137] W. H. TAFT, OUR CHIEF MAGISTRATE AND HIS POWERS 139–40 (1916).

[138] *See generally* J. M. BURNS, PRESIDENTIAL GOVERNMENT (1965).

[139] *See* p. 647 *infra*.

[140] Friendly, *The Federal Administrative Agencies: The Need for Better Definition of Standards*, 75 HARV. L. REV. 1263, 1298–1308 (1962).

Third, an assertion of presidential power seems more acceptable when the need for action is very clear and great. For example, the foreign affairs power has been broadly construed.[141] In this regard assertion of power to enforce the guidelines may be questionable. Some argued that there was no need for action at all; but even those who favored action could hardly have described the need as overwhelming.

Finally, the assertion of power to use congressionally delegated authority for ends other than those intended by Congress, which is what enforcement of the guidelines involves, may be particularly objectionable. When a President asserts power to seize the steel mills, for example, he does so openly; the public and Congress are faced squarely with a situation to which they may react. But a President may divert existing delegations to unauthorized courses while appearing to continue to act under congressional authorization; the public may have difficulty understanding exactly what is happening.

C. Due process

As discussed above, all of the determinations necessary to the application of the guidelines are made by the Council alone. There is no provision for a hearing at any stage of the Council's activity.

The constitutional right to such a hearing depends on two factors. First, it extends only to "adjudicative" and not to "legislative" facts.[142] The distinction turns on whether the process is one of application or formulation of a rule. On this basis, the determination of the national productivity rate might be a matter of legislative fact while the determination of the productivity rate of a particular industry or the decision whether an exception applied would—as individualized factfinding [143]—be a matter of "adjudicative fact." Second, the right to a hearing depends upon the parties' having a "sufficient interest" in the Government's action,[144] a test even less clear than that of "adjudicative fact." As to use of stockpiles it might be held that the firms have no "right" to a market free from the impact of government sales, or that the interest is too widespread to call for a hearing.[145] Government contracting has traditionally been deemed a matter of "privilege" rather than of "right," but even privileges may call forth constitutional protection in some cases.[146] Courts have sometimes acknowledged a legal right to be free from damage to reputation, at least when the damage is in conjunction with denial of a privilege.[147] This may be particularly relevant in the guideline situation where the force of public opinion is deliberately called into play.

Due process may also require that an affected firm have the opportunity to demand judicial review of the Government's action, though this is clearly required only when the Government levies upon the property or person of the affected party.[148] It is extremely difficult, however, to bring doctrines of due process to bear upon a program as informal and nominally voluntary as this. There is no formal administrative action, such as a finding that the guidelines have been violated and an order of a sanction, which the court can review.

D. Remedies

In light of the questionable legal basis for the program's sanctions, and their arguable failure to meet the requirements of due process, the question arises why the program has not been challenged in court. The answer may be found in the threshold question of standing to sue. The traditional prerequisites of standing are that there be an invasion of a legal right and direct and personal injury, in contrast with a wrong born "in common with people generally." Thus, a taxpayer whose funds purchased the stockpile or will pay the contractor has no standing to sue.[149] Were a declaratory judgment or injunctive action brought by an affected party to challenge the President's authority to dispose of stockpiles as he sees fit, standing to sue could be denied on the ground that the disappointed firm has no legal right to be unaffected by the Government's disposal of its property. Or, standing to sue might be denied on the ground that plaintiff suffers from the Government's disposition of stockpiles in common with similar firms. Nor might the low bidder denied a government contract have standing, since no legal right has been invaded: it has been held that receipt of a government contract is not a right but a privilege, and so there is no cause of action for its denial.[150]

The landmark case denying standing to sue where plaintiff is only one of an affected group is *Perkins v. Lukens Steel Co.*,[151] arising under the Walsh-Healey Public Contracts Act.[152] That Act provided for debarment (blacklisting) of government contractors who failed to pay the minimum wage as set by the Secretary of Labor. Plaintiffs challenged the minimum wage, but were found to have no standing to sue. Though if construed in its narrowest sense the decision denied recovery only because plaintiffs sued for the whole industry and not merely for themselves, a fair reading of the decision reveals a great reluctance to allow private parties to challenge administrative rules where judicial review is not provided by statute. Congress deliberately overruled the decision as to the Act under which it arose,[153] but the doctrine has remained strong in other situations [154] and has been held not affected by the Administrative Procedure Act.[155] Some cases, however, have cast doubt on the decision,[156] and it has been widely criticized.[157] In *Copper Plumbing & Heating Co. v. Campbell*,[158] the court, reading *Perkins* narrowly, allowed suit where plaintiff was debarred for willful violations of the Eight Hour Law [159] requiring payment of overtime in government contracts. The court distinguished *Perkins* on the ground that there the determination would apply to the whole industry, while here the effect of the debarment would be on plaintiff alone. While plaintiff had no right to receive government contracts, it did have a right not to be unreasonably denied opportunity to seek the contracts in competitive bidding. If this, rather than the broader view of *Perkins*, were to be applied to the guideline situation, a disappointed low bidder for a government contract apparently would have standing to sue. However, there would still be no standing in companies affected by release of government stockpiles.

The question of relief is somewhat different when antitrust or tax prosecutions are used selectively to enforce guideline policy. The essence of the firm's complaint is that it is being singled out for prosecution because of noncompliance with the guidelines, while those whose conduct is the same have been left undisturbed. The issue would be raised in defense, presumably as part of a plea alleging there is no violation or, if there be a violation, then prosecution is discriminatory and constitutes an abuse of administrative discretion or a denial of due process.

In *Moog Industries, Inc. v. FTC* the Supreme Court sustained FTC orders which, respondents claimed, would force them out of business by putting violating competitors at a great competitive advantage vis-á-vis the law abiding respondents. Relying on the "expert understanding of the Commission," the Court left enforcement policy to the agency, which can prosecute violators in any order or combination absent "patent abuse of discretion." [160] This position could be defended on the ground that complete enforcement would often mean no enforcement at all. In *Universal-Rundle Corp., v. FTC*,[161] however, the Seventh Circuit over-ruled an FTC denial of a petition for stay of further proceedings against petitioner to give the FTC time to investigate and take action against petitioner's competitors, whose conduct was similar. *Universal-Rundle* suggests a broadened definition of "abuse of discretion" possibly sufficient to encompass tax or antitrust prosecution of a company because it led a price increase.[162] The defense would be stronger than that in *Moog* or *Universal-Rundle* since in those cases the enforcement was simply arbitrary, apparently due to lack of funds for wider prosecutions, while in a price guideline situation it would be systematically discriminatory, on a basis not sanctioned in the antitrust or tax law. The importance of this distinction is emphasized in the criminal cases. There, discriminatory enforcement may result in acquittals even where it is established that the acts charged have been committed and constitute a violation of statute. Though there is broad discretion in determining enforcement policy, the proper policy seems to be that any systematic classification must be related to the purposes of the criminal law.[163] A company which be-

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[141] *E.g.*, United States v. Curtiss-Wright Export Corp., 299 U.S. 304 (1936).

[142] *Compare* Londoner v. City & County of Denver, 210 U.S. 373 (1908) (hearing required), *with* Bi-Metallic Inv. Co. v. State Bd. of Equalization, 239 U.S. 441 (1915).

[143] *Cf.* Gonzales v. United States, 348 U.S. 407, 413 (1955).

[144] *Cf.* Bi-Metallic Inv. Co. v. State Bd. of Equalization, 239 U.S. 441 (1915).

[145] *Cf.* Perkins v. Lukens Steel Co., 310 U.S. 113 (1940), discussed p. 645, *infra*.

[146] Slochower v. Board of Higher Educ., 350 U.S. 551 (1956) (no discrimination in public employment).

[147] Wieman v. Updegraff, 344 U.S. 183 (1952) (state loyalty test for state employees unconstitutional).

[148] L. JAFFE, JUDICIAL CONTROL OF ADMINISTRATIVE ACTION 381-89 (1965). *But cf. id.* at 413.

[149] *See* Alabama Power Co. v. Ickes, 302 U.S. 464, 478 (1938). *But cf.* Doremus v. Board of Educ., 342 U.S. 429, 433–34 (1952) (dictum that municipal taxpayer may have standing).

[150] *E.g.*, Wooldridge Mfg. Co. v. United States, 235 F.2d 513 (D.C. Cir.) *cert. denied*, 351 U.S. 989 (1956) (no standing to prove negligent lack of standards to judge bids); Fulton Iron Co. v. Larson, 171 F.2d 994 (D.C. Cir. 1948), *cert. denied*, 336 U.S. 903 (1949) (no standing to prove fraudulent rejection of bid).

[151] 310 U.S. 113 (1940). *See generally* Comment, *The Blacklisted Contractor and the Question of Standing To Sue*, 56 Nw. U.L. REV. 811 (1962).

[152] 41 U.S.C. §§ 35–45 (1964).

[153] 41 U.S.C. § 43a(c) (1964); CONGRESSIONAL RECORD, vol. 98, pt. 5, pp. 6529–6531.

[154] *E.g.*, Friend v. Lee, 221 F.2d 96 (D.C. Cir. 1955) (no standing to prove lack of advertising for bids).

[155] *E.g.*, Gart v. Cole, 263 F.2d 244, 250 (2d Cir.), *cert. denied*, 359 U.S. 978 (1959); *see* Comment, *supra* note 151, at 818–19.

[156] *E.g.*, Gonzalez v. Freeman, 334 F.2d 570 (D.C. Cir. 1964).

[157] *E.g.*, L. JAFFE, *supra* note 148, at 370–71 (1965).

[158] 290 F.2d 368 (D.C. Cir. 1961).

[159] 40 U.S.C. §§ 327–32 (1964).

[160] 355 U.S. 411, 413, 414 (1958).

[161] F. 2d 831 (7th Cir. 1965), *cert. granted*, 35 U.S.L.W. 3124 (U.S. April 15, 1966) (No. 1222).

[162] However, a narrow reading of *Universal-Rundle* would limit the holding to situations where the small number of competitors makes the discriminatory prosecution especially harmful.

[163] *See* Comment, *The Right to Nondiscriminatory Enforcement of State Penal Laws*, 61 COLUM. L. REV. 1103 (1961).

lieves it has been attacked by antitrust or tax action because it has raised prices should be able to obtain an explanation of the grounds of the enforcement policy.[164] If the court is convinced that the policy is unrelated to tax or antitrust aims, the proceeding should be halted.

IV. CONCLUSIONS AND ALTERNATIVES

The guidelines represent an attempt to establish new relationships among business, labor, and Government. Based on the theory that discretionary private decisions have led to undesirable inflationary results, and assuming that executives and labor leaders have a duty to the public interest as well as to their more immediate economic constituents, the program originally sought to prescribe correct decisions in the hope that they would be made voluntarily or under the pressure of public opinion. In some cases, however, when the guidelines have not been observed, sanctions have been threatened or imposed. Thus, a system of informal legislation, enforced by executive action in important cases, has arisen within the executive branch. The obstacles confronting a private party wishing to challenge this system are formidable, especially since the power of the President is directly involved.

The program may be changed at the instigation of Congress. Congressman Reuss introduced a bill providing for congressional enactment of guidelines and congressional hearings on alleged violations.[165] Congressman Celler introduced a bill providing for notification of price increases to the Government sixty days before they become effective. This requirement would apply to strategic and presidentially selected industries in which the four largest companies accounted for 75 percent of all sales.[166] Establishment of an agency with sufficient staff [167] to analyze and negotiate separately with each industry (only two men do guidepost work on the Council staff, and they have other duties as well) has also been suggested.[168]

Representative Reuss has stated the common objective of all of these schemes: "[W]e wanted to institutionalize a bit the application of these wage-price guideposts." [169] Institutionalization would presumably make the guideposts more effective, more firmly founded in statutory authority, and more evenhanded in application. The Council, however, does not want the program made stronger, and business leaders do not want it made more formal.[170] The reason appears to be that both sides fear the imposition of direct controls in certain industries which would turn them into species of regulated utilities. The Council believes that even in oligopolistic industries competition is a sufficiently viable force to be preferable to bureaucratic control.[171] It is not difficult, however, to imagine utility type regulation growing out of the proposal for advance notice of price increases. If firms give notice of price increases and confer with the Council which disapproves and then the firms go ahead and raise prices, they will seem to be in open defiance of the Government, and stronger proposals will seem acceptable to Congress. A process of escalation of compulsion could ensue which would lead to direct controls over prices and then wages.

If the present guideline program is not to be strengthened or otherwise authorized by Congress, however, the guidelines should probably be made what they originally purported to be—purely voluntary, with no threat of sanctions even in important cases. The President could still indicate disapproval of violations, but attempts to enforce the guidelines through sanctions should be abandoned. The sanctions available are, in any case, inadequate and unequal. Their abandonment would eliminate any abuse of delegated powers or violation of due process.

[164] *Cf.* FTC v. Mary Carter Paint Co., 382 U.S. 46, 53 (1965) (Harlan, J., dissenting); Melody Music, Inc. v. FCC, 345 F. 2d 730 (D.C. Cir. 1965).

[165] H.R. 11916, 89th Cong., 2d Sess (1966).

[166] H.R. 11870, 89th Cong., 2d Sess. (1966).

[167] *See* note 82 *supra*.

[168] *See* Dunlop, *Guideposts, Wages and Collective Bargaining*, in GUIDELINES 81, 92–96.

[169] *Hearings* 102.

[170] *See, e.g.*, Prepared Remarks of Chairman Ackley, *Hearings* 57, 67–68; interviews with interested executives, November, 1966.

[171] *See* Prepared Remarks of Chairman Ackley, *Hearings* 57, 60.

DEATH OF FORMER SECRETARY OF THE TREASURY HENRY MORGENTHAU, JR.

Mr. JAVITS. Mr. President, I call to the Senate's attention the death of Henry Morgenthau, Jr., who was Secretary of the Treasury of our Nation from the days of the depression through World War II. He died on Monday, February 6, in Poughkeepsie, N.Y. Mr. Morgenthau was one of the most distinguished citizens of my State of New York, and served as Secretary of the Treasury under both President Roosevelt and President Truman. Only Albert Gallatin held the post longer than Mr. Morgenthau.

Mr. Morgenthau was a neighbor of Mr. Roosevelt at Hyde Park. He had a distinguished career.

One of his survivors is Mr. Robert Morgenthau, who is now U.S. attorney for the southern district of New York.

I ask unanimous consent that an article from the Washington Post of February 7, as well as an editorial from the Washington Post of today, February 8, on the death of Mr. Morgenthau, be printed at this point in the RECORD.

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

[From the Washington Post, Feb. 7, 1967]

HENRY MORGENTHAU, EX-TREASURY HEAD, DIES

Henry Morgenthau Jr., who as Secretary of the Treasury shaped the Nation's financial policy from the Depression to the closing days of World War II, died last night in Vassar Brothers Hospital in Poughkeepsie, N.Y.

Mr. Morgenthau, 78, served as Secretary of the Treasury under Presidents Roosevelt and Truman. Only Albert Gallatin held the post longer than Mr. Morgenthau's 11 years, from 1934 to 1945.

Mr. Morgenthau shouldered the job of fighting the Depression and financing the costliest war in history after earlier rejecting the business world of his father for farming which he preferred.

NEIGHBOR OF ROOSEVELT

While Mr. Morgenthau was working his farm at Fishkill, N.Y., he became close friends with a neighbor who lived 20 miles away—Franklin D. Roosevelt.

Mr. Morgenthau became Roosevelt's campaign business manager in 1928 when Roosevelt was running for governor of New York.

Upon Roosevelt's election, Mr. Morgenthau became chairman of the new governor's Agricultural Advisory Committee.

In March, 1933, after Roosevelt had won election as President, he called on "my favorite farmer" to go to Washington to run the Federal Farm Bureau.

At the time, the Bureau was in chaos, coping with foreclosures of Depression-ridden farms throughout the country.

Mr. Morgenthau accepted and merged scattered farm agencies into the Farm Credit Administration, of which he became the first chairman.

In the post he supervised the handling of a $2-billion Farm Mortgage Relief Fund in addition to $2 billion in outstanding loans to farmers.

When, in 1933, the health of the then Secretary of the Treasury, William E. Woodin, began to fail, Roosevelt began looking for a successor to his first Treasury secretary. He didn't have to look long. In November, 1963, he moved Mr. Morgenthau to the Treasury Department to become Under Secretary. On Jan. 1, 1934, he was sworn in as Secretary.

Mr. Morgenthau was only 43 years old at the time. He brought youth and vitality to the job and had a tremendous capacity for hard work.

He exhibited a determined ability to carry out the fiscal policies of Roosevelt, "the chief." His first move as Secretary was to reorganize the Department. He then supervised the carrying out of such far-reaching financial innovations as reduction of the gold content of the dollar and the silver purchase program.

RESIGNED IN 1945

Less than two months after Roosevelt's death in 1945, Mr. Morgenthau resigned. President Truman praised his work, but did not disclose the story behind the resignation until a decade later in his memoirs.

Truman said he accepted the Secretary's resignation on the spot after refusing to take him to the Potsdam conference of U.S., British, French and Russian leaders soon after Germany's surrender.

Truman related that Mr. Morgenthau asked to go along, but the President told him he was "badly needed in the United States—much more so than in Potsdam," adding:

"He replied that it was necessary for him to go and that if he could not, he would have to quit. 'All right,' I replied, 'if that is the way you feel, I'll accept your resignation right now.' And I did. That was the end of the conversation and the end of the Morgenthau Plan."

Toward the end of World War II Mr. Morgenthau had outlined a controversial proposal for a hard peace for Germany. Among other things, the "Morgenthau Plan" called for a de-industrialization of the prostrate country and its development as an agricultural community. His ideas were published in a book, "Germany Is Our Problem."

Born in New York City May 11, 1891, Mr. Morgenthau received his early education in the city's public schools. His father was a philanthropist who became prominent in public life as President Woodrow Wilson's Ambassador to Turkey.

Mr. Morgenthau and Elinor Fatman were married in 1916 and became the parents of three children—Henry, Robert and Joan. Mrs. Morgenthau died in 1949, and in 1951 he married Mrs. Marcelle Puthon Hirsch.

Of the children, Robert is now U.S. Attorney for the Southern District of New York, headquartered in Manhattan; Henry III lives in Cambridge, Mass., and Joan is Mrs. Fred Hirschorn Jr. of Old Greenwich, Conn.

[From the Washington Post, Feb. 8, 1967]

HENRY MORGENTHAU, JR.

The death of Henry Morgenthau Jr., who served as Secretary of the Treasury from 1934 until 1945, severs another link with a turbulent period of American history, the economic crisis of the 1930s, the struggle for recovery under the Roosevelt administrations and the outbreak of the second World War.

No other man except Albert Gallatin headed the Treasury for so long, and surely none was more faithful or more honest in discharging his responsibilities. The Treasury was a very model of rectitude throughout

his administration of it. But assiduity is not a shield against error, and in the exercise of judgment Mr. Morgenthau shared in the frailties of the Roosevelt Administration. He embraced the wrong-headed theory of his teacher, George F. Warren, the Cornell agricultural economist who believed that domestic prices could be raised—"reflated"—by reducing the gold content of the dollar. The devaluation of the dollar happened to be an appropriate policy, but not for the reason advanced by the Roosevelt Administration.

Mr. Morgenthau's other ventures in high policy making were less fortunate. His call for a return to fiscal conservatism and a balanced budget came on the very eve of the deep recession of 1937–38 and had quickly to be reversed. His plan for the de-industrialization of Germany, while motivated by a sincere desire to preserve the peace, was misguided and served to delay the economic recovery of Europe.

But these mistakes hardly depreciate Mr. Morgenthau's stature or the great service that he rendered his country. He personified both the strengths and weaknesses of sincere public servants in an era marked by a surfeit of confusion.

PRESIDENT'S CRIME MESSAGE—NARCOTICS—WIRETAPPING

Mr. JAVITS. Mr. President, 2 days ago, the President sent to the Congress an extensive message on crime in the United States.

While we in New York were pleased that he devoted part of that message to the subject of narcotics addiction, it is most disappointing that no mention was made of funding the Narcotics Addict Rehabilitation Act of 1966. The President's proposals deal primarily with training new narcotics agents, with public information efforts on college campuses—a superfluous effort, in my judgment—and coordination between Federal departments.

Last year, however, Congress outlined a new direction in the fight against addiction. We sought to emphasize the need for rehabilitation programs for addicts which are related to the environment which creates them. Federal hospitals serve a purpose, but they do not provide a complete answer. The Federal treatment facility nearest New York City, for example, is more than 700 miles away in Lexington, Ky. Professionals believe we need a number of smaller treatment units and aftercare facilities in the addicts own communities. That is why we authorized the expenditure of $15 million annually for grants to States, cities, and nonprofit organizations directly treating the addict. This is a small amount compared to what New York State is going to spend.

It is estimated that in New York, as a minimum, 30 percent of the crimes are attributable to narcotic drugs. I cannot believe that the President was unaware of that fact. I protest the amount requested very strongly, and assure the Senate that I shall do everything I can to increase the appropriation to the amount we authorized, an amount which is so puny in comparison with amounts we spend in other fields. When the Senate moved, in an enlightened way, in this field, it put the Federal Government into the effort in a very modest way as far as money is concerned.

Yet the President's budget cuts that program to the bone by requesting only $4 million for the grants program this year. It would not implement the law in respect to probably the biggest single cause of crime in the big cities of the United States. That figure makes a mockery of the administration's professed commitment to solving this problem, but I sincerely hope that the President's concern, as expressed in the crime message, foreshadows a change of heart with regard to this important appropriation.

I was pleased to note the President's renewed concern—as first expressed in the state of the Union message—over Government invasion of privacy, wiretapping, and eavesdropping. These matters have recently been studied by the Administrative Practice Subcommittee of the Judiciary, upon which I served until recently. While the message calls for a blanket prohibition of such activities, it then states that there will be exceptions to the rule under certain conditions. Unfortunately, neither the exceptions nor the conditions—which are crucial—are spelled out. I will therefore await the President's bill with great interest.

OUTER SPACE TREATY

Mr. MAGNUSON. Mr. President, the administration, Congress, and America are engaged in a very important matter which has been under consideration in this country and in many other nations of the world for some time. I refer to the Outer Space Treaty.

The establishment of the rule of law has been one of the cherished goals of American foreign policy. Only under the rule of law can we hope to establish a just and peaceful world.

And so I note with the greatest pleasure the conclusion of an Outer Space Treaty. For the development of modern technology has made it imperative that we restrict the areas of potential conflict. The danger to this world of nuclear conflict is so great that a beginning must be made to restrict the deployment of nuclear weapons.

The Outer Space Treaty takes such a view. It establishes the basic principles which will govern the activities of men and nations as they advance in the magnificent adventure of exploring the stars. It establishes a basic system of law which will serve us for generations to come. It establishes a standard of international cooperation which we would do well to apply here on earth as well as in outer space.

TRIBUTE TO MR. SIDNEY A. ZAGRI

Mr. SCOTT. Mr. President, I just noticed in the press an account of the unfortunate death of Mr. Sidney A. Zagri in the Montgomery, Ala., hotel fire.

As many of us know, Mr. Zagri was a very popular and respected and well-liked legislative representative of the Teamsters Union in Washington.

Whether one happened on any particular measure to agree or not to agree with the point of view which Mr. Zagri espoused, he was always one whose word was good, whose judgment was accurate, whose instincts were fair, and one whom all of us who knew him had learned to respect and to hold with affection as a gentleman in the Washington scene. He had always retained his aplomb and his courtesy and his quality of fine character.

I know that those who knew Mr. Zagri will feel, as I do, a great sadness that he has been lost, as well as a sadness that so many other people have lost their lives in this unfortunate tragedy.

I thank the Senator from Oklahoma.

IVAN A. GIVEN, EDITOR OF COAL AGE, RETIRES

Mr. BYRD of West Virginia. Mr. President, on March 1, 1967, Mr. Ivan A. Given will retire as chief editor of Coal Age, an internationaly renowned periodical in the field of technical, industrial, and financial aspects of the coal industry.

Mr. Given is a native of Sutton, W. Va., and a product of coal-mining training. It was during his high school years that he became interested in becoming a mining engineer. He entered the School of Mines of West Virginia University in 1920 and was graduated later with a degree of bachelor of science. His honors included membership in Tau Beta Pi, honorary engineering fraternity, and Sigma Gamma Epsilon, honorary geology fraternity. Working interludes in his undergraduate days included summer and full-year hitches at Island Creek Mine No. 15, one of four constituting the company's Mud Fork division in Logan County, W. Va. Starting as a laborer, he became a tracklayer's helper, tracklayer, section foreman, and substitute assistant mine foreman.

Following graduation from the school of mines in 1920, he was asked to stay on to prepare, in collaboration with the late Harry G. Kennedy and Charles E. Lawall, then head of the school of mines and later president of the university, a survey of production methods in West Virginia. This survey was later published by the West Virginia Experimental Station under the title "Mining Methods in West Virginia." For this and other work he received his master's degree in engineering in mines in 1928.

With interest in serving the industry through the medium of the printed page whetted by this experience, he was quite ready to say "yes" to a McGraw-Hill representative who was recruiting graduates for a 10-week editorial training course. He started his McGraw-Hill career on June 25, 1928.

Mr. Given formally joined the Coal Age staff upon graduation from the training course and soon began to specialize in mechanical mining and stripping, although covering all other production, preparation, and safety subjects, as well. One byproduct of this specialization was his authorship of "Mechanical Loading of Coal Underground," published by McGraw-Hill in 1943.

On March 2, 1944, Mr. Given was appointed editor of Coal Age, a position he has held for 23 years—the longest tenure of any staff member. When he joined

the magazine, the industry had just emerged from the depression of the early 1920's and was on the threshold of an even greater one—that of the 1930's. It was beginning to encounter the growing competition from other fuels and energies responsible for the continuing decline in anthracite and, in the case of bituminous, the loss of its railroad market and most of the household market, at the same time stimulating the improvement in mining and marketing methods underlying the bituminous comeback and assuring it of continued growth in the future.

Though his concern for many years has been all States and all coal companies, he naturally has a little keener interest in his home State and in the company operating the mine in which he got his initial experience. West Virginia, now the leading producer in the United States, in fact not only outranks the other 49 States, but also all but 6 of the more than 60 coal-producing countries of the world, the exceptions being Soviet Russia, Red China, East Germany, West Germany, Great Britain, and Poland.

In view of his knowledge of the industry, McGraw-Hill gave him added duties in 1962 by placing him in charge of Coal Age's coal marketing affiliate, Keystone Coal Buyers Manual. He became its chief editor in 1963.

Mr. Given will be succeeded as editor of Coal Age by Alfred E. Flowers.

THE NEED FOR A CHINA POLICY

Mr. McGEE. Mr. President, Mr. Joseph Kraft has outlined, in his column published today in the Washington Post, a very real need for the United States. We need, he points out, a China policy, for we do not even have an idea of what kind of China would be most welcome.

As it happens, Mr. Kraft makes clear, there are good historical reasons for this lack of explicit policy—reasons connected with the collapse of the open door policy we formerly followed. Since that event, we have not undertaken the long, hard task of formulating a new policy. It is something we must do before we can act in a wise, reasoned manner in our affairs involving China. I ask unanimous consent that Mr. Kraft's article be printed in the RECORD.

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

U.S. NEEDS A CHINA POLICY

(By Joseph Kraft)

In trying to assess the upheaval in mainland China it is useful to make a distinction between two areas of American confusion.

There is, first, the struggle from day to day and place to place between the Maoists and dissidents. Here confusion is inevitable.

There is, next, the American interest in China, what this country would like to happen there. Here confusion is inexcusable.

But my strong impression is that the Administration does not have the dimmest idea of what kind of China it wants. It does not know whether it wants a weak China or a strong China; a divided China or a united China; a China in trouble or a China making progress; a China ruled by the Maoist revolutionary vision or a China ruled by the more methodical dissidents.

The United States, in other words, has no policy towards the dominant entity of the trans-pacific world. This country, to paraphrase the words put by Milton into the mouth of Samson, is eyeless in Asia.

As it happens there are good historical reasons for the absence of an explicit American policy toward China at this time. They are connected with the collapse of the Open Door Policy followed by this country during the first half of the Century.

That policy stressed the "territorial integrity" of China. It meant that all outsiders, whether European or Americans or Russians or Japanese were supposed to leave China alone.

But while faithfully enunciating that hands-off principle year after year, the United States was not willing to apply enough military force to make the principle stick. Thus even while proclaiming China's territorial integrity, this country accepted European concessions in China, then a Japanese conquest, and then a Communist take-over apt to give Russia a favored position.

The Korean War demonstrated the bankruptcy of that policy by pulling this country into what it had always managed to avoid—a major land war in Asia. And ever since Korea the United States, learning the lesson with a vengeance, has been building up positions of strength in Asia.

In line with that emphasis, the United States made military alliances with Japan, South Korea, Taiwan and the nations of Southeast Asia. American forces were stationed in Korea and Japan. The Seventh Fleet was put on nearly permanent patrol of the Straits of Formosa and, over time, a huge wartime commitment was made in South Vietnam.

I think it is possible to argue that the emphasis on force became so great that this country in some cases, just to prove its determination, over-reacted militarily and took on some unnecessary commitments. A case in point is the crossing of the 38th Parallel which eventually produced the Chinese intervention in Korea. Another was the commitment to defend, with nuclear weapons if necessary, the islands of Quemoy and Matsu.

Whatever the case with these individual episodes however, it seems to me inescapably clear that the military logic overshadowed all other American thought about Asia. Whereas the ends exceeded the means of American policy during the Open Door period, the means subsequently came to obliterate the ends. In that atmosphere, no one needed to develop a China policy. It was enough to be against the Asian Communists.

But the United States cannot continue to charge blindly around the Asian world. For the trouble in China has put into a condition of instability some of the most far-reaching issues in the world.

It may be that there is now a chance for a "Titoist" regime in China. Relations between Peking and Moscow are up for grabs. So is the future of the regime of Chiang Kai-shek on Taiwan.

What this country and its friends and allies now do casts a long shadow over all these questions. But for Washington to do the right things, it needs first to go through the long hard process of developing a China policy, of thinking out what kind of China the United States wants to have.

CRIME

Mr. METCALF. Mr. President, I am impressed by the forthright manner in which the President proposes to attack the problem of the rising crime rate in this country as set forth in his message on crime.

We are all familiar with the inability of law enforcement agencies in many parts of the country to cope with increased crime. Much of this is due to the lack of resources, facilities, techniques, and training.

I am particularly pleased by the inclusion in the President's crime program of the provision for Federal grants to State and local governments designed to strengthen law enforcement and promote the elimination of injustice. I am hopeful that this assistance will enable local law enforcement agencies to combat crime effectively.

I am happy to pledge my support of the strong proposals recommended by the President and I urge other Senators to do the same.

THE TET CEASE-FIRE IN VIETNAM

Mr. McGEE. Mr. President, with the Tet cease-fire underway in Vietnam, rumors of peace and demands for a longer, even permanent, cessation of bombing in North Vietnam are gaining wider and wider circulation. We shall have to be wary, however, lest we fall into a trap produced by wishful thinking or by the politics of deescalation.

An editorial entitled "Rumors of Peace," published in the Washington Post this morning, and an article entitled "Politics of Deescalation," written by Joseph Alsop and also published in today's Post, explain the situation as it now exists. I ask unanimous consent that they be printed in the RECORD.

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

[From the Washington Post, Feb. 8, 1967]

RUMORS OF PEACE

Rumors of peace, to adapt an old cliche to a new use, sometimes constitute a prosecution of war by other means. There is reason to believe that some of the recent peace rumors have been less serious as omens of peace than significant as a part of a worldwide propaganda effort to coerce the United States into suspending the bombing of North Vietnam, unconditionally.

If some of the peace rumors have been calculated, others no doubt have been due to plain misunderstanding and others to mere wishful thinking. To all of them the Government has had the unpleasant duty of responding negatively. There is not much alternative to a negative response when a non-existent "sign" is involved. Hearsay assertions that there "could be" discussion if bombing were stopped lack either of the two credentials to which a serious response might be made. They involve neither credible sources nor believable tenders.

There is every present indication that when the Tet recess is over the war will resume. There is no doubt that there will continue to be peace rumors but the Nation must be prepared for continued war. The North Vietnamese purpose—the conquest of South Vietnam and Laos—was not lightly undertaken and it is not likely to be lightly abandoned. If it ever is really abandoned, there will be no difficulty in getting out the right signals and having them heard. There will be no problem of getting the bombing stopped, whenever North Vietnam abandons its purpose. It will take no great ingenuity to get the war stopped when the aggressive purposes are relinquished; no amount of ingenuity is likely to stop it while the aggressive purpose remains.

Short of a formal relinquishment of that purpose, truces, cease-fires and tacit deescalation are possible. The United States

ought to be alert to the opportunity to start any such de-fusing. If the level of operations mutually diminishes, it suits the purpose of this country and its allies. This might not be peace but it would be nearer to peace than what we have and therefore that much more acceptable.

After the false hopes raised by repeated rumor, it is discouraging to have to take up again the burden of this long struggle. There is no acceptable alternative. The formal aggression from the North must be held in check. No military advantage must be relinquished without balancing concession. The pacification of the South must be pursued more energetically. The establishment of a civil government devised by the constitutional convention must be encouraged and hastened. This is the long way to peace. But there may be no short cuts.

[From the Washington Post, Feb. 8, 1967]

POLITICS OF DE-ESCALATION

(By Joseph Alsop)

The great question of the moment is whether the North Vietnamese leaders want equal negotiations, or are merely seeking a badly needed respite in the war. It has become a burning question because of the transmission of a new talks-feeler, by an official of the French Foreign Office, to Senator Robert F. Kennedy and a member of the staff of the U.S. Embassy in Paris.

No one can forecast with any certainty what the Hanoi leaders are really aiming for. But their aims should certainly be analyzed with the most cautious skepticism, for a single, quite simple reason.

If a negotiated settlement of the war is the aim, it would be vastly easier to arrive at such a settlement quietly and secretly, without any public parade to a new Panmunjom, and without noisy propaganda about "stopping the bombing to get talks." This could have been done by now, in fact.

Despite the Administration's routine denials, there have been exchanges through third parties for some time now. Here in Washington, the ideal medium for such exchanges already exists, because of the special relation with the Soviet Embassy enjoyed by Averell Harriman, in consequence of the deep respect that is felt for Harriman in Moscow.

All sorts of murmurs are already being heard, that the behind-the-screen exchanges of recent weeks have been mishandled, by the State Department or the White House or someone else. But the fact remains that if Hanoi is ready to consider terms that President Johnson can also consider, an easy channel of communication is always open.

When and if the potential fruitfulness of formal talks has already been tested, will be the time for public action, including bombing halts, open exchanges of negotiators, and so on and on. Maybe that time will come. But the other clear possibility, that Hanoi merely wants a respite in the war, must certainly be given very great weight.

It must be given very great weight, because the whole thrust of Hanoi's public and private actions in recent months has been to "stop the bombing to get talks." It has been to make the President pay for mere talks, in other words, by giving Hanoi a most important respite in the war.

The true importance of such a respite has now been underlined, by the belated publication of new figures on North Vietnamese troop-infiltration into the South. Almost certainly because of the bombing—there is no other imaginable reason—the flow of North Vietnamese troops into South Vietnam has been reduced by 75 percent in the last six months.

If the figures showing this result are reliable, they mean that the enemy cannot conceivably continue the war of big units in the South for many months longer. Enemy loss rates and enemy replacement rates simply will not permit it. As to manpower, at the front, in truth, Hanoi's warplanners are now in the position of a family spending at least three times its monthly income. Early bankruptcy obviously stares such a family in the face.

Let the bombing be halted, however, as a "peace gesture." Let the President and Secretary of State Dean Rusk cease to insist on the needed quid pro quo, which is an end to the troop-infiltration of the South. Let this be done now, moreover, when the weather is ideal on the North-South roads and trails. Any fool can foresee the probable result.

The Hanoi war-planners will at once expand by tenfold the troop-infiltration rate. Their big units in the South, now growing more under-strength each day, will soon be fished out again with men and supplies. And within a few months, instead of Gen. Westmoreland winning the big unit war, as now appears likely, Gen. Westmoreland will find himself with a brand new war on his hands and a much tougher war, too.

This produces the problem describable as the politics of de-escalation. For the short run, all sorts of liberal persons and groups will subject the President to severe heat, to "stop the bombing to get talks." The heat will be hard to resist.

But for the long run, President Johnson has to consider the storm of public rage that will surely result, if he "stops the bombing to get talks," and instead gets a brand new, much tougher war for our men to fight. That storm will engulf, not merely the President and his advisers, but also Sen. Robert Kennedy and anyone else who can be held partly responsible. It could even give the lunatic-right a real chance of future success in a national election.

All this is enough to make one wonder whether American liberals ever look ahead, even when their own interests are most directly at stake.

RATIFY THE CONSULAR CONVENTION

Mr. SCOTT. Mr. President, an excellent editorial published in the Pittsburgh Post-Gazette of February 4 summarizes the reasons why the Senate should give its consent to the ratification of the U.S.-U.S.S.R. Consular Convention. I ask unanimous consent that the editorial be printed in the RECORD.

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

RATIFY THE TREATY

Contrary to what some of its members appear to believe, the U.S. Senate does not represent a nation of hicks which panics automatically at the mention of a communist Our national thinking has acquired, or should have acquired, a broader sophistication on international issues since the rather hysterical era just after World War II.

The President reflected the change in the national point of view when he called this week for prompt Senate ratification of a consular treaty with the Soviet Union. This treaty has been bottled up since June, 1964, when the U.S. and the Soviet concluded a Consular Convention under which the two countries could work out agreements for the opening of consulates in each other's territory instead of being limited to an embassy, as they are now.

Senate confirmation of the treaty has been held up by the lobbying of nervous nellies who think that a Soviet consulate or two in this country would open it up to a vast communist spy ring before which the U.S. government would stand * * * naked and helpless.

Such nonsense! We doubt that the addition of a handful of Soviet representatives in this country (there are already 452) would add much to our dangers. We are, after all, an open society and we question whether Soviet spies are going to learn much more than they can already find out by reading the nation's periodicals. In any case, the addition of a few more consular officials would not be beyond the security capabilities of J. Edgar Hoover's FBI and he has said as much although he is believed to be a stumbling block to Senate approval of the treaty.

The major benefit of the consular treaty to this country would be the additional assistance and protection U.S. consulates would afford the rising number of American visitors (18,000 last year) to the Soviet Union.

Beyond that, we should recognize that there are evolutions in all systems, including communism, and that we can learn to live in amity with them if bridges are built. We have long since been building commercial and cultural bridges to the Soviet Union and other East European countries (one of Communist Yugoslavia's consulates is in Pittsburgh) and we think this is most desirable.

The consular treaty would be another important step toward ending the Cold War with Eastern Europe and we urge the Senate to take it.

JOAN PEARSALL WRITES IN TEXAS PARKS AND WILDLIFE ABOUT OUR VANISHING WILDLIFE

Mr. YARBOROUGH. Mr. President, to a growing extent, mankind is conquering his environment and extending his dominion not only over the earth, but far out in space. The modern world of technological triumph, however, has seen mankind faced with the problems of population explosion and less than aware many times of the dwindling population of other species of life.

The bountiful supplies of game that provided the first colonists in America with food have been slaughtered and pushed into near extinction by the changes brought about by mankind. We have become the greatest predators of all in our destruction of both wilderness and wildlife. The time is short, if we are to save for future generations many of the rare species now on the brink of oblivion. My pending Big Thicket National Park bill will offer a limited sanctuary in Texas for some of the threatened species whose plight is so well described by Miss Pearsall.

Mr. President, in view of this crisis, I ask unanimous consent to have printed at this point in the RECORD a fine article written by Joan Pearsall on our vanishing species of wildlife. It is entitled "The 11th Hour" and was published in the January and February 1967, editions of the magazine Texas Parks and Wildlife.

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

THE 11TH HOUR—PART 1

(By Joan Pearsall)

Population explosions capture headlines these days and cause much anxious thinking. Alongside the burgeoning sea of humanity, and in most cases because of it, critical declines of other populations give contrasting cause for alarm. While being preoccupied

with his own increasing problems, there are vital reasons why man should turn his concern also to the dwindling species of the world.

Throughout the earth's history, life forms have been changing, constantly adapting to climate and surroundings. Over the course of millions of years, some species have flourished and died, while others have evolved and survived. Nature, left to herself, achieved a harmonious balance of land, plants, and wildlife, all linked together in mutual dependency. Each species has its special distinguishing features and its own place in the natural community. When anything happens to upset its environment, a species that cannot adapt to the new conditions, or find another suitable habitat, faces extinction.

Ancient species that succumbed, such as the dinosaurs, saber-toothed tigers, and mastodons, did so because of sweeping changes in climate, advance of glaciers, competition with other species, and overspecialization. Nature was relatively quick to discard some, while others have taken millions of years gradually to withdraw from existence.

Since man arrived on the scene—only recently, compared to the eons of geologic time—he has put in motion changes of drastic, often catastrophic, proportion. Lordly, in his "dominion over the beasts," he has exploited the natural world with little regard for the delicate balance of nature, and the importance of every living thing. Armed with his technology, and greedy beyond his immediate survival needs, man is the fiercest predator of all.

First settlers in America found a land of teeming abundance. Animals that had never encountered civilized man were unbelievably tame. Great swarms of passenger pigeons filled the skies, as the buffalo did the plans. Fish were plentiful in the sparkling, clear streams, and miles upon miles of dense forests sheltered innumerable forms of wildlife. The red men who had lived on the continent for centuries had managed to do so without upsetting the natural order. The newcomers fought to subdue the wild men and the wilderness: much of the fauna also fell by the wayside. Sometimes the loss of wildlife was incidental, sometimes deliberate.

The great auk is an example of an American bird that was slaughteered recklessly in the very early days; when it became scarce, it was all the more avidly hunted to extinction because of its value as a rarity. The most recent sweeping destruction was that of the buffalo. Hunters made big profits from the animals, whose death knell was sounded when their extermination was seen to be a strategy for conquering the Indians who depended on them.

Seemingly endless supplies of game that greeted the first colonists diminished rapidly, from land cultivation and over-hunting, to the point that by the late 17th century some efforts at game laws and closed seasons were started, especially on deer. Bounties were placed unscientifically on predators that interfered with man's interests. In most cases, this system only put the wildlife structure further out of kilter, killing off some species and leaving others without natural controls.

Another disruptive factor was the introduction of animals not native to the land, such as pet cats and dogs, sparrows, starlings, pigeons, carp, and vermin such as rats and mice that slipped in from the ships of the Old World. Without the natural enemies that held them in check where they came from, many of these immigrants multiplied rapidly, to the detriment of native species.

One of the greatest changes in habitat was brought about by the felling of the vast forests. As well as their myriad uses for the wood products, the settlers needed to clear land for farming: also, they feared the savage woodland with its unknown inhabitants. As the axes did their work, many wildlife species were displaced.

The human tide has swept across the continent, until in modern times wilderness is at a premium, and much wildlife is in serious danger. The price of tremendous technological advances is being seen in the increasing pollution of air and water. The grave problem of insecticide poisoning is even yet not fully realized. It is becoming more and more apparent that a "Pandora's box" has been opened by unregulated use of chemical pesticides, with far-reaching effects to all living creatures and a growing trail of dead ones, other than the originally planned victims.

Even the ocean is not immune. Coastal waters, the spawning grounds for many varieties of marine life, often are spoiled by silt, oil, and chemicals. Shellfish particularly are susceptible to pollution. Also, great inroads have been made on a number of deep-sea fish and mammals by international fisheries.

There is another side to the ledger. Some animals have actually benefited from the advance of civilization. Deer are a prime example in this country, partly because of the early measures taken to protect them, and largely because, as virgin pine forests were cut, in many areas a more favorable habitat for deer developed. Others that have prospered include the gray squirrel, skunk, raccoon, red fox, and cottontail rabbit. A few desirable exotic species that have been introduced have succeeded in suitable areas, largely because they have filled a void where all similar and competing species had been killed off. The ring-necked pheasant is a good example of such a new resident.

There have been a few men of vision and feeling, even in the darkest ages of man's disregard for his fellow living creatures. Some attempts at good stewardship have been made along the way, and knowledge has gradually accumulated. During the past century, and especially in recent decades, awareness has been growing that man is not superior to or detached from the forces of nature. His part in this vastly complex world may be a dominant one but it is just a part, all the same. He has deep needs and relationships in connection with the earth and all its inhabitants.

Does it really matter if the whooping crane or the alligator fade from existence? On the surface, to most people who wouldn't see them anyway, it doesn't. These particular species might be termed anachronisms, for they have been on their way out for thousands of years. Yet, under natural conditions, they would still have thousands of years more. There is wisdom in Nature's manner of selection and discarding.

At the present time, as a result of man's blind intervention, species are dying out at a faster rate than they are being replenished. Many that we consider to be insignificant do not apparently affect us, yet who are we to estimate the contribution that is made by even the humblest form of life? Aside from any material gains, man's yearning for the aesthetic value of wildlife is not to be underestimated. It is theoretically possible that man could live on a concrete-paved earth, his food and gadgets produced by scientific processes. But it would be a lifeless sort of existence—and lonely. Just think of never again hearing birdsong, seeing the silver streak of a fish through the water, or the wild gleam of eyeshine in the dark. The sense of loss would eventually reach even the most hardened city dweller.

We are far from such a deprived state, yet we are at a conservation crossroads. Steps that are taken now will have an indelible effect on the world of the future. Because of the rising interest in conservation, a number of valuable bills are being passed in this country, and knowledge is being spread to the far corners of the earth. The new Endangered Wildlife Bill calls for a national program for acquiring and protecting critical habitat areas.

The U. S. Bureau of Sport Fisheries and Wildlife has defined the terms "endangered," "rare," "peripheral," and "questionable." An endangered species is considered to be one "whose prospects of survival and reproduction are in immediate jeopardy." Causes may be disease, predation, competition, or change in habitat. Without help, these species face extinction. In this country, 16 mammals, 34 birds, 25 fishes, 1 reptile, and 2 amphibians are in this classification.

A rare species is "one whose numbers are few throughout its range." While conditions are stable, such species may survive in limited numbers, but any adverse changes may quickly make it endangered. In this classification are 12 mammals, 16 birds, 14 fishes, 1 reptile, and 1 amphibian.

A peripheral species is one "whose occurrence in the United States is at the edge of its natural range." Numbers may be adequate outside this country, but special attention is needed to keep them among our fauna. In this classification have been included 9 mammals, 68 birds, 4 fishes, and 2 reptiles.

Many species of animals have been placed in a "status questionable" category. Information is being sought on them to determine whether or not they are in danger. Eighteen mammals, 45 birds, and 49 fishes are so classified.

So far as Texas is concerned, the species that are included in the endangered category are: black-footed ferret, Attwater's greater prairie chicken, whooping crane, Comanche Springs pupfish, Clear Creek gambusia, American alligator, Texas blind salamander, golden eagle, praire dog, river otter, kit fox, black bear, and the red wolf.

Those in the rare category include: lesser prairie chicken, southern bald eagle, American peregrine falcoln, black-capped vireo, golden-cheeked warbler, Big Bend gambusia, mountain lion, grey wolf, swift fox, and the Mississippi kite.

Peripheral species in Texas include: jaguar, margay cat, rose-throated becard, grey hawk, rose-bellied lizard, Ruthven's whipsnake, and Mexican hook-nosed snake.

Further study of the reasons for the scarcity of these species will indicate what courses of action to avoid in the future, and what remedies may be effective. There has been encouraging success in some areas. Pronghorns, white-winged doves, and bison are some that have been brought back from the brink. Awakening concern for such efforts is one hopeful sign of true progress in the evolution of man himself.

THE 11TH HOUR—PART 2

(By Joan Pearsall)

Concern for the plight of the vanishing wildlife species of the world has been growing in recent years. All living creatures are linked in a vast ecological web. Repercussions may be felt then throughout the whole natural structure from the loss of even the most obscure and distant life form. However, since it is understandable that the fate of one's neighbors is of deeper interest, it is worthwhile to turn closer attention here to some of the species that are in danger in Texas.

Most well-known in this category are those part-time residents of Texas, the whooping cranes, *Grus americana*. Breeding place of these birds is Wood Buffalo National Park, in the Great Slave Lake area of northern Saskatchewan, Canada, and their winter residence is the Aransas National Wildlife Refuge on the Texas Coast. These large, statuesque birds stand five feet tall, and have a seven foot wing spread. They are all white, except for black wing tips and head markings, and bright red bare skin on the top of their heads. First year birds have a rusty tinge, especially on the head and neck.

This is an ancient species, dating back to the prehistoric Great Pleistocene era, and

has been declining slowly over thousands of years, but destructive forces of the white man critically accelerated this decline. They were shot for food and sport, pursued by amateur collectors, and evicted by agricultural development and drainage of much of their breeding terrain.

The maximum reproduction rate of these birds in the wild is two young per pair per year, but one or none is more usual. The early limits of its range are not definitely known, but it is believed that they nested from Illinois north and west across the prairie states and provinces to the northwest territories, and wintered from Mexico and the Gulf Coast north along the eastern seaboard to New Jersey. The bird retreated west of the Mississippi during the 19th century, and was rare everywhere by 1880. Less than a dozen pairs remained in all North America by 1926.

For many years, the birds' final breeding grounds were a mystery. In 1945 the Cooperative Whooping Crane Project was set up by the U.S. Fish and Wildlife Service and the National Audubon Society, and the whooper's struggle for survival was given national news coverage. This resulted in such a wave of protective sentiment that in ensuing years shooting of cranes on their great migrations has become negligible. An oil company restricted drilling operations near the wintering grounds, and public outcry caused the Air Force to cancel bombing practices on Matagorda Island, which might have been fatal to the cranes. The exact migration route was painstakingly marked out, from the Gulf Coast to Saskatchewan. However, it was not until 1954 that a pilot for the Canadian Wildlife Service solved the secret of the summer grounds. It is now presumed that all remaining whooping cranes nest in the same wilderness, just south of Great Slave Lake. This area is, fortunately, in a Canadian national park; the Aransas wintering area also is a legal sanctuary, established in 1937.

The crane's small, fluctuating numbers now stand at 43 in the wild, and 8 in captivity in various zoos. They are strictly protected at all times by U.S. and Canadian governments and wildlife agencies. A 90-acre fenced area has been planted to grain, to help keep the birds from wandering from the Aransas area, and research is continuing on the rearing of cranes in captivity, with a view to returning them to the wild. Additional winter refuge areas and migration stopover areas are planned.

Some voices have been heard protesting the amount of time and money spent on a bird that will no doubt eventually die out anyway, and it has been pointed out also that other less spectacular and glamorous animals that are in even more dire straits deserve but do not get the same publicity. Yet, every year that these majestic birds continue to soar across the skies of North America, they bring a particular pleasure and enrichment to a whole continent. And, because they fill the spotlight so well, they have drawn attention to the needs of wildlife in general, and attracted much benefit and loyalty to the whole cause of conservation.

Another endangered bird, this one a year-round Texan, is the Attwater's greater prairie chicken, *Tympanuchus cupido attwateri*. This hen-like bird is brown barred with black above, buff barred with black below. It is a first cousin of the extinct heath hen of the Northeast. Its range now is confined to a few small areas of coastal prairie in Texas, whereas formerly it inhabited the entire Gulf coastal prairie of southwestern Louisiana and Texas south to the Nueces River. Their numbers in 1963 were estimated to be approximately 1,300.

Prairie chickens have been protected by law for many years, but one of the factors for their decline was devastating hunting pressure. This bird is nonmigratory and always found in open grassy areas. It could not retreat or hide in denser growth, since its famous courtship ritual—spectacular booming, strutting and aerial displays, a wonder to watch—requires open space. The other major reason for its decline is that its tall grass prairie habitat has been reduced below minimum requirements. This type of land is very valuable for grazing and the culture of grain sorghums, rice and cotton.

Since this species is exceedingly difficult to breed in captivity, its doom is certain unless more available wild habitat is provided. This bird has also received a fair amount of publicity, and has its especially loyal supporters. One retired gentleman in Dickinson spends most of his time studying them and has a kind of private refuge for them on his property. Intensive scientific studies have been made by biologists in cooperation with the Texas Parks and Wildlife Department. Conservation groups such as the Nature Conservancy and World Wildlife Fund are trying to raise $365,000 to buy enough prairie acreage for a prairie chicken sanctuary.

Egg fertility of these birds is high, but so is nesting mortality. As many as 70 percent of the young become victims of larger predators, and heavy rains are another hazard. As well as the proposed acquiring of extra habitat, rigid protection has been recommended, development of suitable cover, and planting of food croops.

Another dwindling creature of the prairie is the prairie dog, *Cynomys ludovicianus*, which is not a dog at all, but a perky ground squirrel with somewhat of a resemblance to a fat puppy. It is a pinkish cinnamon color, mixed with buff, its tail tipped with black. It has large eyes and short rounded ears. In the 1890's it was estimated that more than 800 million of the animals inhabited an area of 90,000 square miles in western Texas. They now occupy the western half of Texas from the Panhandle south to San Antonio, and west to El Paso, but are rare throughout most of their range.

They prefer short grass prairies, which allow for good visibility, for their colonies or "towns," that could vary in size from a few to several thousand individuals, except that the large concentrations are now a thing of the past. Their homes consist of deep burrows with funnel-shaped entrances that descend sharply before leveling off. The main entrances have crater-like mounds around them, for protection from floods and to serve as lookout points. They partially hibernate in the northern part of Texas, storing up reserves of fat in summer to tide them over the winters.

Their food is chiefly low growing weeds and grasses, which they eat voraciously; 32 can eat as much in a day as can one cow. Since this was a heavy drain on range vegetation, livestock and farming interests joined forces with government rodent control specialists in poisoning millions of the animals, using mainly strychnine-treated grain. This campaign, together with their being a target for hunters, reduced their population to a few small, scattered colonies by 1940. By 1960, it was almost eliminated completely.

Now, not only have they become something of a novelty, but it is strongly suspected that removal of the prairie dogs has resulted in an undesirable spread of brush, with far more detrimental effects on the livestock industry than damage done by prairie dogs. Moderate populations are now seen to be beneficial, and ranchers are working to keep the surviving remnants.

Closely associated with the fate of the prairie dog is the elegant and very secretive black-masked, black-footed ferret, *Mustela nigripes*. In fact, its decline can be directly attributed to the destruction of the former. The large weasel lived alongside its natural prey, in the same den sites, and because of this dependence has become one of the rarest mammals in North America. Highway kills and shooting have also taken their toll.

The animal is now protected by law in some states, and studies of its life history and ecology are underway. Attempts to bring some into captivity for breeding purposes, and the establishment of sanctuaries, have been suggested as the only possibilities for survival. Its present status is extremely precarious.

Yet another victim of intensive poisoning, directed toward coyotes, is the swift or kit fox, *Vulpes velox*, which has been almost completely eliminated. These smallest of American foxes, weighing between three and six pounds, are short grass plains dwellers. They prey extensively on the kangaroo rat, a seed-eating rodent. Reduction of the kit fox has paved the way for an increase in kangaroo rats, with detrimental results to range vegetation.

One of the most playful of mammals, the river otter, *Lutra canadensis*, exists in declining numbers in eastern and southeastern Texas. Due to their habit of wandering over several miles of a waterway, these animals never are abundant in any locality, and are seldom seen; even so, they have been strongly affected by hunters and hurricanes, but now are protected by law.

American alligators, *Alligator mississippiensis*, are found in East Texas streams and swamps, and on the coast from Louisiana to Corpus Christi. This huge reptile, with the rough back and rounded snout, unlike the crocodile, is not dangerous to man, but is beneficial in controlling undesirable fish. The deep water holes that they dig during droughts are of great assistance to other animals. They breed well in captivity, and alligator farms in other states have been successful.

In the wild they are dwindling critically, especially in Texas. They have been seriously affected by the usual destruction of habitat, and by hunting pressure; there always has been a high commercial demand for alligator skins.

These animals now are protected by some laws in every state except North Carolina, and careful studies on them are proposed.

Other animals also are on the endangered list in Texas, with similar stories to those mentioned here. More are almost at the critical stage, or will be in the near future.

The remainder of this century will be in many ways a time of great decisions, and certainly not the least important will be those affecting the future of wildlife on this earth. Man's reach for the stars will bring him hollow victories indeed if his own planet should become barren and lifeless of all creatures beside himself. The disappearance of every single species brings such a prospect one irrevocable step nearer, since the present rate of extinction is many times more rapid than Nature can possibly remedy.

Recent legislation in this country should do much toward averting the crisis. Public Law 89-669 seeks to protect native threatened fish and wildlife, including migratory birds, and to preserve habitats to the greatest possible extent. The Bureau of Sport Fisheries and Wildlife will cooperate with various states and regions, aiding in research and existing projects. More dissemination of information to the public also is planned.

There is much that even individuals can do. Conservation officers and agencies are glad to supply information and advice, and always appreciate support. Contributions to such organizations as the World Wildlife Fund, which is dynamically battling for the survival of wildlife; Audubon Society; National Wildlife Federation, and others, are investments likely to produce more valuable dividends than perhaps we realize.

In caring particularly about those animals that are endangered within our own borders we may help brighten the overall picture, as well as enriching the fair part of the world that is Texas.

AIR POLLUTION IN HAWAII

Mr. INOUYE. Mr. President, although it may be a surprise to some, we in Hawaii are concerned with air pollution just as are the citizens of New York or California. Smog, smoke, and burning debris are still too common sights in many parts of Hawaii. We are fortunate that the trade winds carry off much of the aerial filth, but these winds are limited in their capacity to cleanse, and each year the sources of air pollution multiply.

The State of Hawaii ranks third in the Nation in expenditures per individual for air pollution control. In fiscal 1966, our State department of health has received close to $50,000 to improve its air-pollution-control program, an annual expenditure of 11.7 cents per person.

We have made a start. But I think it is plain that we have a long way to go. The Air Quality Act of 1967, which has been proposed by President Johnson, marks a significant advance. I, for one, fully endorse the President's proposal. Under this legislation, which I am cosponsoring in the Senate, the Secretary of Health, Education, and Welfare will, for the first time, be able to establish a regional air quality commission in those areas where interstate air pollution problems exist. I know of no area in the Nation in which adjoining States have effectively used authorizations in the existing Clean Air Act to attack the problem together.

The proposed legislation would also authorize the Secretary to establish minimum emission control levels for those offending industries which engage in interstate commerce. While Hawaii's industry has made efforts to control air pollution, I think it is unrealistic for us to assume that nationwide industry will show similar cooperation. Though the economic effects of air pollution are many times more costly than the efforts needed to adequately control the problem, the user of air has no real economic incentive to avoid air pollution. Rather, he is motivated to avoid the cost of controlling pollution. We cannot expect an industry in one State to support regulation, when there is no assurance that a competing industry in another State will not be subject to similar regulation. For this reason, we need national standards.

Hawaii would not profit directly from the interstate provision of this legislation, but it would benefit from the grants to be made to State agencies. Some of these may be used to inspect the anti-pollution devices required on 1968 model automobiles. Others are for research into methods for reducing air pollutants in fuels.

In the early morning, Hawaii's air is often polluted by smog from industrial smoke and from exhaust fumes. Our State health authorities seek to bring these sources of air pollution under control, but they need the assistance provided by the proposed legislation.

I am happy to support this proposal. It holds much promise both for our State and for the Nation.

UNIFIED CORRECTIONS SYSTEM

Mr. HARTKE. Mr. President, in his crime message to the Congress, the President proposes to unify the correctional process for the offender. The effort to correct the offender should be one continuous program from confinement to release into the community under supervision. This normal progress should be uninterrupted by a host of officials charged with the responsibility for supervising each step. The present system is too fragmented to most efficiently accomplish this goal.

The new Federal work release law was enacted in recognition of the fact that the role of the correctional administrator does not end at the institution's gate. Its demonstrated success indicates the need for meshing institutional and community programs. The last Congress enacted a new Narcotic Addict Rehabilitation Act. This act also recognized the appropriateness of integrating institutional and community programs when it provided for an aftercare program under the supervision of the agency responsible for institutional care. The need for this type of service and supervision is just as great for the offender.

I hope that my fellow Senators will give prompt consideration to this problem.

THE PROPOSED TAX INCREASE

Mr. HARTKE. Mr. President, recently, W. P. Gullander, president of the National Association of Manufacturers, issued an in-depth statement about the proposed tax increase requested by President Johnson. While I do not agree with all the conclusions and alternatives outlined by Mr. Gullander, I do believe his views are deserving of consideration by Senators and others concerned with the economic condition of our country.

In any event, I am certain these views, thoughtfully and carefully presented, deserve to be brought to the attention of all of us. Therefore, I ask unanimous consent that Mr. Gullander's statement be printed in the RECORD.

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

STATEMENT OF W. P. GULLANDER, PRESIDENT, NATIONAL ASSOCIATION OF MANUFATURERS

We firmly believe that, at this stage of history, the needs and desires of the American people will be better served by a curtailment of government expenditures than by the proposed 6 percent surtax.

We do not mean to second-guess the President's conclusion to the effect that the economic situation in fiscal 1968 will call for a reduction in the deficit on the national income accounts basis. But this over-all result can be better achieved by a reduction in the proposed spending, without the tax increase.

The question of which method should be followed can be properly decided only on the basis of the preferences of the American people. Do they want to pay more taxes in order to buy an expansion of government?

The evidence we have seen indicates that the American people are overwhelmingly in favor of reduced government spending. In response to a public opinion poll, conducted by Opinion Research Corporation, the public indicated that they favored expenditure reduction over a tax increase by a margin of 13 to 1.

The President's budget for 1968 involves decisions for increasing support of both military and non-defense programs, on which he has asked for strict examination and evaluation by the Congress. We urge that the Congress accept this as a literal challenge and act upon it promptly. The dual purpose of such searching action should be to reduce the spending authority now sought by amounts sufficient to void any justification for additional taxes.

From an economic viewpoint, the impact of a further tax claim on the country's resources in a period of already slowing growth should be avoided. The mild economic stimulation sought by the President through a budget deficit could also be achieved by a lower spending level without a tax increase.

We also believe there are a number of warning signals indicating that the economy may require an application of fiscal policy designed to have precisely the opposite effect of the proposed tax increase. The recent report of the Council of Economic Advisers seems to anticipate that inflationary pressures in 1967 will come primarily from rising costs facing the Nation's producers. If this is the case, then manufacturing industry must be in a position to employ to the fullest all of the available modern cost-cutting machinery and equipment and the trend of declining orders for capital equipment must be reversed. We, therefore, urge the Congress to give immediate consideration to early restoration of the 7 percent investment credit and accelerated depreciation methods, now scheduled to come back into effect at the end of this year.

From a fiscal viewpoint, Congress should defer consideration of the proposed tax increase until it has first acted upon—and appreciably cut—funds in the 1968 Budget. The accumulated increases of non-defense spending in recent years are so great as to require critically sober appraisal of both current and proposed levels.

If the President's proposals for fiscal 1968 are carried out, the increase in cash spending over the five-year period beginning in 1963 will have been 52%. It is significant that the projected increase in defense spending over this period is 44%, as compared with an increase of 58% for non-defense spending.

ACCOMPLISHMENTS OF PEACE CORPS

Mr. McGEE. Mr. President, the firm, effective hand with which Jack Vaughn runs the Peace Corps today is well described for us in an interview published yesterday in the Washington Daily News. The story by Scripps-Howard Writer William Steif points up the accomplishments of Mr. Vaughn and his corps of volunteers in the past year. The Peace Corps has expanded, but its expenditures have been cut. In truth, Jack Vaughn has been paring fat from the Corps without diminishing its work.

I ask unanimous consent that Bill Steif's article on Jack Vaughn and the Peace Corps be printed in the RECORD.

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

PEACE CORPS FAT PARED OFF

(By William Steif)

It has taken Jack Vaughn just a year to pare the fat off the peace corps.

The ex-Marine who succeeded Sargent Shriver as director talked about the program in his office, between puffs on a pipe.

"We've sloughed off a lot of Mickey Mouse stuff," he said. "The Corps is tight as a drum." The figures bear him out:

A year ago, 11,000 volunteers were overseas compared to 13,000 today.

The Corps is in 52 nations compared to 46 a year ago.

Four-hundred volunteers have been sent

to Micronesia, a project not even dreamed of a year ago.

And spending has been cut from $114 million in fiscal 1966 to $110 million this year.

WHY HE IS POPULAR

It is this fiscal feat that makes the red-haired Vaughn so popular at the White House.

Gossips have had him moving on and up for weeks. He thinks this is "highly unlikely, because it's not right to have a job a year and then move out."

Mr. Vaughn, 46, is careful, as befits a State Department-trained man. Where Mr. Shriver was characteristic, Mr. Vaughn is reflective. There is nothing of the hip-shooter about him. This is his second tour of duty with the Corps. He was the Corps' associate director for Latin America before leaving in 1963 to become U.S. Ambassador to Panama and later Assistant Secretary of State for Latin American affairs.

TOUGHNESS SHOWED

An ex-boxer, Mr. Vaughn displayed his toughness in last year's "great hostel crisis."

The Corps, Mr. Vaughn found, ran a chain of 76 hostels for volunteers around the world. "They were safe, clean, comfortable and didn't cost more than $500,000 a year," he recalls.

"But they were not helping us do our job. In fact, they were barriers between the volunteers and the local people. I decided to leave running a hotel chain to Hilton. I abolished them all and"—a puff on his pipe—"I became the most unpopular Peace Corps director of 1966."

He became so unpopular, in fact, that 700 volunteers in Nigeria teetered on the edge of open revolt. "They wanted to be heard," he says. "So I went, listened, talked." "And put down the rebels."

SKILLS NEEDED

Even more than Mr. Shriver, Mr. Vaughn has followed the line that the Corps is not an instrument of U.S. policy, that it is a body of intelligent young technocrats whose skills are desperately needed in the nations employing them.

This has led to recurrent talk of sending volunteers behind the Iron Curtain. Several Soviet embassy officials recently addressed a meeting of Peace Corps employes, who inquired about the possibility of "trading" volunteers with Russian youth groups.

"We are ready to listen to any reasonable proposal," says Mr. Vaughn, "but we've heard nothing so far. Obviously they need us."

The Corps has had difficulties with leftist politicians in Turkey, Somalia and Guinea in recent months. Guinea President Sekou Toure threw out the entire volunteer contingent, the first time that has occurred. But Mr. Vaughn smiles.

"We're waiting for Guinea to invite us back," he says.

A 20,000 PEAK

He expects a gradual buildup of volunteers to a peak of 20,000 in 1971. A consolidation with VISTA (the Domestic Peace Corps) is "a real possibility" at some future date. As for new countries that may call for Peace Corpsmen, he predicts:

"Gambia and Upper Volta, probably three or four others in Africa. Expansion in Korea. Perhaps we'll go back to Ceylon, which we left in 1964.

"We'll go anywhere we're wanted. But not as colonials."

NEED FOR REVISION OF U.S. TRADE POLICIES

Mr. HARTKE. Mr. President, at the 1967 Public Affairs Conference, L. B. Worthington, chairman of the American Iron & Steel Institute, outlined the competitive position of American steel in the world market and cogently argued for a revision of our trade policies.

Several Senators had the opportunity of hearing these remarks. I commend the speech to those who did not, and therefore, under unanimous consent I place it in the RECORD at this point:

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

NEED FOR REVISION OF U.S. TRADE POLICIES

(By L. B. Worthington, chairman, American Iron & Steel Institute, at the congressional breakfast, 1967 Public Affairs Conference, New Senate Office Building, Washington, D.C.)

In the short month since the 90th Congress convened, you members of this most important body have already receiving enough legislative challenges to overburden the hardiest among you.

You've learned of the state of the union, the state of the budget and the state of the economy.

I wish that I could, this morning, report in equal detail upon the state of the steel industry and discuss some of the pending legislative proposals that are importance both to you and to us.

Particularly, I wish that we could explore together this pressing question of air and water quality which concerns all of us so deeply; and that I could review the nearly thirty years of research that has been carried out by American Iron and Steel Institute in this field. . . . that I could tell you about the more than half-billion dollars that the steel companies have spent in the past 15 years on the installation of pollution abatement facilities, and about the additional 150 millions or so that they are now in the process of spending for this purpose. I wish I could discuss the role that the 7 percent tax credit has played in helping to finance these heavy capital outlays which add nothing to our production; and that I could explain the advantages which might be gained by substantially enlarging this credit as it applies to pollution control facilities.

But in view of the heavy demands upon your time, and in keeping with my promise to make this short, I must confine myself this morning to a single topic; and because of its importance, that topic has got to be the steady and relentless increase in the imports of foreign steel, and the effect of these imports upon the companies, their employees and the people of this nation.

By way of background, let us look for a moment at what has been happening to the world steel picture over a span of just fifteen years:

In 1950 there were 32 steel producing nations in the world; but in 1965 there were more than double that number. That means that more than 30 countries which had formerly depended entirely upon imported steel, now have steel-making resources of their own; and that the nations which formerly supplied those countries have had to scramble for new markets for their exports.

At the same time, world production of raw steel has increased from 207 million tons to 501 million tons. Moreover, it appears that at least 75 million additional tons could have been produced had there been a market of this steel.

The world exports of steel have more than doubled in the past decade. In 1955, 23 million tons went into the export market; but in 1965, 51 million tons were exported. And no longer does this steel flow principally from the industrialized nations to the less-developed countries. Twenty percent of it comes into the United States, so that this nation—which is the world's largest producer of steel—has become paradoxically the world's largest importer of steel.

Furthermore, major facility additions are projected for both Western Europe and Japan, even though the evidence is that neither in their own home markets nor in the less-developed countries will demand for steel increase sufficiently to absorb this additional production. Thus it is clear that more and more of this foreign steel will be knocking at the door of our American domestic markets.

Today then, the American steel industry is confronted by the cold hard fact that the shifting patterns of world trade over the past nine years, are now costing us more than 13 million tons of finished steel products annually.

Our exports have plummeted from 5½ million tons in 1957 to less than 2 million tons last year while imports during this period have rocketed from a little more than 1 million tons to an all-time record of 11 million tons in 1966. And these imports now account for about 11 percent of our total domestic steel market.

In the Southwest, and out on the Pacific Coast, imports have taken more than 20 percent of the market; and for certain products—such as wire rods, barbed wire, nails and staples—foreign imports represent from a third to a half of the sales in this country.

No one, I think, should try to minimize the impact of 11 million tons of imported steel on the American market. It represents more than 70,000 steelworker jobs alone, and many thousands of additional jobs in supporting industries—all at a time when this nation is striving to achieve maximum employment.

It represents a negative trade balance of nearly a billion dollars at a time when our nation is striving mightily to reverse or contain our balance of payments deficit.

It represents the output of a company larger than Armco and Jones & Laughlin combined, and all the federal, state and local taxes which that company—its employees, its suppliers, and their employees, in turn—would be contributing to the welfare of our nation.

And, finally, it represents a threat to the growth and strength of our own steel industry at a time when America is called upon to defend world peace and the integrity of smaller nations in many parts of the globe. In this situation, gentlemen, I am sure you believe as I do that American security requires a steel industry strong enough to meet whatever demands may be made upon it; and that this nation can never afford to look to other countries for the vital steel supplies that are a major ingredient of its military power, and of its peace-time economic strength.

Now I don't have to tell you, I'm sure, that the American steel companies have not been taking all this lying down. We've been doing everything in the book to make this industry as efficient and as competitive as it is possible for any industry to be.

To enhance our position of technological leadership, and to develop new steel products that could not be obtained anywhere else in the world, we are now spending considerably in excess of 100 million dollars a year on research. And you may be interested to know that in the case of my own company about 15 percent of its shipments last year were of products that we have been selling for less than five years.

But transplanting technological advances from the laboratories to the mills themselves is a costly business; and during the past ten years the American steel companies have spent more than 13 billion dollars on new, more efficient production facilities—designed not only to reduce costs, but to establish new high standards of quality for our competition to shoot at.

Last year, these capital expenditures exceeded 2 billion dollars; and we expect that they may be as great or greater in the current year. Yet even these enormous outlays

are inadequate now to take full advantage of existing technology, and they show little promise of growing at anything like the pace of the increase in our knowledge of steel products and production methods.

Retarding this growth, of course, is the recent suspension of the 7 percent investment credit and of the provisions for accelerated depreciation; and needless to say, the proposed surtax on corporate and personal incomes will, if enacted, impair further our ability to generate the funds needed to finance these capital expenditures. Not only will it intensify the profit squeeze which the industry has suffered in the past decade, but by biting more heavily into the take-home pay of the steelworkers at a time when they are already disturbed by the rising cost of living, it might well build up increasing pressure behind the wage demands that will be made upon us next year.

So our competitive position will be directly affected by the actions of Congress in these important fields of taxation. But meanwhile, we are pressing forward with this program of capital spending as rapidly as we can; because this race for technological advancement is one race that we cannot afford to lose, and neither, I think, can America.

Yet in spite of all we have done and are doing, foreign imports continued to increase last year, even though there was no labor negotiation to be faced, no threat of a work stoppage, and no reason for steel users to protect their supply by turning to offshore sources since domestic producers could fully meet the demand.

Now what are the root causes of this problem?

Well, whether we are talking about steel or any other industry, American production costs are inescapably related to the American standard of living; and are based upon the world's highest wage structure. Even the minimum hourly wage in this country—as fixed by our federal wage-hour laws—is substantially higher than the average wage in most foreign countries. And when you remember that, in the economy as a whole, employment costs represent more than 75 percent of all production costs, you realize why—in industries like steel—foreign-made products can often undersell ours in world markets.

I wish that some of our Congressional guests, this morning, could have been with me on my trip to Japan last month, and could have seen as I did the spectacular advances which the steel industry in that country has made since the end of World War II. Starting almost from scratch, it has become the third largest steel producer in the world, and last year it exported about 11 million tons of which nearly 5 million tons were sold in the United States.

Moreover, the Japanese have vast plans for expansion in the very near future, with the likelihood that most of this new tonnage would go into exports. So a few points of comparison between the two industries might be worthy of attention.

There is little to choose between the two as to technology, productivity, labor supply, skills and climate. The United States may have some advantage in the availability of raw materials although this is shrinking as new high-grade ore and coal sources open up around the world and as highly-efficient ocean bulk carriers go into service. The United States has the most modern and diversified transportation system in the world—a real advantage—but the location of all major Japanese plants on the Coast is a partially balancing factor. Therefore—as to these factors—our steel industry would seem to have some edge on Japan's. The only identifiable major difference among the economic factors affecting the two industries is in employment costs.

Employment costs in the Japanese steel mills are less than one-third as much as they are in the United States. And when I speak of employment costs, I am not talking about wage rates alone. I am including the whole range of benefits which the Japanese steelworkers receive.

The net result is that the Japanese mills have an advantage of from $30 to $35 a ton in employment costs alone. And beyond that their capital costs in the construction of new facilities are only about half as much as ours.

Faced by that kind of cost disadvantage, American producers have little chance of competing on a basis of price and must rely on quality, service and innovation as the primary areas of competition.

But these cost advantages which foreign producers enjoy in varying degrees in Europe and the Far East are not the only explanation of the flood of steel imports which washes up on our American shores. A basic cause lies in the excess steelmaking capacity which exists abroad and continues to increase; so that steelmakers in these countries are compelled to maintain their exports at the highest practical level. If this means that they must ship their excess tons across the seas at whatever price is necessary to get the business, then they do so—and eventually their governments or their home-market customers must subsidize these exports in one way or another.

Foreign governments use their steel industries as instruments of national policy resulting in protection of those industries. The measures they have adopted take many forms but they are designed to protect domestic markets and stimulate exports. These include tax rebates, subsidies, special shipping rates, and special depreciation allowances.

And America is a prime target for these exports because the steel market in the United States is not only the largest and most diversified in the world—it is also the most open and easily accessible in the world. Here a low tariff, averaging less than 6 percent of the value of the product, is the only barrier this country places in front of steel imports.

But in other countries it is different. When American steel goes abroad, for example, it must absorb tariffs that can be more than double the American duty and then be required to hurdle a battery of non-tariff barriers which may include border taxes, surcharges, import licenses, penalties, fees and so-called equalization taxes that—in various countries—are levied on imports and rebated on exports. So the United States market is thus being used by foreign mills as a kind of "bargain basement" in which to dispose of their surplus production.

Gentlemen, there is a point—and I believe that point has been reached—where there is a limit to what we can do and still maintain the financial soundness that steel or any other industry cannot and must not jeopardize. There is a point—and I believe that point has arrived—when the import-export problem of the steel industry must be recognized in the offices of government and appropriate steps taken to solve those portions of the problem which only government can solve.

You all know what has been happening in Geneva. After years of debate, the GATT negotiations are at a virtual standstill and we in the steel industry feel certain that nothing can result which will prevent the steady deterioration of our international trade in steel.

The Trade Expansion Act expires in June and we feel it would be a tragic mistake if the Congress were merely to pass a perfunctory extension of that Act. And I gather that we are not alone in that opinion.

The Chairman of the Finance Committee, Senator Russell Long, was quoted the other day as saying: "Our trade policies need a thorough new look; and some hard-headed American businessmen are needed to devote a great deal of independent thought and study to the over-all program."

And at the annual meeting of the Trade Relations Council, Senator Everett Dirksen, the Minority Leader, expressed his "deep conviction that it is time that the Congress restore some semblance of fairness and balance to our foreign trade policy and procedures.

"We must be as zealous," he said, "in our concern for the welfare of American workers and their employers as we are for those living in distant lands . . . we as a people—and especially your Representatives in the Congress—must be farsighted enough to strengthen the American system by our wise adoption of laws calculated to foster America's strength and economic growth, rather than submissively to accept policies whose chief contribution is strengthening other nations at our expense."

Statements like these—coming as they do from both sides of the aisle—are encouraging indeed and certainly we are grateful for the efforts of many of you Members of Congress in seeking a solution to this problem. Two examples come to mind—the study of the steel import situation which is presently being conducted by the staff of the Finance Committee as the result of a resolution introduced during the last session by Senator Vance Hartke; and the hearings concerning the impact of imports on labor which were held by Congressman John Dent and his General Labor Subcommittee this past summer.

Studies and hearings of this kind are important in the determination of long-range trade policy. However, the welfare of this industry, the maintenance of the high standard of living of the American steelworkers, and—I believe it is fair to say—the security of this nation require that the Congress take steps at this Session to enact a temporary levy on imports of foreign made steel and pig iron, so as to narrow the price differential and create a climate of more equitable competition between domestic and foreign producers who seek a share of the United States market.

What the exact terms of such a law would be, and how it should be drafted, are matters, of course, which rest with you, and we will be communicating with you individually to gain the benefit of your counsel as well—we hope—as your support.

But meanwhile if you are looking for any of those "hard-headed businessmen" that Senator Long was talking about, I must say that seated in this room today are some of the hardest-headed men that you could find anywhere. I know, because I have been competing against them and their companies for more than forty years. And every one of us wants to be helpful to you in finding a fair and workable solution to this vital problem.

I hope that, together, we can.

OUTER SPACE TREATY

Mr. McGOVERN. Mr. President, while I support the substantive provisions of the Outer Space Treaty, I should like to take a moment to call attention to the value of agreement itself, quite apart from its substance.

Although this document draws on two or three United Nations resolutions and on the Antarctic Treaty, the real spark-plug for it was President Johnson's proposal of May 7, 1966. This was at the height of our disagreement with the Communist states over at least one major problem—the Vietnam conflict. Some feared that no major progress in our relations could be made until that quarrel was settled. Actually, there is no such thing as a static international relationship. Either we allow our relations with the Soviet Union to deteriorate, with the frightful specter of nuclear war at the end of the process, or we take

every opportunity to improve those relations. I see no real choice between such options.

The Outer Space Treaty is a long and complex document. Many treaties of less complexity have taken years to work out. Reconciliation of national interests is an arduous process. But President Johnson proposed this treaty on May 7; the 28 members of the U.N. Outer Space Committee negotiated intensively; agreement was reached by December 8 of the same year.

I think this a remarkable achievement, and I hope the Senate will shortly put its own stamp of approval on it.

REVIEW OF 1966 EDITION OF YEARBOOK OF AGRICULTURE

Mr. MONDALE. Mr. President, the amazing success story of American agriculture is well known to all Members of the Senate. It is an inspiring story, and it is revealing, too. It is revealing because it graphically depicts the unprecedented success which can result when dedicated men and women in diverse vocations bend their efforts toward a common objective.

Few documents demonstrate the complex mixture of individual, governmental, and scientific efforts which has brought this Nation agricultural abundance as well as the annual Yearbook of Agriculture published by the U.S. Department of Agriculture. A recent review of the 1966 edition of that publication in the January 1967 edition of BioScience by a distinguished science specialist in the Library of Congress, Dr. Francis Joseph Weiss, does a remarkable job of concisely illuminating the diversity of effort which has crowned our agricultural system with abundance.

Mr. President, I ask unanimous consent that the entire review be printed at this point in the RECORD.

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

("Protection of Our Food: The Yearbook of Agriculture 1966," by the United States Department of Agriculture, edited by Jack Hayes.)

Anabolic and catabolic activities of living organisms and ecosystems are essential functions of life. They had reached an equilibrium before man profoundly disturbed the balance of Nature, when, in the Neolithic Revolution, he began to scrape the earth surface by learning to cultivate plants and to breed animals. In cultivating plants, man not only cultivated the weeds that compete with them for water, nutrients, light and air but also a host of insects, rodents, bacteria, fungi, and viruses; in breeding animals, he also unwittingly bred numerous parasites and contagious diseases affecting his herds and bringing him hunger, disease, and death. The necessity to raise single crops in monoculture and assemble special breeds of animals on relatively small areas gave these destructive forces opportunities to specialize and to proliferate into enormous populations. Since the time of the Neolithicum, man has fought, with only partial success, the unending battle against increasing numbers of more and more destructive enemies in producing and protecting his food and insuring his existence on this planet. It is only since the seventeenth century, however, that the slowly dawning recognition of the biological factors underlying this life-and-death struggle has enabled man to introduce more rational and effective methods of food protection. The remarkable progress made in all branches of biological science in this century has put pest control and food protection on a sound scientific basis and enabled the subsistence of billions of human beings, where formerly only millions could find a bare livelihood.

Particularly the American farmer and stock breeder, in close cooperation with biologists of all specializations, have played a leading role in this unceasing battle. As the Honorable Orville L. Freeman, Secretary of Agriculture, notes in his foreword to the 1966 Yearbook of Agriculture, the American food abundance, which is one of the miracles of our age, "didn't just happen," but it is the result of the immense efforts of our scientists, administrators, farmers and farm workers. As Secretary Freeman points out, they had to fight 10,000 kinds of insects, combat 1,500 plant and 250 animal diseases, eradicate numerous weeds, and eliminate all forms of waste, spoilage, decay, and deterioration.

Men and women in 500 different occupations are united in the endeavor to protect our food, and among them biologists occupy a prominent place: geneticists, entomologists, bacteriologists, mycologists, plant and animal physiologists and pathologists, biochemists, parasitologists, agronomists, horticulturists, microbiologists, and food technologists have been working hand-in-hand in generating the knowledge and devising the methods for this remarkable success of American agriculture which has become the model and the incentive for the agriculture of other countries.

There is space here to recount only portions of special interest to biologists. Instead of chemical control of insect pests, which often leaves undesirable residues, biological control agents such as parasites, predators, diseases, protozoa, and nematodes have been successfully applied. The release into a wild insect population of male insects sterilized by gamma rays, devised by Edward F. Knipling of the Agriculture Department, has brought about the eradication of the screw worm (*Cochliomyia hominivorax*) in the Southeastern United States, where it caused livestock losses of many millions of dollars. This method is now being tested on the codling moth, the European corn borer, and several tropical fruit flies; gamma radiation is also used for the destruction of stored grain insects. In 1964 it was found that exposing the adult Indian-meal moth (*Plodia interpunctella*) to certain sound waves during the egg-laying period reduced reproduction by 75%; following this treatment, the surviving generation was much weaker and died sooner than usual. The discovery of natural and artificial sex attractants which lure insects into a trap where they can be easily destroyed by a volatile chemical is also remarkable.

Man's age-old practice of using pest-resistant plants and animals has found a scientific foundation and rational application through recent developments in the field of genetics. In comparing the resistance of 25 flax varieties, each with a specific gene affecting the plant structure, to different strains of the rust fungus, it was found that for each rust gene enabling the fungus to infect there is a corresponding gene in the host plant determining whether it will be susceptible or resistant. By exploring the genetic code in the DNA molecule of plants, we may eventually learn which gene is carrying the specific trait responsible for disease susceptibility. But even without this knowledge we have achieved remarkable successes in altering the genetic structure of plants by gamma radiation to artificially obtain mutants of higher disease resistance, better yield, or improved quality. Thus, as John R. Deatherage points out in his summary and outlook, "New Horizons in Research," we are standing at the threshold of new discoveries, especially in the biological sciences, which will give powerful weapons for providing a more abundant life for the rapidly increasing world population.

For many years the Agricultural Yearbooks have reflected advances in science and technology as they have affected agricultural production. What makes this Yearbook so outstanding is its concentration on the greatest losses in agricultural production and its all-pervading optimism about man's ability to overcome the obstacles to an increased food production by the extermination of pests and food-borne diseases. The book will provide the more sophisticated biologist with much valuable information about other fields. Despite the condensed nature of its presentations, excellent editing by Jack Hayes makes the book pleasant and fascinating reading. Above all, in times of skyrocketing book prices, to obtain so much scientific material for $2.50 is really a bargain!

FRANCIS JOSEPH WEISS,
Library of Congress.

UNIFIED CORRECTIONS SYSTEM

Mr. PELL. Mr. President, I believe that we should all be greatly encouraged by the steps proposed in the President's message on crime. He is recommending innovative and much needed ways to meet the growing challenge of our increasing crime rate.

In particular, the proposal to combine parole and probation supervision with prison functions should give us a tremendous opportunity to strengthen the rehabilitation process. I believe that this process is one of the keys to combating crime. When we have eliminated the causes of crime and brought our corrections process to its maximum effectiveness, a major part of all criminal activity will have been eliminated.

I believe that a unified corrections system may be one of the most important steps toward the attainment of this goal. I will be pleased to support it, and I call on all Senators to join with me.

CHANGE SELECTIVE SERVICE

Mr. YOUNG of Ohio. Mr. President, the Selective Service System has proven most unsatisfactory. Local draft boards have too much discretion in administering the draft. Too often the board in one city will grant deferments, while the board of a neighboring city will refuse deferments under the same circumstances. Too frequently favoritism has been shown to professional athletes. Above all else, youngsters with wealthier parents able to send them to universities secure exemptions not granted to those from poor families who cannot afford a college education. It is the responsibility of Congress to enact a new Selective Service System which will correct the inequities of the present system.

Senator EDWARD KENNEDY, of Massachusetts, has been advocating a national lottery, such as we had in World War I. Under such a system, numbers would be drawn by a blindfolded official, and a number of young men 18, 19, and 20 years of age would likely be inducted in numerical order when their numbers were drawn. Others would know they would not be called. I believe this system would be an improvement over the

present system, which permitted a New York draft board to exempt from service Actor George Hamilton back in 1961. Rightwing extremists frequently cite this, disregarding the fact that Linda Bird Johnson was about 16 years of age at the time.

The lives of many of our youngsters have been disrupted under the present system. Few employers will hire young men until their military obligation has been completed, and it is impossible to know when, or if, a young man will be drafted. Not knowing whether or not they would be drafted, some hurriedly married. Still others have senselessly prolonged their education in order to avoid being drafted.

One great wrong of the present system is that drafting starts with those who are 26 and goes downward. The best selective service policy is to commence inducting youngsters in the 18- to 21-age group first. Doubtless only a fraction of the total number would be needed. It would be far better for a young man to be inducted at 18 to complete his military service at 20. Then he could go ahead in civil life or complete his education free of doubt, his military obligation having been completed.

Also, why not follow the example of the West Germans and amend the selective service law to require military service for only 18 months?

OUTER SPACE TREATY

Mr. INOUYE. Mr. President, the United States should be proud of successfully negotiating the Outer Space Treaty which was signed at the White House on January 27. On its own merits the treaty is a good one. It provides protection for our astronauts, diminishes the likelihood of conflicts as a result of space activities, and promotes international cooperation in science.

But the treaty stands for something more. It stands for our determination to rise above the struggle in Vietnam in our search for world peace.

Earlier, some said it was not worth trying to negotiate any agreement with the Soviets until the fighting in Vietnam has been brought to an end. This is nonsense. The quest for peace concerns us all—and concerns us all the time. We cannot wait for "opportune moment"—and I am certain that our brave fighting men in Vietnam would not expect us to do so.

I understand that the Joint Chiefs of Staff and the Department of Defense support the Outer Space Treaty. This effort to proceed with the work of peace is in the finest American tradition.

Indeed, last year the Senate called upon the executive to get on with the urgent business of a nonproliferation agreement. I hope that agreement will be reached without further delay.

OPPORTUNITY FOR PACKAGING AND LABELING REFORMS

Mr. MAGNUSON. Mr. President, the manufacturers and distributors of consumer goods face a unique challenge and opportunity to work with the Department of Commerce in rooting out the misleading and confusing packaging practices which led to the passage of the Fair Packaging and Labeling Act of 1966.

To date, I have been very much encouraged by the apparent readiness of industry to sit down with Government representatives and attempt to work out meaningful solutions to the problems paraded before our committee last year.

Responsible businessmen are beginning to realize that if they cannot agree to accept voluntary restraints on their packaging practices, Congress will have no choice but to adopt more stringent measures in the future.

The meeting of manufacturers, distributors, and business associations called by Acting Secretary of Commerce Trowbridge for February 28 should provide an excellent foundation for the development of plans and procedures to make the Fair Packaging and Labeling Act of 1966 really work.

I ask unanimous consent to have printed in the RECORD the text of today's release from the Department of Commerce announcing the February 28 meeting.

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

FIRST MEETING ON FAIR PACKAGING CALLED BY DEPARTMENT OF COMMERCE

Manufacturers, distributors, and business associations which have interests in the Fair Packaging and Labeling Act of 1966 have been invited by Acting Secretary of Commerce Alexander B. Trowbridge to attend a meeting in Washington on February 28 to discuss steps to carry out the Act's provisions.

The meeting, which will be open to anyone concerned with consumer packaging, will be held in the auditorium of the Museum of History and Technology, 14th Street and Constitution Avenue NW., at 9:30 a.m.

In announcing the meeting, Secretary Trowbridge said: "Businessmen are eager for more information about this Act. I am certain that business and Government cooperatively can meet the spirit of the legislation by planning together before the effective date of July 1. The best interests of all, including the consumer, will be protected by early planning."

Under the Act, the Secretary of Commerce may determine that there is undue proliferation of the weights, measures, or quantities in which a consumer commodity is being distributed. If he determines, in addition, that this proliferation impairs the ability of consumers to make value comparisons, he must request industry to participate in developing a voluntary product standard. One year later, if a standard has not been published, or if it is published but is not being observed, the Secretary of Commerce is required to report promptly to the Congress, with his legislative recommendations to deal with the situation.

Most of the 25,000 to 30,000 product standards in effect today have been developed through private associations such as the United States of America Standards Institute. About 500 have been developed in cooperation with the National Bureau of Standards under the Department's voluntary standards procedures.

AN END TO HUNGER

Mr. INOUYE. Mr. President, the President's food for India message was more than another chapter in the very old story of this Nation's wonderful generosity to less fortunate peoples.

He has presented a food-assistance program not just for this year, but for decades to come.

This call for a worldwide war on hunger has broken "exciting new ground," says the New York Times in an editorial this morning.

The paper says:

It is a program that should restoke the fires of idealism and altruism while satisfying demands for practicality.

The President asks—and rightly so—that we meet India's immediate problem, the present threat of famine. But he understands that the United States cannot go on year after year doing this largely alone.

The President's answer—a continuing program of food and food-related aid from a consortium of well-off countries—is well received in the Times, as I am sure it will be well received everywhere.

I ask unanimous consent that the editorial be printed in the RECORD. It records a truly stirring call to battle against man's oldest enemy—hunger.

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

FOOD FOR THE HUNGRY

President Johnson has broken exciting new ground with his proposals to Congress for American participation in a world-wide "war on hunger." His program is both short-run, dealing specifically and immediately with the famine threat in India, and long-term geared to help willing nations help themselves along the road to self-sufficiency in food.

It is a program that should restoke the fires of idealism and altruism while satisfying demands for practicality. The President states harsh truths about imperative self-help requirements for food recipients: birth control and family planning; higher priority for agriculture as against industry in development programs of needy countries; vastly expanded use of fertilizer and seeds, along with soil-building and conservation policies.

But he emphasizes equally the enduring willingness of the United States, if other advanced nations cooperate, to provide food on generous terms while recipient countries are developing the capacities to feed their hungry.

Mr. Johnson sensibly proposes to approach India's problem through the eleven-member consortium already functioning under World Bank leadership to provide economic aid to that country. Food becomes a part of the multilateral assistance program provided through the consortium.

The President makes clear that food and food-related aid administered in this way should be additional to the economic assistance already in consortium programs, and not—as has been feared—a substitute for it. Use of the consortium under the World Bank umbrella should facilitate integration of over-all aid to India and defuse suspicions that the United States will use its aid in an effort to influence Indian policies at home and abroad.

To help stave off famine in India, Mr. Johnson will immediately allocate 2 million tons of food grains, or 300,000 tons more than a Congressional task force recommended to him in December. Department of Agriculture experts insist that this allocation will keep food—from all sources—in India's pipeline and that despite predictions to the contrary there will be no interruption in the

"bridge of ships" carrying emergency food to Indian ports. We hope the Department is right. In addition to the emergency allocation, Mr. Johnson asks Congressional approval for a commitment of up to 3 million tons of food grains, "provided it is appropriately matched by other countries."

The Administration clearly intends India to be a pilot project for multilateral food aid to all hungry countries. In that connection, the President cites eight specific Indian self-help accomplishments of the last year, ranging from incentive prices for farmers to fairer food distribution to family planning. Perhaps this tribute to India's efforts will help erase bitterness aroused by the still unexplained freeze on food shipments in November, an act highly embarrassing to a hard-pressed Indian Government preparing for the crucial elections that begin this month.

There are less offensive—and more effective—ways to jog India along the self-help road, and the President has found them in his message to Congress. He has put the emphasis where it belongs—on the imperatives of self-help by the needy and generous load-sharing by the other advanced countries. And he has done so in an over-all context of interdependence and a stirring call to battle against "mans' oldest enemy."

SENATE HAS RARE OPPORTUNITY TO GIVE U.N. BADLY NEEDED TRANSFUSION OF POWER AND PRESTIGE

Mr. PROXMIRE. Mr. President, on January 30, 1967, the distinguished chairman of the Foreign Relations Committee [Mr. FULBRIGHT] recalled very accurately that in the years immediately following World War II:

The United States had looked to the United Nations for our ethical and pragmatic bases.

In that same statement the chairman of the Foreign Relations Committee forcefully expressed the belief that "the prestige and authority of the United Nations has dwindled" during the intervening two decades.

I agree wholeheartedly with the Senator from Arkansas that the prestige and authority of the United Nations have dwindled. I deem this diminution both unfortunate and unwise.

But what Member of this body can deny that the Senate has failed the United Nations? We cannot escape responsibility for the progressive enervation of the United Nations' influence.

The Senate, under our Constitution, has the sole authority for the ratification of treaties and conventions. The United Nations General Assembly in December of 1948 unanimously adopted the Convention on Genocide. This was the first "magnum opus" of the United Nations, a cooperative and conscientious attempt to establish minimal universal standards of human dignity.

When the Genocide Convention came to the Senate in 1949 for our advice and consent, only five nations had already ratified it. Since that date, 64 nations have chosen to ratify this convention. But nowhere on that list of 69 nations will be found the name of the United States.

We have an equally appalling record on the human rights conventions on forced labor, political rights of women, and slavery. Seventy-five nations have ratified the convention on forced labor, 50 nations have ratified the convention on political rights of women; and 67 nations have ratified the convention on slavery. But because the Senate has refused to provide either its advice or its consent, the United States to this day stands conspicuous by its absence.

Mr. President, I wish to point out that the only charter members of the United Nations which have failed to ratify a single human rights convention are Spain, South Africa, and the United States.

We have ignored, insulted, and undermined the United Nations. All our pompous phrases and empty platitudes about the United Nations are just that when we fail to find the time in 18 years even to consider briefly the United Nations' first great convention.

The stigma of our collective abdication is upon the Senate. If we really are sincere about our support of the United Nations, if we are truly committed to that world organization, let us prove it; let us ratify the conventions on genocide, forced labor, political rights of women, and slavery. In so doing, we will give the United Nations a badly needed transfusion of American endorsement.

THE PURSUIT OF PEACE

Mr. INOUYE. Mr. President, President Johnson's press conference on February 2, in which he restated this country's position on Vietnam, has won a great deal of favorable comment.

I wish to cite two examples, one in the Philadelphia Inquirer, and one in the New York Daily News, I ask unanimous consent that both be printed in the RECORD.

The Inquirer noted the President's "vigorous and emphatic" appeals for some measure of response from Hanoi to our efforts to end the war. Yet, the editorialist said, he avoided unwarranted expressions of optimism in warning the American people that there is no quick and easy solution to the conflict.

The Daily News detailed the Communist world's impossible conditions for ending the fighting, including pulling our troops out and leaving southeast Asia to its fate.

Obviously, the News said, we cannot agree to these preconditions—as the President affirmed at the news conference.

The paper concluded:

We're delighted that he did, and hope his dove detractors will pipe down for a while—though that may be too much to expect.

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

[From the Philadelphia Inquirer, Feb. 3, 1967]

IN RELENTLESS PURSUIT OF PEACE

President Johnson, at his news conference Thursday, issued vigorous and emphatic appeals for some measure of positive response from Hanoi to U.S. efforts to end the war in Vietnam. It is difficult to conceive how an offer to negotiate peace could be more wide open, or more earnestly presented.

But it takes two to negotiate.

The President, in response to questions, affirmed repeatedly that there has not yet been any indication from the Communists in Vietnam that they want to end the war, or even that they are willing to start discussing any possible terms for a negotiated settlement.

Thus, in forthright statements devoid of unwarranted expressions of optimism, Mr. Johnson has warned the American people, and the world at large, not to be deluded into believing that the conflict in Vietnam is on the brink of quick and easy solution. At the same time he has served notice, in unmistakable language, that the United States continues to pursue all avenues of peace, to keep all channels of communication open, and to welcome all assistance from any quarter that gives a measure of genuine hope that the war can be ended.

The President said, moreover, that he was prepared to halt the bombing of North Vietnam if Hanoi would offer to take "just almost any step" in reciprocity toward peace.

When will Hanoi take that step?

Ho Chin Minh could obtain a cease-fire tomorrow, if he really wanted to, merely by sending the word.

Tragically, there is no word from Hanoi. Until there is, it would be a refreshing change if the peace pickets who march and clamor for an end to the war would direct their protests to Ho Chi Minh.

[From the New York Daily News, Feb. 3, 1967]

PEACE TALK BUSTS OUT ALL OVER

The most significant contribution to the current outburst of talk about peace in Vietnam, we'd say, was made Wednesday in London by Soviet Ambassador to Britain Mikhail Smirnovski.

Smirnovski's half boss, Soviet Premier Alexei Kosygin (the other half is named Leonid Brezhnev), is to visit London next week. Smirnovski's statement was meant to set the stage for Kosygin's talks with British Prime Minister Harold Wilson.

What Smirny's chatter boiled down to was that yes, the Kremlin wants peace in Vietnam and is working for it; but that the basis for peace discussions must be the Viet Cong's (South Vietnam Communists') five peace pre-conditions and Red North Vietnam's four ditto.

These nine points add up to: U.S.A., pull all your fighting men all the way home and leave all Southeast Asia, then the Philippines, then Australia and New Zealand, open to Red conquest.

Obviously, the Kremlin is no more persuaded as yet that the Reds can't win this war than is Ho Chi Minh in North Vietnam or Mao Tse-tung in Red China. All these thugs are as willing as ever to fight to the last North Vietnamese and Viet Cong, and to supply war material.

Obviously, too, we can't end the war on those terms unless we are willing to give world Communism one of its biggest victories ever.

President Johnson said as much in effect at his news conference yesterday. We're delighted that he did, and hope his dove detractors will pipe down for a while—though that may be too much to expect.

BUILDING BRIDGES TO THE EXECUTIONER

Mr. MUNDT. Mr. President, a Catholic priest who is a friend of mine wrote me the other day enclosing a most effective and thought-provoking article entitled "Building Bridges to the Executioner." I think it should be read and considered carefully by all Senators before deciding how best we can protect the lives of our fighting men in Vietnam and help to shorten rather than prolong the war by our vote on the proposal to

ratify a new consular treaty with Communist Russia.

I think that Father Lyons, in the article alluded to, renders a great public service in recalling to those who may have forgotten the ugly and unhappy fact that it is "over the bridges" we are being asked to build that traffic is now flowing which aids the U.S.S.R. in its cruel and anti-American program of supplying to our enemy in North Vietnam the weapons it so badly needs in order to prolong the war and to pyramid even higher our already heavy casualties in this most unusual war, with all its curious contradictions reflected in how it is being conducted by the administration in charge of this bloody business.

In my opinion, we ill serve Americans in uniform and those about to be drafted when we willingly reward rather than effectively reprimand the Russian Government for increasing our problem and expanding our death lists in Vietnam.

Mr. President, I was especially struck by Father Lyons' startling observation when he wrote in Our Sunday Visitor:

> There is a strange relationship being built up by the United States toward Russia. Until a year ago, Soviet Russia was visibly worried that her military aid to North Vietnam would be resented by the United States. But she soon came to realize that the Administration had no objection to her furnishing guns and missiles to Hanoi. So Russia began complaining about our helping the South.

It is indeed a sorry day in American history, Mr. President, when our President and our State Department concentrate their efforts on such matters as setting up new consular regulations with Russia and in an effort to expand even further our already unconscionable traffic in blood with Communist countries by proposing to expand East-West trade rather than concentrating on what is required to cause Russia to reduce or stop her steadily growing shipments of oil, weapons, and ammunitions to the North Vietnam Communists who use them to kill America's finest fighting men.

It is indeed shocking, if true, as Father Lyons puts it, that our attitudes and approaches to Russia have been such as to make her feel we have no realistic and effective objection to her efforts to prolong and expand the war in Vietnam. I dislike to accept that statement as accurate, but it must be said that I have at hand no hard evidence to contradict it. In fact, the available tangible evidence gives credence rather than refutation to that blunt and caustic assessment of our American approaches to the Communists of Eastern Europe.

What is that evidence? Long after we became deeply involved in this distant and destructive war, this administration took its first step toward encouraging additional exports to Russia. That was the great argument, it will be recalled, about shipping wheat and other raw materials and fabricated machinery to Russia and—note well the step—whether the American tax-supported Export-Import Bank might be justified in underwriting the credit of Russia in making such purchases. The Senate in a strong rollcall vote expressed its disapproval of that step 1 in this curious direction, but administration pressures finally won the day, and those protesting it lost that fight.

Mr. President, in this consular convention controversy, the Johnson administration goes another step further, and we may well lose this fight, as well, since in Congress the public pressures by the big men in Government frequently override the private pleas of the people back home whose sons are drafted and whose taxes are increased by war.

However, Mr. President, I am convinced that in the end we shall win the effort to establish the principle that feeding the same enemy we fight and supplying the sinews of war to those who help our enemy resist our efforts to negotiate a peace will not prevail. Many Americans are rather serious students of history and they know—even though this administration and those supporting these bridges to a destination dubbed disaster may forget—that never before in American history, Mr. President—never, never before—has this country acted to supply and strengthen the economy and the industrial output of those supplying the weapons to kill and maim our fighting men in time of actual war as we are so callously doing today.

But I have diverted from my recital of the evidence, which, I deeply regret, grows more and more compelling in support of the startling statements made in the Sunday Visitor, which my correspondent tells me is the Catholic newspaper in the United States having the largest circulation—more than a million. If that be true, Mr. President, I hope that these comments in the RECORD will be printed in the Sunday Visitor to give its readers additional background for the thesis so ably presented by Father Lyons.

I have mentioned step 1 in the sordid and counterproductive business of helping those who are hurting us. Let me now submit step 2 in this almost unbelievable trail of evidence.

On October 12, 1966, the Johnson administration, by executive action, and over the protest of many Members of Congress, increased the heretofore restricted sale of American supplies to 400 items, including many in the industrial field which could by no stretch of the English language be considered "nonstrategic goods," unless scrap iron, rubber, sulfuric acid, machine tools, electrical equipment, and a long list of like items in the list of 400 new trade-free exports to Russia could be considered unimportant to an economy which is building Migs, missiles, antiaircraft weapons, and the other sophisticated weapons of death now being supplied by the Russians to their Communist comrades in North Vietnam in steadily expanding quantities. In fact, there is an altogether sickening relationship and connection between our increasing casualty lists in Vietnam and Russia's stepped up shipments of the weapons which create those casualties.

Within 2 weeks of this step 2 approach to "building bridges," Mr. President, the Communists of the Warsaw Pact countries announced that they were sending another billion dollars of military and economic assistance to Vietnam. Obviously, if this administration does not recognize shipments which are far better classed as "suicidal exports" rather than "nonstrategic goods," it is clear that the Kremlin does.

Step 3, with its strong pressures for ratification of the Consular Convention with Russia, which at best would bring additional Communists to our shores to make deals and to develop purchases for still more American economic assistance for their faltering economy, is just the seductive prelude to step 4 which has already been announced.

Step 4, the final, fatal stride toward national suicide, is President Johnson's plan and plea to expand even further the wartime East-West trade which already has done so much to enable the Russians to ship almost 200 of their most modern jet fighting planes—the Migs—to Hanoi and to equip the Communists of North Vietnam with more than 2,000 highly destructive antiaircraft guns to shoot our brave flyers out of the air in a firey death or to condemn them to a Communist prison camp in North Vietnam.

Mr. President, that is the story which the evidence clearly portrays.

I ask unanimous consent to have printed in the body of the RECORD the conclusions which are drawn, as contained in the article in the Sunday Visitor, from these unprecedented and blood-stained steps which clearly do nothing to encourage peace but which realistically, if continued, can do a great deal indeed to prolong the war.

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

[From Our Sunday Visitor, Dec. 11, 1966]

BUILDING BRIDGES TO THE EXECUTIONER

(By Rev. Daniel Lyons, S.J.)

Twenty thousand readers of OUR SUNDAY VISITOR from all 50 states and seven provinces of Canada contributed to have their names added to the telegram against the admission of Red China to the United Nations. The White House promised to forward it immediately to the President, who was recuperating at his ranch. The telegram was over 200 feet long, one of the longest ever sent by Western Union. It received widespread national publicity, and I hope set people to thinking. The United Nations was debating Red China's admission at the time, and along with several other priests I helped man the picket lines outside the UN, protesting Red China's admission. [Editor's note: Father Lyons was interviewed on network TV while on the picket line.]

Ambassador Goldberg's statement that the United States was opposed to putting Free China out of the UN was interpreted as favoring a two-China policy. It was taken by some as appeasement on our part, although this is hardly the time for it.

UNITED STATES AND RUSSIA

Spain, West Germany, South Korea, and South Vietnam should be invited to join the UN, but surely not Communist China. Around New York there is a growing realization that the United Nations is less and less effective. The "one nation, one vote" idea is forcing the larger nations to solve their problems outside the UN. The hope of the free world is still the United States, just as the USSR is still the hope of the Communists.

There is a strange relationship being built up by the United States toward Russia. Until a year ago, Soviet Russia was visibly worried that her military aid to North Vietnam would be resented by the United States. But she soon came to realize that the Ad-

ministration had no objection to her furnishing guns and missiles to Hanoi. So Russia began complaining about our helping the South.

PRESIDENT CONVINCED

The more Russia complains the more U.S. officials do everything they can to help the Russian economy. Walt Rostow, the greatest bridge builder of them all, was made chief White House advisor on Soviet relations. Zbigniew Brzezinski, who also strongly favors building up Russia, recently became a top Presidential advisor, at Rostow's insistence. Brzezinski not only wants us to do everything we can to help Russia, he wants us to persuade the rest of the free world to do the same.

Rostow and Brzezinski have convinced the President that he should go all out to build up Russia. The President recently arranged for the Export-Import Bank to use Federal financing for increasing trade with the Russian bloc, saying that it is "in the national interest."

Why it is in America's interest to finance the very country that is supplying guns, Migs and missiles to North Vietnam is difficult to understand. Yet the Administration has already arranged for shipping such strategic items to Russia and her satellites as a ball-bearing factory, radiation instruments, railway equipment, combustion engines, rocket engines, generators, chemical factories, a huge hydrogen plant, synthetic rubber, copper mills, steel mills, turbines, electronic computers, nuclear radiation and detection instruments, and navigational equipment for Russian planes.

EXAMPLE OF MISTAKES

The President recently listed more U.S. measures for building up the USSR. In doing so, he used Brzezinski's phrase, "peaceful engagement."

The cold facts, however, are that the interests of Soviet Russia and the United States have very little in common. Those who think otherwise are indulging either in emotionalism or wishful thinking. America has been talking a lot lately about a *detente* with the Soviet Union, but there has never been any justification for it.

A striking example of our sad mistakes in this regard was the wire recently sent by President Johnson congratulating the Soviet Union on the 49th anniversary of the Communist Revolution. He sent the wire "on behalf of the people of the United States," despite the fact that most Americans resent the Communist takeover in Russia. That takeover meant the suppression of religion and human rights, the murder of millions of people, the occupation of all of Central Europe. Without the Communist revolt in Russia there would have been no Red China, no Korean War, no Cuban takeover, no war in Vietnam today.

BRIDGES FOR FRIENDS

Bridges should be built to our friends, not to our enemies. But we build bridges to our enemies and antagonize our friends.

Mr. MUNDT. Mr. President, with an average of less than 20 Americans a year, of the some 18,000 who annually go to Russia for profit or pleasure, actually running afoul of Russian law and being picked up by their police—one wonders whether there might not have been that many or more picked up for some violation or other had they traveled at home—the most optimistic estimates of the State Department of those who might benefit from the proposed consular treaty run mighty small compared with the 500,000 young Americans in uniform now serving in Vietnam, who are poorly served and perhaps grievously disserved by a treaty which ignores entirely the fact that thousands of American casualties in this war should bear the legend: "Made in Moscow."

By ignoring that ugly fact, by glossing it over, by rushing in to ratify a treaty that the Russians themselves have not yet ratified, does any Senator seriously believe that such action is likely to discourage or dissuade the Russian Communists from continuing to escalate their shipments of weapons, ammunition, petroleum, and other supplies to Hanoi's desperately needy war machine? Or is it, more likely, to convince the Russians we have no serious concern over the fact they are one of the main sources of war supplies that enables Ho Chi Minh to defy our efforts toward peace and to prolong the war?

Mr. President, this consular treaty is the wrong treaty, at the wrong time, with the wrong country, and it deals with the wrong issue. Our first business as Members of Congress and it should be that of the executive branch, as well—is to help bring this war to an end without suffering a defeat or sacrificing the future of both peace and freedom. It is my studied conviction that we retard progress toward that goal and invite a longer and more costly conflict when we embrace those who would eliminate us and who equip our enemy to strengthen its power to kill and its will to fight by ratifying the proposed Russian consular treaty with the major arsenal for Hanoi and announce a desire to follow that with as expanded East-West trade, which can only make a bad situation worse.

THE CLERGY'S DEMONSTRATION AGAINST ESCALATION OF THE VIETNAM WAR

Mr. MUSKIE. Mr. President, about 35 Maine ministers and laymen came to Washington last week to express their anxiety over the war in Vietnam. They were participating in the mobilization sponsored by the National Emergency Committee of Clergy and Laymen Concerned About Vietnam.

I met briefly with the delegation from Maine. I was impressed by their sincerity, their convictions, and their decision to take a public stand on the great issue of our times.

Clearly, the national debate over Vietnam is as spirited among members of the clergy as it is among other groups of Americans.

A report on the division of opinion on Vietnam within Maine's clergy appeared in the Portland, Maine, Sunday Telegram of January 29, in the same article announcing that some members of Maine's clergy were coming to Washington to voice opposition to escalation of the war.

In a speech at St. Fidelis College on February 3, I discussed the implications of the debate over Vietnam. I said, in part, that the debate among Americans of all callings is in keeping with our tradition as an open, democratic society; at the same time, that debate poses some problems in terms of the military and diplomatic maneuvers we must pursue in our quest for a peaceful settlement in Vietnam which will achieve our objectives.

I said:

This is the price we pay, and which we pay willingly for the right to challenge and discuss national policy.

And so, let us debate, let us discuss, let us consider. But, in the process, let us avoid misunderstanding each other.

In the interest of helping to reduce misunderstanding and distrust among Americans resulting from the public dialog on Vietnam, I ask unanimous consent that my St. Fidelis College speech, the Portland Sunday Telegram article about the Maine clergy, and the position paper prepared by the Executive Committee of Clergy and Laymen Concerned About Vietnam, for distribution at the Washington mobilization, be printed in the RECORD.

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

THE RESPONSIBILITY OF CHOICE

(Remarks by Senator EDMUND S. MUSKIE at St. Fidelis College Cultural Series, Herman, Pa., Feb. 3, 1967)

The American people are today engaged in a major and extended debate on our proper role in world affairs. Conscious of our power, we question our use of it. Aware of world opinion, we wonder how much attention we should pay to it.

As in other crisis periods in our foreign relations, there are those who—directly or indirectly—suggest we ought to take up the advice of George Washington, who warned against "entangling foreign alliances."

There is one major difference between the questions raised in the past and those raised in connection with the Vietnamese conflict. Those who warned against entangling alliances in the period of World War I and the time of World War II felt they could shut out the rest of the world and concentrate on a Fortress America. Today, curiously enough many of those who oppose our involvement in southeast Asia are the same people who supported our involvement in Europe in World War II and during the Marshall plan, those who support our participation in the United Nations, and those who believe in peace through common action.

The argument against a literal application of Washington's warnings is simple. George Washington spoke to his Nation against the background of domestic division, political weakness and a large but sparsely populated land, all in a world dominated by powers who had large land armies and substantial navies. Since the United States had to rely on Europe for capital and most of its population growth, Washington was pleading for some breathing space while the country built up its internal structure and its political and economic strength.

Given the nature of transportation and warfare in his day, his advice could be heeded, although even then, it was impossible for the United States to stay entirely aloof from the backwash of the French Revolution and the imperial contests which surrounded Napoleons adventures.

Today our choices are not so easy. Like it or not, America is a major power. Its economy overshadows that of practically every other nation in the world. Its Armed Forces, counting our strategic weapons, are probably greater than any other single power in the world. Our economic and political involvement, dating back to World War II and beyond, in all parts of the globe, cannot be turned off like an electric light switch. Indeed, action or inaction on our part will influence the course of human events.

Notwithstanding that fact, I think most Americans would prefer to withdraw from the world's troubles and difficulties if they saw clearly a way of doing so. I cannot agree with those who suggest that we, as a Nation, have a policeman's complex in the world.

But we are a part of the world. The question we must face is this: If we must be a part of the world, if we are a force which, whether we like it or not, will be felt in the world, and if we have an influence that cannot be isolated from the world, then how should we exert that force and that influence?

Secretary Rusk has put it this way:

"Those who are officially responsible for the conduct of our public affairs must make decisions—and must make decisions among existing alternatives. None of us in the executive or the legislative branch has fulfilled our responsibilities merely by formulating an opinion—we are required to decide what this Nation shall do and shall not do and are required to accept the consequences of our determinations."

I put it this way last fall in Ottawa in a speech at the Parliamentary Conference of the British Commonwealth Nations, following some rather sharp criticism of our foreign policy:

"What would be the implications if tomorrow the President of the United States were to say to the rest of the world 'We withdraw (from Vietnam)'? If, instead of posing this as a hypothetical possibility you did not expect to come true, you had to face it as a reality, what would you say?"

"We have no choice (but to contemplate such a question) because we must make the decision on whether to withdraw or to stay. If we make the decision to withdraw we have to contemplate the implications, not as someone counselling another country but as someone responsible for the results."

In making our decisions, we must, of course, give consideration to world opinion. But in doing so, we cannot afford to abandon our own views of the world—or our own national—interest.

There are many areas in which we must choose among unhappy alternatives, none of which are without risk to our national interest. The most critical, of course, is that of Vietnam.

There is no one in the United States Senate, to my knowledge, who advocates the unilateral, unconditional withdrawal of the United States forces from South Vietnam today.

The second choice in Vietnam could be unlimited, unrestrained escalation. I know of no support for this approach in the United States Senate. There are those outside the Congress who have recommended this course, but their numbers seem to be diminishing.

The third choice in Vietnam would be a sharply increased military effort, short of unlimited escalation, concentrating especially on an enlargement of our air attacks on North Vietnam. This course has been supported by a number of Senators. They do not advocate indiscriminate bombing of civilians. But they have argued that there are targets related to the enemy's war potential which we should strike to increase the economic price Hanoi must pay for continuing the war. In recent weeks this point of view has been muffled by the increasing pressure for reduction or cessation of bombing.

A constant consideration involved in such expansion of the bombing at this time, other than its current potential impact on peace negotiations, is the potential enlargement of the war to include China, despite the evidence of internal division in that country.

Our fourth choice would be to make do with what we have in Vietnam, withdraw to secure positions, discontinue bombing of the North, and hold until Hanoi agrees to negotiate. This seems to be the course supported by some witnesses before the Foreign Relations Committee of the Senate and by some Senators.

The opposition to this course is that it would eliminate options which now leave the enemy in doubt. It would deprive our troops of their unique attributes of mobility and firepower. It is also argued that this would permit the enemy to concentrate on more limited objectives and targets. It would mean abandonment of much of the countryside with an undermining of the morale of the South Vietnamese and a reduction of pressure on Hanoi to seek the conference table.

The fifth choice is the application of unremitting pressure in a carefully measured response to the aggression of the enemy. This is as I understand the policy of the administration. This course has been carefully defined by Secretary Rusk, General Taylor and others before the Foreign Relations Committee.

Let me read you General Taylor's summary of it a year ago:

"In summary, then, our four-point strategy consists of a complex but coherent package of measures designed to improve the effectiveness of our forces on the ground in South Vietnam, to exploit our air superiority by attacking military targets in North Vietnam, to stabilize the political, social, and economic systems in South Vietnam, and to seek an honorable negotiated settlement of the conflict. It is limited as to objective, as to geographical scope, as to weapons and forces employed, and as to targets attacked. All parts of it are inter-related; all parts are indispensable; we must be successful on all fronts. The key, I believe, is inexorable pressure at all points, directed at the will, the ability, and the means of the Communist aggressors."

This is the course which I believe can hold the greatest support in the Senate. It is the course which I think makes sense.

The opposition to it appears to make two points: (1) that this course inevitably means expansion of our effort in numbers of troops, targets and in treasure; and (2) that, at some point, it will trigger direct Chinese intervention and unlimited escalation of the war.

The supporters of this course argue that it is the only realistic alternative to withdrawal; that only in this way can Hanoi be made to feel the pressure which will force it to the conference table; that there is a ceiling on Hanoi's ability to respond effectively without direct Chinese intervention; and that, although we should not overlook the risk of direct Chinese involvement, that risk can be avoided so long as the Chinese do not consider that our effort is a direct threat to their security interests.

These, then, appear to be the choices. As we debate them, I trust that one of the beneficial results of our debate will be a clearer understanding of the implications of each.

One point, especially, I hope we will clearly understand that whenever the Soviet Union or Red China choose to force a confrontation upon us to challenge our will, we can never be sure in advance how far they mean to go. And we cannot afford to retreat simply because that point is in doubt.

I have spoken of the uncertainties and unknowns related to the intentions of Hanoi and Peking; and of the risks involved in a miscalculation of those intentions. This, of course, is a challenge to our wisdom and our policy.

Of at least equal importance is the credibility of our own policy and national will.

We are involved in a searching review of both.

This is in keeping with our traditions as an open, democratic society. Let us not forget, however, that the enemy is closely watching this exercise in national policymaking. Undoubtedly, he is encouraged by every evidence of continuing and irreconcilable division among us which confirms his belief that we will tire and quit. Undoubtedly, he is encouraged by every concession to his ultimate objective which may emerge from our debate. Each of these sources of encouragement undoubtedly delays the day when he might otherwise be prompted to move toward the conference table.

This is a price we must pay, and which we pay willingly for the right to challenge and discuss national policy.

And so, let us debate, let us discuss, let us consider. But, in the process, let us avoid misunderstanding each other.

In this connection it may be useful to make some points which, it seems to me, are too often overlooked.

1. Our policy in Vietnam is the product, not only of the administration and its advisers, but of its critics. Let me illustrate.

The critics asked for a cease-fire. It was provided.

They asked for a lengthy bombing pause. It was provided.

They asked that the controversy be put before the United Nations. This was done.

They called for our reaffirmation of the Geneva accords and our request for the reconvening of the Geneva convention nations to act as intermediaries. This was done.

They called for a vigorous peace offensive. This has been our consistent policy.

They asked that we abide by free elections in Vietnam. We have agreed to do that.

They have asked that the war be limited to military targets and rigorous efforts have been exerted to do just that.

This is but a partial list of the steps we have taken to indicate our flexibility and our desire for a negotiated settlement rather than a military "victory."

To the suggestions that we cease bombing in the north, we have indicated our willingness to do so "the moment we are assured, privately or otherwise, that this step will be answered promptly by a corresponding and appropriate de-escalation on the other side."

To the suggestion that North Vietnam may fear that we intend to establish a permanent military presence in Vietnam, we have offered "to agree to a time schedule for supervised phased withdrawal from South Vietnam of all external forces."

To the suggestion that the Viet Cong take part in the negotiations, we have said that "this question would not be an insurmountable problem."

2. There has been no remotely comparable response from Hanoi to any of these initiatives. And yet, there has been criticism that we have ignored "indications of a desire to negotiate."

Let us look at the most recent alleged indication of such a desire to which Hanoi has been busily calling attention. It takes the form of language used by North Vietnamese Foreign Minister Nguyen Duy Trinh in an interview on January 28 with Australian Journalist Wilfred Burchett, as follows:

"If it (the United States) really wants talks, it must first halt *unconditionally* the bombing raids and all other acts of war against the DRV (North Vietnam). It is only after the unconditional cessation of bombing and all other acts of war against the DRV that there could be talks between the DRV and the United States."

Frankly, I see nothing in this language to suggest a real desire for *bilateral* talks. It reads like the same old insistence upon unilateral concessions by the U.S. without a quid pro quo. However, the fact that Hanoi appears to want us to regard it as a "signal" warrants a thorough exploration of the possibility, and there are ample contacts through which we can and, I am sure, are doing just that.

While we wrestle with the problem of Vietnam, we must try to avoid becoming so involved in the debate over the conflict that we ignore or distort the opportunities for more peaceful forms of competition with the Communist countries. Nowhere is this danger more apparent than in the debate over the consular treaty.

In the past few weeks, what should have

been a relatively innocuous policy decision—initiated, incidentally, by President Eisenhower—has become a major issue in the Senate.

In simple terms the treaty would authorize both the United States and the Soviet Union to open consulates in the major cities of both nations. But more importantly—and this is the fact that many people have overlooked—the consular treaty would allow the United States to give prompt aid and protection to any American citizens who may be arrested or detained in Russia. We have seen the unpleasant—and sometimes tragic results of what can happen as long as we have no consular convention with the Soviet Union. The Mott case is the most widely known example of this.

In testimony before the Foreign Relations Committee, Secretary of State Rusk recently put it this way:

"Even if no consulates were ever to be opened by the two countries, this convention would give American citizens more rights than any Soviet citizen possesses—rights which any Soviet citizen already has in our open society *without* such a treaty."

The importance of American officials' being able to have ready access to assist Americans in Russia who find themselves in trouble is growing every year. From 1962 to 1966 the number of American visitors to Russia increased from approximately 10,000 to 18,000 while the number of Russian tourists in the United States—approximately 1,000 a year—remained relatively stable. From these figures it is obvious that the United States has far more to gain by approving the consular treaty than does the Soviet Union.

To those who fear that the establishment of Soviet consulates would lead to increased Soviet espionage in this country, I would say that we already face these risks and that we have numerous safeguards to insure against them. Espionage is one of the risks of an open, free society, and we must be willing to accept it.

In my judgment, the advantages of the proposed consular treaty far outweigh any possible risks involved.

It is another step in our search for a detente in the cold war with the Soviet Union. It is one justifiable means of neutralizing the strains in Russo-American relations caused by the hot war in Vietnam. It is a small—but important—step in our search for a lasting peace.

And when I think of these small, but sometimes difficult, steps, I remember President Kennedy speaking at a convocation at the University of Maine in October 1963:

"While the road to . . . peace is long and hard, and full of traps and pitfalls, that is no reason not to take each step we can safely take."

Another of those steps would be enactment of the proposed East-West Trade Bill of 1967.

This bill, which the President proposed in his recent state of the Union message, would not mean the opening of unrestricted trade with the Communist nations of Eastern Europe. It would not involve the sale of strategic American goods to these countries. What it would do is allow the President to explore the possibilities of expanding our presently very limited trade with countires behind the Iron Curtain.

Its importance far outweighs its actual dimensions.

Its value would be threefold:

First. Like the consular treaty, the East-West trade bill offers the prospects of further detente with the Communist world. This is a circumstance which I am sure the Governments and peoples of Poland, Hungary, Czechoslovakia, and other Eastern European nations would welcome. As a sidelight, it might even expand our chances for information on and a dialog with Communist China and North Vietnam through the good offices of one of the East European governments.

Second. It would reemphasize the historic ties of friendship between the people of Eastern Europe and the people of the United States. Anyone who has visited these nations—as I have—and anyone who has roots in these nations—as I have—knows that the United States has always been a symbol of freedom and hope to these people. We possess an overwhelming reservoir of good will and affection among these people. They still continue to look to us—not Russia or China—for leadership. A new trade agreement would provide tangible proof of our continued good will toward them.

And finally, passage of an East-West trade pact, however limited it may be, cannot fail to be in our own national interest. It would, I think, help remove some of the agony which many of our allies, as well as the nations of Eastern Europe, have felt about American policy since Vietnam.

These are some of the choices confronting the President, his advisers and the Congress of the United States. I know each of you has more than a passing interest in them because they can have a profound influence on your own future.

The United States of 1967 is far different from the United States which George Washington exhorted to stay clear of entangling alliances. The United States of 1967 is involved in every part of the world.

It has more responsibility to the world and must make more agonizing choices than ever before.

The Vietnam problem, from its beginning, almost twenty years ago, is a classic illustration of the fact that, so often, foreign policy-making is a matter of choosing among alternatives.

The choices are, all too often, all unhappy ones.

They do not always include a choice which enables us to implement our principles, such as "freedom," "self-determination," and "democratic government."

They, almost always, all include risks to our own national interests.

They almost never carry assurances or guarantees that they will serve the purpose we have in mind.

They almost always stimulate disagreement among ourselves and our friends.

They almost never include an alternative to administration policy as to which all the critics of that policy will agree.

And, whatever our choice, we can count on the criticism of our enemies.

And yet, as Americans, as citizens of the world's greatest power, we must exercise the responsibility of choice. Let us, as citizens, always try to evaluate the choices of our decision-makers as though we were the decision-makers, conscious of the implications, sensitive to the unknowns, aware of the risks, and prepared to accept the consequences of our errors. Unless we as citizens exercise this kind of oversight; this kind of restraint and understanding, we cannot expect our country to be as wise as she must be to meet the challenges ahead.

For, in the words of Pericles of Ancient Greece—

"Here each individual is interested not only in his own affairs but in the affairs of the State as well . . . We do not say that a man who takes no interest in politics is a man who minds his own business; we say that he has no business here at all . . . And this is another point where we differ from other people. We are capable at the same time of taking risks and of estimating them beforehand. Others are brave out of ignorance; and when they stop to think, they begin to fear. But the man who can most truly be accounted brave is he who best knows the meaning of what is sweet in life and of what is terrible, and then goes out undeterred to meet what is to come."

[From the Portland Sunday Telegram, Jan. 29, 1967]

OPPOSITION SOUNDED—MAINE CLERGY TO JOIN VIET PROTEST

(By Joseph E. Coyne)

More than a score of Maine clergymen will join in a "national mobilization" of ministers, priests, rabbis and laymen Tuesday and Wednesday in Washington in opposition to escalation of the Vietnam war.

But for every Maine minister going, there are others just as strongly opposed to a peace movement by religious leaders.

According to one cleric the ministerial spectrum runs from hawks to doves "with many shades of opinion in between."

The National Emergency Committee of Clergy and Laymen Concerned About Vietnam is sponsoring the Washington gathering.

Heading the Maine delegation are Luther L. Allen, executive secretary of the Maine Council of Churches (MCC), and the Rev. Frederic Hudson, chaplain of Colby College.

Catholic priests and rabbis in the state know about the demonstration but none has announced his intention of going, although there are some doves among both of these groups.

Although Allen's invitation to MCC members brought some acceptances, it also brought some criticism from some pastors. The Rev. Winston Clark, minister of South Portland's First Congregational Church, attacked the move in a letter to Allen and in a sermon to his parishoners.

"There are some things more important, more vital than peace," he said. "One is the dignity of man, and another is the God-given right of human freedom . . . . ."

The MCC's letter to clergy and laymen announced that the theme of the Washington sessions will be: "Vietnam: The Clergymen's Dilemma."

The clerical delegation will call on federal officials to express its "deep concern regarding the escalating pattern of the Vietnamese war."

The national body commented further that they would "stand together as religious leaders of all faiths in a vigil for peace as a symbol of protest and penance for our government's involvement in the present crisis, as well as every person's negligence in not speaking out earlier or forcefully enough."

Allen said in his letter that the protesting group wants to make known its "grave concern about the bombing of civilians and the escalation which could lead to World War III."

He said many of the Maine ministers associated with the MCC are concerned about casualties in the Vietnam war, both military and noncombatant.

Among those agreeing with him is The Rev. Joseph I. Craig, minister of the All Souls Unitarian-Universalist Church, Augusta, who said he'd like to go but can't rearrange plans. He said:

"I think it's important that we make an early effort for a negotiated peace that will resolve this war. I'm for any kind of a negotiated peace we can manage to obtain. A poor peace is better than a good war."

The Rev. Canon Wilbur E. Hogg, rector of the Church of St. Mary the Virgin, Falmouth Foreside, is among the clergy who will attend some of the Washington sessions.

"I hope there are enough clergy there to make themselves heard," the Episcopal churchman said.

He said he is going as an individual and said his views do not necessarily represent the views of other Episcopal priests.

Canon Hogg said he's not determined on a particular course for the government to follow in the Vietnam situation but feels we should make efforts to negotiate and should do something "short of withdrawal."

The Rev. H. Travers Smith, Portland district superintendent of the Methodist

Church, said he can't make the trip but is in sympathy with the movement.

He said there is a persistent surge of opinion among ministers that the Vietnam war is morally wrong. "And the escalation of the war hasn't answered any of the questions."

But there is vigorous dissent to this type of thinking.

Many clergymen feel that such peace movements will only encourage the North Vietnamese to feel there is disunity in the U.S. and ultimately public opinion will force a unilateral American withdrawal.

This could only prolong the war, they feel.

Furthermore, they point out, the clergy's invitation appears to place emphasis on the U.S. bombing of North Vietnam without pointing out that the Viet Cong is engaged in a massive terror campaign in which hundreds of thousands of South Vietnamese have died.

The Rev. Anthony B. Sampson, of the South Portland Church of the Nazarene minister, said the sessions in Washington tend to "undermine the national unity." I hope and pray for a quick end to the war but I do not feel that we should engage in any action which would reflect on our government."

He said as long as the war continues the average American should "show all the grit it takes to achieve victory."

The Rev. Mr. Clark of the South Portland Congregational Church, doesn't view the Vietnam war as a "clergymen's dilemma," the theme of the national sponsoring group.

He said in a letter to Allen that he didn't want to be part of "religious leaders of all faiths standing together in a vigil for peace as a symbol of protest while others are doing, working, fighting and dying for things that are worthwhile."

"If the day has come when clergymen feel the need to protest and do penance for our government's involvement in a crisis not wrought by our own doing but by the forces of evil in the world that devour and rape, then I for one clearly stand with the government and not with the clergy!" he wrote.

He said "every compassionate person" is concerned about the bombing of civilians. But if the national group infers that civilians are being bombed deliberately or carelessly in the North by United States forces, "then that is something else," he added.

The Rev. Mr. Clark said the sponsoring body for the Washington gathering ignores the fact that "tens of thousands of South Vietnamese civilians are killed by the Viet Cong."

Among Maine ministers who plan to go to Washington are the Revs. Lewis Beckford, Bangor; Bradford Payne, Southwest Harbor; John P. Herrick, Newport; Robert B. Saunders, Pittsfield; Bruce Roberts, South Portland; Fred Holmberg, Kennebunk; James Young, Bangor; Allan Broyles, Orono.

Other clergy and laymen who are going to Washington: Maurice Cobb, Brunswick; Bradford Greeley, Portland; Homer Page, Waterville, and Martin Gibbs, Windham. Laymen Craig Lindell and Charles Learned, both of Lewiston, also are going.

The ministers making the Washington trip will leave Portland by chartered bus about 7 p.m. Monday and will arrive in the capital the next day.

VIETNAM: THE CLERGYMAN'S DILEMMA

(A position paper prepared by the Executive Committee of Clergy and Laymen Concerned About Vietnam, for distribution at the Washington Mobilization, January 31-February 1, 1967)

I. THE NEED TO SPEAK

A time comes when silence is betrayal. That time has come for us in relation to Vietnam. As members of American churches and synagogues, we voice not only our own convictions, but seek also to articulate the unexpressed fears and longings of millions of Americans.

The Old Testament forbids us to prophecy "smooth things," and in the face of any evil, the mandate of Albert Camus is laid upon all men, whether religious or not, that they "should speak out, loud and clear, and that they should voice their condemnation in such a way that never a doubt, never the slightest doubt, could rise in the heart of the simplest man. That they should get away from abstraction and confront the blood-stained face history has taken on today."

Our share of responsibility for that blood-stained face haunts us today and prompts our outcry. We confess that we should have spoken sooner and with clearer voice, but we do speak now, hoping it is not too late, adding our voice to the voice of Pope Paul, the World Council of Churches, the Synagog Council of America, the National Council of Churches, the National Conference of Catholic Bishops, and other religious bodies, in urging a reappraisal of our policy in Vietnam.

Our allegiance to our nation is held under a higher allegiance to the God who is sovereign over all the nations. When there is a conflict between those allegiances, the priorities are clear: "You shall have no other gods before me." "We must obey God rather than men." Each day we find allegiance to our nation's policy more difficult to reconcile with allegiance to our God.

Both the exercise of faith and the expression of the democratic privilege oblige us to make our voices heard. For while we speak as members of religious communities, we also speak as American citizens. Responsible expression of disagreement and dissent is the lifeblood of democracy, and we speak out of a loyalty that refuses to condone in silence a national policy that is leading our world toward disaster.

We speak in full awareness that no easy answers are available. But we believe that issues must be pressed and questions forced, if new answers are to be forthcoming. For the old answers no longer satisfy us.

II. THE ONGOING ANGUISH

No one planned the type of war in which we are involved. It has slowly escalated from one small move to the next small move, each presumed to be the last that would be necessary, so that now we find our nation able to offer only military answers to political and human questions. We sympathize with the dilemmas that face our President and Congressmen in dealing with a situation all decent men abhor. But a recognition of past mistakes does not entitle us to repeat and compound those mistakes by continuing them on an ever-widening scale.

We are unable to support our nation's policy of military escalation, and we find those to whom we minister caught as we are in confusion and anguish because of it.

1. This anguish is based first of all on *the immorality of the warfare in Vietnam.* We add our voice to those who protest a war in which civilian casualties are greater than military; in which whole populations are deported against their will; in which the widespread use of napalm and other explosives is killing and maiming women, children, and the aged; in which the combatants are systematically destroying the crops and production capacity of a country they profess to liberate; in which the torturing of prisoners by both sides has been a commonplace.

All who believe that man is made in God's image must be horrified by such crimes committed against God and man. There is guilt on all sides in such a war as this, but the guilt is ours far more than we have courage to admit. We can only tremble at the thought that God is just.

2. Even those of us who recognize that sometimes evil must be done lest greater evil prevail, feel a sense of anguish in *the inconsistency between our stated aims and the consequences they produce.*

Our ongoing escalation, far from bringing the war closer to an end, serves rather to increase its duration and intensity.

Our bombing of the north, far from bringing our enemies to their knees, serves rather to strengthen their will to resist us.

Our military presence in Vietnam, far from stemming the tide of communism, serves rather to unite more firmly those communist societies which might otherwise develop separate destinies.

Our widening military involvement, far from demonstrating to the world our firmness and resolve, serves rather to make the world suspicious of us and fearful of our use of power.

Our unilateral action in Vietnam, far from strengthening our influence among other nations, serves rather to jeopardize new alliances we might be creating.

At home, we find the war threatening the very goals we claim to be defending in Vietnam. Programs to help members of minority groups realize their own human dignity are jeopardized if not destroyed. A spurious type of patriotism is challenging the right of dissent and the open debate of public issues. Financial and psychological preoccupation with the war is destroying creative plans to alleviate poverty, overcome disease, extend education, replace city slums and exalt human dignity. We grieve over lost opportunities that may never be reclaimed.

Many of us are called upon to counsel young men of draft age who in conscience question our presence in Vietnam. The moral dilemma they face is part and parcel of our own. Their anguish is frequently motivated by a high patriotism that forces them to challenge, often at great personal cost, policies they believe will stain their nation's honor. How can we counsel them to participate in such a war as this? When they decide that they cannot condone the war by their personal involvement, we must support them in that decision.

3. Our anguish is deepened by *the discrepancy between what we are told by our government and what we discover is actually taking place.*

We are told that the other side gives no indication of desire to negotiate, and we then discover that such indications have been given, but that we have responded either with rebuff or military escalation.

We are told that our nation is prepared to negotiate with all concerned, and we then discover that certain of the combatants will not be welcome at the conference table.

We are told that certain cities have not been bombed, and we then discover that they have been.

We are told that civilian targets have been avoided, and we then discover that they have not been.

Such actions not only play into the hands of those who distrust us, since they can consistently discount our word, but the continuous discovery of discrepancies between our nation's word and deed has already shaken the confidence of our own people in the word of their government. We fear both the immediate and long-range consequences for our nation of this increasing deterioration of trust.

This, then, is our ongoing anguish: a crisis of conscience concerning what we *do* know, and a crisis of confusion concerning what we do *not* know.

III. THE NEED FOR CLARIFICATION

The public debate is forcing us to choose between wrong alternatives in Vietnam. Consequently, agreeing with the American Roman Catholic Bishops that it is "our duty to magnify the moral voice of our nation," we ask for clarification of the real alternatives.

The choices usually presented to the American people are three: (1) we could escalate rapidly and "win the war" in the foreseeable future; or (2) we could withdraw our troops and accept defeat; but (3) since

to most Americans these alternatives are unsatisfactory, we must continue our present course, i.e. gradually escalate the war until the other side capitulates to our increasing pressure.

We believe the realistic alternatives are closer to the following: (1) we can continue to fight a hard, bloody, increasingly bitter and frustrating war for many years, a war we can conceivably "win," but at the price of destroying the land and people we presume to liberate, of sacrificing more and more of our own young men to death, of widening the probability that other nations will enter the conflict, of engendering increasing hostility against ourselves throughout the rest of the world, and of emerging at the end with no "victory" worth what it has cost;

or (2) we can commit ourselves unequivocally to seek now rather than later for a negotiated peace, realizing that history does not present us with easy choices and that the road to such a peace would be long and torturous. Just as there has been frustration and heartache in our gradual escalation, so too there would be frustration and heartache in the development of new initiatives leading to a negotiated peace. Just as the risks of extending the war are great, so too the risks of seeking new initiatives for negotiated peace are great.

But confronted by such a choice, we believe the American people will choose the path of initiatives for negotiation, and that the risks involved in such a choice are well worth taking.

And so we put these questions to our government:

1. Will you help our nation confront the choice between the expansion of a war no one can "win" without destruction so terrible as to negate its stated aim, and the immediate pursuit of a negotiated peace no one can "win" in the conventional sense?

2. Will you make clear to all that we are not trying to win through negotiation what we have been unable to win through military might, and that we seek a peace without victory—a peace that can come only on terms agreeable to all at the conference table?

3. Will you make more credible use than has yet been made of international agencies that could help us find ways to initiate negotiation?

IV. THE PRECONDITIONS OF NEGOTIATION

The possibility of negotiation will depend in large part on how such questions are answered. Many in our nation already feel that all efforts toward a negotiated peace have been made by us, and that any further initiatives must come from the other side. But certain preconditions that seem indispensable to negotiations are not yet present in our policy, and without them other nations can hardly be expected to take seriously our intent:

1. The first precondition is implied in our questions and involves an assurance from our government that we are genuinely ready to negotiate, and that we are not merely trying to win diplomatically what we have not won militarily. There will be no reason for response from the other side unless we indicate a willingness to seek peace without prior assurance that all details of the peace will follow our desires.

2. There must be some action by our government to lend credibility to our willingness to negotiate. It is increasingly clear that one indispensible prerequisite is our willingness unconditionally to cease the bombing of North Vietnam.

We are at an impasse. We have said we will not cease the bombing until there is a sign from the other side of willingness to negotiate, and yet when such signs have come we have ignored them. They have said they will give no further sign of willingness to negotiate until we cease the bombing, and yet when we have briefly ceased the bombing, no sign has come.

There is no way beyond this impasse until someone takes a fresh initiative. We, as the stronger nation, have both the obligation and the opportunity to take that initiative.

The initiative must be unconditional. Having ceased the bombing, we must be prepared to wait until the other side responds. We have no reason to expect that a response will come soon, for it will take time to gain credibility for our intent. In the interval, while diplomatic channels are explored, we will call upon religious leaders in other countries to intercede and urge that positive response be made.

3. If we truly do not intend to dictate the terms of peace in advance, then we cannot exclude from the conference table any who are involved in the present struggle. Our nation must accept the National Liberation Front as a partner in the peace talks in its own right. The previous assurances of our leaders have failed to state this clearly.

4. Other conditions are desirable, such as a de-escalation of the ground war to a degree commensurate with the protection necessary for those already there. But since the destiny of all nations is involved in a negotiated peace, we must not seek it unilaterally, but must ask the full cooperation of all agencies designed to deal with international tensions. These must include an increasing role for the United Nations, and a recognition of the potential role of the International Control Commission in reducing ground hostility by providing an international presence under cover of which foreign troops might ultimately be withdrawn from Vietnam.

Although we address these appeals particularly to our own nation, we are fully aware that negotiations involve more than one participant, and we lay the seriousness of our concern upon all men everywhere to offer further help in transforming possibilities into realities.

V. RECOMMENDATIONS FOR FURTHER ACTION

There are further steps that Americans can take to indicate our desire to play a creative rather than destructive role in the future of Vietnam.

1. Our Congressmen will shortly begin debate on an appropriations bill. Their response to that bill will say much about our true intentions in Vietnam. We urge that additional time be allocated for a careful estimate of the costs of the war by a number of congressional committees, such as the Joint Economic Committee, the Ways and Means Committee, the Education and Labor Committee, the Judiciary Committee and the Foreign Affairs Committee, in addition to the Appropriations Committee and the Armed Services Committee, to determine what costs are necessary (1) to maintain the current level of military operations, (2) to finance new stages of build-up and escalation, and (3) to provide the type of military and civilian security that would be needed during a period of prolonged negotiation. In this way, members of the Congress can choose the type and degree of military operation they wish to support.

2. We ask the Congress to re-examine the international agreements to which the United States is pledged. To an unprecedented degree, today's world order and human life itself depend upon the exercise of constraint in the conduct of foreign affairs. The origin and conduct of the war in Vietnam must be examined in this light. Particular attention must be focussed on the destruction of civilian life and property, the use of gas and other chemicals, and the treatment of prisoners of war. Our country must pledge itself anew to conform policy and practice in Vietnam to international law, as embodied in the several agreements of Geneva and the Hague, the Nuremberg judgments, the charter of the United Nations, and other such documents. The abandonment of constraint leads our country and the world down the path of brutalization and destruction.

3. Our religious bodies must assume a particular responsibility for prisoners of war in both the north and south. We call upon international religious agencies to take the initiative in developing effective programs for speedy repatriation and human treatment of prisoners, with special attention to nutritional and medical needs. Under no circumstances can our nation condone brutal treatment of prisoners on the ground that the other side does so.

4. We must immediately support efforts to insure that victims of bombing and terrorism, particularly those who have been burned by napalm, are given proper hospitalization wherever adequate facilities are available, including the United States. We welcome the formation of the Committee of Responsibility that is working to this end, and urge governmental support for its efforts.

We urge all religious organizations to follow the example of the World Council of Churches in arranging special offerings for the relief of all victims of warfare in Vietnam, whether in the north or south, to be administered through the International Red Cross or similar agencies.

5. At such time as negotiations have begun, further creative opportunities should be opened up for both the public and the private sectors of our nation. There will be need for the development of a genuinely representative government in the south. Members of our Congress and our legal profession can offer their services, under the auspices of Asian members of such bodies as the International Parliamentary Union, for whatever counsel the Vietnamese desire in the development of a constitutional assembly.

Those with special skills in such fields as education, land reform, housing, nutrition, medicine and job training can be prepared to help in Vietnam during the long and involved period of negotiations. The resources of various Catholic, Protestant and Jewish relief agencies can be coordinated for these and other ventures, and we urge foundations to support extended opportunities for service in these areas.

We are eager that many of our citizens pledge themselves to acts of mercy and rebuilding and reconciliation. These are a particular American responsibility because of the deep measure of American involvement in acts of injury and destruction. But such acts will have enduring meaning only when our nation has pledged itself to seek negotiated peace in more courageous terms than have yet been undertaken. Otherwise we will appear to be using small gestures of creativity to excuse massive acts of ongoing destruction.

Other projects should be initiated even as negotiations proceed, and we urge that further suggestions be sent to Clergy and Laymen Concerned About Vietnam, 475 Riverside Drive, New York, New York 10027, for appropriate implementation.

In all such ventures, however, there is a danger to which Americans must be particularly sensitive. We must not seek to export the American way of life, or impose an alien culture on the Vietnamese. By insisting that our help be channeled through international agencies, we can clarify our desire to serve only as others choose to use us, and not as we dictate. We must convey by word and even more by deed, our desire to let the Vietnamese be the arbiters of their own destiny, and insist only on such international controls as will temporarily be needed to insure that injustices are prevented or properly rectified.

VI. OUR ONGOING RESPONSIBILITY

We know that millions of Americans share the anguish we express, and endorse the alternatives we propose. If they have been silent heretofor, we plead with them to speak up now, and pledge them our support. If they have spoken earlier and felt no resonance of public response, we plead with them to speak again, so that together we can create the new groundswell of public outcry that will force a reappraisal and a new direction.

We reaffirm our own responsibility to urge that new direction. We pledge to lay this burning concern upon the consciences of our religious bodies, through our local congregations, our denominational agencies, our councils of churches, and our involvement in civic groups, so that increasing pressure can be brought to bear, through the pulpit, the public forum, the mass media, and the ballot box, upon those in public life who make our policy decisions.

As we face a difficult and dangerous period in the history of man, we remember that our task is not to assign blame for the past, but to accept responsibility for the future; not to cast the stone of condemnation, but to offer the helping hand of reconciliation; not to proceed self-righteously and vindictively, but to walk humbly and repentently.

We who are so deeply involved in the immensity of the present war must have the courage to initiate the steps that will lead to peace. If we do not take those steps, we firmly believe that God will judge us harshly, and will hold us accountable for the horror we continue to unleash. But if we do turn about, if we seek to undo whatever measure we can of the wrong that has been done, then we also firmly believe that as we walk that long and hard and often discouraging road, God himself will be with us, to guide and chasten and sustain us, and that he will deign to use even us in restoring some portion of the divine creation, we have so grievously misused.

DEDICATION OF W. KERR SCOTT INDUSTRIAL ARTS BUILDING, APPALACHIAN STATE TEACHERS COLLEGE, BOONE, N.C.

Mr. JORDAN of North Carolina. Mr. President, W. Kerr Scott was a strong and vital leader of North Carolina for many years, as commissioner of agriculture, as Governor, and as U.S. Senator until his death in 1958.

Recently the Industrial Arts Building at Appalachian State Teachers College in Boone was dedicated in his memory. Mr. Harry B. Caldwell, a long-time friend of Senator Scott, who is now chairman of the executive committee of the National Grange, delivered a fine tribute to the Senator, and I want to share this speech with my colleagues who knew him when he was a Member of the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD Mr. Caldwell's speech given at the dedication of the W. Kerr Scott Industrial Arts Building at Appalachian State Teachers College.

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

Dr. Plemmons, Members of the Scott Family and Friends: I am grateful to the Scott family and Dr. Plemmons for inviting me to participate in this special event.

The custom of dedicating public buildings is as old as the art of architecture. We, therefore, follow long established precedents in dedicating the Industrial Arts Building on this campus in memory of William Kerr Scott. It is fitting that this building should bear the name of this great man, since he was interested in young people and believed so sincerely that vocational education must be an integral part of the educational system.

It was my privilege to be associated with Kerr Scott in the Grange and to work with him on many occasions during most of his public career. I shall be forever grateful for his friendship and the high standards that he maintained in all his activities. As a long-time friend, I want to thank the Board of Trustees for recognizing, in this manner, his service to the state. I hope that those who enter its portals will be reminded that life's goals can be attained if we have worthy motives and are willing to work.

I also want to congratulate President Plemmons and the Trustees for their foresight in establishing the School of Industrial Arts here at Appalachian.

William Kerr Scott was born and reared on a farm in Alamance County. He attended the public schools in his community and received a Bachelor of Science Degree in Agriculture from N. C. State College in 1917. He volunteered and served as a private in the field artillery during the first World War. At the close of the war he returned to the farm in the Hawfields Community, married Mary Elizabeth White whom he always affectionately called "Miss Mary." Together they built the house that was to be their home and reared three fine children, one of whom is currently serving as the lieutenant governor of the state.

Kerr Scott maintained his home on the farm, his membership in the Hawfield Presbyterian Church and became known as the "Squire of Haw River." Even though his interest in public affairs kept him on the move during most of his life, he never lost contact with or his love for the rural community.

History reminds us that every advance in the world's progress has been achieved through the efforts of dedicated leaders. Kerr Scott was such a leader. People, inspired by his dynamic personality, supported causes which he championed, and those programs moved forward to completion. I can hear him now as he called for rural electrification, while serving as master of the State Grange, and arguing that "rural people had a moral right to this service." He was labelled as a radical by those who opposed his views, but the people gave him their support and the Rural Electrification Program became a reality.

He was a man of vision. He saw the need for good roads, good schools, strong churches, better economic opportunities, water conservation and industrial development long before there was any public demand for expanded programs in these areas. Many progressive programs questioned in his time are now recognized as essential to the welfare of the state and were initiated as a result of his vision and leadership.

Henry Drommond, the author said, "Love is the greatest thing in the world." Kerr Scott loved people, and people loved him. He was not impressed by titles or material possessions but respected people for their honesty, industry, zeal and devotion to duty. His home was a favorite gathering place for neighbors and friends. He maintained "an open door policy" to such an extent that "Miss Mary" was always prepared for guests that he so frequently invited in for a good meal. Those of us privileged to share in some of these rich experiences can never forget the warmth of his personality, the sincerity of his friendship or the spirit of love that existed in that home.

Governor Aycock said that "a good leader must be out in front, but never out of sight." Kerr Scott stayed out in front. He did not wait for things just to happen but stepped forward and said, "come on, let's go forward." Through all of his varied activities, he maintained a close relationship with the people whom he delighted to serve and they responded by electing him master of the N.C. State Grange, commissioner of agriculture, governor and finally to the United States Senate. In all of these capacities, he met the challenges so that the record of his accomplishments will stand as a memento of his labors for all time to come.

Kerr Scott was a fighter and a man of courage. When he believed in any cause, it had his full support. The program for better schools and roads initiated while he was governor would never have been accomplished without his aggressive leadership. To him, difficulties and obstacles were but opportunities to test one's faith and ability Dr. I. O. Schaub, former director of the North Carolina Agricultural Extension Service, said many times that Kerr Scott would undertake the "impossible" just to prove that the job could be done.

He was persistent and "plowed to the end of the row". Great things are never accomplished by those who are easily discouraged. Too many of us, like Demas, make a good beginning and then fail to follow through, only to lose some of life's richest blessings. The writer of Hebrews in the 12th Chapter called upon the people of God "to run the race with patience"—which is another way of saying, stick to it until you have crossed the finish line.

Kerr Scott was a man of faith. He had faith in God, faith in his country, faith in his fellow man and faith in himself. He believed that "unless the Lord build the house, they labor in vain that build it." He was faithful in his church attendance and participated regularly in the Congressional Prayer breakfasts while serving in the United States Senate. He exemplified the teachings of the church in his personal life and called upon rural people to become more active in the programs of their local churches. In our affluent society we are tempted to rely on material wealth, scientific achievements, education, military power and other means in meeting the challenges of a troubled world. Kerr Scott recognized that God is sovereign and that we are dependent upon Him for everything.

Kerr Scott was one of North Carolina's greatest and most useful citizens. As we honor him today, we are reminded again that:

"Lives of great men
All remind us,
We can make our lives sublime
And departing leave behind us
Footprints on the sands of time."

William Kerr Scott, farmer, patriot, public servant, Christian gentleman, served well and we are the beneficiaries of his labors. It is my hope that those who use these facilities being dedicated in his memory will be inspired to do their best, to make "This nook of God's creation a little brighter and happier place in which to live."

In closing let me remind you that a good leader:

"Looks upward to God,
Looks outward to man,
Looks backward to achievement, and
Looks forward to opportunity."

SAFER STREETS NEEDED

Mr. SYMINGTON. Mr. President, the rising tide of major crimes committed across the Nation is now a matter that concerns every citizen.

The Federal Bureau of Investigation has reported that during the first 9

months of 1966 the rate of serious crime climbed 10 percent throughout the Nation over the corresponding period in 1965.

This growing trend toward lawlessness has become a national problem. It must be reversed.

All those who agree must welcome the President's message on crime in America, along with his constructive proposals to make a frontal assault on this problem.

A majority of the crimes now committed in this country—assault, rape, muggings, and murder—are offenses under the laws of the States and the cities. Now the program President Johnson has presented to curb this disgraceful development is designed to utilize all the resources of the Federal Government, on a nationwide scale, to that extent the Constitution will allow.

The Safe Streets and Crime Control Act would extend Federal cooperation to local law enforcement efforts. Proposed is a grant-in-aid program, to be undertaken jointly by the Federal Government and the States and local communities, in order to foster the coordinated development of comprehensive law enforcement plans.

It is a plan which would embrace public safety programs to provide greater security from crime in the streets, homes, and other public and private places; also manpower programs for improved recruitment and training of law enforcement personnel; also progress to improve the methods and equipment used for crime detection; and finally, it would improve the administration and coordination of law enforcement and criminal justice agencies.

These proposals deserve the fullest consideration by the Members of the Congress.

GREATER PROTECTION FOR THE CONSUMER

Mr. BREWSTER. Mr. President, I wish to associate myself wholeheartedly with the efforts of the Senator from Washington [Mr. MAGNUSON]. To achieve consumer protection as chairman of the Committee on Commerce, he has done a great deal to achieve greater protection of the consumer. In my judgment, the Hazardous-Products Bill which he is sponsoring will make a great contribution to that protection.

Let me begin with a brief review of the problem. Each year many thousands of consumers are injured by ordinary household products. Many of these accidents are undoubtedly due to carelessness or downright stupidity. But many more may well be caused by faulty design. Some examples:

One hundred and twenty-five thousand injuries are caused each year by heating devices. Feet are burned on floor furnace grates; men, women, and children are seriously injured in explosions; and thousands of others are badly burned by flame heaters. We need to have experts take a careful look at these devices, to see what can be done to improve the safety of their design.

Thirty thousand persons a year are burned by electric wall sockets and extension cords. Young children are the major victims of these accidents. Babies chew on extension cords, put bobby pins in sockets, and so forth. I cannot believe that some of these accidents are not preventable. We certainly should find out.

I could go on and on. Are power mowers made sufficiently safe? You might get some argument from the 100,000 persons a year who are injured by them, including many children who are standing nearby.

How about incinerators? Fifty thousand accidents a year, including numerous deaths. Glass doors ought to be made reasonably resistant to ordinary stress and strain—but 40,000 of them shattered last year, causing painful and often serious injuries.

Among the most tragic victims are the children under five who lose arms or legs in washing machine wringers. There are 100,000 accidents of this kind annually, according to the Public Health Service, and most of them involve the little children whom I mentioned.

The figures go on and on. They are shocking. They tell us that far too many Americans are careless in handling household items. But they also suggest that far too many products are unsafe. As the chairman of the Federal Trade Commission said last year:

> The obvious result of the patchwork nature of existing safety legislation is that the public is amply protected in some areas but wholly unprotected in others. Moreover, the existence of a large number of safety statutes, of which the public is only dimly aware, may lead many persons to believe that Federal safety legislation is more inclusive than it actually is. Many people may rely on "the Government" for adequate protection when, in fact, existing legislation provides no such protection.

These persons who rely on the Government will not find out how unprotected they are until they are burned, or maimed, or otherwise injured.

We must be realistic about this problem. As I said before, many of these injuries are due to carelessness, not faulty design. Many of the hazards that could be prevented by safe design are far too complex in nature for the Congress to establish any guidelines. After all, we can hardly draw up safeguards for every home appliance and power tool in existence.

The primary need, therefore, is for a comprehensive study by safety experts to see what can and should be done, realistically, to prevent the occurrence of so many horrible accidents. And this is precisely the effect of the legislation which I am supporting.

The bill would establish a Hazardous Products Commission, to study the scope and adequacy of present safety measures. These experts will determine which products are the most dangerous; the kind of self-regulation which industry provides; and the Federal, State, and local laws relating to consumer protection. The Commission will recommend legislation to remedy the problem.

There is another proposal which will come before the consumer subcommittee this session which relates to consumer protection. This is a much-needed revision of the Flammable Fabrics Act. I will support Senator MAGNUSON's bill to provide this additional protection for all Americans.

The Flammable Fabrics Act was passed in the wake of several serious burnings of girls wearing sweaters. At the present time, it applies only to wearing apparel. In my judgment, this is not nearly broad enough to combat the danger of burns.

The Public Health Service reports that many thousands of individuals are burned each year in bedding and home-furnishings fires. In fact, one item which I would most certainly expect to be covered in the Flammable Fabric Act—almost "clothing"—is the baby blanket. This is not presently covered.

Moreover, the present law does not apply to fabrics which may be used by the millions of women who make their own clothing. The secretaries in my office tell me that they sometimes make clothing out of material intended for draperies. Yet such material may be highly incendiary—the Flammable Fabrics Act does not provide any protection.

I will, therefore, support legislation to include all personal and household fabrics within the present law. It will give the Department of Commerce authority to strengthen standards of flammability. And it will establish a program to determine which fabrics are highly flammable and constitute a safety hazard.

In my judgment, it is not appropriate for the Government to go further. But I would strongly recommend that the industries involved go beyond the minimum safety standards which have been developed.

There are many means of providing flame-retardant fabrics. Wool is comparatively flame resistant in its natural state. Cotton and rayon are highly flammable but can be chemically treated to be made safer. Nylon and many of the newer fibers are very flame-resistant.

I urge the industries which produce clothing and household items to make the most modern advances available to the consuming public. The Government will not force this—but I believe that the consumers will demand it. Perhaps the cost will be somewhat higher; perhaps the texture will be slightly stiffer; but at least the housewife should be allowed to decide whether or not she wants to pay for safety.

The legislation which I have outlined will certainly not prevent all the accidents which occur annually. It will, I firmly believe, represent a big step toward preventing part of it.

There is nothing we can do to prevent many of these injuries. But we are derelict in our duty if we do not take at least the minimum steps to prevent those accidents which are preventable. A delay of another year will mean hundreds of thousands of additional injuries. We must act now.

Last year we passed an auto safety bill. We passed a tire safety act. We passed a highway safety law. We also enacted a child protection act.

This year we must continue the trend toward safety. In 1967, as in 1966, let us put safety first in legislation.

DISMISSAL OF CLARK KERR FROM PRESIDENCY OF UNIVERSITY OF CALIFORNIA

Mr. MURPHY. Mr. President, there has been entirely too much confusion abroad concerning the situation at the University of California surrounding the dismissal of President Clark Kerr.

It was therefore gratifying to see two columns in Washington newspapers which introduced the light of day into this affair. I ask unanimous consent that a column by John Chamberlain, published in the February 3 Washington Post, and a column by James J. Kilpatrick, published in the February 2 Washington Star, be printed at this point in the RECORD.

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

[From the Washington Post, Feb. 3, 1967]

WAS REAGAN HIT BELOW THE BELT?

(By John Chamberlain)

Ronald Reagan was elected Governor of California because (a) he promised to do something about taxes and (b) he talked about cleaning up the troubles at the University of California in Berkeley. But when he started to deliver the goods which a majority of the voters had asked for, the roof fell in.

Or maybe it just seems that the roof has collapsed. Maybe we are being taken in by an illusion cultivated by the "liberals" who lost the election. At any rate, people who are close to Reagan in Sacramento do not seem too perturbed about the outcry over what the liberals have called "the unconscionable ouster" of Clark Kerr from his presidency of the University of California.

They think that when the truth is known, Kerr will seem the wily political maneuverer and Reagan will emerge as a straightforward fellow who did what he had to do under unfortunate circumstances to stay honest about his campaign promises.

The people who are for Reagan in the Berkeley imbroglio point out that it was no "cabal of rightists" on the University of California Board of Regents that did Clark Kerr in. Critical votes against Kerr were cast by some board members who owe their appointments to former Gov. Pat Brown. And, while it may be technically correct that Kerr did not ask for a vote of confidence, he at least hinted to his friends that it might be a good time to bring the matter up before Reagan was entrenched as Governor. Board member Allen Grant quoted Kerr as saying, "I will not resign but I want the regents to discuss the matter of Clark Kerr." How would one discuss this matter without raising a question of confidence?

It may be admitted that all university presidents who are dependent on a state for their money must "play politics." But they are expected to limit themselves to persuasion. The Reagan people object to Kerr's maneuvers to frighten the new Governor out of doing something about the $400 million budget deficit inherited from Pat Brown.

Before there was any discussion in the California Legislature of a proposed ten per cent cut in all departmental and agency budgets, Kerr and Chancellor Glenn Dunke of the State College System ordered a freeze on new university and college admissions.

This was interpreted in the Reagan camp as a "force majeure" designed to make it plain that California public education was a sacred cow.

As a matter of common sense, Kerr could have compensated for any ten per cent budgetary cut by going along with the Governor's suggestion that at least a small tuition fee might be collected from students whose families could afford it.

Some tuition is charged in most states. Even with a budget cut, California education is in a favored position, for what other State agency can compensate for cuts by selling its services?

What further riles the Reaganites is that they think the Kerr administration at the University has acted all along in a rather low partisan way. They point out that during the autumn political campaign the new University of California Vice President for University Relations, Tom Sorensen, had sent seven student leaders about the State to broadcast material that amounted to supporting Pat Brown's contention that all was well at Berkeley.

It so happened that all seven of Sorensen's missionaries were Democrats. Sorensen, of course, is a brother of Ted Sorensen, John F. Kennedy's adulatory biographer.

The Reaganites also think it hitting below the belt to spread rumors that a "brain drain" must result from the firing of Kerr and the attempt to economize on the educational budget by using tuition fees to supplement State appropriations.

As a matter of record, the disturbances at Berkeley caused some departures while Kerr remained on the job. Among these were Professor Lewis S. Feuer, the historian of the Berkeley rebellion, and Professor Seymour Lipset, an able political sociologist. Feuer quit with a parting shot that the Leftist tyranny on the campus choked off any real free speech. So the "brain drain" preceded Kerr's going, and can be attributed to the New Leftists' antics, not to Ronald Reagan.

[From the Washington Star, Feb. 2, 1967]

IS KERR'S DEPARTURE A DISASTER?

(By James J. Kilpatrick)

The late Douglas Southall Freeman is best remembered as a famed historian and editor, but he was also for many years an active member of the board of visitors of the University of Richmond. It was in this capacity that he once drafted Freeman's Rules of Parliamentary Procedure for the Governing Boards of Institutions of Higher Learning.

These were quite brief, and went something to this effect:

"The annual meeting having been called to order, the chair shall immediately entertain a motion to fire the president of the university, which motion, being privileged and not subject to debate, shall be put at once to a vote. If the motion carry, the next motion shall be a motion to appoint a committee on succession. If the motion fail, the next motion shall be a motion to adjourn.

The Freeman Rules were drafted with a twinkle of course, but they contained a hard glint of truth. In any effective academic chain of command, a president must be responsible for the university he heads; but the regents must be responsible for the president they choose. Responsibility becomes meaningless unless authority goes with it, and authority has no meaning without the power to exert it.

These truisms apply with special aptness to the recent dismissal of Dr. Clark Kerr as president of the University of California. He had been given full responsibility for running one of the world's great systems of higher learning. In the ten days since his ouster, the liberal press has fairly burbled with praise of his achievements—the Nobel laureates attracted to Berkeley, the endowments added, the buildings erected, the research completed—and doubtless a meritorious case can be made in these fields.

Yet the regents clearly had the responsibility to examine Kerr's total record. As the Freeman Rules suggest, this was very nearly the whole of their responsibility. And it may be that the regents perceived far more clearly than Kerr's admirers have perceived, that his record of achievement could not overcome his record of failure.

The charge against Kerr is not merely that he exhibited weak and ineffective discipline—that he let a part of his kindergarten run the school. The charge is much deeper than his feeble tolerance of a Mario Savio, a Bettina Aptheker. It boils down to a failure on the part of Kerr to comprehend the very essence of a free university, which is that freedom depends upon order.

This is not to say that freedom depends upon regimentation, which is a very different thing. It is merely to say that the pursuit of truth becomes a travesty, when truth must be pursued through an artificial maze of booby traps, pitfalls and kid games. It is not for nothing that we speak of academic "disciplines." But at Berkeley, the very word "discipline" had become a mockery. In his devastating essay on the university's decline, published in Atlantic last fall, Professor Lewis Feuer made precisely this point—that Berkeley had yielded to a perversion of freedom so gross that true freedom was hard put to survive.

In the aftermath of Kerr's dismissal, the trumpeters of instant liberalism sounded a predictable dirge. They blamed it all on Gov. Ronald Reagan (though the motion to dismiss originated with an appointee of former Gov. Edmond G. (Pat) Brown). They charged it to a right-wing political conspiracy (though the majority against Kerr cut across lines of both party and philosophy). A covey of California congressmen—Cohelan, Waldie, Edwards, Burton, Tunney—rushed to the floor to denounce the regents' action as unwarranted, unbelievable, unthinking, ill-considered and disastrous. The New York Times could see only the "twilight of a great university."

This is nonsense. As the whole story emerges and takes on perspective, it becomes apparent that Kerr himself forced a showdown, and that his own glaring faults as an administrator cannot be obscured in an adulatory fog. And far from being a disaster, his dismissal may well prove to be the university's salvation. In exercising their undoubted authority to fire the president, the regents provided a sudden and dramatic reminder of the order that is indispensable to freedom.

Berkeley will survive as a great institution of learning. It is bigger than Kerr, greater than its sometimes dictatorial faculty, more enduring than the forces of bombast and politics that have lately swirled about it. But it cannot regain its prestigious reputation without a new dedication, from top to bottom, to discipline, responsibility, and authority. The regents—or at least a solid majority of them—recognize this. A new president will have to recognize it, too.

S. 260, A BILL TO NIBBLE FREEDOM

Mr. ERVIN. Mr. President, at the present moment an American citizen has liberty to acquire eyeglasses or contact lenses from either an ophthalmologist, who is a medical doctor skilled in the science which deals with the anatomy, functions, and diseases of the eye, or an optometrist, who is one skilled in the practice or art of testing the eyes by means of suitable instruments or appliances for defects of vision in order to fit them for glasses, or an optician, who makes glasses for remedying defects of vision in accordance with the prescription of ophthalmologists. There is no sound reason for curtailing this right of the citizen in any respect whatsoever.

Yet S. 260 is designed to curtail this right of the citizen by forbidding an ophthalmologist from supplying him with either eyeglasses or contact lenses. And it does this notwithstanding the fact that the ophthalmologist has spent 12 years

of his life in college and internship to fit himself to practice his profession and serve his patients.

And strange to say, S. 260 undertakes to do this as an antitrust measure. The provisions of S. 260 are totally repugnant to existing antitrust laws. These laws are designed to prevent monopolies and thus promote freedom of competition. S. 260 undertakes to produce exactly the opposite effect. It undertakes to promote a monopoly and stifle competition by excluding ophthalmologists from an activity in which they possess complete competence.

I am opposed to the enactment of S. 260 because I believe that all Americans who suffer defects of vision should have the freedom to procure the eyeglasses or contact lenses necessary to correct such defects from either ophthalmologists, or optometrists, or opticians.

On February 6, 1967, Lennox P. McLendon, an exceedingly able attorney of Greensboro, N.C., and Dr. Edward E. Moore and Dr. Edward K. Isbey, Jr., practicing ophthalmologists, of Asheville, N.C., made statements before the Senate Subcommittee on Antitrust and Monopoly in which they pointed out the unwisdom of S. 260. Since all Members of the Senate may be called upon to pass judgment on this measure, and these statements contain cogent and convincing analyses of S. 260, I ask unanimous consent that they be printed at this point in the body of the RECORD.

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

OPPOSITION TO S. 260

(By Lennox P. McLendon, Counsel for the Eye, Ear, Nose and Throat Society of North Carolina, before the Senate Antitrust and Monopoly Subcommittee, Feb. 7, 1967)

On behalf of the Eye, Ear, Nose and Throat Society of North Carolina, this statement is submitted in opposition to S. 260, introduced in the Senate of the United States on January 12, 1967, by Senator Hart.

The proposed legislation has also been identified as the "Medical Restraint of Trade Act," and it is entitled "A Bill to strengthen the antitrust laws by prohibiting the sale by licensed practitioners of drugs, or devices, prescribed by such practitioners. . . ." A practitioner is defined in the Bill as a person licensed by any state, by the District of Columbia, or by any territory of the United States "to administer drugs, or devices in the practice of medicine in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or to affect the structure or any function of the body of man" (Section 3(a)). On its face, S. 260 is an effort to restrict the authority now exercised by the states in the licensing and regulation of medical practitioners only. Section 4 of the Bill makes the sale, directly or indirectly, of drugs and devices by medical practitioners licensed by the several states unlawful, but recognizes that a broad and comprehensive application of the prohibitions is impractical, if not impossible, by the inclusion of broad and ill-defined exceptions. The enforcement provisions follow closely those contained in our existing antitrust statutes, namely injunctive relief in the U.S. District Courts in suits under the direction of the Attorney General and the right to recover treble damages by "any person, firm or corporation who shall be injured in his business or property by reason of anything forbidden in this Act." Obviously the most probable plaintiffs in damage suits will be optical companies and individual opticians who will be put in position to harass physicians who do not comply with their demands, however unreasonable, such as demand for copies of prescriptions for any or all eye devices.

To the more than 200 medical practitioners who comprise the E.E.N. & T. Society of North Carolina, S. 260 is highly objectionable for several reasons.

The philosophy inherent in this proposed legislation is utterly foreign and alien to a practice which has existed almost from the time this Republic was founded. This traditional practice is the reservation, either to the states or to the various professions themselves, of the responsibility for regulating and controlling the conduct of the group of individuals S. 260 defines as practitioners. Without the most compelling reasons, the Congress of the United States should not countenance a reversal of and departure from the traditional American practice of local control and regulation, particularly when this practice has, on the whole, worked so well for so long.

S. 260 proposes to regulate conduct which involves *local people* in *localized situations*. Before it attempts to deal by the broad sweep of federal legislation with a matter which is essentially local in character, the Congress should carefully weigh and consider whether it will not create more problems than it solves.

For the purpose of demonstrating that S. 260 intrudes in an area which has traditionally been reserved for local control, the Committee's attention is directed to the North Carolina statutory enactments dealing with this general subject. The North Carolina pattern of local regulation is reasonably similar to that which exists in other jurisdictions, and it shows that North Carolina has acted responsibly in exercising the powers of local control which have heretofore been left to its discretion. That the states have not followed an exactly uniform pattern illustrates and emphasizes that the conditions and, more importantly, patient needs vary from state to state. It must be acknowledged that whatever the action of the state has been, it is what the people of each state want.

Chapter 90, North Carolina General Statutes, entitled "Medicine and Allied Occupations," is a compilation of legislation on the regulation of the practice of medicine and 18 allied or related subjects, including optometry, dispensing opticians, dentistry, pharmacy, registered and practical nurses, osteopathy, chiropractic, chiropodists, physician therapy and even veterinarians and midwives.

Article I deals with medicine, one of the oldest, if not the oldest, of all professions. This legislation is more than 100 years old, being first enacted in 1858; whereas, the regulation of optometry first began in 1909, dentistry in 1935, and dispensing opticians in 1951.

The North Carolina Statutes recognize The Medical Society of the State of North Carolina as a state agency which is given the power to appoint a Board of Medical Examiners "in order to properly regulate the practice of medicine and surgery" in North Carolina. Detailed provision is made for the examination and licensing of prospective physicians, and continuing control and supervision are exercised by virtue of power of the Board of Medical Examiners to revoke and rescind, subject to judicial review, any license granted by it. Among the reasons for which the Board of Medical Examiners may revoke and rescind a license granted by it is "any unprofessional or dishonorable conduct unworthy of, and affecting, the practice of [the medical] profession." Practicing medicine is defined, and the practice without a license is made a criminal offense, punishable by fine or imprisonment in the discretion of the Court. The definition of the practice of medicine expressly excludes the practice of dentistry and the practice of optometry.

It may also be of interest to this Subcommittee that, due primarily to the fact that North Carolina has been and still is essentially a rural state, the Legislature has authorized the State Board of Pharmacy to grant to a licensed practicing physician a permit to conduct a drugstore or pharmacy in a village of not more than 800 persons. With the aid of a grant of $50,000.00 from a charitable foundation, the Board of Pharmacy is vigorously assisting hospitals and nursing homes in operating their own pharmacies.

Since it is a group recognized by statute as a state agency, the Medical Society of the State of North Carolina exercises great influence upon the approximately 5,000 physicians who are engaged in the practice of medicine in North Carolina. Of particular relevance both to the concept of local regulation and control of the medical profession and to the provisions of S. 260 is a resolution proposed by the Committee on Eye Care and unanimously adopted by the House of Delegates of The Medical Society of North Carolina on May 1, 1966. A copy of this resolution, which adopts and reaffirms certain existing guidelines of the American Medical Association, is attached to this statement.

Of all the various learned professions, none has been more comprehensively regulated, both by state and by self-imposed restrictions than has the medical profession. For centuries, the medical profession has insisted that its members measure their conduct by standards which it set down and which universally have been higher and more demanding than those enacted by any legislative group. Largely in response to the pattern of state and internal regulation of the medical profession, with all of its various branches, it has, *until now*, been the policy of Congress not to involve itself by federal legislation in medical procedures and policies. It is the firm belief of the E.E.N. & T. Society of North Carolina that the course of action heretofore followed by Congress has been a judicious one and that the prohibitions contained in S. 260 are not only unwarranted, but would establish an unwise departure from a policy which has accommodated well the needs and interests of both the doctor and the patient.

That the North Carolina Legislature has been responsive to developments in the practice of medicine is shown by the enactment in 1951 of a statute making it unlawful for any person, firm or corporation—not physicians only—to offer or give any gift, premium or discount or in any manner participate in the division, rebate or refund of fees or to engage in advertising urging the public to seek services of any specific professional person or group of persons engaged in the field of refraction and visual care. This legislation followed the entry of consent decrees in the Chicago rebate cases against optical companies.

Moreover, the prohibitions contained in S. 260, if enacted, would not necessarily be of ultimate benefit to the patient, who is certainly one with the largest stake in this proposed legislation. This is particularly true insofar as the prescription of eyeglasses by ophthalmologists is concerned. As the Bill now reads, the patient will be deprived of the right to engage and rely upon the care and control exercised by the dispensing ophthalmologist, who after all is the person the patient initially selected to treat *in its entirety* any visual problem he might have. If an ophthalmologist is to be prohibited from dispensing optical devices, how then can he reasonably be expected, as his patient may very well expect and desire of him, to exercise any control over the actions of others who supposedly have carried out his instructions with regard to the treatment of the patient's problems?

In addition to the arguments heretofore advanced in opposition to S. 260, this proposed legislation, in our opinion, is constitutionally defective on at least three grounds:

1. The Bill represents an effort to regulate

conduct which is essentially local in character and which therefore is beyond the reach of the Commerce Clause of the United States Constitution;

2. The Bill discriminates unreasonably against members of the medical profession, in violation of the Fifth Amendment of the United States Constitution; and

3. The standards by which it is to be determined whether the dispensing of drugs and devices by practitioners is prohibited or permitted in certain situations are too vague and uncertain to meet the requirements of the Fifth Amendment to the United States Constitution.

It is settled constitutional doctrine that the authority conferred upon it by the Commerce Clause does not give to Congress the power to regulate all activities. Activities which are essentially local in nature and effect are not subject to regulation by Congress. *Gibbons* v. *Ogden*, 9 U.S. 1, 175, 6 L. ed. 23, 70 (1824). The diagnosis and treatment of medical problems falls within the category of "activities essentially local in their nature and effect," since they normally involve the relationship between a doctor and a patient within a single state. Such was the holding in *United States* v. *Oregon State Medical Society*, 343 U.S. 326, 96 L. ed. 978 (1951), where the Supreme Court affirmed a district court finding that:

"The sale of medical services . . . as conducted within the State of Oregon, is not trade or commerce within the meaning of Section 1 of the Sherman Anti-Trust law, nor is it commerce within the meaning of the constitutional grant or power of Congress 'to regulate commerce . . . among the several states.'" (95 F. Supp. at 118)

The *Oregon State Medical Society* case was an action charging that the medical society was guilty of violating antitrust legislation by selling prepaid medical services.

The *Oregon State Medical Society* case is not inconsistent with the Supreme Court's decision in *American Medical Association* v. *United States*, 317 U.S. 519, 87 L. ed. 434 (1943). In that case, the Court found that an involvement in interstate commerce was not necessary to confer jurisdiction because the complaint alleged a conspiracy to restrain trade and commerce in the District of Columbia, in violation of Section 3 of the Sherman Act. However, the Court declined to adopt the holding by the United States Court of Appeals for the District of Columbia that all occupations and services come within the term "trade or commerce," 110 F. 2d 703, 710 (D.C. Cir., 1940), choosing instead to analyze and decide each case upon its particular facts.

The Supreme Court stated this warning to Congress in *NLRB* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1, 30, 81 L. ed. 893, 907 (1936) in this language:

"The authority of the Federal government may not be pushed to such an extreme as to destroy the distinction, which the commerce clause itself establishes, between commerce 'among the several States' and the internal concerns of a State. That distinction between what is national and what is local in the activities of commerce is vital to the maintenance of our Federal system."

The holdings in the cases noted above were applied in *Spears Free Clinic and Hospital* v. *Cleere*, 197 F. 2d 125 (10 Cir., 1952). In that action, a chiropractic institution commenced legal proceedings against the Denver Medical Society, the Colorado State Board of Health, and certain other individuals. In rejecting the contentions advanced by the plaintiff, the Court said:

"The practice of the healing arts in Colorado, including chiropractic, is wholly local in character . . . The mere fact that a virtuous and incidental effect of such conspiracy and acts may be to reduce the number of persons who will come from other states and countries to the Spears Hospital for chiropractic treatments does not create such a relationship between interstate and foreign commerce and such local activities as to make them a part of such commerce." 197 F. 2d at 126.

The Court also said:

"A curtailment of the manufacture of articles to be shipped in interstate commerce or the lessening of the number of persons who travel in interstate commerce, resulting from a conspiracy to restrain or monopolize a wholly local activity, is ordinarily an incidental, indirect and remote obstruction to such commerce." 197 F. 2d at 127.

See also the attached unpublished opinion in *Jackson* v. *American Medical Society* (S.D. Cal., 1966), and cases cited therein.

Even if it be held by some strained construction of the Commerce Clause that Congress can constitutionally regulate the conduct with which S. 260 attempts to deal, this Bill is still subject to constitutional objection on the ground that it discriminates unreasonably against members of the medical profession. For example, the Bill would prohibit an ophthalmologist from dispensing eyeglasses, but it would allow an optometrist, who performs many of the same services performed by an ophthalmologist, to dispense optical devices. The Bill would prohibit a medical doctor from dispensing drugs which, in the exercise of his professional judgment, he thinks the patient needs, but it would permit a dentist to sell a set of dentures to a patient who needed them. Thus, the Bill provides uneven treatment for groups of people in similar situations. It picks out one class of persons, namely persons licensed to practice medicine, and prohibits them from engaging in certain conduct which is perfectly permissible for everyone else. Where courts have been faced with situations in which by statute different treatment has been provided for people and groups in similar situations, they have been quick to declare such legislation violative of the constitutional guarantees contained in the Fifth and the Fourteenth Amendments to the United States Constitution. The philosophy of the courts has been that if a legislature, in its discretion, is going to deal with a particular problem, it must do so in an even-handed manner, treating alike all those whose relationship to the problem is similar. In dealing with the problem which it faces, it is necessary that Congress classify people and groups in certain ways, but the Constitution requires there be some reasonable or rational basis for the classification which Congress employs. See, e.g., *Carolene Products Co.* v. *United States*, 322 U.S. 18, 31–32, 89 L. ed. 15, 24 (1944). The Supreme Court has decided many more cases involving the rationality and reasonableness of classifications made by state legislatures than it has classifications employed by Congress, but the prevailing constitutional doctrine is now and has been for some years that the basic standard against which these classifications are to be measured is the same, no matter by whom the particular piece of legislation being challenged was enacted. 17 Am. Jur. 2d, Constitutional Law § 490, citing *NLRB* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1, 81 L. ed. 893 (1936), and *District of Columbia* v. *Brooke*, 214 U.S. 138, 150, 53 L. ed. 941, 945 (1909).

It defies logic and common sense to say that it is reasonable to treat optometrists and ophthalmologists differently, particularly when the prohibitions contained in S. 260 would preclude a patient from getting comprehensive and complete treatment for any visual problem which he might have by the individual who has had the greatest amount of specialized training and who thus would normally be considered better able to treat the patient's problems. In the place of considerations of medical desirability and the convenience which a patient frequently not only desires but demands, S. 260 would create an arbitrary rule of conduct—a rule of conduct which, in the long run, might not only be inconvenient but detrimental to the best medical interests of the patient.

Moreover, the provisions of S. 260 do not give effect to the stated purpose of the Bill, which is to prohibit the creation of a monopoly and the substantial lessening of competition. Instead, S. 260 actually fosters the lessening of competition, for it would remove one potential source from which a patient now can purchase drugs and medical devices. In the case of a patient who needs glasses, he now can get these glasses from one of three sources: (a) from the office of the dispensing ophthalmologist who examined his eyes and prescribed glasses; (b) from the office of the optometrist to whom he went and who prescribed glasses for him; and (c) from the office of an optician who grinds the lenses in accordance with a prescription brought to him by the patient from the examining ophthalmologist or optometrist. If S. 260 is enacted, the patient as a general rule will only be able to procure glasses prescribed for him either from the office of the optometrist (who is not a physician) who examined him or from the office of an optician (who is not a physician) who will grind the lenses based upon a prescription brought in by the patient. If it is accepted as a fact that the optometrist always has had and probably will continue to have a substantial percentage of the eyeglass market, S. 260 is clearly seen as a vehicle for transferring to the opticians that share of the eyeglass market which in the past has been served by ophthalmologists. Thus, instead of eliminating a burden on interstate commerce and preventing the creation of a monopoly, S. 260 will in effect actually create a form of monopoly, with the opticians being the beneficiaries.

S. 260 is also constitutionally defective because the standards of conduct which it embodies are so vague and uncertain that a person cannot reasonably tell in a particular situation whether or not he is violating the act. If a person is to be restricted from doing certain things and punished if he does these things, due process demands and requires that the legislature define the prohibited conduct by standards which are clear and understandable to everyone in all situations. It is the essence of the fundamental fairness that a person should have some clear standard against which he can measure the actions which he proposes to take in order to predict with reasonable certainty the consequences which will flow from his conduct. Courts have long held that criminal sanctions cannot be imposed upon an individual for violating a legislative enactment which did not clearly specify that what the individual did was prohibited conduct. If the Constitution will not permit the imposition of criminal penalties because the conduct prohibited is defined in such vague and uncertain terms that an individual cannot tell before he acts whether his conduct is prohibited or permitted, then the same Constitution ought not to sanction the placing in jeopardy of the property rather than the person of an individual where certain conduct is prohibited but the standards by which one ascertains this prohibited conduct are so uncertain that one cannot tell for sure in advance whether his actions would be prohibited or permitted.

The standards of S. 260 which are so vague and uncertain that they give rise to a constitutional problem are contained in the exceptions noted in Section 4 of the Bill. The Bill starts out with a general prohibition against a practitioner selling drugs or devices or owning an interest in a community pharmacy or optical dispensary. Realizing that such a doctrinaire rule would not always be appropriate, S. 260 proposes that the prohibition against the sale of drugs and devices shall not apply in certain situations. Exception (4) provides that practitioners may dispense drugs and medical devices where "there is no community pharmacy or optical dispensary reasonably available as

a source of such drugs or devices in the trading area of the practitioner's place of practice or the patient's place of actual residence, taking into account the needs and reasonable convenience of the patient." The language utilized in defining Exception (4) is so expansive and vague that it would be impossible for a conscientious practitioner to decide with any certainty in a given situation whether his conduct is covered or excluded, whether the dispensing of drugs or devices is prohibited or excluded under the provisions of S. 260.

How far away does a community pharmacy or optical dispensary have to be before it is no longer reasonably available to the patient as a source of drugs or devices?

How is the trading area of the practitioner's place of practice or the patient's place of residence to be determined?

What does the phrase "the needs and reasonable convenience of the patient" mean in practical terms?

By what standard would the decision of a doctor claiming the benefit of this exception be reviewed in any litigation which might result from his dispensing drugs and devices?

The host of questions which can be raised about the language in Section 4 clearly suggests that no one could be certain whether the actions taken by a practitioner were prohibited until after review by some judicial authority. Not only is this constitutionally improper, but it is legislatively unwise, for it subjects a practitioner to the hazard, in trying to administer to the needs of his patient, of being second guessed by some judge at some time long after actual drugs or devices were dispensed. Moreover, the penalty for guessing wrong is substantial.

There is no justification for the attempt made by S. 260 to depart from the traditional and time-tested practice of self-regulation by professional groups. In our democratic society, it has been a proud tradition of our Government, both Federal and State, first, to encourage education and proficiency in all of our recognized and expanding professions, and secondly, to rely upon the professions themselves, acting under authority of local law, for self-regulation and discipline. Inherent in this traditional philosophy is the concept that the learned professions are and ought to be monopolies in the sense that no person can gain admission except by first complying with the educational requirements of the profession and demonstrating his professional ability by passing adequate examinations and tests. Under this traditional philosophy of our democratic society, we have witnessed the development of our many professions, through research and education, to levels of attainment which today are the highest and most efficient in the history of the world.

It is certainly not a convincing argument that this American system of self-regulation should be abandoned, either in whole or in part or even in little segments, because instances of error, either intentional or unintentional, can be found in the administration of the rules of self-discipline. Self-discipline of people in the medical profession, in the legal profession, in the engineering profession, or in any other profession, for that matter, is subject to exactly the same weakness to which all Government regulation is subject in a democratic society—the possibility that human beings will err, either in their conduct or in their judgment or perhaps in both. Even our courts, particularly the United States Supreme Court in recent years, have not escaped the charge that they have erred in the performance of their duties and responsibilities.

Even conceding the possibility of human mistake, however, this Subcommittee has heard testimony within the last several days which demonstrates beyond question that at least insofar as the medical profession in North Carolina is concerned, local self-discipline and regulation are a fact and not a mere theory. Despite the problem about which he testified, Mr. Hamlet, the optician from Wilson, North Carolina, who appeared before this Subcommittee on January 31, made it quite clear that once his grievances were brought to the attention of the local official of the North Carolina Medical Society, they were promptly and thoroughly investigated and action was taken to resolve the difficulties.

When all has been said pro and con about S. 260, one indisputable fact remains—it attempts to establish by the imposition of governmental sanctions a code of ethical conduct for a limited class of medical practitioners practicing in limited areas and under limited circumstances while, at the same time, it imposes no such regulation upon other professional groups admittedly engaged in the same professional behavior which S. 260 condemns. One other conclusion is equally inescapable, namely, that the Bill deprives the best-educated and the best trained professionals of the right to make a judgment about what is best for their patients while conferring this right of judgment upon individuals who are not so well educated and trained.

For all of the reasons heretofore enumerated, we earnestly urge that S. 260 not be reported favorably by this Subcommittee.

RESOLUTION PROPOSED BY THE COMMITTEE ON EYE CARE AND UNANIMOUSLY ADOPTED BY THE HOUSE OF DELEGATES OF THE MEDICAL SOCIETY OF THE STATE OF NORTH CAROLINA, MAY 1, 1966

The North Carolina Medical Society maintains that the physician has every right to dispense eyeglasses and contact lenses to those patients who desire to be fitted by him.

We reaffirm the existing guidelines of the American Medical Association viz:

"One of the most important principles of the American Medical Association has been free choice of physician . . . This principle should apply to choice of optician . . ."

"A patient is entitled to a copy of his or her prescription for glasses, drugs or appliances and he has the privilege of having the prescription filled wherever he wishes."

We reaffirm our belief that:

Patients benefit immeasurably from the responsible physician's control over the quality and accuracy of dispensing as well as intelligent fitting services;

The prescribing physician has the sole responsibility for the patient's vision and comfort.

We propose the following specific guidelines for ethical dispensing of glasses and other visual aids by the physician:

1. The patient shall be given a copy of his or her prescription for glasses. This shall be given freely, willingly, and without embarrassment to the patient.

2. The patient has the privilege of having the prescription filled wherever he wishes.

3. The prescription blank shall not have the name of any optician company printed upon it.

4. In dispensing glasses the physician must insure that the cost to the patient is fair and reasonable. The cost of the examination shall be listed separate from that for the glasses.

5. The quality of fitting and dispensing must be good.

6. Optical services shall be provided only to the patients of the doctor, except in the case of a true emergency where the service is not otherwise available.

7. There shall be no listing of dispensing by medical doctors in the yellow pages of the telephone directory.

The above represents an affirmation of existing practices by eye physicians of North Carolina.

JAMES JACKSON, PLAINTIFF, *vs.* AMERICAN MEDICAL ASSOCIATION, AMERICAN PSYCHIATRIC ASSOCIATION, AMERICAN PSYCHOANALYTIC ASSOCIATION, NORTH AMERICAN AVIATION, INC., HENRY J. KAISER FOUNDATION AKA SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP AND SMITH, KLINE & FRENCH LABORATORIES, DEFENDANTS

(U.S. District Court Southern District of California, Central Division, Civil Action No. 65–1463–IH, Memorandum Opinion and Order Dismissing Complaint)

The Court herein order dismissal of the Complaint on the ground that no cause of action is stated under the Anti-Trust Laws. I will first emphasize the Complaint and then discuss the alternative grounds upon which the dismissal rests.

I. THE COMPLAINT

Plaintiff, appearing in *pro per*, sues the American Medical Association, the American Psychiatric Association, the American Psychoanalytic Association, North American Aviation, Inc., Henry J. Kaiser Foundation, and Smith, Kline & French Laboratories. The three professional associations are obviously the primary defendants. Plaintiff invokes Sections 1 and 2 of the Sherman Act and seeks damages of $4,500,000.00.

In the Complaint[1] Plaintiff characterizes himself as a "highly trained and skilled social scientist, particularly in the field of psychology, anthropology, history, political science, law, public health and psychiatric medicine . . ." (Para. II). He alleges, in addition, that he has "acquired expert skills" in business personnel management, hospital and mental hygiene clinic administration and other administrative aspects of public health. He goes on to say that he is "the country's foremost authority on the theory and technique of family group therapy" having spent many years in research, writing and lecturing on such subjects. He alleges that he has gained "considerable fame for his ability to completely and rapidly remove the most severe manifest symptoms of schizophrenia in children and adults." (Para. IV). He also characterizes himself as a member of a "research team" which in 1961–1962 launched a nation-wide community mental health program to do research and teaching "which would reveal the real cause of, prevention and cure of mental illness and social evils." (Para. XXIII).

The gravamen of the Complaint is found in paragraphs XII, XV, XVI, XX and XXI. Therein it is alleged that the three associations are carrying out a scheme to "fix and raise the prices to the customer . . . of community mental health and *to monopolize the field of (mental) rehabilitation.*" (Underscoring Supplied) (Para. XV). He complains that all mental rehabilitation work is done by members of the associations or under their supervision (Para. XII). In furtherance of said scheme, Plaintiff charges the Defendant associations "to keep the real cause of mental illness and the various social evils and the proper methods of their prevention and cure a trade secret . . ." and are selling to government agencies and the general public "falsified findings and techniques" and "harmful rehabilitation methods" such as tranquilization, electric shock, lobotomy and psychoanalysis. Psychoanalysis is characterized as a form of "brain washing with an alien philosophy of amorality." (Para. XVI).

As a result of this alleged conspiracy, Plaintiff says that federal and local governments and foundations pay hundreds of millions of dollars for community mental health centers practicing false methods of rehabilitation which are "worthless and harmful." (Para. XX).

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[1] All references are to First Amended Complaint filed December 2, 1965.

Plaintiff goes on to allege that the aforesaid research team of which he was a member was about to make a public exposure of all of the "fraudulent and monopolistic" practices of Defendants and to launch a nation-wide community mental health program of its own, when Defendants devised and entered a scheme to discredit Plaintiff and destroy bis business (Para. XXIII, XXIV and XXV). Pursuant to this scheme Plaintiff says that the Defendants, by joint agreements, published statements that Plaintiff is schizophrenic, and of bad character, which statements were false, seeking by these statements to have Plaintiff's "patrons" and the members of the associations cease their relationship with him.

Defendant Kaiser is charged with joining the conspiracy "in order to fix and maintain the prices of (its) health insurances and rehabilitation businesses" and with selling "the same fraudulent research and teaching" as the defendant professional associations. Defendant Smith, Kline is alleged to be the manufacturer of two drugs which are sold at "a large price markup" and is charged with joining the conspiracy and financing it in order to promote the sale of said drugs "knowing at all times that they were practically worthless" (Para. XVII). Defendant North American's connection with the alleged conspiracy is less clear. It is charged with employing "more engineers than it needs" in its aircraft and missile business and "hide (ing) this fraudulent activity by . . . utilizing in their rehabilitation services the hereinabove described worthless methods" (Para. XIX).

Although the wording of the Complaint is verbose, imprecise, rambling and often contradictory, it is evident that Plaintiff's essential complaint is that he knows and practices "true" methods of mental health and rehabilitation and Defendants foster the practice of different methods which are false and harmful, and have conspired to monopolize to themselves the treatment and rehabilitation of mental patients.

Each Defendant has filed a Motion to Dismiss which I grant on two alternative grounds:

1. The activity of Plaintiff is not "trade or commerce" under the Anti-Trust Laws.

2. The Court has no jurisdiction over the subject matter because the acts alleged to have been committed by Defendants are not shown to have an effect on interstate trade or commerce.

II. PLAINTIFF'S ACTIVITIES

In an anti-trust case a plaintiff must show that his business or activity which has been interfered with, impaired or damaged, constitutes "trade or commerce." See *United States vs. Shubert*, 348 U.S. 222, 225–26 (1955).

It is established that the furnishing of some types of services falls within the statutory language. See *United States vs. National Association of Real Estate Boards*, 339 U.S. 485, 489–491 (1950). But the instant case raises the question of whether all types of occupations and services are included, particularly since the services involved here are of a professional, non-commercial nature involving the treatment of patients afflicted with mental illness.

It has been said by way of dictum, that all occupations and services are included within "trade or commerce". *United States vs. American Medical Ass'n.*, 110 F. 2d 703, 710 (D.C. Cir. 1940). But the Supreme Court declined to adopt such a broad construction, affirming on other grounds (*American Medical Association vs. United States*, 317 U.S. 519 (1943), and the Court has left undisturbed older holdings and statements that some types of occupations or activity are exempt, choosing to approach the problem on a case-by-case basis. *Toolson vs. New York Yankees*, 101 F. Supp. 93 (S.D. Cal. 1951), affirmed 200 F. 2d 198 (9th Cir. 1952), affirmed *per curiam* 346 U.S. 356 (1953); *Federal Club vs. National League*, 259 U.S. 200, 209 (1922); *The Nymph*, 18 Fed. Cas. 506, No. 10,388. See also *Gardella vs. Chandler*, 172 F. 2d 402 (2nd Cir. 1949).

Of particular relevance to the instant case is the dictum in *United States vs. Oregon State Medical Society*, 343 U.S. 326, 336 (1952) as follows:

"We might observe in passing, however, that there are ethical considerations where the historic direct relationship between patient and physician is involved which are quite different than the usual considerations prevailing in ordinary commercial matters."[2]

If there are some professional activities and services which are not included, Plaintiff's activities would, it seems to me, fall within the non-included group. I hold that Plaintiff's activities, i.e. research, writing, lecturing and teaching are not "trade or commerce". Nor are the treatment and rehabilitation of persons afflicted with mental disease, or fostering programs of community mental health.[3]

III. ACTS CHARGED AGAINST DEFENDANTS

To establish jurisdiction under the Anti-Trust Laws, a plaintiff must also show that the conduct of which he complains had an effect on interstate commerce. It is not enough that the defendant be engaged in interstate commerce. It is not enough that the defendants have conspired to prevent plaintiff from performing an activity or conducting a business, (even if such activity or business consists of "trade or commerce") unless the defendants' actions are shown to have had an effect on interstate commerce. In other words, a conspiracy to prevent plaintiff from performing a local activity is not redressable. As stated by the Court of Appeals for the Ninth Circuit:

"The test of jurisdiction is not that the acts complained of affect a business engaged in interstate commerce, but that the conduct complained of affects the interstate commerce of such business." *Page vs. Work*, 290 F. 2d 323, 330 (9th Cir. 1961), *cert. denied* 368 U.S. 875 (1961).

It is evident to me that the acts of Defendants, which are complained of here, do not affect interstate commerce. As I read the Complaint, the acts complained of are the following:

1. Keeping the real cause of mental illness a secret.

2. Using and promulgating falsified findings and techniques in the rehabilitation of mental patients.

3. Publishing false statements about the Plaintiff seeking to discredit him and prevent patrons and members of the association from associating with him.

It seems to me that rehabilitation services and treatment of mental disease are essentially local activities, involving the relationship between practitioner and patient within a single state. Any crossing of state lines by the practitioner or patient would be merely incidental to the primarily intrastate activity.[4] The alleged use and propagation of false methods for treatment and rehabilitation thus could not effect interstate commerce. Nor could the publication of false statements about the Plaintiff made for the purpose of having his patients and others cease their association with him.

In many respects this Complaint is like that in *Hohensee vs. Goon Squad*, 171 F. Supp. 562 (M. D. Pa. 1959). There, an anti-trust complaint was filed by a plaintiff alleging that he was in the business of lecturing, public relations, publishing, writing and selling of food products. The Court dismissed the complaint on the ground (among others) that it ". . . sets forth no interstate involvement . . ." 171 F. Supp. at 567. In *Hohensee, supra*, the Court aptly quoted from *Shotkin vs. General Electric Co.*, 171 F. 2d 236, 239 (10th Cir. 1948) wherein it was said ". . . the pleading bore clear internal indications of a personal grievance on the part of plaintiff based solely and exclusively upon the declination of the defendant . . . further to transact business with him as an outlet for its manufactured merchandise . . .".

The argument which Plaintiff Jackson made in resisting Kaiser's Motion to Dismiss is most revealing. A transcript thereof has been filed. Plaintiff there stated:

"Now, I think the gist of the thing is that the Defendants are claiming that rehabilitation falls within the practice of medicine, and I claim that it does not . . . This is the practice of teaching and consulting and in doing rehabilitation work." (Transcript p. 3)

"These Defendants . . . have conspired . . . to monopolize the field of community mental health; . . ." (Transcript p. 8)

"Well, the main thing is that this is not the practice of medicine. Anybody can do it. It is not even a profession really. People can be taken off the street, almost anybody off the street, and trained in a short time and put to work. You don't have to have a medical license to do it." (Transcript pp. 8–9)

Plaintiff has obviously brought this action to try the issue of whether the diagnosis and treatment of mental illness is legally confined to licensed physicians and the companion issue of whether his methods are not the only true and beneficial methods of mental treatment and rehabilitation. Those issues, as I read the law, do not fall within the ambit of the Anti-Trust Laws.

The Motion to Dismiss of each Defendant will be granted, and it is ordered that the Complaint be dismissed against each Defendant. This dismissal shall not operate as an adjudication on the merits. Each party shall bear its own costs.

Dated: February 2, 1966.

IRVING HILL,
Judge, U.S. District Court.

STATEMENT OF DRS. ISBEY AND MOORE TO THE SUBCOMMITTEE ON ANTITRUST AND MONOPOLY OF THE SUBCOMMITTEE ON THE JUDICIARY OF THE U.S. SENATE ON BEHALF OF THE NORTH CAROLINA EYE, EAR, NOSE AND THROAT SOCIETY, FEBRUARY 7, 1967

Members of the subcommittee: My name is Dr. Edward K. Isbey, Jr., practicing ophthalmologist from Asheville, North Carolina, and I appear here together with Dr.

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[2] See also dissenting opinion of Mr. Justice Jackson in *United States vs. National Association of Real Estate Boards*, 339 U.S. 485, 496 (1950). Cf. *Spears Free Clinic and Hospital vs. Cleere*, 197 F. 2d 129 (10th Cir. 1952); *Riggall vs. Washington County Medical Society*, 249 F. 2d 266 (8th Cir. 1957), *cert denied*, 355 U.S. 954 (1958).

[3] I am aware that Plaintiff emphasizes his talents in the "administration" of mental treatment facilities and programs and is hopeful of obtaining large contracts of this kind. Such emphasis is a palpable attempt to make Plaintiff's activities appear more of a business, and less of a professional, nature. In my view such "administration" and contracts are a part of the treatment of mental illness, and outside the scope of the Anti-Trust Laws. "Administration" of mental treatment programs is as much professional, non-commercial and of a public service nature, as is the direct treatment itself.

[4] *Robinson vs. Lull*, 145 F. Supp. 134, 137–38 (D. Ill. 1956); *Riggall vs. Washington County Medical Society*, 249 F. 2d 266 (8th Cir. 1957), *cert, denied* 355 U.S. 954 (1958); *Elizabeth Hospital, Inc. vs. Richardson*, 269 F. 2d 167 (8th Cir. 1959), *cert. denied* 361 U.S. 844 (1959); *Spears Free Clinic and Hospital vs. Cleere*, 197 F. 2d 125 (10th Cir. 1952); *United States vs. Oregon Medical Society*, 343 U.S. 326, 339 (1952).

Edward E. Moore, past president of the North Carolina Eye, Ear, Nose, and Throat Society. We appear as representatives of the North Carolina Eye, Ear, Nose, and Throat Society to express our concern with the effect S. 260 would have upon the ability of our members to provide the *best* medical eye care to our patients.

Hearings held in prior years before this subcommittee has suggested the existence of abuses in the dispensing of eyeglasses and other devices by physicians. Among the abuses cited were failure of physician to give prescription to patient, excessive cost of glasses supplied and poor fitting of the glasses furnished. It was stated that as a result of physician dispensing the consuming public suffers and competition declines. It was further stated that the American Medical Association was unable thru its component county societies to correct these conditions. The bill which is presently under consideration has been offered as a solution to these alleged ills.

We maintain that in North Carolina instances of abuse are few, that the vast majority of dispensing physicians carry out their dispensing in an ethical manner and that no amount of legislation will ever legitimize the illegitimate or cure the frailties of human nature. We maintain that the physician has every right to dispense eyeglasses to those patients who wish such service, and that the patient has every right to obtain his eyeglasses from his physician if he so desires. We maintain that competition is increased by physician dispensing and that the patient benefits. We maintain that such grievances as exist can and should be corrected within the framework of organized medicine. We maintain that this legislation, while it may be good for the optician, is not good for the patient and that the harm which would result from its passage would far outweigh any resulting benefit.

An ophthalmologist or oculist is a physician—a doctor of medicine—who specializes in the care of the eye and all its related structures. He has first completed the full course of general medical studies (which include the eye), received an M.D. (doctor of medicine) degree, and served an internship in general medicine and surgery in an approved hospital. He has then taken additional specialized training in ophthalmology—the branch of medical science dealing with the structure, functions, and diseases of the eye and of the visual system. The ophthalmologist has spent *a minimum of 12 years* after graduation from high school before he is eligible to be certified as a qualified eye physician and surgeon by the American Board of Ophthalmology. The ophthalmologist is the only person legally and professionally qualified to diagnose and treat all eye disorders, whether blurred vision, injuries, cross eyes, burns, or foreign bodies, glaucoma, cataract, retinal detachment, or any other eye ailment.

The ophthalmologist (M.D.) diagnoses and treats all visual problems and eye disorders. He prescribes whatever eye treatment is necessary, including the fitting of eyeglasses, contact lenses, optical aids for the partially sighted, and eye exercises (vision training, orthoptics). The ophthalmologist uses eyeglasses, eye drops, eye ointments, and other medications, if necessary, both in diagnosis and in treatment of the eye. He diagnoses the need for eye surgery and performs eye surgery when it is required.

The professional reputation of an ophthalmologist rests upon the patient's final vision with or without glasses. He cannot and should not delegate his final responsibility for the ultimate vision of his patient. Whether the actual glasses are supplied in the office of the physician or by an independent optician, the patient looks to his doctor for the results attained. This responsibility rests heavily upon the physician and is particularly critical in the case of postoperative cataract patients or other patients with unusual visual problems.

The optical fitting technician employed by the physician is an ophthalmic assistant. Such ophthalmic assistants may also have other assigned duties to assist the physician in one or more of the many areas of clinical ophthalmology in which the physician is supported by auxiliary medical personnel. Among these are the general ophthalmic assistant, the orthoptic technician, the nurse, and the perimetrist—the one who examines the field of vision of the patient. Like these, the optical fitter serves the physician, assisting him to render medical care to the patient.

An optician is a technician employed in a retail optical establishment, who on the order of a physician measures the face for, supplies, and fits glasses. He may or may not engage in any one or more steps of the fabrication of those glasses. He may be self-employed or employed by an individual or a corporation.

The relation of the physician to the dispensing optician fitter not in his employ is unlike the relation between physician and pharmacist. There are important differences. Although the physician cannot verify the work of the pharmacist in compounding and supplying medications, he can verify the accuracy of the work of the optician and determine whether or not his prescription order has been carried out. Thus he has responsibility for supervising the activities of the independent optician not in his employ. In turn the optician is responsible directly to the physician for the technical performance of his work as well as to the physician's patient, the optician's customer, for the business performance. The physician is the final judge of the optician's work and accepts or rejects the optician's work. It is the responsibility of the optician to supply those glasses and only those glasses which the physician has prescribed. In delegating the supply, measuring and fitting to the optician, the physician has assumed a responsibility for service outside his office and has not relieved himself of responsibility in the matter of the fitting and supply of eyeglasses. The courts have, on occasion, held that the mere facts of State licensure and self-employment of ancillary personnel does not relieve the physician of responsibility to select ancillary personnel competent to carry out his instructions.

Opticians may strive for high standards of service; the physician maintains the standards; licensure has little or no bearing.

We are fully aware of the possibilities of abuse in the dispensing of glasses by a physician and were greatly disturbed by testimony at previous hearings that some dispensing physicians were refusing to furnish freely and willingly to their patients the prescriptions for their glasses. The desire for specific guidelines for dispensing physicians was recognized by both the North Carolina Medical Society and the North Carolina Eye, Ear, Nose, and Throat Society. This recognition culminated in the adoption of the following resolution by the House of Delegates of the North Carolina Medical Society in May of 1966:

"(The North Carolina Medical Society) maintains that the physician has every right to dispense eye glasses and contact lenses to those patients who desire to be fitted by him.

"We reaffirm the existing guidelines of the American Medical Association viz:

"'One of the most important principles of the American Medical Association has been free choice of physician . . . This principle should apply to choice of optician . . .'

"A patient is entitled to a copy of his or her prescription for glasses, drugs or appliances and he has the privilege of having the prescription filled wherever he wishes.

"We reaffirm our belief that:

"Patients benefit immeasurably from the responsible physician's control over the quality and accuracy of dispensing as well as intelligent fitting services;

"The prescribing physician has the sole responsibility for the patient's vision and comfort.

"We propose the following specific guidelines for ethical dispensing of glasses and other visual aids by the physician:

"1. The patient shall be given a copy of his or her prescription for glasses. This shall be given freely, willingly, and without embarrassment to the patient.

"2. The patient has the privilege of having the prescription filled wherever he wishes.

"3. The prescription blank shall not have the name of any optician or optical company printed upon it.

"4. In dispensing glasses the physician must insure that the cost to the patient is fair and reasonable. The cost of the examination shall be listed separate from that for the glasses.

"5. The quality of fitting and dispensing must be good.

"6. Optical services shall be provided only to the patients of the doctor, except in the case of a true emergency where the service is not otherwise available.

"7. There shall be no listing of dispensing by medical doctors in the yellow pages of the telephone directory.

"The above represents an affirmation of existing practices by eye physicians of North Carolina."

We sincerely believe that strict adherence to the basic tenet of American medicine that a patient shall have free choice of physician, which principle should apply to choice of optician, will answer the complaints on doctor dispensing brought before this Committee. The solution to the alleged ills is for a physician to freely and willingly furnish to his patient a copy of the prescription for glasses, drugs or appliances to the end that the patient may exercise his own choice as to where such prescription shall be filled. This is an ethical principle of American medicine which is being observed and enforced in North Carolina through our own medical organizations.

North Carolina, as many other states, has a large rural population with few major metropolitan areas. Less than 25% of the State's total population of 5 million persons live within the incorporated limits of communities having 5,000 or more inhabitants. There are some 60 communities in the State with 5,000 or more people but only four of North Carolina's cities have populations in excess of 100,000. Many of our cities and towns do not have opticians, and it is only through the dispensing of glasses by ophthalmologists that many of these communities have been served.

The proposed bill prohibits the sale of glasses by persons licensed in the practice of medicine except where there is no independent community optician's service reasonably available in the trading area of the practitioner's place of practice, or where there is no opticians service in the trading area of the patient's place of actual residence. Should this bill become law, it will be impossible for the doctor to determine whether or not he is following the intent of the law. Every patient's case will have to be judged individually and the advice of our brethren in the legal profession may become a daily necessity.

In some communities in North Carolina father and son combinations have practiced ophthalmology and dispensed glasses over a span of 30–40 years, thereby providing a needed service to their communities. In such instances there is usually no opticians service in the community. Let us assume that this bill becomes law and an optician then opens an office in such a community. Does this mean that the father and son who have provided this service for 40 years must suddenly cease and desist from providing glasses? Is the legality of the dispensing of

glasses by an ophthalmologist to be determined by the decision of someone designating himself as an optician to open up shop in the community in which that doctor practices and is the doctor then stripped of his obligation to determine whether or not the nearby optician is competent to treat his patients? Manifestly, this is unfair to the physician and highly prejudicial to the best interest of the patients and the community being served.

The physician has the ultimate responsibility for the final vision attained by his patient and this extends through the filling of the eyeglass prescription written by the physician. It has been pointed out that there are licensing laws for opticians in only 17 states, North Carolina being one of these. In the remaining 33 states anyone who sets himself up to be an optician can do so. What then is the obligation of the physician to his patient if any or all of the independent opticians whose service is available to a community are incompetent? Is the doctor obligated to send his patient to seek such service or is it his duty to recommend to his patient those opticians he feels are qualified and competent? What exposure does a doctor have if he does, in fact, recommend a limited number of the local opticians? These are not hypothetical questions but ones which cause us grave concern in the rendering of proper eye care to our patients. A previous witness (a non-dispensing ophthalmologist) has detailed to this committee the legal action to which he was subjected when he recommended to his patients only 3 of the 4 dispensing opticians in the area.

In previous testimony before this subcommittee it has been implied that eyeglasses obtained from the ophthalmologist are usually more expensive than when obtained from a dispensing optician. This implication has been widely publicized in such national publications as Consumers Union and Readers' Digest without any suggestion that the facts might be otherwise.

Under the system of free enterprise which is basic to this country, prices of eyeglasses, just as any other commodity, are bound to vary. Some opticians will have prices lower than those of certain ophthalmologists, and likewise there will be many ophthalmologists whose prices are lower than those of most opticians. The dispensing ophthalmologist by providing an additional source of supply helps to keep prices in a community at a reasonable level. To demonstrate the truth of this premise and to refute the implications previously raised, members of our society have collected pricing information on eyeglasses which is appended to this statement.

Comparative prices have been obtained from all 5 dispensing opticians and all 16 dispensing ophthalmologists in Charlotte, North Carolina. Prices are listed for a pair of bifocal glasses with standard Bausch and Lomb B–31 frame. For this set of glasses the ophthalmologists' prices varied from a low $30 to a high of $36, with the average price being $32.63. The opticians' prices varied from a low of $33 to a high of $36, with average price being $34.50. Prices are also listed for a pair of single vision glasses with the same frame. The ophthalmologists' prices varied from a low of $24.00 to a high of $26.00 with an average of $25.00. Thus the overall average of prices charged by the ophthalmologists was 6 to 7% lower than that charged by the opticians; while in the case of single vision glasses the average of prices charged by ophthalmologists was lower than the price charged by the least expensive of the opticians.

In Danville, Virginia, pricing was carried out using Bausch & Lomb B–51 frame and bifocal lenses. This pair of glasses from 2 dispensing ophthalmologists costs the patient $32.00. The same glasses from four dispensing opticians in Danville cost from $34.00 to $37.00 with an average cost of $36.25. (We have receipts from each of these optical companies to support these figures.) The patient who obtains his glasses from the dispensing ophthalmologist in Danville realizes a saving of up to 15%.

We have pricing information from Miami, Florida, using bifocal lenses only (frame not included). Prices from optical companies show a range from $22.00 to $29.00 with an average of $24.37. The same pair of lenses from a dispensing ophthalmologist in Miami costs $22.00.

Pricing information was collected from the Los Angeles, California, area on Craftsman Artcraft frame and bifocal lenses, 22mm. flat-top. Prices from 3 optical companies ranged from $50.00 to $57.00 with an average of $52.33. Prices from 3 dispensing ophthalmologists ranged from $44.00 to $55.00 with an average of $50.66.

Comparative prices of bifocal lenses and frames in Spokane, Washington; Colorado Springs, Colorado; Asheville, North Carolina; and Myrtle Beach, South Carolina, as compared with Conway, South Carolina, varied little, with average cost of such glasses from the ophthalmologist being slightly less than from the optician.

We do not contend that the price of glasses is always less when obtained from the dispensing ophthalmologist. However, the figures which we have collected together with discussions with dispensing ophthalmologists in various sections of the country indicate that as a rule glasses obtained from the ophthalmologist cost no more and are likely to cost less. We feel that an erroneous impression has been given to the public with regard to the pricing of eyeglasses by the ophthalmologist.

In previous hearings on the dispensing of eyeglasses very little has been said about optometry. Optometrists provide approximately 50% of the glasses prescribed in this country and optometrists almost universally do their own dispensing. The proposed legislation clearly discriminates against ophthalmologists when it excludes from its application the optometrists who are providing the very same service with far less training. Optometry has not been asked to present its view on the proposed bill even though a recent article in a leading optometric journal (The Optical Journal and Review of Optometry, April 15, 1966) clearly defines the problem:

"The academic standards of optometry have escalated impressively in recent years. As a result, many optometrists now charge as much for an examination as do ophthalmologists. The rationalization is that the quality of our services is equal to, and sometimes superior to, the quality of the services of medical refractionists. Therefore, optometrists can, and do, render an honest opinion on the need for glasses. However, there is still the serious obstacle of the commercial profit from cosmetic frames. So, arguments in support of the Hart Bill and against profit on materials by ophthalmologists may apply equally to optometrists who do not observe a rigid fee system.

"When hearings on the Hart Bill begin, it is almost certain that opponents of optometry will seek an amendment to include all refractionists as 'licensed personnel'. Failure to do this might give the impression of professional discrimination against ophthalmologists. Such an amendment might present a very difficult problem for optometry since the unified service is historically interwoven into our professional fabric."

The optometrist provides a one-stop service to his customers; conducting an examination of the eyes and supplying any glasses required. This is contrasted with the multi-stop service which patients of an ophthalmologist would receive under S. 260. Many patients have long been accustomed to getting their glasses from the prescriber, who may not have been a physician. The general trend in America today is to seek an upgraded health service and more people are turning to the ophthalmologist (the only medically trained person in the eye care field.) They frequently do not welcome the idea of being advised to go elsewhere to secure their glasses after the physician has prescribed them. Some patients have even complained of "passing the buck" from the optician to the ophthalmologist, back and forth.

In the case of patients in small communities, of which there are many in North Carolina, to prohibit the supplying of glasses by the physician would be to ask the patient to choose between abandoning medical eye care in favor of local sources of glasses without prior examination by a physician on the one hand, and travelling long distances—often 50 miles and more—to a commercial source of supply of eyeglasses to have his prescription filled on the other. The vast majority of patients in whom the diagnosis of eye disease is made by the ophthalmologist come to the ophthalmologist thinking they need only glasses to relieve their symptoms, and they frequently come to him because they recognize his office as a source of medical care with which the provision of glasses is associated. Without such an association, many of these patients would choose the more convenient one-stop service of an optometrist. This could only result in an increased interval between the onset of disease and the time that the patient arrives in the office of the ophthalmologist with a corresponding increase in preventable blindness.

The provisions of this law would prohibit the sale of contact lenses by an ophthalmologist. Dr. Joseph M. Dixon has previously presented to this subcommittee a very comprehensive statement on the dispensing of contact lenses and the serious problem this bill would create in that area. The North Carolina courts have held that an optician can only provide contact lenses on the written prescription of the ophthalmologist and under the supervision of the ophthalmologist. A patient cannot come into an optician's place of business and request contact lenses, the decision as to whether or not he should get them is a decision to be made by the ophthalmologist. The fact that a contact lens is a foreign body in contact with delicate eye tissues and can easily cause serious complications that require emergency medical diagnosis and treatment, lead many ophthalmologists to question whether the optician should be allowed to furnish contact lenses under any circumstances. Senator Hart's own State of Michigan does not consider the optician qualified to fit contact lenses and, by law, prohibits him from doing so.

We believe that every physician is legally, morally, and ethically obligated to render his services toward the best medical interest of his patient. The physician has the obligation to exercise his right to supply any drug, therapeutic modality, or other items, or to supply and fit any product or prosthesis; or recommend or designate what person or persons shall carry out his orders in this connection toward the best medical interests of his patient, and he should discharge this obligation without restriction imposed by any other interest. The physician is ultimately legally and morally responsible for glasses he prescribes, regardless of who supplies them. Implementation of the physician's instructions toward his patient's best medical interest should not be impaired by any other considerations or the economic interest of any third party. S. 260 would seriously jeopardize the ophthalmologist's ability to follow these fundamental principles which apply to his practice of medicine and we oppose its enactment.

In summary, it is the position of the North Carolina Eye, Ear, Nose and Throat Society that:

The ophthalmologist has every right to dispense eyeglasses to those patients who desire to be fitted by him, and the patient

has every right to obtain his glasses from the ophthalmologist if he so desires.

The patient should be given freely and willingly a prescription for his or her glasses.

Complaints from opticians should be handled by a grievance committee within the framework of organized medicine. This method has been used with success in North Carolina.

The bill discriminates against medical practitioners by its exclusion of optometrists from its coverage and will encourage patients to see optometrists rather than ophthalmologists due to the convenience of one-stop service. Eye diseases will therefore in many instances go undetected.

Accurate interpretation of the bill by an ophthalmologist is impossible and in many instances he will be unable to determine whether or not he is abiding by the law.

The prices of glasses obtained from the ophthalmologist are generally equal to or lower than those obtained from the optician and the passage of the bill would severely restrict competition and could result in an increase in the cost of glasses.

Mr. Chairman, we thank you for affording us this opportunity to present the views of our Society.

APPENDIX TO STATEMENT OF DRS. ISBEY AND MOORE

Pricing information as collected by representatives of North Carolina Eye, Ear, Nose & Throat Society

	Single vision glasses and frame, B-31 frame, OU + 1.50 sph.	Bifocal glasses and frame, B-31 frame, OU + .50 sph. with add + 1.50, 22 mm. straight top
Charlotte, N.C.:		
Optician:		
A	$26.00	$36.00
B	25.00	36.00
C	25.00	34.50
D	25.00	33.00
E	24.00	33.00
Average	25.00	34.50
Ophthalmologist:		
1	21.50	31.00
2	21.50	31.00
3	22.00	30.00
4	22.00	30.00
5	22.00	30.00
6	22.00	30.00
7	22.00	30.00
8	22.00	32.00
9	22.00	32.00
10	24.00	34.00
11	24.50	36.00
12	25.00	35.00
13	25.00	35.00
14	25.00	35.00
15	25.00	35.00
16	26.00	36.00
Average	23.22	32.63
Spokane, Wash.:		
Optician:		
A		36.00
B		36.00
C		36.00
Ophthalmologist:		
1 (5 ophthalmologists)		35.00

	Bifocal glasses and frame, B-31 frame,[1] 22 mm. flat top bifocal, OU+.50 sph. with +1.50 add
Colorado Springs, Colo.:	
Optician:	
A	$37.00
B	40.00
C	35.00
Average	37.33
Ophthalmologist:	
1	36.00
2	36.00
3	37.00
4	40.00
Average	37.25

[1] Franklin Optical and Douglas Optical do not carry this frame.

	Bifocal glasses and frame, frame, OU+ .50 sph., add +1.50, 22mm. straight top
Myrtle Beach, S.C.:	
Optician A	$34
Conway, S.C.:	
Ophthalmologist: 1 (nearest dispensing ophthalmologist)	34

	Bifocal glasses and frame, B-51 frame, flat top 22, 17 mm. seg. OU+.50 with add +1.50
Danville, Va.:	
Optician:	
A	$34.00
B	37.00
C	37.00
D	37.00
Average	36.25
Ophthalmologist:	
1	32.00

	Pair bifocal, 22 mm. flat top
Asheville, N.C.:	
Optician: A	$20

	Bifocal glasses and frame, B-51 frame, flat top 22, 17 mm. seg. OU+.50 with add +1.50
Asheville, N.C.:	
Ophthalmologist:	
1	$20
2	20

	Pair bifocal lenses, 22 mm. flat-top lenses only (no frame)
Miami, Fla.:	
Optician:	
A	$24.00
B	24.00
C	22.00
D	24.00
E	29.00
F	26.00
G	24.00
H	22.00
Average	24.37
Ophthalmologist:	
1	22.00

	Craftsman Artcraft frame, pair bifocal lenses 22 mm. flat top
Los Angeles, Calif. (general area):	
Optician:	
A	$57 (bifocals $27, frame $30).
B	$50 (bifocals $28, frame $22).
Ophthalmologist:	
1	$55 (bifocals $30, frame $25).
2	$53 (bifocals $28, frame $25).
3	$44 (bifocals $22, frame $22).
Average	$50.66.

NOTES

1. The lenses used for pricing had superficial scratches. The opticians stated that these could not be removed. The ophthalmologists stated that these could be removed at cost of $6 to patient.

2. All names have been deleted to avoid any possible embarrassment to the persons or companies involved. The names can be made available if desired.

PROBLEMS OF WATER AND AIR POLLUTION

Mr. BREWSTER. Mr. President, it has become almost trite to speak of the problems of water and air pollution. Everywhere I look, I see magazine articles, conferences of experts, and letters from constituents, all warning that we must take action now. Here in the Congress we do have an opportunity to act.

I am cosponsoring two bills which would, I believe, make a substantial contribution to this problem. One is the proposal of the distinguished junior Senator from Connecticut [Mr. RIBICOFF] to allow accelerated 3-year depreciation of air pollution treatment equipment.

The other is the measure introduced by the Senator from Kansas [Mr. CARLSON] providing a 20-percent investment tax credit for facilities used to abate air and water pollution.

During the past few years, Members of Congress have enacted many far-reaching programs. They have looked ahead as never before. But the effect of many of these programs will be vitiated unless we protect and purify our environment.

One of the most striking reminders of this pervasive problem was offered recently by an official of the Public Health Service. This gentleman stated that, if the air in our big cities were packaged and sold, it would be banned from interstate commerce by the pure food and drug laws because of its contamination.

This is obviously a problem that must be met head-on. It is a problem that lends itself to joint efforts of Government and business. We need the cooperation of industry in this endeavor. These two bills will help to encourage that cooperation.

DEATHS OF HON. CHRISTIAN A. HERTER AND MR. AND MRS. STEPHEN R. CURRIER

Mr. MUSKIE. Mr. President, our Nation lost three outstanding citizens in January; Statesman Christian A. Herter and philanthropists Stephen and Audrey Currier. The first passed away after a distinguished career spanning 50 years. Mr. and Mrs. Currier were taken from us prematurely, leaving a brilliant record which promised even greater rewards for our society.

All three were motivated by a commitment to public service, and they provided effective leadership in times of national stress and introspection. Their energies and wisdom helped guide our Nation to new understandings and new policies in international redevelopment and in human equality and urban life.

As a Representative from Massachusetts, Christian Herter rallied support from skeptical colleagues for the Marshall plan, the boldest and most successful program of international redevelopment in the history of the world.

For this alone, the people of our Nation and the nations of Western Europe will for generations revere his name. But he will be remembered for many other deeds, as a diplomat at the age of 21, a prisoner-of-war negotiator in 1918, as a member of the American commission to negotiate the peace at Versailles, an assistant to Herbert Hoover, both with the American Relief Administration and later in the Commerce Department, as a writer-editor and Harvard lecturer, as a member of the Massachusetts House of Representatives and its speaker, as a five-term U.S. Congressman, as a two-term Governor of Massachusetts, as Under Secretary and later Secretary of State; and, at the time of his death, chief U.S. trade negotiator.

There was hardly an important development in the history of the last 50 years with which Mr. Herter was not personally involved. There are few parallels to the distinction of his career in American history.

Mr. Herter was a warm, genuine human being beloved by his friends, colleagues, and associates.

His wisdom, integrity, and personal courage in the face of physical pain were admired and respected by all.

The Curriers were philanthropists to human needs. Innovation, foresight, courage, and anonymity characterized

their work. They were in the vanguard of public concern, seeking out the social weaknesses which others ignored, and working to ease the problems.

A missing plane between Puerto Rico and the Virgin Islands ended the story of a remarkable couple who made a pact 12 years ago to apply their resources to improving the quality of life for all Americans.

The Curriers were not armchair philanthropists. Mr. Currier went into Harlem to learn firsthand about slum life. He often went to work at 6 a.m. and worked until late at night.

In 1958, they founded the Taconic Foundation to meet head on the sensitive problems of civil rights. This was at a time when few other foundations were willing or perceptive enough to get involved in the issue. The Taconic Foundation also channeled funds to child welfare and mental health projects.

One result of the Taconic Foundation's work was the voter education project, 4 years before the Voting Rights Act of 1965. The Curriers recognized that Negro voter registration is a root problem in the South.

The Curriers did more than seek out and support deserving causes. They involved themselves personally in the causes. In 1963, for instance, when dogs were loosed on Birmingham Negroes Mr. Currier went out and solicited $1.5 million from the wealthy to help support seven civil rights organizations.

Overall, his work for human equality steadied the major civil rights groups at a time of despair and growing distress.

More recently, the Curriers turned their energies to the problems of big cities. A year ago, he formed Urban America, Inc., to study urban problems with the hope of improving housing, planning and other weaknesses. More recently, he had worked with Mrs. Johnson in her campaign to beautify Washington and the Nation.

Mr. C. McKim Norton, vice president of Urban America, Inc., and member of Washington's National Capital Planning Commission, said of Mr. Currier:

His contribution was to pour new life into renewal, planning and housing objectives and set them on their way again. What he did not not wasted.

Humanity can be proud to have counted Mr. Herter and Mr. and Mrs. Currier among its members. Our world is a better place because they passed through it and dedicated their lives to improving it.

THE NORTHERN NEW MEXICO RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM

Mr. ANDERSON. Mr. President, long before the first white man came to New Mexico most of the Pueblo Indian tribes lived in relative peace and prosperity. The Pueblos of New Mexico were among the most advanced tribes on the continent in their agriculture, architecture and handicrafts.

In 1598 Don Juan Onate and his men came into the territory and established the first white settlement just a few miles north of what is now Espanola. It was the first Spanish capitol of New Mexico called San Gabriel. The capitol was moved to Santa Fe in 1610, 10 years before the pilgrims landed at Plymouth Rock.

These Spanish settlers managed to live off the land from livestock and crops and some small mining activities. About 1680 the once peaceful Pueblo Indians revolted against the Spanish and finally drove them back into Mexico. But in 1693 the land was reconquered by Don Diego de Vargas and his army. The United States did not wrest what is now New Mexico from Mexico until 1846.

The white man and his Pueblo neighbors have lived in the area in relative harmony ever since, although life has not always been easy and there have been many problems. Despite its rich history and natural resources, the area for years has been economically depressed. Only during the last 4 years have the people rediscovered the vast potential of their land and resources.

In the early 1960's the people of northern New Mexico, with promise of assistance from the State and Federal agencies and from local civic organizations, set forth in a unique effort to develop their resources and improve the economy of the entire north-central part of the State commonly referred to as the northern Rio Grande area. This area embraces approximately 3 million acres of land belonging to the Federal Government, the State of New Mexico, Indian Pueblos, and private individuals.

Problems involving unemployment, low income, deficient capital funds, lack of capital investment, small units of operations, lack of processing and marketing facilities and soil erosion have robbed the land of much of its natural richness. These problems arose because of cultural and language barriers, primitive and outdated methods of farming and handling water used for irrigation, drought, floods and overgrazing of range land. Ownership problems also developed because of overlapping of some of the old land grants. The traditional method of dividing the land equally among heirs has cut the size of many units and clouded land titles.

The proposal for the northern New Mexico resource conservation and development project was developed by the people of northern New Mexico with the assistance of such agencies as the Soil Conservation Service, the Forest Service, the New Mexico State Engineer and many other local agencies and civic organizations. The project is one of 10 such pilot projects approved by the Secretary of Agriculture in February 1964. It clearly demonstrates the type of development that can be accomplished by the people of an area if they are encouraged and provided the necessary technical assistance to develop their human and natural resources.

Mr. President, we are proud of the people in the northern Rio Grande area who with little monetary assistance are moving ahead in a long range program to lift themselves out of an economic dilemma. I am sure that within the next 10 years we are going to see an entirely different situation in this historic and scenic wonderland.

Mr. President, I wish to commend the governmental agencies and organizations which have extended a guiding hand. But we must clearly acknowledge that without the initiative and energy shown by the people of the area and local civic organizations this project could not have attained the success it has. In my mind this is an affirmation that communities can and do help themselves. Here is a list of some of the groups involved in this unique effort:

State of New Mexico; Abiquiu-Vallecitos Soil and Water Conservation District; Espanola Valley SWCD; Pojoaque-Santa Cruz SWCD; Santa Fe-Sandoval SWCD; Taos SWCD; Espanola City Council; Santa Fe City Council; Taos Town Council; Los Alamos County Commission; Rio Arriba County Commission; Santa Fe County Commission; Taos County Commission; Museum of New Mexico; New Mexico State Engineer; New Mexico State Highway Department; New Mexico Department of Game and Fish; New Mexico State Parks and Recreation Commission; New Mexico State Planning Office; New Mexico State Soil Conservation Commission; Regional Development Association; Rio Arriba County Development Corp.; Santa Fe County—RAD—Development Association; Taos County—RAD—Development Association; Northern Indian Pueblos.

Mr. President, a recent article appearing in the Soil Conservationist, published by the Soil Conservation Service, describes this project in more detail and what is being accomplished by it. I ask unanimous consent that the article entitled "Resource Plan Starts Economic Improvement" be published in full in the RECORD.

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

NORTHERN RIO GRANDE R.C. & D. PROJECT

(By Vincent W. Shally, assistant state conservationist, SCS, Albuquerque, N. Mex.)

RESOURCE PLAN STARTS ECONOMIC IMPROVEMENT

How a resource conservation and development plan can galvanize local people and government agencies into action for the mutual goal of economic betterment is being demonstrated in the Northern Rio Grande Resource Conservation and Development Project (RC&D) in north-central New Mexico.

In just 2 years the 25 sponsors have set in motion project measures that created 35,000 man-days of employment and brought $398,000 of additional income to the 4-county area in 1965.

The project sponsors have received 162 proposals for such measures as marketing and processing facilities, income-producing recreation enterprises, flood-control and watershed-protection projects, community irrigation improvements, municipal recreation developments, access roads, expansion of native arts and crafts industries, beautification of highways, and many others.

These proposals are submitted by the local people who propose to carry out their own projects with their own funds and facilities and with the technical, financial, and long-term credit assistance from all available sources.

The sponsors who prepared the overall plans and coordinate the activities include

the State of New Mexico, the counties of Taos, Rio Arriba, Santa Fe, and Los Alamos, the municipalities of Santa Fe, Espanola, and Taos, four RAD associations, seven State agencies and commissions, the Northern Indian Pueblos Association, and five soil and water conservation districts.

Assisting the sponsors in the development and implementation of their work plan are a large number of local, State, and Federal agencies.

The basic project work plan was prepared in 1964, and the Secretary of Agriculture in October authorized Federal assistance in putting it into operation.

The status of the 162 project measures approved by the steering committee to date is as follows:

Sixty-seven groups have been assisted in developing their plans and have either completed construction or have construction underway.

Seventy groups are being assisted in the preparation of their plans.

Twenty of the groups are pending the programing of assistance for planning their proposed activities. Some preliminary planning has been done on a number of these.

Five are of long-range nature. Some require new legislative authority or changes in the present laws and regulations. The agencies and organizations involved have been contacted for their guidance and assistance in implementing these projects.

An estimate of costs and returns of the measures completed or nearing completion indicates that they have cost about $1,675,000. The local participating groups have expended more than $1,300,000; cost-sharing and loan funds make up the balance. The estimates indicate that these completed projects will mean more than 400 additional man-years of employment in the area.

Among the project measures scheduled for completion in the immediate future is the Duke City Lumber Production Mill at Espanola, which initially will provide employment for a minimum of 35 men at the mill plus an additional 100 or more for logging operations. The mill is tentatively scheduled to begin operations the early part of 1967. A substantial weekly income and full use of the timber resources will result in the project area.

Another project measure now underway is the Rancho de Chimayo recreation facility involving the conversion of a small farm to an income-producing recreation facility. When fully developed, this enterprise will create an average of 30 or more man-years of employment and bring an estimated $100,000 additional income annually to the village of Chimayo.

The Sebastian-Martin-Black Mesa Watershed Project is being planned under Public Law 566. By reducing flood damage to crops and irrigation systems, it will enable farmers to invest in the production of higher-income specialty crops, such as chile, cucumbers, and orchard fruits.

With financial assistance from RC&D funds, the town of Taos will be protected by a flood-control dam to be constructed above the town. When completed it is expected to eliminate one of the most obvious deterrents to the economic growth of Taos.

An ambitious plan to publicize the recreation facilities and potentials of northern New Mexico has been undertaken by the project sponsors. Included will be brochures, pamphlets, and information guides. Information for use in travel sections and vacation editions of newspapers are planned.

Basic to the success of the project have been the cooperative efforts and contributions of local, State, and Federal agencies and organizations. Here are some examples of how agencies are helping:

Museum of New Mexico has assisted with inventory and selection of sites for development as historic sites.

State Engineer Office has encumbered or paid cost-share grants totaling nearly $42,000 to 22 community irrigation ditch groups in the project area. These funds were made available by the New Mexico Legislature for community ditch improvements.

State Department of Forestry has assigned a marketing and utilization specialist to assist with forestry project measures and leadership on forestry problems in the project area. The department is using matching RC&D funds.

New Mexico Department of Game and Fish has planted nearly 1¼-million fish in streams within the project area. This is one-fifth of the statewide trout plantings.

New Mexico Highway Department has completed construction on 55 miles of highway at a cost of more than $8 million. This includes the spectacular Rio Grande Gorge Bridge near Taos which opens hitherto inaccessible recreation areas to tourists.

State Parks and Recreation Department has continued development of State parks in the project area, including the purchase of an additional 537 acres from the Bureau of Land Management for development of public recreational sites in the Rio Grande Gorge State Park.

State Soil Conservation Committee has provided overall leadership in soil and water and other resource conservation and development work. The chairman is also a member of the project sponsors' steering committee.

State Department of Development is providing assistance on individual projects involving industrial developments.

State Division of Economic Opportunity has coordinated the programs under the Economic Opportunity Act, including Neighborhood Youth Corps, Community Action programs, Headstart, Adult Basic Education, and Work Experience programs.

Soil Conservation Service is assigned administrative responsibility and leadership by the Secretary of Agriculture in assisting the sponsors plan and carry out the project action plan. It has provided the technical assistance to groups and individuals in the detailed planning and implementation of many of the project measures.

Extension Service has carried on intensive education programs among leaders and farmers in soil and water conservation and marketing and processing of agricultural products.

Economic Research Service has assisted in evaluating the economic feasibility of project measures and their impact on the project area.

Farmers Home Administration processed 307 loans totaling $987,430 during 1965. This is a 150 percent increase from the number of loans on record January 1.

Agricultural Stabilization and Conservation Service has contributed to the conservation and development of water resources, one of the chief aims of the project, through its ACP special projects. In the RC&D area 28 project measures with an estimated cost of more than $364,000 are underway.

Forest Service has carried out extensive developments on range, recreation, wildlife, and road and trail development as part of its regular activities. It has provided assistance on timber utilization project measures, such as the "Duke City" project scheduled for operation in 1967. With RC&D funds, this agency and the University of New Mexico are conducting a study of the feasibility of pulpwood production in the project.

Bureau of Indian Affairs has reported impressive accomplishments by Indian pueblos on RC&D project measures. These include roads to recreation areas, range and irrigation improvements, historical site development, and watershed-protection projects.

Bureau of Land Management reports considerable range-improvement work since the project was authorized for operation. A great deal of this was done in cooperation with local soil and water conservation districts.

Soil and water conservation districts have provided leadership and coordination of activities in planning and promoting the project. Five districts are among the formal sponsors of the project: Taos, Espanola Valley, Abiquiu-Vallecitos, Pojoaque-Santa Cruz, and Santa Fe-Sandoval.

The leadership and cooperation developed through the RC&D approach is noted by the local people and visitors alike. This development of leadership and cooperation is in itself one of the most outstanding accomplishments of the Northern Rio Grande RC&D Project.

RETIREMENT OF VICE ADM. H. ARNOLD KARO AS DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

Mr. JACKSON. Mr. President, with the retirement of Vice Adm. H. Arnold Karo, Deputy Administrator of the Environmental Science Services Administration and former Director of the U.S. Coast and Geodetic Survey for 10 years, the Government has lost the services of one of its most able and dedicated administrators. Admiral Karo is widely known, both nationally and internationally, for his ability and expertise in the fields of cartography, surveying and mapping, oceanography, and the earth sciences.

What is not generally known is his ability and leadership in the fields of good management and forward-looking, definitive long-range planning. These are fields not associated, until recently, with governmental administration. Yet it is in these fields that Admiral Karo's abilities become apparent when we review what he has been able to accomplish over the past decade on a relatively modest and tight budget.

We have only to consult the record, which truly speaks for itself. When Admiral Karo took over the direction of the U.S. Coast and Geodetic Survey, it was probably at the lowest point in its long history. Its budget had been slashed by false economy moves for several years. Yet the bureau was faced with a pyramiding demand for its unique services and products. These products and services were available, for the most part, only from the Coast and Geodetic Survey and were vital to support our expanding economy and to support our technological and scientific base.

It was through the introduction by Admiral Karo of advanced techniques of management and planning that the bureau was able to meet its responsibilities to the public and to support our expanding economy. A small, dynamic audit group and a program planning, reporting, and budgeting procedure was inaugurated and placed into operation long before it became the vogue and received general acceptance throughout Government.

Innovations, shortcuts, new procedures, and various economies were instituted by the Survey in order to meet rising costs and increasing demands for its services and products in the face of tighter labor conditions and stringent budgets. The Coast and Geodetic Survey was always noted for getting "10 cents worth for every nickel spent." Yet Admiral Karo was able to get 15 cents

worth through more effective planning and administration.

Always a strong leader, Admiral Karo immersed himself in the operations of the bureau, examining its problems, its objectives, the long- and short-range service requirements, alternative courses of action, benefits to be derived as against costs of any particular course of action, personally made the choices, and then led the bureau in an aggressive attack on its problems. He ran a "taut," highly efficient organization with high esprit de corps.

He believed that the only way to intelligently and effectively solve a problem was to thoroughly understand it; that a problem clearly stated was a problem half solved. And so he immersed himself in the many problems confronting the bureau: problems in oceanography, seismology, geodesy, cartography, surveying and mapping; problems in obsolete and deteriorated capital equipment from ships to printing presses, from deteriorating geophysical observatories to employee morale. You name the problem, he had it. To understand the many problems facing the bureau and arrive at solutions within existing administrative and budgetary restraints and within an acceptable time frame, he maintained a pace that few men could face—18- to 20-hour days, 7-day weeks, with many hours and days of travel, visiting the far-flung operations of the bureau. A dedication only possible from one who believes that public service is a trust, an honorable career, worthy of one's total best efforts.

With all this, Admiral Karo was also able to lend his support and expertise in furthering our Government's policy of giving a helping hand and spreading our technological and scientific know-how to those many peoples and nations in need. He was a member of and headed many official delegations to technical and scientific conferences and meetings, both at home and abroad. In spite of his heavy schedule, he could be depended upon to manage somehow to work in conferences and meetings with visiting foreign nationals, to exchange ideas, and to lend a helping hand. In fact, he has stated many times that this person-to-person exchange was what made it possible to endure some of the other frustrations.

The Government, the people of our Nation, and of the world, have seemingly lost the services of one of our most able and dedicated administrators. I say "seemingly" because I have been informed that Admiral Karo will be the Expedition Director on the forthcoming scientific expedition of the Nation's newest, largest and most highly automated research ship, the U.S.C. & G.S.S. *Oceanographer* and the personal emissary of the Administrator of the Environmental Science Services Administration. This is the expedition in which President Johnson, in his commissioning address, invited the participation of the scientists of the many nations along the route of the *Oceanographer*. Admiral Karo's unique abilities and international reputation will insure the success of this expedition.

OHIO GETS POLAR BEARS

Mr. BARTLETT. Mr. President, last week I had the fortunate opportunity of meeting and visiting with Mr. Jesse Mason, of Lexington, Ohio. Mr. Mason is a remarkable man, and I feel compelled to tell Senators today why this is so.

Jesse Mason's friends, neighbors, and customers know him as the proprietor of Mason's Refrigeration Service. Until recently, Jesse Mason was noted for his skill in repairing and installing refrigeration equipment. The trademark or advertising symbol of Mason's Refrigeration Service is a polar bear. As a part of a promotional effort, Mr. Mason purchased three polar bears from Canada and thus began the first effort, to my knowledge, to control the environment of this great arctic creature while holding him in captivity.

For his three bears, Mr. Mason constructed a specially designed building complete with pool, dens, and refrigeration capacity to cool the interior to any desired temperature.

Mr. President, the interest in this worthwhile experiment is heartening, because little is known about the habits of the polar bear. Most particularly, little is known about the bear's mating and reproduction habits. Seldom do polar bears reproduce in captivity. Mr. Mason's laboratory may well show us that the reason for this is too warm a climate in zoos around the country where the bears are kept in the open, as at the Smithsonian Park in Washington, D.C.

Responding to this opportunity to learn about the polar bear in an environment as cold as that where he is found naturally, the U.S. Fish and Wildlife Service is as anxious to cooperate with Mr. Mason as he is to have them do so. While in Washington, Commissioner Clarence Pautzke conferred with Mr. Mason and advised him that the Service was interested and more than willing to work with him.

Mr. President, earlier I mentioned that Mr. Mason embarked upon this project to promote his business. Since acquiring the bears, however, his outlook has changed dramatically. He was surprised and dismayed to learn that science knew so little about the polar bear. He was also concerned that no one knows how large is the polar bear population or whether we need be concerned over the possible extinction of this great creature. Jesse Mason wanted to help; he wanted to contribute if he could to the bank of knowledge about the bear and to prove his theory that polar bears can reproduce in captivity under the proper conditions.

Outside the Government there is no end of interest in Mr. Mason's project. He has received publicity about the bears in almost all the major newspapers of Ohio. Further, the visitors to Mason's "bear house" will not stop. They average 1,500 a week, and Jesse Mason, being the man he is, charges not a dime for admission. Thus far, he has financed this polar bear research on his own and has allowed all comers to observe the bears, including thousands of schoolchildren all over Ohio. Nevertheless, I am happy to learn that the Federal Government, through the Fish and Wildlife Service, plans to encourage and assist Mr. Mason in every way possible. This is certainly a worthwhile activity on the part of the Government.

NATIONAL BELLAMY AWARD FOR 1966

Mr. ERVIN. Mr. President, in 1956 the Pantego High School in Pantego, N.C., was chosen as the recipient of the 15th National Bellamy Award.

Mr. Wallace Respess, Jr., a senior at Pantego High School, was chosen to represent his classmates at the 1966 award ceremonies in Englewood, Colo.

I ask unanimous consent that the report he presented to his school be printed in the body of the RECORD.

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

REPORT ON NATIONAL BELLAMY AWARD

(By Wallace Respess, Jr., senior at Pantego High School, Pantego, N.C.)

The 25th Bellamy Flag Award gave me the most inspirational moment of my life. I realized that this flag of the United States of America was the symbol of my country. Then the presentation speech was made and the flag presented to Cherry Creek High School. I suddenly became aware of the responsibility that being a citizen of this great country entails.

The Bellamy Flag Award was on a larger scale than I ever expected in every aspect. The week was both educational and inspirational. Frankly, the substance of this Bellamy Award was not at all what I expected. I was aware students from different parts of our country would meet, exchange ideas, and talk of home. But what I did not know was that I would take home a memory of each of these students, a memory that was outstanding of their characteristics and one that would be a part of me. I knew that Cherry Creek High would be a good school. Of course, it would have to be a good school to be the "standard bearer of all public secondary schools in Colorado." But I did not realize that the very greatness of the school, and the sacredness of the presentation of the flag would live in my memory forever. I met inspiring, devoted, goal-striving students, who want an active and useful part in our world. All of this experience was to me both educational and inspirational.

When I stand back and try to find the real purpose of the Bellamy Flag Award, I come up with three basic reasons. I do not say these reasons are the true foundation, but they are what I feel the Bellamy Flag Award is. Firstly, the award honors the author of the "Pledge of Allegiance," Francis Bellamy. Secondly, it gives the students of the honored school of the year, the representatives, and everyone else that comes in contact with this award an insight into the real meaning of the "Pledge of Allegiance." Thirdly, this award stimulated the hearts of every patriotic American who loves his flag and what it symbolizes and honors the pledge to it.

If a person can say that he acquired more knowledge in one day than in any other day, I would say that I learned more or rather was inspired to learn more on this day, October 13, 1966. This was the day of the seminars. Here, I came in contact with successful men in many fields. Of course, they spoke to us of the subject before the assembly, but to me they said that we are living in a country of ever increasing competition, one that requires us, the youth of America, to take giant steps in the right direction to keep up the pace we have set for ourselves.

To acquire this goal, we must harvest the crop of opportunity that yields so freely around us. We must be educated. We must function. We must be the leaders of the future. Someone once wrote that for every responsibility there is a privilege, and for every privilege there is at least one responsibility. I feel now that it is my responsibility to pass on to others what I have gained from this privilege—the most memorable week of my life.

THE ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

Mr. MAGNUSON. Mr. President, in July 1965, President Johnson's reorganization plan creating the Environmental Science Services Administration became effective, and an agency with the important mission of understanding, describing and predicting the state of our environment came into being.

Recently President Johnson received a report on the state of the new organization from the Department of Commerce. ESSA's accomplishments over the first months of its existence—a record which many an older agency might be proud to claim—so pleased the President that he warmly commended ESSA, its management and its employees for the efficiency and success with which the new organization had been created and placed in effective operation. The President cited "specific economies improved management of programs, and better services to the public" resulting from the establishment of ESSA.

I should like to add my own compliments to the men and women of the Environmental Science Services Administration for an effort and an achievement which is impressive.

ESSA was created from the Weather Bureau, the Coast and Geodetic Survey, and the National Bureau of Standards' Central Radio Propagation Laboratory. Within its ranks have now been established the Environmental Data Service, the National Satellite Center, and four institutes for environmental research.

Allow me to cite briefly some of the advances which have come from the creation of ESSA—advances which stem in no small degree from the crosshatching of multidisciplinary skills and techniques which it brings to bear on our most serious environmental problems.

ESSA is an organization in which science and service are wedded to enhance public safety and convenience, and to make possible economic benefits for our Nation and the world.

A prime example is ESSA's new National Natural Disaster Warning System, which is now in the process of implementation. It is a program to provide greatly improved warnings of all nature's hazards, with quicker, better detection, better and faster communication of warnings, and increased community preparedness.

Tornadoes, hurricanes, blizzards, floods, seismic sea waves, storm surges and other natural disasters kill between 500 and 600 Americans annually, and economic losses run well into the billions. NADWARN, at the outset, will fill glaring gaps in our networks for detecting potential dangers and communicating warnings. ESSA looks to 24-hour weather service for every one of the nearly 3,000 U.S. communities which have daily newspapers, radio, or television stations.

Supporting the intensified program of detection and warning is research. The weather bureau, for instance, will soon begin to predict the state of the sea's surface as a step toward comprehensive environmental service for marine operators. It is, in addition to its weather duties, providing storm-surge forecasts which are prepared at ESSA's National Meteorological Center. These activities are excellent examples of the new integration of cross-disciplinary skills for improved service to the public.

Within ESSA now, a meteorologist's dream of many years, is becoming a reality, with ESSA weather satellites scanning the world's cloud cover. It is development which not only has demonstrated the capacity for warning of our own weather changes, but has helped many other nations, some with only fragmentary weather service, as storms approach their boundaries. It is bringing within our reach a world weather program, a long-range global effort planned by the United Nations' World Meteorological Organization.

This program is 1 year old this month. More than 130,000 useful pictures have been produced. The National Environmental Satellite Center has prepared more than 10,000 analyses and has sent more than 700 warnings to areas in the paths of potentially dangerous storms. As reported to the White House, active planning is underway in cooperation with the Institutes for Environmental Research for the use of improved satellite sensors. ESSA already is able to gather data on snow cover which is valuable in water supply forecasting for semiarid regions, sea and lake ice reconnaissance, and identification of flood areas.

Another vital area of public safety in which ESSA has become increasingly active is earthquake information. Last year the Coast and Geodetic Survey received reports of 674 persons killed and thousands made homeless by more than 6,000 earthquakes around the world. ESSA is active, through the Survey and its Institutes, in many phases of the earthquake problem, but probably its most significant step has been establishment of its National Earthquake Information Center—which uses the communications facilities of the Weather Bureau and the global seismograph facilities of the Survey. Additionally, the NEIC is headquarters for ESSA's earthquake emergency plan, under which immediate and longer range technical aid is given after disastrous earthquakes and tsunamis—seismic sea waves. ESSA also issues public bulletins announcing tsunami watches and warnings to alert the public when a serious situation develops.

A major effort of the Environmental Science Services Administration is being devoted to the field of oceanography—so that the Nation may come more quickly to exploration and development of our last frontier, with its vast stores of food, mineral, and other untapped wealth. The ships in ESSA's fleet are platforms from which oceanographers probe the deep ocean and its floor, geophysicists explore the world of gravity and geomagnetism, and biologists investigate the sea's food chain. They are also platforms for the meteorologist and the physicist.

A vital marine undertaking soon to be mounted by ESSA is the forthcoming global scientific expedition of the U.S.C. & G.S.S. *Oceanographer*, which will leave Jacksonville March 31 to launch a variety of studies in the Atlantic, Pacific, the Mediterranean, the Arabian Sea, and the Andaman and Tasman Seas. It is a truly international effort, with scientists of many nations participating on the invitation of the President.

This is the most dramatic of ESSA's current oceanographic activities, but it is only one. There are many others, including valuable work on the Continental Shelf, and many mapping and charting projects designed to make navigation safer for our mariners.

ESSA's ships are Coast and Geodetic Survey vessels. They are staffed by members of the ESSA Commissioned Corps, a growing body of superbly skilled men. But ESSA commissioned corps officers are more than scientist-sailors; they are at work in many of the organization's areas. They are active in meteorologly, in ESSA's Institutes for Environmental Research, in a score of endeavors which relate only indirectly to the sea, and much of the rest of it in a wide variety of scientific efforts. They will be among the most intensively trained men in all of the Federal service.

For that matter, some of the world's most eminent scientists are hard at work in ESSA, and nowhere is this better exemplified than in the Institutes for Environmental Research, with headquarters at Boulder, Colo.

In these Institutes are 1,300 highly dedicated persons with a mission of almost staggering proportions. They are divided into the Institutes for Atmospheric Sciences, Oceanography, Earth Sciences, and Telecommunication Sciences and Aeronomy.

These Institutes seek to supply us with the information needed to descend safely into the oceans or fly high in space; to mitigate the hazards of natural disaster, to protect us from earthquakes, to keep us in communication with our spacemen—to mention only the broadest outline of their activities. By no means the least of their efforts is the study of pollution, a subject of ever-increasing concern to every man, woman, and child in our Nation.

The IER's Space Disturbance Laboratory is, to me, a striking example of the practical benefits of scientific activity. The IER issues bulletins which warn of solar flares to help determine the amount of potentially hazardous proton activity in space.

In yet another area of ESSA's multifaceted operations, its Environmental Data Service, information which has been proliferating at an incredible rate—data of real concern and immediate utility to our people—is being collected.

From what once was many scattered centers, ESSA now has one service which permits the application of up-to-date

technology to the processing, storage, recall, and summarization of all forms of environmental data. The EDS has three major centers: the National Weather Records Center and the National Geophysical Data Center in Boulder, Colo. Through this unique service, ESSA aids not only its own components but other government organizations, the scientific community, the military and virtually every area of the national economy with accurate, useful records. It is the kind of service which not only provides invaluable help to the Nation, but which, through integration of service, typifies the consolidative progress which is enabling ESSA to save our taxpayers approximately $200,000 annually—with the prospect of larger savings in the years to come.

Many of my colleagues may not be entirely familiar with what this remarkable new agency has accomplished in a period during which it was undergoing the throes of organization. This is by no means a complete summarization of ESSA's activities. I have, for example, not mentioned its specialized weather forecasts and its geodetic survey work, both of which are essential to the Nation's daily life.

I salute ESSA. Much remains to be done, but I consider this agency to have set a good example for all to consider. I look forward to continued progress on many fronts as ESSA continues to serve our people.

I ask unanimous consent that the exchange of correspondence between President Johnson and Secretary John Connor be printed in the RECORD.

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

[Release from the office of the White House Press Secretary, Feb. 1, 1967]

EXCHANGE OF LETTERS BETWEEN THE PRESIDENT AND THE SECRETARY OF COMMERCE AND AN ATTACHED REPORT CONCERNING THE PROGRESS OF THE ENVIRONMENTAL SCIENCE SERVICES ADMINSTRATION

DEAR MR. SECRETARY: I have reviewed your report on the fine progress that has been made in implementing Reorganization Plan No. 2 of 1965, which created the Environmental Science Services Administration in the Department of Commerce.

In forwarding that Reorganization Plan to the Congress, I stated that the reorganization would permit us to provide better environmental information to vital segments of the nation's economy and enhance our capability to identify and solve problems associated with the physical environment. ESSA's accomplishments are bearing out these predictions.

Your report indicates that the reorganization has resulted in specific economies, improved management of programs, and better services to the public. This combination of achievements is basic to this Administration's concepts of how the public's business can and must be conducted. You stated in your letter that there is further progress to be made in the future. I am confident that this progress will be made.

I want to commend you, ESSA management, and all ESSA employees for the efficiency and sensitivity which have contributed to carrying out this reorganization. These accomplishments will benefit substantially the public and other agencies of the Government.

Sincerely,

LYNDON B. JOHNSON.

JANUARY 27, 1967.

DEAR MR. PRESIDENT: The enclosed report describes progress that has been made in implementing Reorganization Plan No. 2 of 1965. The plan created the Environmental Science Services Administration (ESSA) in the Department of Commerce.

This plan consolidated the Weather Bureau and the Coast and Geodetic Survey to form the new agency. After the Reorganization Plan became effective, we transferred to ESSA the Central Radio Propagation Laboratory (formerly of the National Bureau of Standards) and established within ESSA an environmental data service, a National Environmental Satellite Center, and four Institutes for Environmental Research.

The job of integrating our operations in ESSA is continuing. I believe we have made substantial progress to date, and will continue to make progress in the future.

Respectfully yours,

JOHN T. CONNOR,
Secretary of Commerce.

REPORT ON ESSA'S PROGRESS UNDER REORGANIZATION PLAN NO. 2 OF 1965

PROGRAM IMPROVEMENTS

Integration of program operations in ESSA is making it possible to provide the public and other Government agencies better and more complete environmental services and information through programs and projects that draw upon all elements of ESSA. Some examples are:

1. ESSA has developed and will begin installation of a Natural Disaster Warning System designed to provide for the rapid dissemination of warnings for such natural hazards as tornadoes, hurricanes, blizzards, floods, seismic sea waves, and storm surges.

2. There has been established in ESSA the National Earthquake Information Center to make available quickly more precise information on location, time, size, and effects of earthquakes. The communications facilities of the Weather Bureau and the global seismograph facilities of the Coast and Geodetic Survey are being utilized for this service.

3. For aviation, we are able to provide an integrated and systematic approach to some of the problems involved in development of the SST, such as hazardous radiation and the need for more critical weather information.

4. Institutes for Environmental Research have been established to bring together research groups of the Weather Bureau (meteorology), the Coast and Geodetic Survey (oceanography and solid earth science), and the Central Radio Propagation Laboratory of the National Bureau of Standards (aeronomy and telecommunications). One of the purposes of placing the groups together under one organizational component was to enhance research activity by encouraging cross-disciplinary studies of the environment.

5. In cooperation with the Institutes for Environmental Research, active planning and development is under way in the National Environmental Satellite Center to utilize improved Satellite Sensors. By interpretation of pictures transmitted from satellites we are able to gather data on snow cover which is useful in water supply forecasting for semi-arid regions, sea and lake ice reconnaissance, and identification of flood areas.

6. The collection and dissemination of data has been integrated in the Environmental Data Service of ESSA. This encompasses climatological, geodetic, seismological, aeronomy, and space data. Bringing together the many "data centers" previously scattered in several organizations into a single data service permits the application of modern technology, including computers, to the processing, storage, recall and summarization of all forms of environmental data. It also makes the data more readily available as it contributes to "one-stop" service to the many interests having a need for environmental data of many types.

ADMINISTRATIVE IMPROVEMENTS AND ECONOMIES

This reorganization has permitted numerous economies through consolidation of like functions and sharing of facilities. For example, approximately $200,000 annually is now being saved through an integration of administrative services, and larger savings will accrue in future years. Whereas the agencies which were joined to form ESSA each had its own personnel, budget, audit and other administrative services, there is now one central organization which performs administrative services for all of ESSA. In addition, there has been a consolidation of public information, legal, and program planning staffs. Similar progress toward integration of administrative services is being made in ESSA field organizations.

New management services have been developed. A new Management Information System has been designed and installed to serve the entire agency, together with comprehensive PPB systems. Further improvements have been the centralization and automation of the Payroll and Accounting Systems saving annually $170,000. A consolidated position control system has been installed.

The Reorganization is resulting in greater sharing and utilization of equipment and facilities. A single Division coordinates all ESSA computer activities and operates a large central computer facility. Another example of better facility utilization is the central ESSA warehouse established at Kansas City. This has eliminated the need for warehousing previously existing in several regional activities and has substantially reduced inventories resulting in annual savings of $160,000 and permitted one-time savings through use of lower inventory levels. Ship utilization also has been improved by equipping the Coast and Geodetic Survey vessels to serve all ESSA programs requiring ocean platforms. The ship "Oceanographer" was utilized by several elements of ESSA for the observation of the recent eclipse of the sun in the southern hemisphere. In February, 1967, the ship "Surveyor" will participate in a geophysical expedition to the Line Islands in the Pacific to obtain weather, oceanographic, and other environmental measurements.

OUTER SPACE TREATY

Mr. ANDERSON. Mr. President, I am pleased to see that the Outer Space Treaty signed on January 27 guarantees that the moon and other planets will be open to exploration by all nations—not just the ones which get there first.

Article I of the treaty expressly provides:

There shall be free access to all areas of celestial bodies.

And article III prohibits any claim of sovereignty to the moon or other planets.

I hope that the treaty will thus forever put aside the possibility of quarrels between nations over extraterrestrial claims to territorial sovereignty. Such claims would not contribute to anyone's security. Indeed, they could, in fact, endanger peace here on earth by raising senseless questions of apparent prestige and empty invocations of national honor. Territorial claims in the past—even when made to uninhabited or uninhabitable areas of the earth or seas—have often led to a show of force.

The Outer Space Treaty builds on the concept of openness through its call for

freedom of scientific investigation in outer space and on celestial bodies. It also calls upon parties to facilitate and encourage international cooperation.

Since the beginning of the space age, the United States has been doing its best to encourage cooperation among nations. I think we can all take pride in NASA's international program—activities in space research which are mutually beneficial to the United States and the other participating countries.

I believe that the treaty will encourage a still more open and enlightened attitude throughout the world.

MEMORIAL TO SIDNEY ZAGRI

Mr. FONG. Mr. President, it was with deep grief and shock that I learned this morning of the death of Sidney Zagri, who was killed along with some 26 other persons in the tragic fire that swept through Dale's Restaurant in Montgomery, Ala.

Sidney Zagri was widely known and respected on Capitol Hill. He was a vigorous and articulate advocate of the International Brotherood of Teamsters which he served as its legislative counsel.

Everyone also knew Sid as a warm and compassionate human being, a foremost champion in the fight to secure to all Americans all the civil rights and civil liberties guaranteed under the Constitution of the United States.

He was zealously dedicated to his beliefs and to his cause.

A native of California, Sid graduated from the University of California at Los Angeles in 1935, and from there, he went to the Harvard Law School for 2 years. The depression of the thirties caused him to resign from Harvard because of financial difficulties, and after a 2-year delay he completed work on his law degree at the University of Wisconsin.

After that he became assistant to the chief trial examiner for the National Labor Relations Board. Later he became Impartial Chairman in the Labor Dispute Section of the National War Labor Board.

In 1945 Sid left Government work to go into private law practice. He returned to California in 1949 and again became active in civic affairs, becoming chairman of the California Citizens Committee for Mental Health, and a member of Gov. Earl Warren's Commission on Mental Health.

He returned to the field of labor in 1955, when he was appointed director of Teamster Local 688's well-known community action program in St. Louis, Mo.

From St. Louis he came to Washington, D.C., in 1959, to serve as the International Teamster's legislative counsel. He subsequently also became director of Drive, the national Teamster political education group.

It was in these latter two capacities that he became known as an aggressive spokesman for his union and for his advocacy of human rights. He was a frequent witness before many congressional committees and became a familiar figure in the halls of Congress.

At the time of the Montgomery tragedy—called the Nation's second worst restaurant fire on record—Sidney Zagri was 53 years old.

He leaves a devoted wife, Katherine, and a 7-year-old son, Sidney Zagri, Jr.

The Teamsters Union, the Capitol, and the Nation have lost a dedicated citizen. I have lost a friend.

My wife Ellyn joins me in offering our sincerest condolences to his wife, his son, and his entire family.

PRESIDENT JOHNSON'S MESSAGE ON AMERICA'S CHILDREN AND YOUTH

Mr. DODD. Mr. President, on Monday of this week, I commended the President for his crime message to the Congress. Today, I rise to support his message on America's children and youth.

As chairman of the Subcommittee on Juvenile Delinquency, I want to reinforce the President's effort to help our young people because the story of our growing youth crime is the story of children who have been neglected and abused, of children who have been deprived and misguided, and of children who have been lost in correctional institutions and in the slum tenements and alleys of our large cities before they could be given a chance to live, and learn, and contribute to the progress and advancement in every field that has characterized our Nation over the years.

Juvenile delinquency is the inescapable product of breakdown and defect in the most vital areas of society, in the home, in the educational establishment and in the economic and occupational sphere.

The President's message includes 13 legislative proposals to help repair the defects in these important institutions.

He asks for full utilization of the skill and talent at our command.

He asks also for dedication and cooperation among both the private and public sectors of the society to develop the potential of our youth, which is the only resource we have to guarantee the strength and survival of this Nation.

Among his other recommendations, the President has specifically asked for the enactment of the Juvenile Delinquency Prevention Act of 1967 to improve the courts and correctional institutions in our States and local areas. I strongly support this measure. The first bill I introduced when I became chairman of the Juvenile Delinquency Subcommittee, The Delinquent Childrens Act of 1961, became the forerunner of this new proposal.

Based on its past research, the subcommittee will look into this and other recommendations by the President and I hope that they will be considered by every Member of this body.

Together with his crime message, President Johnson's message on youth marks the determination of this administration to achieve a final victory over human misery and deprivation in the United States.

These are goals for which men strive the world over.

These are goals which are not easy to reach.

But these are goals which this Nation can achieve before many others. And, if we can, I think we must be the first in this field as we have been first in many other areas of human endeavor and accomplishment.

I congratulate the President and the administration for this effort.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there any further morning business? If there is no further morning business, morning business is closed.

LEGISLATIVE REORGANIZATION ACT OF 1967

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 355) to improve the operation of the legislative branch of the Federal Government, and for other purposes.

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

There being no objection, the Senate resumed the consideration of the bill.

Mr. LONG of Louisiana. Mr. President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. McGEE. Mr. President, in our concern about the reorganization of Congress, our focus is almost completely on updating Congress. I did not want us to lose sight in that process, Mr. President, of the equal importance of updating Members of Congress. It is one thing to bring the machinery up to date; it is quite another thing to try to keep the men and women who run those machines up to date. Mr. President, we have to make them work.

I was one of the approximately 199 persons who testified before the very able special committee that prepared the pending legislation. The proposal I have to make is aimed at enriching the philosophies, the background, the perspective, or whatever it may be called, of Senators.

Mr. President, I make my suggestion in the form of a proposal for a Senate sabbatical. The proposal is borrowed from the academic world as well as the world of business and industry, where more and more it is recognized that day-to-day pressures of business or teaching leave precious little time for anyone in a responsible position to broaden his own horizons. There just are not that many hours in the day. If I may borrow from a currently popular phrase, the preoccupation with "gaps"—generation gaps, credibility gaps—may I say what is

threatening to overtake us in the Senate may be the perspective gap.

As each new Senator arrives in this body as a freshman he brings to the Senate a fresh reservoir of new ideas, a reservoir of his own experiences, and the cross-currents and forces with which he has something to do. Our body is enriched by the arrival of every new Senator.

However, I have the feeling that in the course of his responsibilities and duties in the Senate over a period of time the reservoir that was once full becomes rather sorely depleted. I have the feeling that in the requirements made upon a Senator, by the very nature of the office, lead to that inevitable state. For, not only must he tend to the many problems of his constituents, or try to attend a succession of committee assignments, some simultaneously, but he must also try to deal with bureaus downtown, and cope with various lobbying groups who have a case that needs to be heard in their regard. Thus, the Senator finds himself in a condition which requires, all too often, that he "shoot from the hip." Frequently he is asked to render a judgment on a broader issue, and again, too often, he must shoot from the hip with the hope that he comes close to the target.

Mr. President, my point is that this is not the way to run the store. It certainly is not the way we should be running one of the most powerful, influential, and significant bodies that can play a role in the future shaping of things to come.

For this reason, I think that we should have given more attention in the bill—and therefore should discuss now—the entire concept of a Senate sabbatical.

The point of such a proposal would be to permit each Senator, let us say, during the first year of his second term, or the second year, if for any reason that seemed more desirable, to literally take a leave of absence. He would be barred from only two things. He would be barred from returning to his home State in that period, and he would be barred from entering the District of Columbia in that period.

I hope that he might visit the campuses of some of the centers of learning, both in this country and elsewhere around the world, where he could expose himself to new ideas. I would hope that he could climb a mountain, sit on the top, and pontificate with no deadline staring him in the face. I would hope that he could find an island where he could read himself full, and then think himself empty, and go through this process again and again, because the Members of this body, in these times, are more and more compelled to busy themselves with smaller and smaller details in the legislative process.

In obsession with detail, we too often lose sight of the big picture. We tend, as we ponder how we are going to vote on Tuesday, or on Thursday, to forget about the real shape of the world around us, and the implications of the forces at play in that world.

I am mindful, of course, that organizing a system such as sabbaticals for the Senate would pose many mechanical problems. But, I remind everyone that the mechanics—the machinery of the Senate—was created by Senators, and I am confident that Senators can tailor that machinery to meet the needs of these changing times.

Mr. President, to illustrate the approach that might be considered, perhaps a Senator from a given State could be protected with a selected proxy which would protect his State on the well-known issues in which they are interested, and on other great issues. Such a device might cover the gap that his physical absence might otherwise leave. It could apply only in the case of the predetermined sabbaticals.

Second, the total number of sabbaticals could be limited to any one time and then rotated so that there would not be a conspicious gap in terms of absent Senators due to a large new class which might be elected in any given year.

But these are mere details. I find in conversation with Senators that most of them are prone to worry more about why such a plan will not work than to face what is an even higher priority—why it or something like it must be made to work if this body is to rise to higher levels in decisionmaking, in the setting up of guidelines, and in the general national direction in which it is compelled to be involved during these times.

I cannot help being persuaded, from the many days we spend in debate, how much of the debate is concerned with details, how much of it ignores the central questions: Where are we going? Where should we be going? What is our goal? What is the target we seek to hit?

Those questions are rarely asked in debate because we do not have the time to weigh them carefully. Thus, the accumulation of housekeeping chores, which takes almost the total time of many Senators, requires that we find some way to preserve a little time and an opportunity to read and reflect. In short, time to think about the big questions of the day.

There are many gimmicks that we sometimes say we are resorting to, in order to bail us out of the "bind," gimmicks such as speedreading, or a different staff arrangement, to feed in more of the details that continually threaten to sink us all because of their number, if nothing else.

But what is ignored is that no one—and I mean no one—can supply our own thinking or substitute for it. No one can enrich our philosophy for us. No one can run our own interference in the realm of trying to weigh the direction in which we think our kind of world should be going.

The only way we will ever get time to do that with adequate indulgence is to acquire something like the senatorial sabbatical in order to make that possible.

I suppose there might be those who would abuse such a privilege, but not many. Whatever abuses might arise are already in existence. I think I know enough about the Members of this body to know that the overwhelming majority would welcome the opportunity for the personal enrichment from reading and reflection that a sabbatical would make possible.

On a practical basis, the Nation as a whole would stand to gain. It would gain immeasurably more than at present, because it would gain a deeper sense of the dimensions of all the issues that trouble each of us in turn.

This, Mr. President, is a simple proposal. I believe that if we could have a secret vote in the Senate, my suggestion would pass overwhelmingly—at least, so my colleagues with whom I have visited about this subject tell me. But they seem to be afraid that the voters would misconstrue the plan, and they are candid about saying so. They say that the people are not ready for this yet; that it would be viewed as some kind of free-loading or a boondoggle.

However, we have already faced this question at the industrial and business level, where groups are planning ahead and are insisting that their top executives get away from the shock of the daily grind and give themselves time to think and reflect.

It has been happening in the academic world for a long time. Most colleges and universities in this country require a faculty member to take every seventh year off and "recharge his batteries."

It must at once be obvious that if ever there was a group in the world for whom it is imperative that this kind of precaution be taken, this kind of investment to be indulged in, this kind of personal broadening to become a part of its obligations, it should be the group who serve as U.S. Senators. Then will we come closer to reaching, over the long pull, the kinds of right and wise decisions for which we hope.

Therefore, I suggest to the Senate once again that we close what is a rapidly mounting perspective gap. It is important we not lose sight, within the perspective of the moment, of the scope of the issues which surround us today.

Mr. LONG of Louisiana. Mr. President, I send to the desk an amendment, and ask that it be read.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. The Senator from Louisiana [Mr. LONG] proposes an amendment as follows:

On page 4, in the table of contents, immediately after the item relating to section 471 of the bill, insert the following:

"PART 7—ELECTRICAL VOTING SYSTEM IN SENATE CHAMBER

"Sec. 481. Electrical voting system in Senate Chamber.

On page 118, between lines 7 and 8, insert the following new part:

"PART 7—ELECTRICAL VOTING SYSTEM IN SENATE CHAMBER

"ELECTRICAL VOTING SYSTEM IN SENATE CHAMBER

"SEC. 481. (a) The Architect of the Capitol, acting under the direction of the Committee on Rules and Administration of the Senate, is authorized and directed to take such action as may be required to provide for the procurement, installation, and operation in the Senate Chamber of electrical equipment for use in casting, recording, and counting votes and ascertaining the presence of quorums.

"(b) The expenses incurred in the procurement, installation, and operation of such equipment shall be paid from the contingent fund of the Senate on vouchers signed by the Chairman of the Committee on Rules and Administration of the Senate."

On page 125, line 5, strike out the words "Parts 1, 2, and 3", and insert in lieu thereof the words "Parts 1, 2, 3, and 7".

Mr. LONG of Louisiana. Mr. President, I yield myself 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana is recognized for 10 minutes.

Mr. LONG of Louisiana. Mr. President, it has seemed to me that one result we could hope for, from the work of this Special Committee on Reorganization, would be the installation of electrical voting in the Senate Chamber. Practically all modern legislative bodies have it. But here, when we try to legislate, to call the roll, each name individually, as we do, it is very time consuming, particularly when there are a number of rollcall votes immediately following one another; and it often ties up the Senate for lengthy periods of time.

The Christian Science Monitor of Saturday, November 28, 1964, contains an article about instant voting for legislators, and how electricity does the job. It might be well to read a few excerpts from that article.

Mr. President, the article, entitled "How Electricity Does the Job," written by a staff writer of the Christian Science Monitor, and published in the Christian Science Monitor of November 28, 1964, reads:

HOW ELECTRICITY DOES THE JOB

Most electric roll-call systems follow one general design.

An individual voting switch is attached to the desk of each legislator, a switch like an electric light toggle switch.

During a roll call he votes "yes" by pushing the knob to the left, or "no" by pressing it to the right.

The vote is instantaneously shown on one or more large display boards, located at the front of the chamber, on which are listed the names of all members. Before and after each name are green and red bulbs. These light according to the vote—green for "yea" and red for "nay."

The display board has a place for the number of the bill being voted on as well as the total number of affirmative and negative votes at any given moment.

Legislators can change their votes as often as they desire while a roll call is open. This is done simply by moving the switch from one position to another.

When the presiding officer opens the roll-call system a gong or a buzzer warns legislators who may be elsewhere in the building of the impending vote.

If desired, each legislator's switch can be equipped with a lock for which only he has the key.

Few states use locks, however, because of the problem of lawmakers losing their keys or leaving them at home and not being able to vote.

To make sure that no unauthorized person uses a particular legislator's switch, in his absence from the chamber, strict rules with stiff penalties are imposed by most legislative bodies having the electric roll-call system.

When the presiding officer announces the closing of a roll call he instructs the clerk to throw the master switch. After this is done the vote is "locked" and no further changes can be made.

Each member's vote and the totals are recorded on a card. Three or more copies are then printed automatically.

Mr. President, an article entitled "Instant Voting For Legislators," written by George B. Merry, and published in the Christian Science Monitor, of November 28, 1964, reads in part:

"It used to take us the better part of an hour to complete a vote. Now, with the electric roll-call system, it is done in only a few seconds." This was J. Tyler Patterson, Speaker of the 294-member Connecticut House of Representatives, speaking.

Thirty-one states now have electric roll-call installations in at least one chamber of their Legislature. And six of them—Indiana, Louisiana, Minnesota, North Dakota, Tennessee, and Virginia—have it in both upper and lower legislative branches.

The United Nations, too, has been won over by this speedier method of recording votes. Delegates at the forthcoming session of the General Assembly will use a recently completed electric roll-call installation.

Lawmakers in at least three other states are expected to consider the future use of this equipment during their 1965 legislative sessions.

Mr. President, the article incidentally relates that Thomas A. Edison is credited with inventing the first electric rollcall voting machine.

The principal objection that Senators make to the electric rollcall vote is that on occasion a vote commences when the Senators are not all present in the Chamber. Senators wish to have sufficient time within which to come to the Chamber in order to record their vote.

That objection can be met in several ways. One way in which it can be met is that the electric voting machine can be used only in ways that are agreeable to the Senate. It can be decided that the machine is to be left open for, let us say, 5 minutes, so that any Senator who was not present can have time to get to the Chamber and be recorded.

The Senate might want, on starting to use an electric voting machine, to provide that only after there has been one roll-call vote can the electric voting machine be used, so that everybody present knows that on each of the subsequent votes the electric voting machine is to be used.

Mr. President, there is no doubt in my mind that if the Senate sees fit to acquire a voting machine, Senators will find ways to use it very efficiently and effectively.

It has been the impression of this Senator that any legislative body which has acquired a voting machine has never been able to understand why on earth it did not have one before, after it found out how much the machine expedited the procedures by enabling the legislative body to vote instantly.

The electric voting machine eliminates the cumbersome process of calling each name and recapitulating each name before the vote is announced.

I know that this matter was considered in the committee. I had great hopes that the committee would recommend the amendment. I hope that the Senate will consider the amendment favorably.

Mr. President, I ask unanimous consent that the two articles I have read from be printed at this point in the RECORD.

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

[From the Christian Science Monitor, Nov. 28, 1964]

INSTANT VOTING FOR LEGISLATORS

(By George B. Merry)

"It used to take us the better part of an hour to complete a vote. Now, with the electric roll-call system, it is done in only a few seconds." This was J. Tyler Patterson, Speaker of the 294-member Connecticut House of Representatives, speaking.

Thirty-one states now have electric roll-call installations in at least one chamber of their Legislature. And six of them—Indiana, Louisiana, Minnesota, North Dakota, Tennessee, and Virginia—have it in both upper and lower legislative branches.

The United Nations, too, has been won over by this speedier method of recording votes. Delegates at the forthcoming session of the General Assembly will use a recently completed electric roll-call installation.

Lawmakers in at least three other states are expected to consider the future use of this equipment during their 1965 legislative sessions.

SAVINGS INCALCULABLE

Each legislator's desk is equipped with a toggle switch by which he or she votes. Flipping it to the left registers the member's approval, and to the right records disapproval of the particular matter on which the roll call is being taken.

It is impossible to estimate how many hundreds, if not thousands, of hours of monotonous vocal "ayes" and "nays" have been saved over the years by those bodies which have adopted this short cut.

Despite its obvious advantages of accuracy and efficiency legislative bodies have been slow to turn to this method of instant voting.

Once having adopted the electric roll-call system no state has ever abandoned it.

The first electric roll-call installation was in the Wisconsin Assembly in 1917.

But the idea is actually much older.

Thomas A. Edison is credited with this invention. But he was never able to capitalize on it.

LAST THING WE WANT

In June, 1869, when still a young telegrapher in Boston, he was granted a patent on a vote recorder system by which members of a parliamentary body could register their "ayes" and "nays" through electric impulses.

He had hoped to sell Congress the idea of installing it.

A congressional committee chairman to whom he proudly displayed his invention admitted that it worked well, but added, "It's the last thing we want here. Filibustering and delay in counting the votes are often the only means we have for defeating bad legislation."

Two later attempts—in 1902 and 1916—by Frank L. Dyer, one of Edison's associates, failed to sway congressional committees.

More recent attempts, by the present manufacturer and others, to win support in Congress for an electric roll-call system also have evoked little enthusiasm.

Had it not been for a warm legislative day in 1911, when the clerk of the 100-member Wisconsin Assembly had to call the roll no less than 70 times, the electric voting system might still be an inventor's dream.

"Why couldn't some sort of a device be perfected to save all that trouble?" the clerk asked a group of assemblymen the next day.

This was overheard by Bornett L. Bobroff, a Milwaukee engineer who had been experimenting with various signaling devices for several years. He was determined to solve the problem and after 850 lengthy roll calls in the 1913 session he was given the go-ahead.

Four years later when the new state Capitol building was ready so was the vote recording device in the Assembly chamber.

IOWA FOLLOWS IN 1921

In 1921 Iowa became the second state with electric voting, when a system was installed in its House of Representatives. The following year both Louisiana and Texas added this equipment to their lower legislative House. And in 1924 the Virginia House of Delegates followed suit.

Eight installations took place in the 1930's, 10 during the 1940's; 12 in the 1950's; and two so far in the 1960's.

Over the years some of the early states with electric roll-call voting equipment have modernized their system.

States now considering installation include Hawaii, New Mexico, and South Dakota.

Legislative bodies with the electric voting system range in size from the 33-member Tennessee Senate to the 294-member Connecticut House of Representatives. Except for the six state senates and the unicameral Legislature in Nebraska, most of the legislative chambers equipped with this fast-voting system have more than 100 members.

Production of electric roll-call systems now in use by all but one Legislature—Kansas—is by the International Roll Call Corporation, of Richmond, Va., or its predecessor firm, the American Signal Company.

NOT THE ONLY FIRM

One other company, the North American Signal Company, of Washington, D.C. (not International's predecessor), is also prepared to manufacture electric vote-recording equipment.

But this firm's system has not been installed in any legislature. It was used, however, in 1956, at a national League of Women Voters convention in Chicago.

Costs of roll-call equipment and maintenance vary from state to state, depending on the size of the legislative body and the time of installation.

Massachusetts is paying $60,000 for the installation and first year rental of its roll-call system now being added to its 240-member House of Representatives.

After 1965 the Bay State will pay the International Roll Call Corporation $12,500 annually for rental, maintenance, and future improvements in the system.

DONE AT A LOSS

The United Nations, on the other hand, will pay the roll-call company $10,000 a year for the rental of its equipment in the now 112-member General Assembly chamber.

Except for certain connections the actual installation and the wiring was not done by the manufacturer. Instead the work was done directly by a contractor for the UN at a cost in excess of $40,000.

"We did this job at a loss," says Marshall F. Thompson, president of the roll-call firm. Use of this speedier voting system at the General Assembly, he feels, will focus attention on his company's product.

Mr. Thompson was a pioneer in the perfecting of the electric roll-call system. He received his first patent in 1917, the same year as Mr. Bobroff.

In addition to other legislative bodies Mr. Thompson is hopeful that electric roll-call installation will be contracted for by large corporations for use at stockholder meetings and by organizations holding national or international conventions.

Kentucky paid $20,000 for the installation of the system in its 100-member House of Representatives in 1959. In addition it pays $5,000 a year for rental and maintenance.

In Pennsylvania, where roll-call equipment was added to its 210-seat House of Representatives in 1960, $60,000 was paid initially for the system and its first year of operation. After that its contract calls for $10,000 per annum.

RENTAL NOW PREFERRED

States used to have the option of renting or purchasing the roll-call mechanism outright. Since Montana bought a vote-recording system for its House of Representatives, in 1956, the company has offered only rental and maintenance agreements.

A survey conducted by the Massachusetts Legislative Research Council disclosed that electric roll-call installations had saved the Illinois House an estimated 86 hours per session, and the Michigan House some 50 hours per session.

Voice roll calls in the Bay State House take an average of 20 to 30 minutes. Some 165 roll-call votes in the 1964 session took better than 75 hours. And the 264 House roll calls, in 1963, used up an estimated 120 hours.

The new rapid voting system now being installed in the Massachusetts House chamber, under the watchful eye of John J. Cavanaugh, the sergeant at arms, will permit the taking of a vote in less than 40 seconds.

It is doubtful, however, as to how much legislative time will be saved. The rules under which the new instant voting system will be operated have not yet been drawn up.

It is expected that Bay State legislators will be allowed 10 to 15 minutes to show up for a vote.

TIME SAVING IN DOUBT

Even this latitude might be considered insufficient for lawmakers out of the State House when a roll call is announced. They are used to having 25 minutes to half an hour to get back. If this amount of time is allowed in the new rules the new system would save no time whatsoever.

In most states there is a delay of only a minute or two before the electric vote tally begins. It is not kept open for stragglers.

To assure maximum participation in all votes some legislators have proposed that a certain day in the week be set aside for roll calls. Or if this is not practical some favor a certain time each day for all such votes.

These suggestions, however, meet serious objections from those who maintain that a vote should be taken directly after the debate on each particular issue, so that the members can vote with full knowledge of the subject.

MORE ROLL CALLS ASKED

In Connecticut House Speaker Patterson reports that since the electric voting system was installed there has been a marked increase in requests for roll calls. This, he says, has tended to use up some of the time saved by the more rapid voting method.

Advocates of the electric roll-call system emphasize:

The amount of time it can save in the conduct of legislative business.

Machine voting assures a strictly accurate count free from human errors.

It informs the public immediately and positively how any particular legislator cast his vote on a particular issue.

It aids the presiding officer in maintaining order, since all members must be in their seats to vote.

Opponents to the system maintain:

The savings of time are not great enough to justify the expense of the installation and maintenance of the system.

Many legislators are attending important conferences or committee meetings and might not be able to get to the chamber in time to cast their vote.

There is always a danger that some person other than the legislator to whom it belongs will use his vote during his absence.

HOW ELECTRICITY DOES THE JOB

(By a staff writer of the Christian Science Monitor)

Most electric roll-call systems follow one general design.

An individual voting switch is attached to the desk of each legislator, a switch like an electric light toggle switch.

During a roll call he votes "yes" by pushing the knob to the left, or "no" by pressing it to the right.

The vote is instantaneously shown on one or more large display boards, located at the front of the chamber, on which are listed the names of all members. Before and after each name are green and red bulbs. These light according to the vote—green for "yea" and red for "nay."

The display board has a place for the number of the bill being voted on as well as the total number of affirmative and negative votes at any given moment.

Legislators can change their votes as often as they desire while a roll call is open. This is done simply by moving the switch from one position to another.

When the presiding officer opens the roll-call system a gong or a buzzer warns legislators who may be elsewhere in the building of the impending vote.

If desired, each legislator's switch can be equipped with a lock for which only he has the key.

Few states use locks, however, because of the problem of lawmakers losing their keys or leaving them at home and not being able to vote.

To make sure that no unauthorized person uses a particular legislator's switch, in his absence from the chamber, strict rules with stiff penalties are imposed by most legislative bodies having the electric roll-call system.

When the presiding officer announces the closing of a roll-call he instructs the clerk to throw the master switch. After this is done the vote is "locked" and no further changes can be made.

Each member's vote and the totals are recorded on a card. Three or more copies are then printed automatically.

Mr. MONRONEY. Mr. President, I yield myself such time as I may require.

I thank the assistant majority leader for his interest in many ways in the legislation. This is one of the very interesting suggestions that has always been made, and properly so, in the consideration of the modernization of the legislative process.

It is true that the committee heard suggestions. Primarily the suggestions were for an electric voting machine as it would pertain to the House of Representatives.

Many of us who have served in the House of Representatives, as has the distinguished present occupant of the chair [Mr. METCALF], have realized and recognized the time consumed in that body by the call of the roll of the 435 Members of the House.

It does require well over three-fourths of an hour, and up to an hour, to complete the rollcall and the recapitulation of those who voted so as to check the accuracy of the vote.

There was little testimony favoring the use of an electric voting machine for the Senate. I personally feel that while I would be inclined to support the use of an electric voting machine for the House of Representatives—because of the 4:5 time ratio of the membership, the delay in the quorum calling and voting procedure, and all of the other things in the House—I do not think that it would be justifiable for the Senate.

As the Senator has said, the problem involves the waste of time in the assembling of Senators on the floor for the vote. We would still go through that

long and tedious process of waiting for an actual quorum.

We would, in fact, have to wait for a substantially longer time than that to make the electric rollcall vote registration very practical. It would thus seem that our problem is different when we actually get to the rollcall on a quorum call or on a vote. This procedure takes a relatively small amount of time in the Senate when compared to the time consumed in the House of Representatives.

I note that my distinguished colleague, the junior Senator from Pennsylvania [Mr. SCOTT], who has served so long and ably in the House and in the Senate as well, is present in the Chamber. I am happy to yield to him.

Mr. SCOTT. Mr. President, I thank the distinguished chairman of the committee. I say simply that I am in general agreement with what the Senator has said here.

I would think, as a Member of the House of Representatives for 16 years, that the use of an electric voting machine would considerably expedite proceedings in the House if some advance notice of the time when the buttons would be pushed for voting were given.

The procedure would have to be surrounded with safeguards, because there is a current controversy going on now, I believe, in the Pennsylvania State Legislature. The controversy involves a question of some people getting their buttons pushed when they might not have been present. I am sure that this would not be the case in either the Federal or State legislature.

There are adequate safeguards to protect against such practices.

I frankly have not given the matter of the use of a voting machine in the Senate a great deal of thought at all.

The main problem is to get the Senators present on the floor, and voting by machine would not greatly expedite our procedures here.

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

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BYRD of West Virginia in the chair). Without objection, it is so ordered.

Mr. MONRONEY. Mr. President, I ask unanimous consent that we may have a quorum call and that the time not be charged to either side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oklahoma? The Chair hears none, and it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MONRONEY. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Louisiana [Mr. LONG] has 25 minutes remaining, and the Senator from Oklahoma [Mr. MONRONEY] has 17 minutes remaining.

Mr. MONRONEY. Mr. President, I yield such time as he may require to the distinguished junior Senator from Montana [Mr. METCALF], who is a member of the Joint Committee on Reorganization and a former Member of the House of Representatives.

Mr. METCALF. Mr. President, I have grave misgivings about the pending proposal. I hesitate to oppose the distinguished chairman of the Committee on Finance, on which I serve, but in this matter I feel that I must address the Senate and state why I have misgivings.

Mr. President, in the first place, the Senate, as a legislative body, is not analogous to the other legislative bodies that the Senator from Louisiana mentioned. We do not operate under the rule of the Committee of the Whole House under which almost all other legislative bodies operate. For instance, the House of Representatives goes into a Committee of the Whole House. They have the rollcalls when they come out of committee. They cannot have a rollcall under the 5-minute rule in the other body. Therefore, a fixed time could be set for the use of the electronic voting machine, and at that fixed time the Members could gather in the Chamber and time would be saved.

However, in this body an amendment can be presented, a rollcall vote can be requested, and we can have the rollcall vote at any time because we are in legislative session at all times.

Another matter that is not analogous to other legislative bodies is that most State legislatures not only meet for a very brief period, perhaps 60 days every other year, or 30 days every other year, but also operate under a constitutional provision requiring a rollcall on the third reading of every bill.

I was honored to serve in the Montana State Legislature, and I have sat in the chamber while the clerk read bill after bill. If we took a rollcall vote it would be 86 to 0, 76 to 0, or 89 to 2. An electronic voting machine saves a great deal of time in those instances when a person is sitting in the chamber and there is repetition of one rollcall vote after another.

Mr. President, we do not have such a provision here. We can pass a bill on the Consent Calendar, including third reading, in 5 seconds. On many days when the calendar is called the clerk reads the title, and the Presiding Officer asks if there is objection. If there appears to be no objection, the bill is passed, and it is passed much more rapidly than State legislatures could pass it with electronic voting machines.

This is a unique body. It is different from all of the State legislatures that have been benefited from electronic devices.

The disadvantages, of course, are not only that it takes a long time to have Senators gather in the Chamber for a vote, and it would be very difficult to keep the vote open, but also that the action of the Senate would have to be suspended for 5 minutes, 10 minutes, or 20 minutes.

Many of us, in deference to other Senators, have kept a rollcall going to try to get them to the Chamber in order to keep their voting records intact. Electronic voting would make that very difficult. I am sure that all of us desire to cooperate with the leadership. The Senator from Louisiana, when he works to obtain the passage of a bill that is important and in the national interest, tries to get the necessary votes to obtain passage. Electronic voting machines would make that difficult.

Mr. President, I served in the House of Representatives, and I know that many times we have saved a good deal of time. When we came from the Committee of the Whole there would be a motion to recommit, and there would be separate votes on amendments. We all would gather in the Chamber and have one vote after another.

However, that does not happen in this body because we are in legislative session all of the time. It would seem to me that the device of electronic voting would be difficult to adapt to the Senate and would actually be more time consuming and more wasteful than to have the regular procedure that has become so fixed in the Senate. Not only do we have voting, with the clerk giving a recapitulation, but also, many times, we have to ask that the clerk state how we are recorded.

I was the Presiding Officer when this amendment was presented. I asked the clerk how long it would take him to call the role if time were really of the essence. I was informed that the roll in the Senate can be called in about 6 minutes, including the recapitulation. I would guess that if we called the roll in 6 minutes on the next rollcall, a quorum would not be present. The role would have to be called again to permit each Senator who was not present when the first rollcall was concluded to ask for recognition to vote.

It would seem to me that even if these devices work so admirably in State legislatures, and they do in the State Legislature of Montana, they are operated under different rules than we have in the Senate. This is not a body where electronic voting would save time and do the job that it does elsewhere.

I thank the Senator.

Mr. LONG of Louisiana. Mr. President, I yield myself 5 minutes.

One reason why we have such poor attendance on the floor of the Senate now and most of the time is that Senators can be located anywhere in the vicinity in time to be recorded on a rollcall. Senators can be in a restaurant downtown or they can be in the Senate steam bath and still have plenty of time to come to the Chamber, answer a rollcall, and vote, in the event that a vote takes place. That is one reason it is so difficult to get Senators to stay and hear debate and fully understand the arguments on both sides.

When it is known that a vote will occur at a certain time and the Senator has to be there to cast his vote, the Senator will be there. I would dare say that every State legislature in the United States, in both the house and the senate, in terms of legislators present makes the Senate and even the House of Representatives look very bad by comparison.

The reason is that when they vote, they do not have all day. They do not have 20 minutes, as is usually the case in the Senate. Having announced that a vote will take place at a certain time, legislators remain on the floor of their State legislatures and the vote takes place in a moment or so.

I do not seek to upset the staid, old traditions of the Senate which give Senators plenty of time to come into the Chamber and vote. But when the Senate is ready to vote and a rollcall is insisted upon, it would seem to me that if we can have the voting over within 30 seconds—1 minute at the outside—rather than having to spend anywhere from 6 minutes to half an hour to conduct a rollcall, we would be that much better off.

It takes a long time to conduct a rollcall, as all Senators know. A Senator will come in and vote and then he will leave, go over to his office, or take care of necessary Senate business elsewhere. Eventually, the bells ring for the next vote, and he will return to the Chamber without having heard debate or known what is being voted on, and he will have to cast his vote again.

When the Senate is willing to give unanimous consent to limit time, and to vote, it would be well for Senators to be present and to hear what is being said by those debating a particular issue. They would then be in a position to vote, knowing what the argument was, and what the case for or against the issue was, rather than the current procedure where Senators so often speak to empty chairs and then, after debate has been concluded, there is a long pause for a quorum call, followed by someone asking for a yea-and-nay vote, and a long drawn out rollcall vote, during which Senators finally get to the Chamber.

There is no doubt in my mind that if the Senate had electronic voting, Senators would learn how to use the equipment effectively and efficiently and would make very good use of it to expedite the passage of legislation.

I, for one, would not try to force the Senate to do anything when it is not in the mood to legislate. To me, that would be a foolish thing to do. But when the Senate is ready to vote, such an electronic device could be extremely helpful in speeding the business of the Senate.

As I have said, I would have thought an electronic voting device would have been one of the first suggestions we could have expected from a group seeking to streamline, ease, and speed the business of the Senate.

Mr. MONRONEY. Mr. President, I suggest the absence of a quorum, and ask that the time for the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered; and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and the following Senators answered to their names:

[No. 23 Leg.]

Allott	Brooke	Cannon
Baker	Burdick	Case
Bennett	Byrd, Va.	Dirksen
Boggs	Byrd, W. Va.	Dominick
Ellender	Lausche	Randolph
Fong	Long, La.	Ribicoff
Griffin	McClellan	Scott
Hatfield	Metcalf	Stennis
Hill	Miller	Talmadge
Holland	Monroney	Yarborough
Jordan, N.C.	Morton	Young, N. Dak.
Kuchel	Pearson	

Mr. LONG of Louisiana. I announce that the Senator from Indiana [Mr. BAYH], the Senator from Idaho [Mr. CHURCH], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Montana [Mr. MANSFIELD], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. MOSS], and the Senator from Alabama [Mr. SPARKMAN] are absent on official business.

I also announce that the Senator from Mississippi [Mr. EASTLAND], the Senator from Wisconsin [Mr. NELSON], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN], the Senator from Arizona [Mr. FANNIN], and the Senator from Idaho [Mr. JORDAN] are absent on official business of the Interparliamentary Union.

The Senator from New Hampshire [Mr. COTTON] and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The Senator from Texas [Mr. TOWER] is absent on official business.

The PRESIDING OFFICER. A quorum is not present.

Mr. LONG of Louisiana. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After a little delay the following Senators entered the Chamber and answered to their names:

Anderson	Hayden	Pastore
Bartlett	Hickenlooper	Pell
Bible	Hruska	Prouty
Brewster	Jackson	Proxmire
Carlson	Javits	Russell
Clark	Kennedy, Mass.	Smith
Cooper	Kennedy, N.Y.	Spong
Curtis	Magnuson	Symington
Dodd	McCarthy	Thurmond
Ervin	McGee	Tydings
Gore	McGovern	Williams, N.J.
Hansen	Mondale	Williams, Del.
Harris	Mundt	Young, Ohio
Hart	Murphy	
Hartke	Muskie	

The PRESIDING OFFICER. A quorum is present.

Mr. MONRONEY. Mr. President, would the Senator from Louisiana state the purpose of his amendment?

Mr. LONG of Louisiana. Mr. President, the purpose of the amendment is to authorize the installation of a voting machine to be used in the Senate.

Mr. MONRONEY. Mr. President, the committee feels that this would be an unnecessary adjunct, because only 5 minutes is required to call the roll. The time is consumed in getting Senators to the floor, as was proved just a moment ago.

We oppose the amendment and ask for a voice vote.

Mr. LONG of Louisiana. Mr. President, I yield back the remainder of my time.

Mr. MONRONEY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was rejected.

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

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

AMENDMENT NO. 65

Mr. CANNON. Mr. President, I call up my amendment No. 65 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? There being no objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 22, line 21, strike out the word "and".

On page 23, line 13, strike out the closing quotation marks immediately following the period.

On page 23, between lines 13 and 14, insert the following:

"9. National cemeteries."; and

(6) by striking out in subparagraph (k) (relating to the Committee on Interior and Insular Affairs) the following item—

"5. Military parks and battlefields, and National cemeteries."

and inserting in lieu thereof—

"5. Military parks and battlefields."

Mr. CANNON. Mr. President, in the pending bill is a provision for establishing a standing committee on Veterans' Affairs to consider veterans' matters. Of the diverse committees now handling veterans' matters, the Committee on Interior and Insular Affairs at the present time has jurisdiction over national cemeteries. It is my feeling that if the Committee on Veterans' Affairs is established, it would be the logical committee to exercise jurisdiction over national cemeteries.

All that my amendment would do is to transfer jurisdiction over national cemeteries from the Committee on Interior and Insular Affairs to the Committee on Veterans' Affairs proposed herein. I have discussed the matter with the distinguished chairman of the Committee on Interior and Insular Affairs. He has no objection to the amendment.

I ask the manager of the bill if he is willing to accept the amendment.

Mr. MONRONEY. Mr. President, I have examined the amendment offered by the distinguished Senator from Nevada, and I have discussed it with some of the other committee members.

It seems to me that this jurisdictional change in the bill is good. Since we are at least going to consider having a Committee on Veterans' Affairs in the Senate, we might give the new committee jurisdiction of the cemeteries for our deceased veterans.

I urge that the committee agree to the amendment.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

Mr. MONRONEY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

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

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

AMENDMENT NO. 22

Mr. CLARK. Mr. President, I call up my amendment No. 22 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, in the table of contents, immediately after the item relating to section 122 of the bill, insert the following new item:

"Sec. 123. Standing Rules of the Senate."

On page 30, between lines 10 and 11, insert the following new section:

"Standing Rules of the Senate

"SEC. 123. The Standing Rules of the Senate are amended by inserting at the end thereof the following new rule:

"'RULE XLI

"'*Disclosure of financial interests*

"'1. Each individual who at any time during any calendar year serves as a Member of the Senate, or as an officer or employee of the Senate compensated at a gross rate in excess of $10,000 per annum, shall file with the Secretary of the Senate for that calendar year a written report containing the following information:

"'(a) The fair market value of each asset having a fair market value of $5,000 or more held by him or by his spouse or by him and his spouse jointly, exclusive of any dwelling occupied as a residence by him or by members of his immediate family, at the end of that calendar year;

"'(b) The amount of each liability in excess of $5,000 owed by him or by his spouse, or by him and his spouse jointly at the end of that calendar year;

"'(c) The total amount of all capital gains realized, and the source and amount of each capital gain realized in any amount exceeding $5,000, during that calendar year by him or by his spouse, by him and his spouse jointly, or by any person acting on behalf or pursuant to the direction of him or his spouse, or him and his spouse jointly, as a result of any transaction or series of related transactions in securities or commodities, or any purchase or sale of real property or any interest therein other than a dwelling occupied as a residence by him or by members of his immediate family;

"'(d) The source and amount of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate or gifts from one source (other than gifts received from any relative or his spouse) received by or accruing to him, his spouse, or from him and his spouse jointly from any source other than the United States during that calendar year, which exceeds $100 in amount or value; including any fee or other honorarium received by him for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication, and the monetary value of subsistence, entertainment, travel, or other facilities received by him in kind;

"'(e) The name and address of any professional firm which engages in practice before any department, agency or instrumentality of the United States in which he has a financial interest; and the name, address, and a brief description of the principal business of any client of such firm for whom any services involving representation before any department, agency or instrumentality of the United States which were performed during that calendar year, together with a brief description of the services performed, and the total fees received or receivable by the firm as compensation for such services;

"'(f) The name, address, and nature of the principal business or activity of each business or financial entity or enterprise with which he was associated at any time during that calendar year as an officer, director, or partner, or in any other managerial capacity.

"'2. Each asset consisting of an interest in a business or financial entity or enterprise which is subject to disclosure under paragraph 1 shall be identified in each report made pursuant to that paragraph by a statement of the name of such entity or enterprise, the location of its principal office, and the nature of the business or activity in which it is principally engaged or with which it is principally concerned, except that an asset which is a security traded on any securities exchange subject to supervision by the Securities and Exchange Commission of the United States may be identified by a full and complete description of the security and the name of the issuer thereof. Each liability which is subject to disclosure under paragraph 1 shall be identified in each report made pursuant to that paragraph by a statement of the name and the address of the creditor to whom the obligation of such liability is owed.

"'3. Except as otherwise hereinafter provided, each indivdual who is required by paragraph 1 to file a report for any calendar year shall file such report with the Secretary of the Senate not later than January 31 of the next following calendar year. No such report shall be required to be made for any calendar year beginning before January 1, 1964.'"

Mr. CLARK. Mr. President, at that point, I modify my amendment by changing 1964 to 1967.

The PRESIDING OFFICER. The amendment will be modified accordingly.

The legislative clerk read as follows:

The requirements of this rule shall apply only with respect to individuals who are Members of the Senate or officers or employees of the Senate on or after the date of adoption of this rule. Any individual who ceases to serve as a Member of the Senate or as an officer or employee of the Senate, before the close of any calendar year shall file such report on the last day of such service, or on such date not more than three months thereafter as the Secretary of the Senate may prescribe, and the report so made shall be made for that portion of that calendar year during which such individual so served. Whenever there is on file with the Secretary of the Senate a report made by any individual in compliance with paragraph 1 for any calendar year, the Secretary may accept from that individual for any succeeding calendar year, in lieu of the report required by paragraph 1, a certificate containing an accurate recitation of the changes in such report which are required for compliance with the provisions of paragraph 1 for that succeeding calendar year, or a statement to the effect that no change in such report is required for compliance with the provisions of paragraph 1 for that succeeding calendar year.

"'4. Reports and certificates filed under this rule shall be made upon forms which shall be prepared and provided by the Secretary of the Senate, and shall be made in such manner and detail as he shall prescribe. The Secretary may provide for the grouping within such reports and certificates of items which are required by paragraph 1 to be disclosed whenever he determines that separate itemization thereof is not feasible or is not required for accurate disclosure with respect to such items. Reports and certificates filed under this rule shall be retained by the Secretary as public records for not less than six years after the close of the calendar year for which they are made, and while so retained shall be available for inspection by members of the public under such reasonable regulations as the Secretary shall prescribe.

"'5. As used in this rule—

"'(a) The term "asset" includes any beneficial interest held or possessed directly or indirectly in any business or financial entity or enterprise, or in any security or evidence of indebtedness, but does not include any interest in any organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code;

"'(b) The term "liability" includes any liability of any trust in which a beneficial interest is held or possessed directly or indirectly;

"'(c) The term "income" means gross income as defined by section 61 of the Internal Revenue Code of 1954.

"'(d) The term "security" means any security as defined by section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b).

"'(e) The term "commodity" means any commodity as defined by section 2 of the Commodity Exchange Act, as amended (7 U.S.C. 2).

"'(f) The term "dealing in securities or commodities" means any acquisition, transfer, disposition, or other transaction involving any security or commodity.

"'(g) The term "officer or employee of the Senate" means (1) an elected officer of the Senate who is not a Member of the Senate, (2) an employee of the Senate or any committee or subcommittee of the Senate, (3) the Legislative Counsel of the Senate and employees of his office, (4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties, (5) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate, (6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate, (7) an employee of a Member of the Senate if such employee's compensation is disbursed by the Secretary of the Senate, and (8) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.'"

Mr. CLARK. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. CLARK. Mr. President, it has long been my view that Senators should be required to make a complete disclosure of their finances.

I have done so voluntarily for the past 5 years. Many of my colleagues have, likewise, made a public financial disclosure in the CONGRESSIONAL RECORD.

The pending amendment arose as a result of the Bobby Baker case. This is my second "Bobby Baker" amendment. The first, which would have put restrictions on moonlighting by employees and nonelected officers of the Senate, was defeated, after rather full debate within a limited time, by a vote of 49 to 28, presumably because the much-admired chairman of the Select Committee on Standards and Conduct, the Senator from Mississippi [Mr. STENNIS], indicated that, in due course—but he did not indicate when—the committee, having disposed of matters of a higher priority, would eventually get around to considering the problem of moonlighting by employees and officers of the Senate which was first raised in a dramatic way in connection with the disclosures of the Bobby Baker case, in which my friend the Senator from Delaware [Mr. WILLIAMS], whom I see on the floor, took a prominent part.

The resolution authorizing the Bobby Baker investigation was brought before the Senate and passed on October 10, 1963. It is now well over 3 years since the disclosures that covered the activities of Bobby Baker were called to the attention of the Senate; and absolutely nothing has been done by the Senate since that time to set its house in order except the appointment, on the motion of the Senator from Kentucky [Mr. COOPER], whom I also see on the floor, of a Select Committee on Standards and Conduct.

I would like to ask the Senator from Kentucky to agree or disagree with me when I say that he made a motion to create such a committee only because he felt that adequate remedial action by the Members of the Senate with respect to the evils disclosed by the Bobby Baker investigation had then no chance of passage in the then climate of the Senate, and the only feasible alternative was to create a Select Committee on Standards and Conduct, composed of senior Senators from both parties, of impeccable reputation, who would promptly deal with the problems highlighted by the Bobby Baker disclosures.

I would not quarrel with what the Senator from Kentucky did, because I do not think, as a pragmatic matter, he had any alternative. But that was almost, if not quite, 3 years ago. It took a year—or, if not a whole year, practically a year—for the majority and minority leadership of the Senate to find Senators who were willing to serve on that Select Committee on Standards and Conduct.

Once the committee was appointed, I have no idea as to what the nature of their deliberations was, but it was not too long before it became involved—rightly involved—in an investigation of certain charges made against one of our colleagues.

When my first "Bobby Baker amendment" was defeated by a vote of 49 to 28, the able Senator from Mississippi [Mr. STENNIS], whom I see on the floor, told the Senate he thought it was quite important that ethical matters raised by the Bobby Baker disclosures should become the subject of some Senate action, which, in turn, would result in recommendations of the special committee which he chaired. But in response to inquiries from me, he found himself quite unable to give us any date, or even any approximate date, when the special committee would be prepared to consider the type of ethics proposals which should be recommended for adoption by the Senate, let alone any estimate of any date when such a report would come before the Senate.

It is now the 8th of February 1967. One-third of the Senate will be up for election or reelection in the primaries which will begin hardly a year from today, and the general election which will take place in November 1968; and I for one am not prepared to sweep this matter under the rug until the 1968 election.

The Senator from Mississippi [Mr. STENNIS] will, no doubt, because he is an honorable man, request the right to answer in due course to state whether there is any possibility that the committee will be able to recommend any remedial rules or regulations dealing with the Bobby Baker problem before the election of 1968.

May I say that the public's faith in Congress is going steadily down, down, down. One reason is that the Senate of the United States has been unwilling to face up to the ethical problems brought to light in the Bobby Baker investigation.

On the 9th of January of this year Louis Harris, a well-known polling expert, published a report in the Washington Post, under the headline "Public's Faith in Congress Tumbles 17 Percent in a Year."

Without reading the entire poll, I will read two excerpts:

As Congress convenes, public confidence in it has tumbled 17 percentage points from its high of a year ago.

I interpolate to say that that high of a year ago was due to the extraordinary legislative accomplishments of the 89th Congress.

I continue the quote:

Today the people give Congress a favorable rating of only 54 to 46 percent as compared with 71 to 29 percent a year ago.

Quoting again:

The honeymoon of Congress and the public after the inception of the Great Society is clearly over.

I suggest one reason for this is that we have been unable and unwilling to face up to the ethical problems which the Bobby Baker scandal put at our doorstep, and we propose to sweep the Bobby Baker scandal under the rug once more; and I for one am not willing to do that. I believe the Senate should be given an opportunity, by a rollcall vote, to declare whether it wants to duck its responsibilities once more—and I regret using that strong term, but under the circumstances I think it is justified—or whether it is ready to face up to them.

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

Mr. CLARK. Not at this moment; no.

Regrettably, the disclosure proposal which I made to the Rules and Administration Committee several years ago was shunted aside, and the Senate adopted the resolution which created the Select Committee on Standards and Conduct. I supported that resolution, and I believe that the Senate acted wisely in setting up the select committee. But by its very nature, the select committee can do its work only after allegations of wrongdoing have been made; it can slam the barn door after the horse has bolted, but it is not so good at keeping the horse in.

Disclosure, on the other hand—compulsory and comprehensive—can effectively deter financial misconduct by requiring Senators and key Senate employees to lay all their cards face up on the table. For the many rewards and satisfactions of public service in the Senate, this seems a small price to pay—particularly when public confidence is at stake.

I am not alone in the point of view I have expressed. The Senate Committee on Rules and Administration reported, under date of July 8, 1964, as follows:

The committee recommends that the following actions be taken:

1. The adoption of new rules requiring some form of public disclosure of outside financial interest by the Members, the officers, and the employees of the Senate.

Then, in discussing that recommendation, the committee continued:

The most significant thread that ran throughout the pattern of activities discovered by the committee was the almost total concealment under which Robert G. Baker carried on his many and varied outside business activities.

The Senate, and indeed the public, would have been quickly aware of the web Baker was spinning had there been a requirement that he keep in the open, for everyone to see, his outside interests.

Almost without exception, Baker concealed all of his outside business ventures and interests, not only from his superiors and many of his friends, but ofttimes even from those with whom he was associated in business. The question can be asked: "If he had nothing to hide, why did he do it?" The answer is obvious.

The committee—

This is the Commitee on Rules and Administration—

feels that it is important for the Senate to adopt new rules which will prevent activity of this sort in the future.

Now, Mr. President, turning to the provisions of the pending amendment, it would require every Senator and every Senate officer or employee compensated at a gross rate in excess of $10,000 per annum to file a financial report each year. The report, which would be maintained as a public record by the Secretary of the Senate for a period of 6 years, would contain the following kinds of information:

First. Assets: The market value of any asset having a fair market value of $5,000 or more.

Second. Liabilities: The amount of

each liability in excess of $5,000, and the name and address of the creditor.

Third. Capital gains: The source and amount in excess of $5,000.

Fourth. Income: The source and amount of every item of income for the calendar year, in excess of $100, including gifts other than gifts from a relative.

Fifth. Assets belonging to a trust: Assets, liabilities, capital gains, and income of a spouse, and capital gains earned through a strawman, are all covered. Family owned and tax-exempted charitable entities are exempt.

Sixth. Associations with a professional firm which practices before the Federal Government agencies.

Seventh. Service as director, officer, or employee in a business enterprise.

Mr. President, there are at present no such requirements with respect to Members of the Senate. It will be argued, I have no doubt, in the course of this debate, that this type of disclosure is too complex and detailed, is too comprehensive, violates the rights of individual Senators, that it makes Senators "second-class citizens," and that it is impossible for anybody but a certified public accountant to comply with the requirements of the rule.

Mr. President, in accordance with the proposed rule, I offered, both in 1965 and in 1966, a disclosure of my own financial interests. I now ask unanimous consent that such a disclosure for the year 1966 be printed in full in the RECORD at this point in my remarks.

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

DISCLOSURE OF FINANCIAL INTERESTS OF SENATOR JOSEPH S. CLARK, DEMOCRAT, OF PENNSYLVANIA

(a) The fair market value of each asset owned by me or my spouse, jointly or severally, as at December 31, 1965, was:

43 shares Allied Chemical & Dye Corp	$2,112.37
534 shares American Tel. & Tel.	32,440.50
170 shares General Electric	20,060.00
296 shares General Motors	30,636.00
191 shares International Paper	5,878.75
138 shares Jewel Tea	5,227.00
82 shares National Dairy Products	6,970.00
200 shares Philadelphia Electric	7,375.00
600 shares Smith, Kline & French	48,725.00
600 shares Sterling Drug	24,600.00
300 shares Texas Gulf Sulphur	27,337.00
76 shares International Business Machines	37,924.00
100 shares American Bakeries Co. 5% Cv. Pfd	10,800.00
300 shares Standard Oil of Calif. 3.30 Conv. Pfd	34,800.00
300 shares Chrysler Corp	15,900.00
314 shares Armstrong Cork	18,840.00
433 shares Vulcan Material Co	9,093.00
119 shares Rohm & Haas	18,683.00
400 shares Parke Davis & Co	13,200.00
500 shares Allis Chalmers	16,500.00
500 shares Massey-Ferguson Ltd	16,000.00
490 shares First Pennsylvania Banking & Tr. Co	15,347.00
200 shares Pepsico Inc	16,200.00
150 shares Insurance Co. of North America	12,750.00
400 shares Pabst Brewing	16,400.00
330 shares American Optical	16,500.00
500 shares Western Publishing	10,500.00
800 shares Avery Island Inc. Cap. Stock	40,000.00
10,000 James Talcott CV. Cap. Notes 5% due 12/1/79	10,200.00
20,000 Allegheny Co. Pa. 3⅝% due 7/1/69	20,359.00
10,000 Lebanon, Pa. 3.30% due 6/1/73	9,999.00
10,000 Penna Hwy. & Bridge Auth. 3½% due 2/15/77	10,045.00
25,000 Phila., Pa. 3½% due 1/1/82	24,400.00
15,000 Cumberland Co. Pa., 3¼% due 11/1/86	14,129.00
25,000 Penna. St. Pub. Sch. 3½% due 11/1/86	23,030.00
10,000 Philadelphia, Pa. 3¼% due 7/1/87	9,128.00
25,000 Penna. Turnpike Rev. Bond 3.10% due 6/1/93	23,455.00
15,000 New Kensington Pa. S.D. Auth. 3.05% due 4/1/95	12,329.00
5,000 City of Bethlehem, Pa., Counties of Northampton & Lehigh School Dist. 2.70% Imp. Bond of 1957, due 4/1/72	5,000.00
Penn Mutual Life Insurance Co.—paid-up policy	15,000.00
Provident Mutual Life Insurance Co.—2 paid-up policies	55,951.69
Share of mineral rights under royalty lease with Humble Oil & Refining Co., at Avery Island, La	[1] 292,886.20
Savings Accounts	12,929.52
Cash in checking accounts	65,387.70

[1] Because of depletion of the field, market value is computed at 3½ times annual income.

(b) Neither my wife nor I owe liabilities, jointly or severally, in excess of $5,000.

(c) My wife and I realized total net capital gains of $5,821.34 in 1965.

(d) The source and amount of items of income received or accrued to me or my wife, jointly or severally, from sources other than the United States, which exceed $100 in amount or value were:

Allis Chalmers	$218.75
American Bakeries	375.00
American Telephone & Telegraph	1,173.00
Armstrong Cork	526.35
Avery Island Inc	5,600.00
Chrysler Corp	150.00
1st Penna. Banking & Trust Co.	646.80
Franklin Life Ins. Co	21.38
Insurance Co. of North America	300.00
International Business Machines Corp	456.00
Pabst Brewing Co	100.00
Parke Davis Co	300.00
Penn Mutual Life Ins. Co	125.40
Pepsico	310.00
Rohm & Haas	179.20
Vulcan Materials	346.40
Western Publishing	270.00
General Electric	391.00
Sterling Drug	457.50
Standard Oil of Calif	990.00
National Dairy Products	213.20
General Motors	1,554.00
International Paper	238.75
Texas Gulf Sulphur	120.00
Smith, Kline & French	1,110.00
Phila. Electric	288.00
Jewel Tea	234.60
Bayhil & Co., 1 Chase Manhattan Plaza, N.Y	865.09
Thelma Spencer Trust—Residual income	111.60
Humble Oil & Refining Co.—Oil and gas royalties, lease and rent	[2] 83,681.77
Allegheny County Bonds	668.75
City of Lebanon Bonds	330.00
City of Philadelphia 3% Bonds	150.00
City of Philadelphia 3¼% Bonds	325.00
City of Philadelphia 3½% Bonds	875.00
City of Bethlehem Bonds	135.00
Cumberland Co. Bonds	487.50
Dayton Rubber Bonds	825.00
New Kensington Bonds	457.50
Penna. Public School Bonds	812.50
Penna. Turnpike Bonds	775.00
State Highway & Bridge Bonds	350.00
James Talcott 5% Cap. Note	500.00

[2] Income from this source will gradually decline as the field was brought in in 1945 and is being depleted.

I was reimbursed for various expenditures incurred in connection with trips made by me during the year to various meetings at institutions and elsewhere where I had been invited to speak. My spouse received no such reimbursement.

The only reimbursement I received which exceeded $100 was for expenses to Chicago for a speech for the Association of American Law Schools in the amount of $115.23.

Net fees or other honoraria received by me during the year were as follows:

Smith College, Northampton, Mass., Alice Holden Lectures—Honorarium	$250.00
Mt. Holyoke College, S. Hadley, Mass., Lecture—Honorarium	200.00
Wheaton College, Norton, Mass., Otis Lectures—Honorarium	750.00
George Washington U., Washington, D.C.—Honorarium	150.00
Brookings Institution, Washington, D.C.—Honorarium	150.00
University of Pennsylvania Connaissance, Philadelphia, Pa.—Honorarium	200.00
University of Pennsylvania, Philadelphia, Pa.—Honorarium—Lecture	$100.00
Colorado State U., Fort Collins, Colo. — Honorarium — Commencement Address	400.00
Ramparts Magazine, 1182 Chestnut St., Menlo Park, Calif.—Book review	50.00
Hill & Wang, Inc., 141 5th Ave., N.Y.—Net royalties on book "The Establishment"	189.15
Donald MacCampbell, Inc., 12 E. 41st St., N.Y. Net advance on royalties on "Ethics in Government"	1,800.00

(e) I am not connected with any professional firm engaged in practicing before any instrumentality of the United States.

(f) I am neither an officer, director or partner of any business or financial entity other than Avery Island, Inc., a family corporation, whose principal place of business is at Avery Island, Louisiana, which is engaged in collecting rents and royalties, paying the expenses of upkeep of its property and distributing the balance in dividends to its shareholders, of whom I am one.

(g) Neither my wife nor I received gifts valued at more than $100 from any individual or corporation.

Mr. CLARK. Within 30 days of the filing of my income tax on April 15, 1967, I shall file another comprehensive financial disclosure along the same lines. May I say also that many other U.S. Senators have done substantially the same thing, as a matter of conscience. But I think I am correct in saying that the rather large majority of my fellow Senators have not seen fit to do so.

This disclosure, so far as my own political career in Pennsylvania is concerned, has not been a liability. It has been an asset. Nobody has taken me to task for the fact that, as it so happens, I have substantial income and substantial re-

sources outside of my Senate salary. I would say to my colleagues, particularly those who are up for reelection in 1968, "Gentlemen, this will not hurt you, it will help you. Candor is a political asset, not a political liability."

Mr. President, I reserve the remainder of my time.

Mr. MONRONEY. Mr. President, I yield myself such time as I may require.

The Committee on the Organization of Congress, in holding our hearings, received evidence from the distinguished Senator from Pennsylvania with reference to the matter of standards and conduct. I do not recall his recommending that we include the amendments offered here today as a part of our report on the organization of Congress. I do know that it was the sincere and nonpartisan feeling of both the Senate and the House members of the bipartisan committee that this was a matter that was properly, on the Senate side, before a committee that had been established by the Senate itself to provide the very thing that the present amendment deals with—the establishment of the Committee on Standards and Conduct to consider all such legislation as would deal with the conduct of Members of this body.

The members of the committee from the House were so impressed with the fact that the Senate had acted, with the caliber of the distinguished chairman and ranking member and other members of the committee, and with the work that they were doing, that they, in their report, recommended that a similar committee to that which the Senate had established be established by the House of Representatives.

This, I think, was our proper role in this bill—to support the Select Committee on Standards and Conduct, and give them a chance, which certainly they should have, to conduct hearings and, with all reasonable speed, to report to the Senate legislation that would be controlling in this field of the conduct and standards of our Members.

I doubt that any Senator felt, when we were voting on Senator COOPER'S amendment to establish such a committee, and when it carried, that we would be asked to discard that committee and ignore the work done by its staff, and take away from the Committee on Standards and Conduct responsibility for legislation that primarily would be controlling for the Members of this great body. Certainly, I feel that the Stennis committee can and will recommend well-considered, sincere, and completely honest legislation in this field, giving it all of the publicity and all of the discussion privileges that it is possible to give it, as well as hearing a suitable amount of testimony, so that the result of the committee's activities and study will be related to preserving the reputation and the character of the Senate itself.

I have no fear that the distinguished chairman, the Senator from Mississippi [Mr. STENNIS], will fail in any degree in the assignment that has been given to him, or that the other members of his committee will fail in any degree. They have shown great interest and a great desire to move forward in this field, and I think it would be most unwise, as we consider a bill on the organization of Congress, to take up on the floor, in a debate of some 60 minutes, a matter of such great importance to preparing and passing on laws that will help to identify for the public the activities of all Senators.

A disclosure means absolutely nothing to me, as I would be most happy to open any books that the Senate would determine to be necessary. But I do not feel that a floor amendment, offered here without hearings, to a bill reported by a committee that was not created for this purpose, should short circuit the well-established committee that the Senate voted to create, that the Vice President appointed, and that is now staffed and working on matters concerning the standards and conduct of Members of the Senate. Certainly I feel that this is a poor time indeed for such action after a short discussion on the floor, and without considering all of the pros and cons to find out what might be missing in the amendment of the distinguished Senator from Pennsylvania, that might be required to make such reporting of income and matters of that kind fully reliable, fully comprehensive, and subject to such penalties as might be required to make it effective.

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

Mr. MONRONEY. I yield.

Mr. CLARK. Mr. President, the Senator made, I am sure quite inadvertently, a comment a moment ago that this resolution had not been the subject of hearings. I advise him that the transcript of the hearings on this problem in the Bobby Baker case is so thick and so high that the Senator from Pennsylvania is quite incapable of measuring it. It was discussed at length in the executive sessions of the Committee on Rules and Administration.

The resolution had as full and comprehensive a hearing as it is possible to give a measure that is brought before the Senate.

Mr. MONRONEY. Mr. President, it was not brought before our committee. We had the recommendation of the Senator, but we heard no witnesses. The matter was outside the jurisdiction of our committee.

Mr. CLARK. The Senator will agree that this particular resolution was discussed in testimony before his committee and that the Senator and various other members of the joint committee asked a number of questions.

Mr. MONRONEY. Mr. President, does the Senator feel that a better law or statute would be enacted by voting, after an hour's debate on the floor, on a matter of this importance, before carefully considering testimony given to a committee created by the Senate to take up matters of this very nature, a committee headed by such distinguished men as the Senator from Mississippi [Mr. STENNIS], and his cochairman, the Senator from Utah [Mr. BENNETT]?

Mr. CLARK. The Senator will perhaps excuse my presumption, for which I apologize. I do not think that any further study of the problem of disclosure would yield one additional ray of light on a moral issue which I believe the Senate faces now, with respect to which in my opinion—and I have no doubt that the majority of the Senate will agree with me—all the testimony has been taken and all the discussion has been heard which would contribute in any way to a determination by the Senate as to whether they want to do something.

Mr. MONRONEY. Does the Senator think this matter will be swept under the rug by the Select Committee on Standards and Ethics?

Mr. CLARK. Of course, I am not going to say that in the presence of my good colleagues in the Senate.

Mr. MONRONEY. I think that that is what is inferred. I think that this is being used as a blackjack to try to force the Senate, on 1 hour's debate, to pass something which has not been passed upon by the committee which was created by the Senate to take up matters of this very kind.

Mr. CLARK. The Senator is, of course, entitled to his opinion.

Mr. MONRONEY. Mr. President, I yield such time as he may require to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. May we have order, Mr. President? I do not like to speak to the backs of these men that I know do not have to stand in front of me.

This is one of the most far-reaching provisions that the Senate could possibly pass on. I serve notice that I will have to ask for additional time in the course of this debate.

It would be tragic for 100 Senators to pass on this matter by coming in and voting after a rollcall had started, without hearing the facts. I am not talking about argument, but I am talking about facts.

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

Mr. STENNIS. I yield.

Mr. CLARK. I thoroughly agree with the Senator from Mississippi that this debate should be heard by all the Members of the Senate. I, for one, would be very happy to agree with the Senator.

I would suggest to the Senator that perhaps we should get a live quorum.

Mr. STENNIS. Frankly, I do not think it would get a better attendance on the floor. However, I do say, in the finest kind of spirit, that each Senator should realize that this is a matter on which he should fully inform himself as to the facts of the case before he votes.

Mr. President, much has been said, in effect, about the failure of the so-called Ethics Committee to function on the matter of rules and regulations.

I have here the dates and the facts concerning what the committee has tried to do.

I am sorry to have to go into such detail. On July 9, 1965, the President of the Senate appointed the members of this committee.

I was the senior member of the group, and it was suggested to me at once that I act as chairman. However, the resolution stated that the committee should select the chairman.

I insisted that all members be present.

It is a crying shame when a Member of this body has to try to speak here when he cannot hear himself talk because of the unnecessary talk of men, not Members of this body, constantly talking within a few feet of him.

The PRESIDING OFFICER. The Chair agrees completely with the statement made by the Senator from Mississippi.

It is wrong to tolerate aids of Senators indulging in talk which is frequently louder than that of the Senator who is speaking.

The Chair will order out of the Senate any member of the staff who disturbs a Senator.

Mr. STENNIS. I thank the Chair.

Mr. President, I observe that these gentlemen are here—and they are gentlemen, and I cast no aspersions on them—under the privilege of the floor, not as a right. Certainly, privilege implies order and decorum and manner.

Mr. President, we held our first formal meeting on July 27, 1965. However, due to the absence of one member, no formal organization was had.

I requested time to get a staff. For about 60 days, during which time I performed some of the most intensive work that I have ever done, I personally interviewed and reinterviewed a great number of very outstanding and capable men. I called, wrote, telegraphed, and interviewed others who knew these men. The Senator from Utah [Mr. BENNETT] helped me in this effort.

I finally made a firm recommendation to the Senator from Utah. We then called a meeting on October 21 to formally organize and elect the staff.

The months of August, September, and October were, of course, very heavy months for consideration of legislation in the Senate.

The committee did organize on October 24. I was elected chairman. The Senator from Utah [Mr. BENNETT] was elected vice chairman on my motion.

We employed Mr. Ben Fern as chief counsel and staff director.

Mr. Fern has done an outstanding job. I had never known him before. He is not from my State. I do not know what party, if any, he belongs to. Mr. Fern is a retired naval captain and a lawyer.

The resolution creating the committee provides that the minority party shall have representation on the staff. The staff has been selected by all of us. There is no minority on our committee.

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

Mr. STENNIS. Mr. President, my time is very limited, but I yield quite briefly to the Senator from Florida.

Mr. HOLLAND. Mr. President, I hope the Senator will place in the RECORD the names of the other members of this very distinguished committee.

Mr. STENNIS. Mr. President, the other members of the committee are the Senator from Utah [Mr. BENNETT], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Kansas [Mr. PEARSON], and the Senator from Kentucky [Mr. COOPER], the author of the original resolution.

In November or late October of that year, when we adjourned, I told Mr. Fern, "You go to work right now, working on these rules and regulations," referred to in section 3, or whatever section it is, on the question of a code of ethics for the Members of the Senate, the question of disclosure, and the question of the conduct of the employees of the Senate and the Senators.

Mr. Fern worked diligently for the remainder of that year, after he established offices. The Senate met on January 10, 1966. At about that time Mr. Fern reported to me the development of the financial disclosure principle, which had resulted from a special study of the subject that he had made with the help of others. Senator BENNETT and I went over that study.

On January 17, 1966, Mr. Fern reported a proposal for a code of ethics of the Senate. I had been doing quite a bit of head scratching and note making, in an attempt to write something myself. I know that other members of the committee had done the same. They can speak for themselves.

On January 24, 1966, Mr. Fern reported to us with respect to restrictions on outside economic activity. That refers to moonlighting by staff members, as the word is used in this discussion.

We had then a formal meeting of the committee, and took these matters up on February 2, 1966. There was a discussion and a reading and an exchange of ideas. About what? About outside employment, about a code of ethics for the Senators, and about the principle of disclosure.

About the first of February, the first notices appeared in the newspapers about the so-called Dodd case. Mr. President, I do not know of any matter that has attracted as much attention in the newspapers and has been talked about as much by the members on the committee as has the Dodd case. We have not said anything about the matter—not wishing to prejudice the case one way or another—except what we have said through more or less formal press releases, by way of announcements as to procedure. Anyway, on February 2 we reviewed all these staff studies, and at that time we first discussed only a part of the Dodd matter that had broken. But by the 3d of March, the Dodd case was squarely in our lap, and we were already proceeding with a large number of reports and matters that were coming in to us—in tremendous volume.

At one time I knew how many papers were supposed to have been taken from Senator DODD's office, how many sheets of paper were involved. It amounted to several thousand. The staff had to go through all those papers, and some of the members looked at many of the papers. I shall not dwell on that aspect.

Everyone is aware that we held hearings on the so-called Klein part of the matter. Then we immediately went into the financial part of the case. I would not sign a subpena duces tecum for the production of any of those financial records until a written justification was before me, explaining why and where, and a summary of the facts as to why that subpena was needed. Under that rigid standard, I have already signed 117 subpenas duces tecum, which have led all the way from the Pacific coast to New England.

I mention these facts in order to give the Senate an idea of the far-reaching ramifications and particularly the effect of following these financial matters in the case.

While we were in the midst of all these matters, it was unthinkable to me—I am speaking for myself only—that we attempt to form rules and regulations for the ethical conduct of Senators. I think it would have been degrading if our committee had not found a better way than that, than to come dragging into the Senate, in the midst of the Dodd case, and say, "Now we propose to the Senate that you adopt, right in the middle of this investigation, this code of ethics or rules and regulations for the conduct of the Senate."

Others may disagree with me, but I will have no part in investigating a man—it makes no difference whether he is a Senator or a sweeper in the Senate Office Building—I will have no part, as a Member of the Senate, in stopping in the middle of a hearing or a case, or whatever it is called, simply because there is a little public pressure from some source, and drag in here a code of conduct. It is unthinkable. That was the sentiment of all the members of the committee, and that is a very significant and material fact here.

In addition, there has not been sufficient time for us to put any proposals together on this subject and at the same time carry on this other duty.

But there is still another reason: At the same time, we were conducting hearings which involved several former members of Senator DODD's staff who, the proof showed, took several thousand documents from his office, without his authority and without his knowledge, and disposed of them somewhere in this city, at the disposal of newspapermen. That aspect alone raises a grave, serious, far-reaching subject, not only to the Senators, but also to the public. So, that was another reason.

Could we come to the Senate, before we finished that part of the case, and propose rules of ethics or rules of conduct? I think not. I will have no part in conduct of that kind.

Also, how can we bring in a set of rules, as reflected by the amendment of the Senator from Pennsylvania the other day, before we bring in some rules that pertain to the Senators themselves? Or, should we bring in some rules pertaining to the Senators and omit any pertaining to the staff? It does not make sense.

The Senator from Pennsylvania has said that there is no assurance about what we will do or what we expect to do. I must say to the Senator from Pennsylvania that he said to me, on the floor—this is part of the case, as I understood him—that he already knew nothing would be done. I do not know whether he was referring to the committee or to the Senate, but he gave me that assurance the other day. And we were not in anger at all.

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

Mr. STENNIS. I yield.

Mr. CLARK. I am sure that, quite inadvertently, the Senator misunderstood our colloquy.

My position is that I do not believe, for the reasons the Senator from Mississippi so eloquently stated, that we can look forward to any action from the Senator's committee in the immediate or foreseeable future.

Mr. STENNIS. I do not know what the Senator means by "immediate" or "foreseeable"; but I can foresee the day when we will be through with the testimony about Senator DODD, when we have considered what if anything to recommend about Senators, or what to recommend about the staff members.

Also, when we have finished our labors in this matter, the result may not be what the Senate wants; but we will have finished our labors on the matters I have talked about, and we will present them on the floor of the Senate.

But I say to the Senator—he already knows this, I think—that this matter must be worked on and put to microscopic treatment. Much of it is as delicate as a Swiss watch. If we present anything, we will not ask for limitation of time, with 30 minutes on each side.

Mr. President, I have taken up a good deal of time, and I wish to leave some time for other Senators.

I say again: I warn Senators not to pass on this matter until they know the facts. To that end I am going to ask for additional time.

Mr. DIRKSEN. Mr. President, will the Senator yield? And we will get extra time if we need it.

Mr. STENNIS. I yield.

Mr. DIRKSEN. When the Cooper resolution was adopted the vote was 69 to 19, and every Member who was present and voting that day on this side of the aisle voted for the Cooper resolution. In that resolution there is one paragraph which I think states the case because this subparagraph provides:

> It shall be the duty of the Select Committee to—
>
> (3) Recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, . . .

Mr. STENNIS. That is the situation to which I have been alluding, and on which we started to work.

Mr. DIRKSEN. Exactly. For the Senate to take action and foreclose the subcommittee would be an affront to the committee after a vote of 61 to 19 whereby the committee is mandated to do this job. I think it is a strange circumstance that these things have to be entertained at this time.

Mr. STENNIS. I respectfully say I think that only a member of this body who is acting foolishly would go on this committee, unless it was with an idea of trying to render some service on that subject rather than investigating colleagues.

Mr. MONRONEY. Mr. President, if it is on order, I ask unanimous consent for 20 additional minutes. Do I understand correctly that we have 3 minutes remaining on our side?

The PRESIDING OFFICER. The Senator is correct. Is there objection? The Chair hears none, and it is so ordered.

Mr. MONRONEY. Mr. President, I now yield such time as the Senator from Utah [Mr. BENNETT] may require. The Senator from Utah is the vice chairman of the Select Committee on Standards and Conduct.

Mr. BENNETT. Mr. President, the chairman of the committee has made an eloquent and, I think, convincing presentation of the activities of the committee and its basic attitude toward its assignment. I should like to point out further the problems which are involved in the present legislative situation. They refer to all three of the amendments of the Senator from Pennsylvania. They are all complex and contain unforeseen dangers. These amendments deal with delicate matters of private rights and are fraught with unforeseeable consequences.

Therefore, before the Senate makes any hasty or binding disposition of them, the proposals should be considered at length and in detail by a committee which was assigned to consider them. Studies probably should be made with the help of outside experts.

A vote on the merits now would jeopardize future consideration of these measures. It is legislatively premature to vote on these problems today. If these amendments are accepted, they will spell the doom of more worthy measures of a similar nature for the rest of this Congress and perhaps for years to come.

Many Senators support or oppose the principle of financial disclosure, or the principle of limiting outside business activity; but their views on these amendments will undoubtedly be determined to some degree by the particular language of the amendments which seem to be rather limited.

There are many different ways to write a financial disclosure bill, but the floor of the Senate is not the place to write it, especially in little more than an hour.

The subject of proper conduct is a difficult and interrelated one. Undue influence by a Senator on an official of the executive branch of our Government, for instance, may or in fact may not be related to his outside activities. What is needed in this field is a unified, total approach, not a specialized attack on one or two classes of improprieties.

These amendments treat only certain aspects of the whole problem of ethical conduct, leaving us in the committee with many other aspects to consider.

We feel that when we finally get to the point of attempting to write a set of standards, they should deal with actual and not conjectural abuse.

The Committee on Standards was set up to investigate and dispose of complaints of improper conduct. The committee is doing that right now with respect to complaints made against one of our colleagues, the Senator from Connecticut [Mr. DODD]. If anyone has any further complaints, I am sure that they will be referred to the committee.

Instead, these amendments would penalize all Members of the Senate and officers and employees of the Senate for abuses about which no one has complained—abuses that may be mere figments of someone's imagination.

Because that is true, these amendments tend to be punitive rather than preventive in nature.

Obviously, determined violators will find ways around the rather rigidly drawn and limited requirements in these amendments.

They will serve to punish several thousand employees, and all Senators, rather than one or two who may have done wrong.

Much has been said about the Bobby Baker case. Baker has been found guilty under our judicial system, and for what he has done wrong he now faces punishment.

Mr. President, these amendments are discriminatory. A Senator who is subject to nomination and election would be limited by them, but an employee would not, and neither would the Senator's opponent in any election be limited by them, since he is not already a Member of the Senate.

Although if Senators' affairs as Senators are subject to regulation by the Senate—and our committee is working to try to figure out the extent to which they should be regulated, and the manner thereof—these amendments come perilously close to infringing upon the private affairs of the Senator.

Not only is the constitutional question raised, but many good men may avoid political service in the Senate rather than being required to bare their holdings and financial relationships of an entire family of which they are a part.

Now, Mr. President, I should like to look at this problem from another point of view; namely, the point of view of how really significant, how important, and how meaningful this kind of disclosure could be.

The only rationale for a disclosure law, it seems to me, must be based upon the assumption that a Senator's personal, financial situation provides an overriding motivation for him to cast votes against the public interest, or for personal gain.

This apparently assumes that if his assets and income were to be made public, he would not dare to do it and then we would solve the problem of conflict of interest for Senators.

To me, both the assumption and the rationale built upon it are completely unrealistic and indefensible.

In the sense in which the phrase "conflict of interest" is generally used, it has only the remotest possible application to a legislator.

It can be used to describe a situation in which a lawyer would find himself, if he tried to collect a fee for service to clients on both sides of a dispute, or if a lawyer who is an employee of the Federal Government undertakes a case of a private client against the Government.

It is also involved when a member of the executive department, with power to make policy or to award contracts, uses that power in such a way as to create privileges or income for himself—directly or indirectly.

Mr. President, these examples depict situations in which the conflict can exist, but only at a specific time with relation

to a specific set of circumstances, and that conflict can be avoided by a decision of the man involved.

But, this is not true of a legislator, whether Senator, Representative, or one who serves in a State legislature. He not only cannot create conflict of interest but he also cannot avoid it. He is actually the creature of the interplay of many conflicting interests which exist in spite of him and which he can influence but not control.

Mr. President, I should like to list a few.

The legislator comes to office as the result of a struggle for power between groups of voters whose interests are in conflict, and he is elected because he is the choice of the larger number, and each voter who made his choice in that election had to resolve his own inner conflict in making the decision as to which candidate should receive that office.

Second, his office as a legislator does not give him any final power of personal decision such as an administrator has. He merely becomes a member of a group—100 in the Senate and 435 in the House—and this group will arrive at its decision on the basis of what John C. Calhoun called "the concurrent majority"—in other words, the majority changes with every vote.

This result, with its inevitable compromises, is produced by the clash of obviously conflicting interests; and to say that a legislator must avoid conflict of interests in that situation is to ask the impossible.

Third, a legislator's own vote, in committee or on the floor, is usually arrived at through the same process of conflict, because all the people he represents are never in agreement. In fact, the list of potential types and sources of conflict in which he may find himself involved is long and fraught with inevitability. Moreover, while we can list areas of potential conflict, we must acknowledge that there is no way in which we can ascertain the priority or importance of these various sources which can exist in the mind of any single Senator.

For the record I should like to list these areas of conflict. It is not a complete list.

First, there are interests represented by political entities. There is the national interest. There is the interest of the Senator's State. There is the interest of his political party. There is the interest of the "administration"—which controls the executive department. Then there is the interest of the Senate or the House, as the case may be, as an institution. And to assume or to assert that all of these interests always line up in a parallel is, of course, ridiculous.

So a Senator must make choices between these conflicts.

Then there are the interests that are represented by privately organized groups that from time to time and in various ways seek to influence Government policies for their private benefits. There are national organizations of citizens with a common purpose, such as labor unions, veterans' organizations, business associations, and so forth. There are similar groups operating within the Senator's State whose programs may not be exactly the same as their national counterparts.

Then there are individual interests. There is the interest of an individual constituent. There is the interest of a group constituent formed as a corporation or organization. Then there is the interest of fellow legislators.

Then there are interests of each Senator that might be described as personal—his personal philosophy of life and government; his personal goals, political and in private life; the well-being of people and institutions in which he has a personal interest, such as his family, his friends, his church, the schools with which he or his family have been involved; other groups or organizations in which in private life he is a loyal and active member; his hobbies; and at the bottom of the list, his personal financial affairs.

No Senator is ever the sole representative of his constituents. There is at least one other Senator and from 1 to 41 Members of the House who share that responsibility of representation with him. Each of these has his own set of interests, and the interests of all members of any congressional delegation are, by the very nature of things, never in unity at all points. So here is another inevitable source of conflict.

Why go to all the trouble to set forth such a list when the existence of dissimilarity and the resulting conflict should be obvious? What may seem at first like a futile exercise has one important purpose: namely, to demonstrate that the phrase "conflict of interest," ordinarily used to describe what is a clear "right and wrong" choice for a lawyer or an administrator working toward a single personal decision on a single set of facts, cannot have the same meaning for a legislator, and that, therefore, the rules which are proper in the first set of circumstances can have no meaning for the legislator. By his personal decision in a single set of circumstances, whose factors are easily determinable, the lawyer or administrator, by applying a simple rule, can avoid "conflict of interest." But every vote a Senator casts, no matter how he arrives at his decision, conflicts with the interests of one or more of the persons or groups he was chosen to represent.

And the interest of each of those involved in any given decision can be said to exert an "influence" upon it, directly or indirectly, unless a Senator simply votes blindly or has been committed in advance to ignore current situations.

Every important vote requires the resolution of conflicts in several areas, and among several groups, so who can say what interests were included in the combination that persuaded him to vote as he did? True, each interest that benefited from his vote can think he did it for them, and each of those on the losing side can assume that their interest alone was rejected, but none can say for sure, and if a personal financial interest were included in the combination, who can say it was the decisive one? I am always amused when a Senator is publicly given credit for great virtue for voting against what seems to be his own financial interest and attacked when his vote seems to promise him some financial gain, however remote.

My purpose up to this point is to lay out the problem and get rid of the easy assumption that the charge "conflict of interest" can be applied to a legislator with the same meaning that it may have when leveled at a lawyer or administrator.

This is one of the reasons why I believe the Senate should be patient with the committee and give us time to resolve this very complex and difficult problem which directly affects the personal lives of every Member of this body.

I yield back the remainder of such time as may be available to me.

Mr. MONRONEY. Mr. President, does the Senator from Pennsylvania wish to use some time?

Mr. CLARK. Mr. President, I have a few matters to raise.

First, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. CLARK. Mr. President, how much time remains to both sides?

The PRESIDING OFFICER. The Senator from Pennsylvania has 12 minutes remaining; the Senator from Oklahoma has 7 minutes remaining.

Mr. CLARK. I yield myself 2 minutes.

I have listened with great interest to the comments made by the Senator from Mississippi [Mr. STENNIS] and the Senator from Utah [Mr. BENNETT]. I have deep sympathy with the problem which confronts them in connection with the onerous duties which they have undertaken, but despite everything they have said, the basic fact remains that the Bobby Baker case broke on October 10, 1963. Today is February 8, 1967, and the Senate of the United States has not taken one single step, other than the appointment of the Committee on Standards and Conduct to deal with the serious moral and ethical problems brought to light by the disclosures made in the course of the study by the Committee on Rules and Administration, on which I have the honor to serve, of the Bobby Baker matter.

I suggest, with all due deference to the able and honorable and senior members of the Committee on Standards and Conduct, that it is time for the Senate to act, and that we should not wait any longer, in performing a duty which, in my opinion, we should have faced up to several years ago.

Mr. President, if the Senator from Oklahoma is prepared to yield back the remainder of his time, I am prepared to yield back the remainder of mine.

Mr. MONRONEY. Mr. President, we have some additional requests for time, for which we would like to use some of the time remaining.

Mr. CLARK. Then, Mr. President, I reserve the remainder of my time.

Mr. MONRONEY. I yield such time as he may require to the chairman of the Committee on Standards and Conduct.

Mr. STENNIS. Mr. President, I thank the Senator from Oklahoma. I shall use very little time.

I stated flatly the other day, Mr. President, when the first of these amendments was before the Senate, that it would be the purpose of the committee, just

as soon as we could, to continue our effort and study and get to the Senate a report on a resolution covering the subject matter.

To be certain that that is clearly understood, I state now—and I have it written out here—that we expect to make a report on this subject matter as soon as we can; and we can, I am sure, at this session. I believe we can do that in time to get the recommendations considered at this session. I make no assurance of any kind as to what may be in those recommendations, because the committee will have to speak on that, and then each member can state his individual views.

I do point out, though, what I have already said, as I see it, about trying to write rules before we arrive at some kind of conclusion with reference to Senator DODD's matter.

So it all has to be taken in the light of when we can finish that hearing and make some report. I would not put any time limit on that at all. We will, of course, try to do the right thing.

But I think we will be able to do that, and we will try to follow through on it, and also on these matters about the rules. This is not work that one really would want to continue beyond that time which is necessary. That has been our original plan, and it is our plan now. If the Senate wishes to impose any kind of time limitation with reference to either one of these matters, I submit it will be a grave mistake, and I do not think any limitation will be made; but if it should be, I must state that I could not operate under a halter like that. I simply could not do it.

I thank the Senator from Oklahoma.

Mr. MONRONEY. Mr. President, may I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator from Oklahoma has 4 minutes remaining.

Mr. MONRONEY. I yield the 4 minutes to the distinguished Senator from Minnesota [Mr. MCCARTHY].

Mr. SCOTT. Mr. President, will the Senator from Oklahoma yield 1 of those minutes to me?

Mr. MONRONEY. May I yield 3 minutes to the Senator from Minnesota, and 1 minute to the Senator from Pennsylvania?

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

Mr. MCCARTHY. Mr. President, I speak somewhat indirectly on the matter of this amendment. I am opposed to the amendment. I think that of all the members of the Ethics Committee, I perhaps have the best case to be against it.

I am sure most Senators read Mr. Pearson's column this morning, in which it was pointed out that I was the one member of the committee who voted against having public hearings with reference to the particular case before that committee. The representation was not quite accurate. I did not say I was against public hearings in any case, but I was opposed to having the committee decide to have public hearings before they knew what they were going to have public hearings about. I thought that was a fair representation.

I have been around Congress since 1948, and I, with many other Members, protested against the proceedings of the so-called Joseph McCarthy hearings of the Senate, back in the years between 1950 and 1956.

I think it is important that we lay down standards for procedures in the case of any committee which is investigating any person; and I thought my position was quite defensible. I must say I expected to receive a call from either Mr. Pearson or one of his men within a day or two after the vote was taken in the committee; and I was not disappointed. The day after, I believe it was, I received the call from Mr. Anderson.

I expected he would ask me how I had voted, or else he would say, "I have talked to the other five members of the committee, and they all voted for it; how did you vote?"

That was not the case. He simply said, "I have been told how you voted." There were only seven present at the meeting at which I voted—five members of the committee and two staff men. Maybe one of those members of the committee or one of the staff men said, "We will save Jack Anderson some time and trouble, and tell him right now, and he will not have to call all of the members of the committee."

Perhaps that is a defensible position. But be that as it may, it would seem to me that before the committee decides to hold public hearings, it ought to know what the hearings will be about, and should be opposed to the proposition of indiscriminate public hearings in principle, remembering that it can be used against all Members of the Senate. I voted against public hearings until I knew what they were going to hold them on. Public hearings now, furthermore, would open up everything to the public, before any rules have been laid down.

Therefore, consistent with the position I took before the committee, I hope the Senate will reject the pending amendment, and that the Committee on Standards and Conduct will be afforded sufficient time to set up some standards.

Mr. SCOTT. Mr. President, I indicated my views on this subject in a memorandum which I prepared on May 4, 1966. I ask unanimous consent to have it printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. SCOTT. I cannot support the pending amendment, for several reasons. First, the disclosure of an individual Senator's "poverty," should that be the case, would certainly often subject a Senator, it seems to me, to greater pressures than would otherwise be the case.

The requirement that Senators' staffs shall make disclosures, it seems to me, is probably not the best way to handle that matter. As I point out in my memorandum, just cited, I would prefer that each Senator be responsible for his staff, and that he be held strictly accountable for them, instead of having this broad-reaching provision, until and unless the Senator and his committee have failed to report.

Finally, the listing of creditors, it seems to me, would simply bring down on the head of any person so listing the threat of bankruptcy proceedings, if he were unfortunately in that position. As far as I know, I have no major creditors.

This amendment is not the best possible way to accomplish a desirable end.

The Senate Committee on Ethics can, and should, come up with effective recommendations.

EXHIBIT 1

MEMORANDUM

A resolution governing disclosure is appropriate because Senators are obligated by the oath of their office to police themselves and the institution of which they are members.

The purpose of this memorandum is to recommend certain points for inclusion in a disclosure resolution. They are as follows:

(1) Senators should file an annual statement of their assets and income.

(2) A similar statement should be filed on behalf of Senators' wives.

Third. Professional and confidential relationships must be respected. It is recommended that the resolution specifically recognize that there is no obligation to disclose business or professional relationships such as lists of clients, trusteeships, executorships, clients of real estate or brokerage firms, and patients of doctors, or to disclose communications of a confidential or constitutional or statute-protected relationship.

Fourth. A requirement for a statement by the Senator that he has, in none of his relationships, a conflict of interest with his duties as Senator should suffice.

Fifth. As to disclosure by Senate staff members, the resolution should fix personal responsibility upon the Senator, or committee chairman or ranking minority member of a committee as the case may be, to ascertain by interview, affidavit, questionnaire, or any other means he deems appropriate that no member of his staff has any conflict of interest whether by virtue of outside employment or otherwise. It is not recommended that outside employment be prohibited as this would deprive Senators of valuable part-time assistance such as research, campaign, or emergency personnel requirements.

Sixth. Since the resolution would require full financial disclosure—see first and second above—such disclosure would include honoraria and should, of course, be framed to include the whole problem of testimonial receptions and dinners.

Seventh. Disclosure by Senate employees—not employees of Senators but of the Senate—should be the same as disclosure by Senators, and should be made to the Senate majority and minority leaders jointly. Whether required to be published is a matter for the drafters of the resolution to consider.

The PRESIDING OFFICER. Who yields time?

Mr. CLARK. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania has 10 minutes remaining.

Mr. CLARK. Mr. President, unless some other Senators request time, if the Senator from Oklahoma is prepared to yield back the remainder of his time, I am prepared to yield back the remainder of mine.

Mr. MONRONEY. As a matter of fact, Mr. President, I have no time to yield.

Mr. CLARK. Does the Senator from Connecticut desire to speak?

Mr. DODD. Yes, I would like to have 2 or 3 minutes.

Mr. CLARK. Mr. President, I am happy to yield to the Senator from Connecticut.

Mr. DODD. Mr. President, my name has been mentioned here this afternoon, as it was mentioned the other day. I am not complaining about that. I would simply like to make a short statement.

When this, I believe, unparalleled savage attack on me began, I did go to the chairman of the committee, and I asked him to make his own inquiry into the facts. I thought that was the right thing to do. I still think so.

That inquiry has taken place. I think it is factual to say that I have never held up the committee in any respect, nor asked for any delay of any kind; nor do I intend to do so. As far as I am concerned, the sooner this matter can be thoroughly aired and settled, the better for me, of course.

I am particularly pleased that the chairman of the committee, the distinguished Senator from Mississippi [Mr. STENNIS], has made reference to the theft of my property, because I do believe this is a matter of grave concern for everyone in the Senate, everyone in Congress, and everyone in the country. I do not pretend to be a great lawyer, but I think I can read the code; and if there was ever a clear case of burglary and a conspiracy to commit burglary, this is it. I do hope that something will be done about that, certainly; not that I am fearful as an individual, but every Member of the Senate must be concerned about dismissed employees breaking and entering a former employer's office and stealing thousands of papers.

I hope that the Senator from Mississippi and the members of the committee understand my concern about this matter.

Certainly, I feel that they have tried to be fair to me.

I am sorry if the committee was delayed in its other work but I did not know of anything else that I could do. The delay was unfortunate for the committee, and it was also unfortunate for the Senate.

But the attack on me still goes on. I am an old hand at being attacked, and I do not bruise easily. However, it has been unprecedented in its savagery and viciousness and falsity.

I know that is not the Senate's business, but I may have made one other mistake. I decided, having gone to the chairman and to the members of this committee, that it would be improper for me to make any statements about the issue, and I have abided by my own rule. This has been costly for me. Maybe it was an error. If so, I can correct it.

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

Mr. CLARK. Mr. President, I yield 2 additional minutes to the Senator.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for an additional 2 minutes.

Mr. DODD. But I think that many people and many friends have wondered why I have not said anything. They say, "Why, you are in the greatest forum in the world, and you have not been known to remain quiet in the past in the face of attack. Why haven't you said something?"

I have answered: "I am silent because I feel it would be improper for me to do otherwise." Consequently, I have not made any public answer to these lying attacks. At the proper time, I will do so, and in voluminous detail.

I thank the Senator from Pennsylvania for his courtesy.

Mr. CLARK. Mr. President, I am prepared to yield back the remainder of my time. The yeas and nays have been ordered.

Mr. MONRONEY. Mr. President, I have no time remaining.

AMENDMENT NO. 83

Mr. WILLIAMS of Delaware. Mr. President, I send to the desk an amendment in the nature of a substitute and ask that it be stated.

The PRESIDING OFFICER. The amendment in the nature of a substitute will be stated.

The assistant legislative clerk read as follows:

At the appropriate place insert the following:

"SEC. —. REPORTING OF PERSONAL ASSETS.—

"(a) That each individual who is a Member of the Senate and each officer or employee of the Senate compensated at a gross rate in excess of $10,000 per annum on April 15 of any year shall file with the Comptroller General on or before such date—

"(i) a report listing each asset (exclusive of items of tangible personal property having a fair market value of not more than $5,000) held by him or his spouse, or by him and his spouse jointly, as of January 1 of such year; and

"'(ii) a copy of any income tax return filed by him with respect to the taxes imposed by subtitle A of the Internal Revenue Code for the most recent taxable year ending prior to such date.'

"(b) Both the Comptroller General and the select committee of the U.S. Senate are authorized to examine the reports and copies of income tax returns required to be filed with them under this section, and in any case in which such examination discloses evidence of any impropriety relating to the discharge of the official functions or duties of the Member, officer, or employee filing the report or copy of return or of a violation by such Member, officer, or employee of any law of the United States, the select committee or the Comptroller General shall make such further investigation with respect to such impropriety or violation as it or he deem necessary to establish the facts with respect thereto.

"(c) If after such further investigation either the Comptroller General or the select committee is of the opinion that such impropriety or violation has occurred, it or he shall make a report thereon to the Senate and, if in its opinion or his opinion such violation of law has occurred, to the Attorney General.

"(d) As used in this section the term 'officer or employee of the Senate' means—

"(1) Members of the Senate,

"(2) an elected officer of the Senate who is not a Member of the Senate;

"(3) an employee of the Senate, or of any committee or subcommittee of the Senate;

"(4) the legislative counsel of the Senate or any employee of that office;

"(5) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

"(6) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

"(7) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate;

"(8) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate; and

"(9) an employee of any Member of the Senate."

The PRESIDING OFFICER. Does the Senator offer the amendment in the nature of a substitute?

Mr. WILLIAMS of Delaware. Yes.

Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 15 minutes.

Mr. WILLIAMS of Delaware. Mr. President, I recognize completely the validity of the arguments advanced by the Senator from Mississippi and the Senator from Utah. I have tremendous respect for both of them in their capacities as chairman and vice chairman of the Select Committee on Standards and Conduct.

I have no question whatever that this committee is going to do a good job. I know that they have an unpleasant task ahead of them. They have my sympathy in that task and my pledge of support.

I have hesitated to offer the amendment at this time, but we are confronted with this question if we are dealing with a revision of the Senate rules. Since the question is before us at the present time I thought I should offer the amendment in the nature of a substitute. If we are going to deal with the question we should deal with it in a firm and effective manner, putting some teeth in the proposal.

Without enforcement provisions the Clark amendment merely represents a statement of principle.

The proposal which I have offered as an amendment in the nature of a substitute would require Members of the Senate and its employees receiving above the $10,000 level to file with the Comptroller General of the United States a copy of their financial statement, as would be required under the so-called Clark amendment. However, my amendment would also require the filing of a copy of their tax returns with the Comptroller General.

Mr. LAUSCHE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WILLIAMS of Delaware. In section (b) of my amendment, both the Comptroller General and the Select Committee of the Senate are authorized to examine these financial reports, including the copies of the income tax returns.

If they find anything wrong with them they are empowered under the amendment to conduct whatever investigation they think is necessary, to report it to the Department of Justice for prosecution, or to use the information contained on the financial statement and tax returns and make a report to the Senate for whatever action it thinks is

necessary. They would have the complete authority.

On the other hand, if we are going to require the filing of nothing but a financial statement all we would be doing would be agreeing to an amendment that would get a front-page story as to how much or how little a Member of the Senate owns. There would be no teeth in the requirement, however.

I have had a lot of experience in investigating wrongdoing on the part of public officials. I have found that if we are able to take a combination of their net worth statement and their tax returns we can get at the heart of the problem and pretty well tell what kind of activities they have been up to. If, however, we take a financial statement alone we have a document that means nothing. It has been my experience that those who have done wrong—and I cite particularly the Bobby Baker case—have their assets concealed in the names of third parties.

Certainly it would be the filing of a false financial statement, but there is no penalty provided in the Clark amendment for filing a false financial statement. There is, however, a penalty for filing a false income tax return. There is a tremendous difference in the requirements of the two amendments.

I respect the views of the Senator from Pennsylvania, and I do not question his intentions.

The Senator from Pennsylvania pointed out very correctly that in the last few months there has been a decline in the respect of the American people for the U.S. Senate. I regret that I must agree with him. I point out, however, that this decline in the Senate's prestige has not been because we have not been filing financial statements; the respect of the American people for the U.S. Senate has declined largely because the Committee on Rules and Administration failed to do its job and to meet its responsibility when it was charged with the duty of conducting an investigation of the Bobby Baker case.

The attempt of the majority members of the Senate Rules Committee to brush that scandal under the rug was a disgrace to the Senate.

Mr. LAUSCHE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WILLIAMS of Delaware. As the Senator has pointed out, I did have something to do with the Baker investigation, but I regret to say that the conviction of Mr. Baker and the pursuance of that investigation were in spite of and not as a result of the cooperation that we received from the Senate Rules Committee, that was investigating the matter. I regret very much that it is necessary to say that. If that committee had discharged its responsibilities, as I am confident the Ethics Committee will discharge its responsibilities, we would not be in this position today, nor would the prestige of the Senate be at the low level that it is.

We need enforcement of existing laws and rules, not a lot of new ones. We may need some new rules, but we could adopt new rules a foot deep in the Senate Chamber, but unless they are enforced they are not worth the paper on which they are written.

What good is a committee report such as we got when the first phase of the investigation of the Baker case was over, which merely slapped the culprit on the wrist and said, "Let's adopt some new rules so it won't happen again"?

I said then that there were violations of the law. I pleaded with the Rules Committee to finish that investigation, present it to the Department of Justice, and see what would happen; and after that, if we needed new rules or more laws, we could enact them. I am glad that we were able to pursue that investigation despite the roadblocks that were thrown down by those whose primary interest was to whitewash the Baker case.

The conviction of Mr. Baker will be more of a deterrent to wrongdoing on the part of Members of the Senate and the employees than would the adoption of a thousand new rules.

The activities of the Ethics Committee and the position it is taking in pursuing diligently—I emphasize the word "diligently"—the investigation of one of our Members today are demonstrating to the American people that we do not consider a Member of the Senate above being called to account if there is something wrong with what he has done. It gives that Member an opportunity, as the Senator from Mississippi has very carefully insisted upon, to explain his side of the question, and he should have that opportunity. The committee is right when it pursues this investigation to its end and permits the public to see what has been done. Then, if we find we need new laws we can enact them, and if existing laws have been violated let us see that those laws are enforced.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. CURTIS. Mr. President, as I understand the amendment of the Senator from Pennsylvania, it would call for a public disclosure of certain facts set forth in his amendment. I should like to ask the distinguished Senator from Delaware this question: Does the substitute amendment of the Senator from Delaware call for a public disclosure of assets and liabilities and other facts of the parties covered?

Mr. WILLIAMS of Delaware. No, it does not. My amendment would require an annual filing by each Senator of a list of his assets and liabilities and a copy of his tax returns. These documents would be filed with the Comptroller General and would be available for examination by both the Comptroller General and the Ethics Committee. They would be empowered to examine them, and if either of them—I emphasize the word "either"—found something wrong, one without the consent of the other could refer that case to the Department of Justice; or they could make public anything that is contained in the files. This would apply only if they thought that something were wrong. I think they should do so if something is wrong, but my amendment would not make possible the wholesale disclosure that is provided for in the proposed Clark amendment. In fact, we could not require the release or public disclosure of tax returns without a constitutional amendment.

Mr. CURTIS. On that point, I should like to ask one more question.

Mr. WILLIAMS of Delaware. But there would be public disclosure in every instance where a public official has violated his public trust.

Mr. CURTIS. The amendment offered by the Senator from Pennsylvania specifically states that it is a matter of public record. Does the substitute amendment offered by the Senator from Delaware authorize the Comptroller General to make it a public record or direct him to do so?

Mr. WILLIAMS of Delaware. It does not direct him to do so. It authorizes him to do so if he thinks laws have been violated or if there is an indication of impropriety. If there is a violation of law either he or the Ethics Committee submits the matter to the Department of Justice. But this would apply only in instances where they see something wrong. This procedure is followed now in connection with any investigating committee of Congress.

As a layman, but having been in business it is my understanding that a customer can file a false financial statement for the purpose of obtaining credit. If after obtaining that credit based on that financial statement he does not make payment of his bills he can be prosecuted for fraud for obtaining credit under fraudulent circumstances. But if he pays his bills and they later find out that there is a fraudulent financial statement, nothing is ever done about it because no loss has been sustained. Many Senators are lawyers, and they can correct me if I am wrong; but that has been my understanding in the operation of a business.

My amendment would put some severe penalties for filing fraudulent reports.

The amendment of the Senator from Pennsylvania calls for public disclosure, but it carries no penalties if a false financial statement has been filed. I believe that the time has come when the Senate should deal with this problem, and by accompanying the financial statement with the tax returns a clear picture can be obtained. This contention is supported by any case I have dealt with over the past 20 years, whether it was in connection with the exposing of scandals involving the Department of Agriculture the Treasury Department or the most recent case of Mr. Baker. Give me a combination of the man's income tax returns and his financial statements over a period of years and one can come up with an answer as to what he has been doing. Certainly a Member can file a false financial statement and a false tax return, but the average individual is more fearful of filing a false tax return than anything else, because that is usually the way he gets in trouble.

Technically Al Capone went to the penitentiary for income tax evasion; but he really went to the penitentiary because of his racketeering, and the income tax indictment was the mechanics by which the conviction was obtained in the courts. A man may gamble on filing a false financial statement, but he will hesitate before filing a false tax return.

These reports would be of great assist-

ance to the Select Committee not only in this particular case but in any future case that may arise.

When the Ethics Committee receives an allegation it can, without any publicity, immediately get the tax returns and financial statement, examine them, find out to what extent they disclose questionable activities, call the man in, and if necessary start an investigation. As it is now, if the Ethics Committee wishes a tax return of a Senator it has to request it from the President of the United States, and it can get it if the President agrees. Perhaps the President would agree but the mere fact that the committee requested the tax return of John Doe would, to a certain extent, be an indictment if it were found out and publicized. It would be a semicharge against the man. If my amendment is adopted it could be done with no injury to the individual. They can examine the papers quietly for the records are readily available at all times. This same proposal was offered a year and a half ago when we established the Ethics Committee. I was glad to be a cosponsor, with the Senator from Kentucky, of the legislation that established the Senate Ethics Committee, but I said then that if the Senate would adopt this rule to require Members of the Senate to make their financial statements as well as tax returns available, the committee would have some tools with which to examine the conduct not only of Senators but also of Senate employees.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. LAUSCHE. I would like to ask a few questions in order to highlight the objective of the Senator from Delaware in connection with this proposal.

Do I understand correctly that the bill provides that every employee of the Senate and Senators having an income in excess of $10,000 shall file two reports, one with the Comptroller General and one with the Select Committee of the Senate?

Mr. WILLIAMS of Delaware. No, that was a drafting error. The amendment now reads: "shall file with the Comptroller General on or before such date."

And on line 8, page 2, it reads:

Both the Comptroller General and the select committee of the United States Senate are authorized to examine the reports and copies of income tax returns.

Only one report would be required.

The language was corrected because it would have required two reports, and it was not intended to require two reports. It was intended to have these reports filed in one place where they would be available to the Comptroller General and the Committee on Standards and Conduct.

Mr. LAUSCHE. In the report filed with the Comptroller General there would have to be listed every asset having a value in excess of $5,000; is that correct?

Mr. WILLIAMS of Delaware. The Senator is correct.

The PRESIDING OFFICER. The 15 minutes of the Senator have expired.

Mr. WILLIAMS of Delaware. Mr. President, I yield myself 5 additional minutes.

Mr. LAUSCHE. After that report is filed there also would have to be filed concomitant with it an income tax return deposited with the Comptroller General.

Mr. WILLIAMS of Delaware. The Senator is correct.

Mr. LAUSCHE. Now, after both of those papers are filed the Comptroller General and the Select Committee of the Senate would have the opportunity of examining those papers to determine whether any impropriety or any wrong had been committed by the Senator.

Mr. WILLIAMS of Delaware. The Senator is correct. They could be examined at any time they had a suspicion that something may be wrong.

Mr. LAUSCHE. If the Comptroller General and the select committee, upon examining those papers, found a wrong they would be directed to report the wrong to the Attorney General and to acquaint the Senate with it.

Mr. WILLIAMS of Delaware. The Senator is correct.

Mr. LAUSCHE. After that is done, if there were a wrong, the Attorney General could pursue action in accord with his judgment based upon the facts.

Mr. WILLIAMS of Delaware. The Senator is correct.

Mr. LAUSCHE. And the Senate could follow a similar procedure.

Mr. WILLIAMS of Delaware. The Senator is correct. Later if the Department of Justice determined that existing laws would not take care of the particular impropriety which was called to its attention it could recommend new laws, or it could report it to the Senate, making public any information which might be in the Department's files, which may have been taken either from the financial statement or the tax return of the Senator. The Department could use all of this information that is available to it to report instances of impropriety and wrongdoing.

There were some persons who said, "I do not want my income tax returns made public." All that public officials would have to do would be to conduct themselves properly, and their income tax returns would never be made public. Publication would only occur if there were something wrong. In that case the information should be public.

Mr. LAUSCHE. I wish to explore how the proposal of the Senator from Delaware differs from the proposal of the Senator from Pennsylvania [Mr. CLARK]. The proposal of the Senator from Pennsylvania contemplates a public revelation of a person's assets and income. The proposal of the Senator from Delaware contemplates a nonpublic revelation, but a revelation to the Comptroller General and the Select Committee is finally made public through a finding of misconduct.

Mr. WILLIAMS of Delaware. The Senator is correct, with this difference. In the filing of the report under my proposal persons would not be listing a part of their income—there would be available their complete income tax returns which are all itemized. Those returns would be signed so there would be the criminal penalties that accompany the filing of false income tax returns. Those penalties would be automatically applicable to false returns.

Mr. LAUSCHE. That was going to be my second question.

Mr. WILLIAMS of Delaware. That feature would be the teeth that we put into this proposal, because if we are going to do this job let us put some teeth in it so that it will be done right.

Otherwise our action would be but an idle gesture.

Mr. LAUSCHE. My next question to the Senator is: Does the proposal of the Senator from Pennsylvania carry any penalties based upon a misstatement of assets? Does the proposal of the Senator from Delaware carry penalties?

Mr. WILLIAMS of Delaware. My proposal does carry penalties—all of the penalties that accompany the filing of false income tax returns.

To my knowledge the proposal of the Senator from Pennsylvania does not carry any penalties. I would not say that there would not be some force and effect to the proposal of the Senator from Pennsylvania, but it would be only to the extent that the Senate wanted to discipline a Member after it found he had filed a false report.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. WILLIAMS of Delaware. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

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

Mr. LAUSCHE. Mr. President, will the Senator yield so that I may ask one more question?

Mr. WILLIAMS of Delaware. I yield to the Senator from Ohio and will then yield to the Senator from Nebraska.

Mr. LAUSCHE. The proposal of the Senator from Delaware contemplates putting teeth into the bill, and it contemplates subjecting the offender to criminal prosecution, and, therefore, intends by coercion to procure compliance with the rules of decency and propriety.

On the other hand, the proposal of the Senator from Pennsylvania seems to me to be related to politics and not to the enforcement of moral decency.

I would like to ask the Senator from Delaware his interpretation of the comment that I have just made.

Mr. WILLIAMS of Delaware. I agree fully. If we are going to adopt a new rule let us put teeth in it and give to the Ethics Committee the tools with which it can rightly do the job. The financial statements and the tax returns that we are making available to it are items that are needed in the investigation of the activities of any Member of the Senate. These are documents that the committee is going to have to have before it can pursue an investigation of any Senator or employee. It is going to have to have those documents. Therefore, why not make them available in advance so that the committee can get them at any time? Why is anyone afraid to make them available to members of the committee? Knowing that either the Comptroller General or the committee can look at them would in itself be a deterrent to any public official who otherwise may be tempted to do something wrong. He will know that this committee and the Comptroller

General could always be casting a cautious eye over his activities.

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

Mr. LAUSCHE. Mr. President, will the Senator yield 1 additional minute to me?

Mr. WILLIAMS of Delaware. I yield 1 minute.

Mr. LAUSCHE. The purpose of the public official who wants to cheat will not be deterred by the proposal of the Senator from Pennsylvania. The greater the inclination to cheat, the more probable it is that he will cheat upon the filing of this public statement.

On the other hand, those Senators who do not cheat, will file honest reports.

Mr. President, I suggest that the proposal of the Senator from Delaware is sound: We should put teeth into the bill if we shall pass it. If we are not going to have teeth in the bill, do not pass it.

Mr. WILLIAMS of Delaware. I yield 5 minutes to the Senator from Nebraska [Mr. CURTIS].

Mr. CURTIS. I thank the distinguished Senator from Delaware.

Mr. President, I have the highest regard for the Committee on Standards and Conduct. I not only voted for the creation of the committee; I spoke in behalf of the Cooper amendment that brought it into being.

I believe the adoption of the amendment offered by the Senator from Pennsylvania would be a grave mistake. I do not believe it is in the public interest. I believe that it is well intentioned. I am sure of that. But I do not believe that the requirement for 100 Senators to file a public record of debts, property owned, and the various things set forth in the amendment would add one iota toward the improvement of the conduct of anybody.

I do not believe that it would be a deterrent to that small percentage of employees, or Senators, or anyone else who is tempted to do wrong. I think it is filled with opportunities for great abuse and would not serve any useful purpose.

On the other hand, something can be said for not legislating at this time. But as to the Clark amendments, I have a feeling that some day legislation on this subject will be enacted. Therefore, I shall support the Williams substitute because it does not carry the abuses that I foresee. It is my opinion—and I do not question the good intentions of the author—that the Clark proposal invites a great many abuses and will not be a deterrent to wrongdoing.

On the other hand, the Williams proposal will require the depositing of a financial statement and tax return with the Comptroller General. It is not the intention that it be published. One man, and one man alone, will be the custodian—not a committee, or a whole committee staff. But the papers will be there, should they be needed. The very knowledge that they might be needed will be a deterrent, I believe.

This, too, can be said in reference to the difficult task that whoever serves on the Committee on Standards and Conduct will have to perform in the years that lie ahead.

I do not believe that the Williams proposal jumps to a conclusion and writes ethical rules for the committee. I think the only thing involved here is that the Williams proposal gives the committee access to some information that they must have, if we expect them to perform the task which the Senate has assigned to them, by making it available in advance and applying it to everyone. It will be there. It will make the committee's task much easier. It will permit a quiet investigation so that complaints without substance can be looked into and discarded. The committee will not have to approach an employee and say, "We want to see these papers," because the requirements are laid down as a condition for all that they would be in a depository where they can be used.

As I say, I would be perfectly willing to wait until the committee has completed its work. I do not think this proposal will interfere with it. I do not think that it writes ethics at all. It merely provides a proper channel for the committee to secure information, if it so chooses.

I do think—and I repeat—the Clark proposal is unsound, is not in the public interest, and will be abused. I also think it would be more difficult to get individuals of high standing to agree to serve, either as elected officials or as employees of this body, if the Clark proposal should prevail, because I do not think it will deter wrongdoing.

Mr. MONRONEY. Mr. President, I yield 5 minutes to the distinguished Senator from Pennsylvania [Mr. CLARK].

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. CLARK. Mr. President, in my opinion, there are seven things wrong with the Williams amendment.

In the first place, it does not cover liabilities of a Senator, but only assets; and one of the areas in which a conflict of interest is most likely to arise is in regard to debts owed by a Senator to individuals who thereby obtain a hold on him.

In the second place, the Williams amendment does not require the disclosure of relationships between a Senator and professional firms, whether law firms, public relations firms, or other kinds of lobbying firms, and the like.

In the third place, the Williams amendment does not require a Senator to disclose names of the corporations in which he is serving as an officer or a director, or in which he is engaged as a member of a partnership or joint venture.

In the fourth place, the Williams amendment does not require disclosure of gifts. Gifts, of course, are well known to be potentially corrupting, and an attractive means for attempting to influence a Senator.

In the fifth place, while the Williams amendment does not require public disclosure at the beginning, it does require that the assets list and the income tax return shall be revealed to both the Comptroller General and members of the Select Committee on Standards and Conduct.

Senators will recall that the Senator from Minnesota took the floor a few moments ago to relate the fact that his vote in the Select Committee on Standards and Conduct was known to Jack Anderson and Drew Pearson within 24 hours after he cast it.

Therefore, is it not likely that the income tax return of every Senator would, in due course, also be known to Jack Anderson and Drew Pearson and perhaps a number of others?

I am not accusing any Senator of improper disclosure. I am just saying that it is a basic fact that if we make these disclosures to the Comptroller General, he will have a score of employees who will see it. If we make disclosures to the select committee, there will be a number of employees who will see it. Therefore, in my opinion, the attempt to cover up the income tax return and the list of assets is sure to fail. The whole thing will eventually be made available to the public.

In the sixth place, the Williams amendment requires disclosure of charitable contributions which are present on an income tax return. To my way of thinking, what a Senator gives to charity is no one's business but his own and that of the charity.

But, most important of all, in the seventh place, philosophically, the Williams amendment, in my opinion, has no proper bearing on the problem which confronts us.

The concept of the amendment which I have offered, and of the thinking of the Committee on Rules and Administration when it offered a far less onerous amendment, was that if Members of the Senate were to disclose their income, assets, liabilities, the gifts they had received, and other pertinent data dealing with their financial condition, we could then rely on the general public to determine whether they wanted to elect that Senator or not; that the general public—through the medium of television, the press, and radio—could call a Senator to account if, in their opinion, his financial situation, as disclosed, had resulted in a vote, an attitude of mind, a position on the floor of the Senate, or a position in committee, inconsistent with his duty to his constituents.

The PRESIDING OFFICER. The 5 minutes of the Senator have expired.

Mr. CLARK. I ask unanimous consent for 2 additional minutes.

Mr. MONRONEY. I am running short of time. I yield to the Senator 1 minute.

Mr. CLARK. When we substitute for the philosophical concept of disclosure the Williams concept of penalties, then we are going too far. We have criminal statutes in effect. Members of Congress have been put in jail by a prosecutor, who is now a Member of the Senate, for violating criminal statutes. We do not need sanctions other than disclosure, which, in due course would facilitate whatever action would be required to be taken in good conscience by the Select Committee on Standards and Conduct.

Therefore I think the Williams amendment should be defeated.

Mr. WILLIAMS of Delaware. Mr.

President, do I have 2 minutes remaining?

The PRESIDING OFFICER. Yes.

Mr. WILLIAMS of Delaware. I yield myself 1 minute.

First, in answer to the Senator from Pennsylvania, I recognize the Senator from Pennsylvania as an outstanding Philadelphia lawyer in the Senate; nobody but a Philadelphia lawyer would expect one to file a financial statement listing only assets, a financial statement lists not only assets but also liabilities.

Second, the Senator said that one would not know whether the Member making that return had received income from a law firm. I can examine any tax return and can tell whether a person has income from a law firm or from anywhere else.

Third, the Senator spoke about gifts and said my amendment does not require the listing of gifts to Members of Congress. I take the position that there is no provision in the law which gives Members of Congress a right to accept cash gifts. That is a violation of the law now. I flatly refuse to accept the position that a public official or a Member of Congress can accept gifts legally under any circumstances. He will find himself in the penitentiary if he does.

Mr. MONRONEY. Mr. President, I yield 5 minutes to the distinguished vice chairman of the Select Committee on Standards and Conduct, the Senator from Utah [Mr. BENNETT].

Mr. BENNETT. Mr. President, it is with a wry smile that I ask the Senator from Delaware if I must return to my wife a gift which she gave me because I am a Senator.

I have listened with a great deal of interest to the proposal of the Senator from Delaware. I think it ties down very tightly the question of financial activities of a Member of the Senate—much more tightly than that proposed by the Senator from Pennsylvania.

The Senator from Delaware points out that after these statements have been made to the Comptroller General, if he discovers that something is wrong, he can take action, or the Select Committee can take action. He divides the prospective wrongdoing into two classes: crimes, which are already provided for on the statute books and which can be identified, and improprietaries.

My point is that the select committee was appointed to discover or to try to identify and classify the question of improprieties—actions less than crimes, but which offend the rules or dignity of the Senate. We still have that problem before us.

I think the amendment of the Senator from Pennsylvania would greatly limit our opportunity to examine into and arrive at final suggestions in that field.

I think, too, the proposal of the Senator from Delaware would leave somebody with many problems. The Senator from Pennsylvania has raised several. Somebody would have to work out the details that would be required in the disclosure statement if one were to accompany the tax return, because if there is in the disclosure statement another copy of the figures on one's tax returns, then there is nothing disclosed. To what extent shall we require more detailed disclosure than what may exist on a tax return? Somebody has to work that out.

I agree with the Senator from Nebraska that the net effect of the adoption of the Williams amendment would be to give the committee a new tool which would save a great deal of time when the investigation of any charge that might be made against a Member was made, because I have not assumed that it was the committee's function, if such reports were to be filed, to immediately sit down, go over each report, and try to find out as much trouble as it could about every Member of the Senate—in other words, to use is as a fishing expedition.

The amendment of the Senator from Delaware was very illuminating and informative to me, and the ideas it contains can be included in the study of the select committee. It still must go into this whole problem. It can operate as effectively at this point without the powers the amendment would give us as the committee could with those powers.

We keep coming back to the fact that the Senate gave six unwilling Members a job to do. Now that they are embarked on that responsibility, I think all of us want to carry it out. I think we want to be free of restrictions and controls and limitations which would make it difficult for us to do the job, which would foreclose our work in certain areas, because those areas would have been covered by specific legislation, even though we might discover that the legislation was ineffective or obstructive or destructive of our responsibility.

So I hope the Senate will express its faith in that committee by rejecting both of these amendments.

We should have an opportunity to study this question carefully, and I hope the Senate will give us that opportunity without tying our hands.

Mr. MONRONEY. Mr. President, I yield 5 minutes to the distinguished chairman of the select committee, the Senator from Mississippi [Mr. STENNIS].

Mr. STENNIS. Mr. President, in a broad and general proposition, I have the same position, the same points that I have already made here with reference to the amendment as proposed by our friend from Pennsylvania. I think this is a classic illustration, putting these amendments side by side, to prove conclusively the broadness of the subject, the difficulties of the problem, the differences that exist in the membership. They prove that it is absolutely necessary to get a rule or some kind of regulation, or whatever it might be called, which covers the subject matter, and that the members of the committee itself feel is a solid one and meets the problem.

I say, for the benefit of any Senators who may not have been here when I spoke previously, that it is unthinkable to me that this tedious and difficult subject, going into the very vitals of important matters, should be handled like an amendment from the floor, almost as if one picked up a paper, wrote out a few sentences, and said, "This should be the law."

We are talking about legislation. It is not a rule or regulation, or anything like that. If adopted, it would be the law.

This is not a field in which we want to work on. There is nothing attractive about it. But the Senate has taken a positive, definite position, and has created this group and empowered it with certain duties. I think it is the only committee which has no ceiling on the amount of money which it can spend, although I do not think we are spending much, to study this question, to do the very best job it can, to obtain the best evidence it can, to obtain the best counsel and advice from its members.

That is what we hope to do. To come in here and sweep all that aside and junk it and say, "We did not mean it after we did it; we are going to do it this way, regardless," is unthinkable to me.

I submit to the Senate that we have already taken it to heart. The only logical thing to do is stay with it and live with it for a while, and try to solve it that way.

I return whatever time I have remaining.

Mr. MONRONEY. I yield 5 minutes to the distinguished senior Senator from Florida.

Mr. HOLLAND. I thank the Senator from Oklahoma.

Mr. President, the fact that two Senators of equally good intentions in this matter have offered two diametrically opposed amendments is the best argument for us to permit this able committee to function, and to decide what is the best method to approach this difficult problem.

The Senator from Pennsylvania was in the minority on the Rules Committee, and he has said to us here that the rule that was reported from that committee and was rejected by the Senate was, as he put it, far less onerous than the one he suggests here now.

Mr. CLARK. If the Senator will yield——

Mr. HOLLAND. I cannot yield. I have only 5 minutes. I am complimenting the distinguished Senator.

The Senator from Delaware was the principal one who ferreted out the misdoings of Bobby Baker. Everyone knows both Senators are approaching this matter with the effort to get the job done, and yet they have come in here with two very different approaches.

I ask the Senate to remember that we appointed this committee, which has been drafted to do the job on a nonpartisan basis—three very able and distinguished Senators from each side have been assigned to that committee—should be given the chance to do the job assigned it.

Mr. President, if that distinguished committee had not done what the chairman has reported that it did when all of the publicity was given to the charges against one of our fellow Senators, laying aside the work they had already started on, to report general rules, and proceeding to investigate into the charges against that particular colleague—and incidentally, at his request likewise—they would not have merited the high respect which I am sure every Senator feels for them.

Because when the good name of a Senator is attacked, the good name of the Senate is attacked; and the Senators who are on that committee naturally went into that business, and of course they have gone into it meticulously, as

has been shown by the remarks of the distinguished Senators from Mississippi and from Utah, both of whom I respect most highly.

Mr. President, here we are asked to bring in a verdict that one man's draft of eight pages—that of the Senator from Pennsylvania—is what the Senate thinks should be done, and not a report from the committee. The Senator himself says it is more onerous than what his committee, the Committee on Rules, was willing to report on an earlier occasion.

We have a draft from the Senator from Delaware three pages long. Incidentally, it contains two very great uncompleted matters. He does not even allow for a hearing for the man whose good faith is accused—I called his attention to that just a short time ago—and there are other areas of drafting and discrepancies in it, which do not at all go to the good faith of the distinguished Senator from Delaware, who is trying to get a job done.

But what is the committee for? It is to hear the various suggestions that are made, winnow them out, and come up with a report which gives the considered, deliberate sentiment of the six good men on that committee, as to what is the preferred way to deal with this difficult subject.

Mr. President, if I had to choose between these two, I would greatly prefer the draft of the Senator from Delaware. But I do not. And I think it would be unwise for the Senate to approve either of these approaches. I think that to approve either of them would indicate our willingness to turn down this committee, which has put first things first and has told us, through the words of its chairman today, that it expects to bring in something during this session, even as I understand him, to be acted upon by the Senate this session.

Mr. President, I believe the committee is proceeding with diligence. I know it is proceeding with character, and with respect for the law and for the rights of individuals as well. I think we would make a very great mistake, in this most delicate matter, which runs to the character and reputation of the Senate as a body, and of every Senator and every employee of the Senate, to write legislation on this delicate subject on the floor.

The proponents of these two diverse amendments have proved our case. They have shown how people with good intentions can approach the curing of this ill by such different directions and in such different manners. This matter should go to the committee, and should have the benefit of its long and exhaustive study.

Mr. MONRONEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. MONRONEY. I yield myself 3 minutes.

Mr. President, I think this debate between some 10 or 12 Senators, rather equally divided, illustrates the complete and total impossibility of writing any kind of fair and well-considered legislation on the floor of the Senate, particularly on matters which are subject to so many different interpretations, and which affect very importantly the Members and employees of the Senate itself.

I again point out that neither of these amendments, no matter how skillful the drafting is, or how valid the ideas behind them, appeared for 1 minute's discussion or consideration by the committee which has charge of the bill to which they would be attached. I do not think that is a very good way to legislate. Usually floor amendments at least come in as a result of something that has been discussed in testimony by witnesses before the committee having jurisdiction, and the testimony has been considered and the amendment accepted or rejected.

Here we are asked, after a little more than 30 minutes on a side, or a total of around an hour, to decide something that, if there is an error made on something contained in the amendment, will nevertheless become the law, and I think it would likely remain the law for quite a while. I point out that since these proposed amendments deal with matters affecting the Senate exclusively, they will not even have the opportunity of being corrected, revised, or adjusted in conference with the other body, because the House will not pass upon the matter.

So this evening, with a wide difference of opinion shown, as I say, between at least 10 distinguished Senators, on how we should do this—and I expect if it remained on the floor another day, we would find 20 or 30 Senators disagreeing—and I expect, if the matter remained pending over the holidays that are coming up, we would probably have about as many amendments to this matter, dealing with the personal income reporting and liability reporting, as we have had to this bill on how to organize the functions of the Senate—I intend, if no one else is asking for time, to move first to table the amendment of the distinguished Senator from Delaware [Mr. WILLIAMS], and, if that motion is successful, to move to table the amendment of the senior Senator from Pennsylvania [Mr. CLARK], on the basis that this matter is properly in the hands of the committee designated and created by the Senate to do the very thing that these amendments seek to do, and that is to take up and consider legislation for standards and conduct of the Members of the Senate, and not to hand us a quick-mix job, that has been brought up here on the floor in less than an hour's time for discussion, and then ask this committee to enforce the thing.

We thought we would have something to do, at least, with considering, in the committee on standards and ethics, legislation to provide what the reports and other steps might be, to provide for ethical standards of our Members. If these amendments were agreed to, we would only be the committee to look at your income tax, and I hardly believe that is something the members of our committee would like or care or wish to do.

By reason of the fact that there is already an existing committee at work at the present time, capable of taking care of reporting adequate legislation, after hearing a reasonable number of witnesses and hearing testimony from Members of the Senate, to the Senate for action as a bill, I submit that it does not belong on the Legislative Reorganization Act, in connection with which no testimony was taken regarding the merits of the bill or any proposal thereon.

It was mentioned in testimony, but never detailed. Our files do not disclose anything on it.

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

Mr. MONRONEY. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 1 additional minute.

Mr. MONRONEY. Mr. President, I move to table the amendment of the Senator from Delaware in the nature of a substitute for the Clark amendment, and if we table that amendment, I will move that we table the amendment of the distinguished senior Senator from Pennsylvania. We can then get on with the business and leave the consideration of the legislation to the committee designated by the Senate to consider it.

Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS of Delaware. Mr. President, I ask for the yeas and nays.

Mr. MONRONEY. Mr. President, I move to table the amendment of the Senator from Delaware in the nature of a substitute.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from Oklahoma let us vote on the merits of the amendment? We could do it just as quickly.

Mr. MONRONEY. I make the motion to table the amendment because it does not belong in the bill. It is not germane to the bill, and we do have a motion to table.

Mr. WILLIAMS of Delaware. I think it is germane to the bill. This is not a last-minute matter. It was before the Senate about a year and a half ago. It has been before the Senate for quite awhile.

Mr. MONRONEY. Not in the form in which we would be enacting it into law.

I have withheld the motion to table until all time has been used. I have not cut off a single Senator seeking recognition.

I intend to move to table the amendment of the Senator from Pennsylvania as well.

Mr. WILLIAMS of Delaware. I appreciate that, but I want to make the record clear that this is identical to the amendment I proposed to the Senate a year and a half ago. It is not something that has been worked up in the last half hour.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second, and the yeas and nays are ordered.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma to table the amendment of the Senator from Delaware in the nature of a substitute for the amendment of the Senator from Pennsylvania. On this question, debate is not in order, and the clerk will call the roll.

Mr. HOLLAND. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HOLLAND. Mr. President, are we asked to vote now on the motion to table the substitute amendment offered by the Senator from Delaware?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Indiana [Mr. BAYH], the Senator from Maryland [Mr. BREWSTER], the Senator from Idaho [Mr. CHURCH], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Montana [Mr. MANSFIELD], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. MOSS], the Senator from Georgia [Mr. RUSSELL], and the Senator from Alabama [Mr. SPARKMAN] are absent on official business.

I also announce that the Senator from Mississippi [Mr. EASTLAND], the Senator from Indiana [Mr. HARTKE], the Senator from Wisconsin [Mr. NELSON], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

On this vote, the Senator from Maryland [Mr. BREWSTER] is paired with the Senator from South Carolina [Mr. HOLLINGS].

If present and voting, the Senator from Maryland would vote "yea" and the Senator from South Carolina would vote "nay."

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from Oregon [Mr. MORSE].

If present and voting, the Senator from Florida would vote "yea" and the Senator from Oregon would vote "nay."

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN], the Senator from Arizona [Mr. FANNIN], and the Senator from Idaho [Mr. JORDAN] are absent on official business of the Interparliamentary Union.

The Senator from New Hampshire [Mr. COTTON], the Senator from Kentucky [Mr. MORTON], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The Senator from Texas [Mr. TOWER] is absent on official business.

The Senator from New York [Mr. JAVITS] is detained on official business.

If present and voting, the Senator from Arizona [Mr. FANNIN] and the Senator from Texas [Mr. TOWER] would each vote "yea."

On this vote, the Senator from Kentucky [Mr. MORTON] is paired with the Senator from Illinois [Mr. PERCY]. If present and voting, the Senator from Kentucky would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 57, nays 18, as follows:

[No. 24 Leg.]

YEAS—57

Allott	Bennett	Cannon
Anderson	Bible	Case
Baker	Brooke	Clark
Bartlett	Byrd, W. Va.	Cooper
Dirksen	Jackson	Mundt
Ellender	Jordan, N.C.	Muskie
Ervin	Kennedy, Mass.	Pastore
Fong	Kennedy, N.Y.	Pearson
Gore	Kuchel	Proxmire
Hansen	Long, Mo.	Randolph
Harris	Long, La.	Scott
Hart	Magnuson	Smith
Hatfield	McCarthy	Stennis
Hayden	McClellan	Symington
Hickenlooper	McGee	Talmadge
Hill	McGovern	Williams, N.J.
Holland	Metcalf	Yarborough
Hruska	Mondale	Young, N. Dak.
Inouye	Monroney	Young, Ohio

NAYS—18

Boggs	Dominick	Prouty
Burdick	Griffin	Ribicoff
Byrd, Va.	Lausche	Spong
Carlson	Miller	Thurmond
Curtis	Murphy	Tydings
Dodd	Pell	Williams, Del.

NOT VOTING—25

Aiken	Hartke	Moss
Bayh	Hollings	Nelson
Brewster	Javits	Percy
Church	Jordan, Idaho	Russell
Cotton	Mansfield	Smathers
Eastland	McIntyre	Sparkman
Fannin	Montoya	Tower
Fulbright	Morse	
Gruening	Morton	

So Mr. MONRONEY's motion to table the amendment in the nature of a substitute of Mr. WILLIAMS of Delaware for Mr. CLARK's amendment was agreed to.

Mr. MONRONEY. Mr. President, I now move to lay the amendment of the distinguished Senator from Pennsylvania on the table, and I ask for the yeas and nays.

Mr. STENNIS. Mr. President, may we have order, so that the Senator from Oklahoma may be heard?

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. CANNON in the chair). The question is on agreeing to the motion of the Senator from Oklahoma to table the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered.

Mr. DIRKSEN. Mr. President, the call of the roll has not yet started. I have some unanimous-consent requests.

I ask unanimous consent that the next printing of Senate Resolution 8——

The PRESIDING OFFICER. The motion to table has been made.

Mr. DIRKSEN. But the call of the roll has not been started.

The PRESIDING OFFICER. A motion to table is not debatable. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Indiana [Mr. BAYH], the Senator from Maryland [Mr. BREWSTER], the Senator from Idaho [Mr. CHURCH], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Montana [Mr. MANSFIELD], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. MOSS], the Senator from Georgia [Mr. RUSSELL], and the Senator from Alabama [Mr. SPARKMAN] are absent on official business.

I also announce that the Senator from Mississippi [Mr. EASTLAND], the Senator from Indiana [Mr. HARTKE], the Senator from Wisconsin [Mr. NELSON], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

On this vote, the Senator from Oregon [Mr. MORSE] is paired with the Senator from Florida [Mr. SMATHERS].

If present and voting, the Senator from Oregon would vote "nay" and the Senator from Florida would vote "yea."

I further announce that, if present and voting, the Senator from Maryland [Mr. BREWSTER], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Wisconsin [Mr. NELSON] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN], the Senator from Arizona [Mr. FANNIN], and the Senator from Idaho [Mr. JORDAN] are absent on official business of the Interparliamentary Union.

The Senator from New Hampshire [Mr. COTTON], the Senator from Kentucky [Mr. MORTON], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The Senator from Texas [Mr. TOWER] is absent on official business.

The Senator from New York [Mr. JAVITS] is detained on official business.

If present and voting, the Senator from Arizona [Mr. FANNIN] would vote "yea."

On this vote, the Senator from Texas [Mr. TOWER] is paired with the Senator from Kentucky [Mr. MORTON]. If present and voting, the Senator from Texas would vote "yea" and the Senator from Kentucky would vote "nay."

The result was announced—yeas 45, nays 30, as follows:

[No. 25 Leg.]

YEAS—45

Allott	Ellender	McClellan
Anderson	Ervin	Metcalf
Baker	Hansen	Miller
Bartlett	Harris	Monroney
Bennett	Hatfield	Mundt
Bible	Hayden	Murphy
Boggs	Hickenlooper	Muskie
Brooke	Hill	Pearson
Byrd, Va.	Holland	Pell
Byrd, W. Va.	Hruska	Prouty
Cannon	Inouye	Randolph
Carlson	Jordan, N.C.	Smith
Curtis	Long, Mo.	Stennis
Dirksen	Long, La.	Talmadge
Dominick	McCarthy	Young, N. Dak.

NAYS—30

Burdick	Kennedy, Mass.	Ribicoff
Case	Kennedy, N.Y.	Scott
Clark	Kuchel	Spong
Cooper	Lausche	Symington
Dodd	Magnuson	Thurmond
Fong	McGee	Tydings
Gore	McGovern	Williams, N.J.
Griffin	Mondale	Williams, Del.
Hart	Pastore	Yarborough
Jackson	Proxmire	Young, Ohio

NOT VOTING—25

Aiken	Hartke	Moss
Bayh	Hollings	Nelson
Brewster	Javits	Percy
Church	Jordan, Idaho	Russell
Cotton	Mansfield	Smathers
Eastland	McIntyre	Sparkman
Fannin	Montoya	Tower
Fulbright	Morse	
Gruening	Morton	

So Mr. MONRONEY's motion to table Mr. CLARK's amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

THE SENATE JOURNAL

Mr. DIRKSEN. Mr. President, I have caused to be prepared a statement with

regard to the Senate Journal which I think will be of interest to all Senators.

The Journal is the official proceedings of the U.S. Senate; it was provided for by our Founding Fathers in the Constitution of the United States, article I, section 5, subsection 3 of which states:

Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the Members of either House on any question shall, at the desire of one fifth of those present, be entered on the Journal.

Rule III, paragraph 1 of the Standing Rules of the Senate, adopted April 16, 1789, states:

The Presiding Officer having taken the chair, and a quorum being present, the Journal of the preceding day shall be read, and any mistake made in the entries corrected. The reading of the Journal shall not be suspended unless by unanimous consent; and when any motion shall be made to amend or correct the same, it shall be deemed a privileged question, and proceeded with until disposed of.; and

Rule IV, adopted May 19, 1789, amended March 12, 1792, and further amended February 14, 1928, states further:

1. The proceedings of the Senate shall be briefly and accurately stated on the Journal. Messages of the President in full; titles of bills and joint resolutions, and such parts as shall be affected by proposed amendments; every vote, and a brief statement of the contents of each petition, memorial, or paper presented to the Senate, shall be entered.

2. The legislative, the executive, the confidential legislative proceedings, and the proceedings when sitting as a Court of Impeachment, shall each be recorded in a separate book.

The Journal also includes conference reports in full, messages from the House of Representatives, reports of committees, and so forth.

The Journal Clerk takes notes of the daily proceedings, and enters the same in long hand in the large red "minute book" which is at the rostrum, and the information entered therein is available to every Senator.

Sitting to the right of the Presiding Officer and facing the Senators, motions made are readily heard by him. All communications, reports of committees, bills introduced, and so forth, pass through his hands and are recorded, prior to being forwarded to other clerks. The "minute book" is a continuity of legislative action.

Notes are sent to the Assistant Journal Clerk, who types the proceedings in manuscript form. The manuscript is then checked against the entries in the "minute book."

If, at the conclusion of a day's session, there should be a question raised as to the recording of a certain vote, or the action on a given measure, the Journal may be read for verification at the next day's session, and amendments considered thereto.

The manuscript, upon approval, becomes the official proceedings of the Senate, and is sent to the Government Printing Office, where 15 copies of the—daily—proceedings are prepared. Upon their return, the printed proceedings are checked against the manuscript, and distributed to the Journal staff and other interested parties—the Secretary of the Senate, Parliamentarians, Enrolling Clerk, the Committee on Rules and Administration, the Committee on Appropriations, and so forth.

The manuscript is retained in the possession of the Journal Clerk until the end of the congressional session, and is then sent, together with the "minute book" and rollcall votes, to the National Archives for posterity.

The printed bound Journal is available for each Senator not later than January of each year, and distribution is also made to depository libraries nationwide.

Because of the additional time available in the preparation of the Journal, there is less probability of error, although the Journal Clerk—Mr. Somers—stated that on one occasion during the 1966 session, it was necessary to return several pages of the printed proceedings to the Government Printing Office on 3 successive days to correct errors in their printing of same.

The Journal Clerk and his assistant are often found working late, verifying amendments to various bills, checking rollcalls, and so forth. It requires considerable scrutiny, proofreading, and knowledge of parliamentary procedure to prepare an accurate, authoritative interpretation of the legislative proceedings of the U.S. Senate.

Recent proposals to incorporate the Journal with the CONGRESSIONAL RECORD would impair the efficiency and accuracy of the Journal, due to the deadline required in the printing of the daily RECORD. It would necessitate additional staff plus increased costs for duplication in printing much of the same material. The cost per page of the printed RECORD is $110, compared to less than $50 for a page of the Journal.

ESTABLISHMENT OF SILVER RESERVE FOR NATIONAL DEFENSE PURPOSES

Mr. DOMINICK. Mr. President, I send to the desk, on behalf of myself and my colleague [Mr. ALLOTT], for appropriate reference, a bill which would direct the Secretary of the Treasury to establish a reserve of 165 million ounces of silver for national defense purposes. The figure of 165 million ounces of silver corresponds with the stockpile objective as established by the Office of Emergency Planning. I introduced similar legislation in the last Congress calling for a specific set aside of silver for defense purposes as I feared we would soon be in a position where we would not have enough silver in our free Treasury reserves to meet our stockpile objectives.

Mr. President, I regret to report that my fears have been confirmed. We no longer have enough silver in our unobligated silver reserves to meet the defense objectives as established by the Office of Emergency Planning. During the latter part of 1966, our free reserves of silver dropped below the 165 million ounces established as our stockpile objective, and the drain on our reserves is presently continuing at a dramatic rate. I am informed by the Treasury that, as of January 27, the total supply of silver held in reserves amounted to 570,103,038.2 fine troy ounces of which roughly 434,950,010.4 ounces is monetized by law to secure silver certificates leaving only 135,153,027.8 ounces as unobligated or free silver which can legally be used for defense or industrial purposes. Assuming that all free silver now held by the Treasury were "set-aside" for defense stockpile purposes, the following chart clearly shows that we would currently be nearly 30 million ounces short of having enough free silver to meet our stockpile objective:

	Ounces
Stockpile objective	165,000,000
Balance of free silver as of January 27	135,153,027
Deficit	29,846,973

The following chart gives a good indication of the dramatic reduction in our silver reserves during representative months in the past year:

[In fine troy ounces]

	Total silver held in reserves [1]	Silver monetized to secure silver certificates	Balance of (free) silver
December 1965	801,319,743	529,474,026	271,845,717
June 1966	687,118,769	463,355,565	223,763,204
October 1966	615,666,831	442,480,991	173,185,840
November 1966	601,477,455	439,769,779	161,707,676
December 1966	592,918,102	437,657,325	154,960,777
Jan. 27, 1967	570,103,038	434,950,010	135,153,027

[1] Does not include 2-plus million silver dollars.

We have passed the brink of concern—we are now face to face with another silver crisis. We are in this present dilemma largely because we have failed to develop a workable silver policy. In fact, we are suffering from what I call a "nonsilver" silver policy which has produced no policy and not enough silver. We have stumbled from silver crisis to silver crisis reacting to the situation with remedial legislation rather than with permanent solutions.

Since the early 1960's it has been apparent that we were facing a major shift in our silver situation. Since that time, our consumption of silver has continuously exceeded predictions and the depletion of U.S. Treasury reserves has surpassed the Government's efforts to stem the decline. The first crisis during this period can be traced back to as early as 1961. Reacting to the rapid depletion in silver reserves, the Treasury in November 1961, suspended silver sales to U.S. industrial users as $0.91 an ounce. Like today, the Treasury had been making these sales from its free reserves—reserves not required for backing for silver certificates. Unfortunately, three things occurred which sharpened the crisis: the demand for silver coinage increased faster than predicted, industrial use greatly expanded, and coinage demands from foreign countries increased. As a "reaction" to the crisis, Public Law 88–36 was enacted in June 1963, to alleviate the problem of our decreasing reserves. Public Law 88–36 repealed the Silver Purchase Act and provided for the redemption and eventual retirement of all silver certificates. Many of us, particularly those of us from the Western States, opposed this move for we saw it as a convenient method for the Treasury to depress and control the market price of silver. Our worst predictions have come true and silver continues to flow out of the Treasury to industrial users

under the guise of redeeming silver certificates. The act did, however, temporarily relieve the silver crisis as the redemption and retirement of silver certificates released or freed silver previously needed for the backing of the certificates.

The 1963 act also confirmed the redeemability of silver certificates for bullion at $1.2929 an ounce which made the Treasury Department a residual supplier for industrial demands in excess of silver available through commercial outlets.

By the fall of 1963 the price of silver had risen from $0.9162 to a market level of $1.2930, slightly higher than the monetary value of $1.2939. Based on the monetary value, the three-fourths of an ounce of silver contained in a silver dollar has a market value of $1, and it was apparent that, if the price moved higher, the silver content of the coin would be worth more than its value as a coin.

Nothing was done in the 1963 act about silver subsidiary coins. Supplies were already short and during 1963 and 1964 coin usage expanded even more than predicted. The minting of coins was stepped up dramatically and by 1965 the situation had improved to some extent. Obviously, the amount of silver required to make the additional coinage also rose sharply in proportion to the speedup in minting. It became obvious that, if the coins were to continue to have a silver content of 90 percent, our silver policy would have to be either revamped to increase production of silver or our silver reserves would soon be exhausted. Another crisis loomed.

To cope with the new crisis, the Treasury made several recommendations for what, again, I feel was an ill-advised and remedial solution to the problem. The recommendations basically called for a reduction in the silver content of the silver dollar from 90 percent to 40 percent and suspension of the production of silver dollars for 5 years from July 23, 1965, plus the removal of all silver from our dimes and quarters and the establishment of a Joint Commission on the Coinage. Against the protests of many of us in Congress, the Treasury recommendations were basicaly adopted and they became the Coinage Act of 1965. Hence, another silver crisis was temporarily averted. In fact, though, the net result was that our coins were debased and the groundwork was laid for our present dilemma.

Now, a year and a half after enactment of legislation to cut the use of silver in coinage, the Treasury is still predictably faced with a drain on its reserves. The fact that we used only 53,852,000 ounces of silver for coinage in 1966 as opposed to 320,658,000 ounces in 1965 and 203,170,000 in 1964 has done little to stem the flow of silver from our Treasury reserves.

Commercial and industrial users of silver have continued to use Treasury silver as their own private silver mine, without regard to our need for silver for defense, coinage, and redemption of silver certificates. Unfortunately, our present system holds down silver prices and hence production of silver has not materially increased. Silver is increasingly needed in greater quantity for a wide variety of products including metal bonding, batteries, electronic components, and photography, not to mention specific military requirements.

Preliminary figures indicate that the world consumption of silver for industrial purposes reached an all time high in 1966 of 356.5 million ounces up from 346.6 million ounces in 1965 and 304.2 million ounces in 1964.

Preliminary figures also indicate that 150 million ounces of silver was consumed in the United States during 1966 for use in the arts and industries, up from 137 million ounces in 1965 and 120 million ounces in 1964.

Total consumption of silver for all purposes has continued to rise until this past year when the effects of the debasing of our coins by virtue of the Coinage Act of 1965 was first felt. Because of the inordinate demand for coinage in the years just prior to the 1965 act, use of silver in coinage in the United States rose from 77.4 million ounces in 1962 to 111.5 million ounces in 1963, 203.2 million ounces in 1964, to a high of 320.6 million ounces in 1965. Preliminary figures indicate that our silver consumption for coins dropped to 53.8 million in 1966. As a consequence, our total consumptive use of silver dropped in 1966 and our reduction in use was also reflected by a reduction in the world consumption of silver. Despite the sharp decrease in consumption of silver for coinage, the United States still used 203,852,000 ounces of silver for the arts, industries, and silver processed into U.S. silver coins. Preliminary figures indicate that the total world consumption of silver during 1966 amounted to 463.9 million ounces. I ask unanimous consent that the chart marked exhibit 1 showing the world use of silver since 1965 be included in the RECORD following my remarks and the chart marked exhibit 2 showing the U.S. consumption of silver for that same period be inserted in the RECORD following my remarks.

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

(See exhibits 1 and 2.)

Mr. DOMINICK. Despite the reduction in the use of silver for coinage, both the United States and world output of silver is still far below consumption creating what has been frequently referred to as the silver gap. World production of silver in 1965 was approximately 250 million ounces while the United States produced only 39 million ounces. Definitive world production figures for 1966 are not yet available, but the preliminary U.S. figures indicate that our domestic production rose only slightly to 42.5 million ounces in 1966.

Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks a chart showing U.S. production.

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

(See exhibit 3.)

Mr. DOMINICK. Mr. President, consumption of silver for the arts and industries in the United States has grown in the past 6 years from 102 million ounces in 1960 to 150 million ounces in 1966 while at the same time our domestic production has remained at between 35 and 42.5 million ounces as shown on exhibit 3. The problem is further compounded by the fact that exports of silver during 1966 exceeded imports. Our exports of silver through November 1966, totaled 109.4 million ounces while we imported only 72.9 million ounces for a net loss of 36.4 million ounces. While December's figures are expected to partially correct this situation, it is clear that our exports during 1966 will exceed imports by a significant amount. Thus, while our total domestic consumption of silver for the arts and industries continues to climb out of the taxpayers treasury silver mine and with silver processed into coinage totaling 203,852,000 ounces, our domestic production was only 42.5 million ounces or a ratio of almost 5 to 1 of consumption over production. Even without taking exports and coinage into consideration, our domestic consumption of silver exceeded production by over 100 million ounces in 1966. Chart follows:

[Estimated figures]

Consumption for arts and industries in United States in 1966	150,000,000
Production in United States in 1966	42,500,000
Total	—107,500,000

Since the Treasury has been maintaining the price of silver at $1.2929 to prevent the melting of our silver coinage, consumers of silver look to the Treasury to fill the gap between production and consumption. As long as the price is maintained at $1.29, it is certain that there will be no upsurge in the domestic production of silver and industry will continue to buy silver from the Treasury at the bargain rate price of $1.29. As long as this circumstance exists, our silver reserves will continue to drop at the present dramatic rate.

How long can our present Treasury silver reserves be expected to last? The answer to this question finds our silver "experts" in sharp disagreement. The rapid outflow of silver has apparently caught the Treasury by surprise because in hearings held before the Senate Committee on Banking and Currency in 1964, the Treasury predicted that its then present reserves would last until 1972. It is apparent that this estimate was totally inaccurate and, in fact, if our present "nonsilver" silver policy is to be continued, we will be out of silver far ahead of the 1972 prediction made by the Treasury.

I have already indicated that our month's end reserves excluding silver dollars, had dwindled to 570,103,038 ounces and excluding silver monetized by law to back silver certificates, we had only 135,153,027 free ounces of silver which can legally be used for sale to fill the silver gap or for defense purposes, should the need arise.

As I previously indicated, our requirements for the arts, industries, and coinage consumed 203,852,000 ounces during 1966. While it has been predicted by the

Treasury that our requirements for silver for coinage will be reduced by approximately 30 million ounces in 1967, our rquirements for the arts and industries will undoubtedly increase substantially above the 150 million ounces consumed in 1966. This, then, will predictably find our total U.S. silver consumption for 1967 once again, in the neighborhood of 200 million ounces. The exchange of silver certificates and their subsequent retirement has tapered off considerably and therefore, our total reserves will continue to diminish while our free reserves will unquestionably decrease at the present dramatic rate, leaving us with little or no free silver by the end of 1967.

This, then, points up the need to set aside a specific reserve now for stockpile purposes if we are to have any silver available for defense purposes by the end of this year.

The Office of Emergency Planning is concerned about the existing silver situation and the Honorable Farris Bryant, Director of the Office of Emergency Planning, wrote to Secretary Fowler expressing his concern on October 13, 1966. Noting the small balance of silver the remaining in the Treasury's reserves, Director Bryant stated:

> In view of the small balance of silver remaining in the Treasury, I should like to receive some assurance from you that the 165 million ounces of silver needed for the national stockpile will be reserved for that purpose.

I ask unanimous consent that the full text of the letter from the Director of the Office of Emergency Planning to the Secretary of the Treasury be included at this point in the RECORD and that the reply to the letter from Secretary Fowler also be included at this point in the RECORD.

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

(See exhibits 4 and 5.)

Mr. DOMINICK. Mr. President, it is interesting to note that Secretary Fowler again repeats in his October letter the promise of June 1965 to retain enough silver in reserve to meet our stockpile objectives "unless its use were to become necessary for critical national needs during the transition period to the new coinage materials, including without limitation, the exchange for silver certificates or outright sale of the silver where necessary to maintain the price of silver at $1.29 plus per ounce."

Secretary Fowler in his letter also optimistically noted that "Although decreasing monthly, we still continue to get back silver certificates from the public which frees silver to offset withdrawals." Indications are that the flow-back of certificates will continue to decline and less and less silver will be freed to offset withdrawals.

Even more interesting, however, is Secretary Fowler's continued reluctance to actually "set-aside" the silver necessary for our national stockpile objective. Instead, the Secretary suggests that more remedial legislation may be necessary to free more silver in order to maintain the price of silver at $1.29 and thus presumably prevent the melting of silver coins during the "critical" transition period. What the Secretary proposes in his letter is the removal of silver backing from all or part of our silver certificates to free more silver so that the Treasury may continue to sell silver at $1.29 and thus continue to protect our silver coinage. This would then free for sale to consumers the silver now held to monetize our silver certificates. Aside from the monetary folly of removing silver backing from the certificates and the breach of contract implicit therein, figures furnished me by the Treasury Department as well as estimates for future industrial use would indicate that this would still only temporarily relieve the present silver crisis. Assuming all monetized silver were released, and our total reserves were available, this would still only leave us with 570,103,038.2 ounces. As stated earlier, preliminary figures indicate that the arts and industries last year consumed 150 million ounces. It appears very likely that this figure will again increase substantially. You will remember that the amounts used for the arts and industries increased from 120 million ounces in 1964 to 137 million ounces in 1965 to a new high of 150 million ounces in 1966. It is safe to predict that the figure consumed by the arts and industries may well exceed 165 million ounces for 1967 and this, when added to the Treasury estimate of 30 million ounces to be used for coinage in 1965, we can readily see that the consumption in 1967 will again be in the neighborhood of 200 million ounces. This means, then, that we may well now have only a 2½-year supply of silver in our total reserves—most of which must now be legally held to back outstanding silver certificates. Without specific new legislation, only the free silver may be sold for commercial use and this figure now stands at month end at only 135,153,027.8 ounces.

Mr. President, I think it is time to examine our "nonsilver" silver policy and determine if it is in the best interests of the country to maintain the price of silver at $1.29. As long as this price is maintained, it is certain that there will be no significant increase in the domestic production of silver and industry will continue to buy silver from their private Treasury mine at this bargain price.

Certainly, if the primary policy consideration for maintaining the price of silver is to prevent the melting of silver coinage during the transition period, it is unequivocally time to assess our silver policy in light of our present coin supply. Though I have never been able to accurately substantiate the date, I have frequently been told by various sources that the transition period from silver coinage to new coinage would take 3 years and should be completed by June 1968. If, however, I read the current signs correctly, we may have already passed through the transition period and reached the point where it is unnecessary, even under the administration's philosophy of silver, to further maintain the price of silver at $1.29.

It is not too fruitful to speak in absolute terms when talking about coinage as, apparently, there have been no definitive techniques developed for forecasting coin requirements.

The findings and conclusions contained in House Report No. 1468 entitled "The Coin Situation" published in May 1966, states that, "the Treasury presently has no better means for measuring coin production and distribution needs than it had at the inception of the coin shortage." While noting that the Treasury is working on the problem and hopes to develop a means of predicting coin needs, the report further states that "although this committee in its earlier reports has urged the monetary agencies to take steps to devise more exact means for determining coin needs, no techniques for such forecasting of coin requirements have been developed to this point."

However, even as early as May of last year this same report gave indications that the transition period to new coinage was well within sight. Quoting variously from the conclusions, "There is presently no overall shortage of pennies, nickels, dimes, or quarters, the coins most essential to commerce." "Except for half dollars, coin production now may be more than meeting demand." "High coin inventories at Federal Reserve banks are creating storage problems; the banks are no longer rebagging coins, accepting wrapped coins, or paying transportation charges to induce shipment of coin to them as they did when faced with coin shortages." "While the Treasury has indicated that it expects the transition period to last a year or so, the fact is that the Treasury does not now have any means of determining how long the transition will take." "The Philadelphia and Denver Mints and the minting facilities of the San Francisco Assay Office still operate on a crash basis of 24 hours a day, 7 days a week. No decision has yet been made by Treasury on when such crash method of operation will be terminated, but it has indications that it plans to continue with the program until the transition period of introducing the new clad coin has been completed and until a 1-year inventory of coin of all denominations is available."

In this regard, I have been informed by the U.S. Mint that they have eliminated their crash program and reverted from a 7-day week to a 5-day week last November. I have been informed that the suppliers of the strips necessary in minting the new coinage were able to produce at a higher rate than previously expected and this has greatly helped to eliminate the problem and speed the transition period. In short, it would appear that signs point to the fact that the coinage shortage may well be over and that the transition has been achieved. If this is true, I think it is most imprudent to maintain the price of silver at the unrealistic price of $1.29. We need to examine our nonsilver silver policy with the goal in mind of stimulating production—even if it means doing so by the time-honored device of letting the silver seek its own price in the open marketplace.

Therefore, Mr. President, I am proposing two things. First, that we concern ourselves immediately with our dwindling silver reserves in light of our na-

tional stockpile objective, and second, that we examine our entire silver policy with a view in mind of developing a definitive policy as opposed to reacting to the present silver crisis on a piecemeal basis.

EXHIBIT 1

World silver consumption, 1949–66

[In millions of fine ounces] [1]

Calendar year	Used in arts and industries	Used in coinage	Total
1949	132.5	83.8	216.3
1950	157.4	44.1	201.5
1951	165.0	90.5	255.5
1952	142.1	114.3	256.4
1953	168.3	90.8	259.1
1954	160.8	83.4	244.2
1955	192.8	52.6	245.4
1956	210.2	56.5	266.7
1957	212.6	84.2	296.8
1958	190.5	79.5	270.0
1959	212.9	86.4	299.3
1960	224.6	103.9	328.5
1961	239.5	137.1	376.6
1962	258.2	127.6	385.8
1963	260.7	166.4	427.1
1964	304.2	267.1	571.3
1965	346.6	375.6	722.2
1966	356.5	107.4	463.9

[1] Preliminary figure, free world.

EXHIBIT 2

U.S. silver consumption in industries and the arts, and silver processed into U.S. silver coins, calendar years 1950–66

[In thousands of fine ounces]

Calendar year	Silver consumed in industries and arts	Silver processed into U.S. silver coins [1]	Total (silver consumed in industries and arts and in U.S. coinage)
1950	110,000	24,599	134,599
1951	105,000	44,440	149,440
1952	96,500	57,338	153,838
1953	106,000	42,756	148,756
1954	86,000	53,204	139,204
1955	101,400	8,249	109,649
1956	100,000	31,373	131,373
1957	95,400	52,131	147,531
1958	85,500	38,133	123,633
1959	101,000	41,437	142,437
1960	102,000	46,046	148,046
1961	105,500	55,930	161,430
1962	110,400	77,399	187,799
1963	110,000	111,504	221,504
1964	120,500	203,170	323,670
1965	137,000	320,658	457,658
1966 [2]	150,000	53,852	203,852

[1] Silver content at standard weight.
[2] Preliminary.

Source: Bureau of the Mint.

EXHIBIT 3

Annual U.S. refinery production of silver, 1950–66

[In millions of fine ounces]

Calendar year	U.S. production (excluding Philippines)	Idaho	Utah	Arizona	Montana	Colorado	All other States
1950	42.3	16.0	6.8	5.1	7.2	3.3	3.9
1951	39.9	16.0	6.3	5.0	6.4	3.0	3.2
1952	39.8	14.5	7.5	4.6	6.5	3.0	3.7
1953	37.7	14.5	7.0	4.4	6.6	2.4	2.8
1954	35.6	15.0	6.1	4.3	5.5	2.6	2.1
1955	36.5	14.0	6.3	4.6	5.8	2.5	3.3
1956	38.7	13.5	6.3	5.1	7.4	2.3	4.1
1957	38.7	15.0	6.6	5.3	5.9	2.8	3.1
1958	36.8	16.1	6.0	5.0	4.5	2.3	2.9
1959	23.0	9.0	4.2	3.6	3.1	.9	2.2
1960	36.8	17.8	5.1	5.3	4.0	2.1	2.5
1961	34.9	17.5	4.7	5.1	3.6	2.0	2.0
1962	36.3	17.0	4.7	5.3	4.5	2.2	2.6
1963	35.0	16.5	4.5	5.5	4.0	2.5	2.0
1964	37.0	16.6	4.6	6.0	5.5	2.7	1.6
1965	39.0	18.1	5.2	6.1	5.1	2.0	2.5
1966 [1]	42.5	19.4	7.5	6.2	4.9	2.1	2.4

[1] Preliminary.

EXHIBIT 4

Hon. HENRY H. FOWLER,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: On June 14, 1965, you wrote Governor Buford Ellington, then Director of the Office of Emergency Planning, that in accordance with staff discussions held by the Office of Emergency Planning and the Treasury Department, the Treasury Department was prepared, with certain reservations, to reserve 165 million fine troy ounces of silver to meet the silver stockpile objective that had been established by the Office of Emergency Planning.

From the Daily Statements of the United States Treasury I note that as of September 30, 1966, the Treasury held 631,141,120 fine troy ounces of silver, of which only 181,687,234 ounces, including 2,304,508 ounces in silver dollars, were not monetized to secure silver certificates.

In view of the small balance of silver remaining in the Treasury, I should like to receive some assurance from you that the 165 million ounces of silver needed for the National Stockpile will be reserved for that purpose.

Sincerely,

FARRIS BRYANT,
Director.

EXHIBIT 5

THE SECRETARY OF THE TREASURY,
Washington, D.C., October 28, 1966.

Hon. FARRIS BRYANT,
Director, Office of Emergency Planning,
Executive Office Building Annex,
Washington, D.C.

DEAR GOVERNOR BRYANT: This is in reference to your letter of October 13, 1966, concerning the agreement to reserve 165 million fine troy ounces of silver to meet the silver stockpile objective that was established by the Office of Emergency Planning.

The Department still stands ready to hold this amount of silver aside for that purpose under the conditions set forth in my letter of June 14, 1965, namely, unless its use were to become necessary for critical national needs during the transition period to the new coinage materials, including without limitation, the exchange for silver certificates or outright sale of the silver where necessary to maintain the price of silver at $1.29+ per ounce. If such critical use were to become necessary it would only be made after consultation with the Office of Emergency Planning.

The tight coinage situation which prevailed at the time of my letter of June 14, 1965, has eased and there has been a flow back of subsidiary coins to the Federal Reserve Banks. Production of the new coins has been substantial and is continuing at a heavy rate, thus permitting us to build an inventory of coins of the new materials, with the exception of the half dollar, which we do not consider to be critical as a medium of exchange to transact business.

The stock of silver to which you refer was 622+ million ounces on October 19, 1966, of which 444+ million was held as backing for silver certificates outside of the Treasury and 177+ million ounces was free silver controlled by the Treasury. Although decreasing monthly, we still continue to get back silver certificates from the public which frees silver to offset withdrawals.

We are of the opinion that a great many of the silver certificates which are shown on the "Daily Statement of the United States Treasury" to be in the hands of the public will never be presented for redemption. Inasmuch as the majority of these certificates were of the $1 denomination, we believe that many of them are being held by collectors and speculators and others. Also, we can count on a large number having been lost or destroyed. At a time we believe to be appropriate, legislation will be requested to permit the Treasury to write off an amount of silver certificates to offset the ones that we believe will not be presented for redemption. This will free silver for other uses, including silver for the stockpile. This legislation will be similar to the Old Series Currency Adjustment Act of 1961, (P.L. 87–66), which gives the Secretary of the Treasury the authority to write off currency which, in his judgment, has been destroyed or irretrievably lost and so will never be presented for redemption.

Sincerely yours,

HENRY H. FOWLER.

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

The bill (S. 925) to direct the Secretary of the Treasury to establish a reserve of at least 165 million ounces of silver for national defense purposes, introduced by Mr. ALLOTT (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Banking and Currency.

LEGISLATIVE REORGANIZATION ACT OF 1967

The Senate resumed the consideration of the bill (S. 355) to improve the operation of the legislative branch of the Federal Government, and for other purposes.

Mr. DIRKSEN. Mr. President, I would like to ask the Senator from Oklahoma [Mr. MONRONEY] as to the program for the remainder of the day and the week.

Mr. MONRONEY. I am not informed what the program is for Thursday, except for the request I am going to make that the morning hour be abandoned tomorrow so that we can proceed with one more Clark amendment and hope to complete action thereon by 1 o'clock or 1:30. We plan to continue the session this afternoon with debate on that proposal and use as much time as we can. We will reserve 10 minutes on each side for debate tomorrow.

Mr. DIRKSEN. I wish to call the attention of the Senator from Oklahoma [Mr. MONRONEY] to the fact that we have 23 absent Senators now. There are others who are leaving tonight, and there will be still others leaving tomorrow morning.

It would occur to me that we might as well vote on the other amendment, No. 23, which the Senator from Pennsylvania has. It occurs to me it would not have to be discussed long. This whole subject matter has been discussed all day. I believe that 10 minutes on each side would be ample time before a vote.

Mr. CLARK. Mr. President, I regret very much to have to oppose the distinguished Senator from Illinois, but I do wish to say that I am making a record in connection with these amendments which may have a bearing in years ahead.

I am willing either to lay down the amendment, discuss it this evening, and vote on it tomorrow after 10 minutes allocated to each side, or put it over and vote tomorrow, or put the entire matter over until after the recess.

One thing I am adamant about is that I want a half hour to develop my case, and then I want a rollcall vote. I could not care less when I get it.

Mr. SYMINGTON. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. I yield.

Mr. SYMINGTON. I am impressed with the basic thinking behind what the minority leader has just stated. Regardless of the way my good friend the distinguished Senator from Pennsylvania feels about this particular amendment, here we have a bill and are going to take a holiday from February 9th to the 15th. It seems to me that the Senate has something else to do this year besides this particular bill.

Therefore, I would hope that the leadership would decide, so long as there are not going to be any votes between the 9th and the 15th, by agreement, to work as hard as we can and get this bill passed one way or the other.

Mr. DIRKSEN. For my part, we might just as well let it go over until we return from the Lincoln Day recess. One day more or less will not make any difference.

Mr. CLARK. That is agreeable to me. I am in the hands of the distinguished Senator in charge of the bill.

Mr. DIRKSEN. I am not the Senator in charge of the bill.

Mr. CLARK. If the Senator from Illinois will excuse a reference to his favorite poet:

> Thou canst not say I did it:
> Never shake they gory locks at me.

Mr. DIRKSEN. I was about to reply in kind, but I had better not. [Laughter.]

Mr. MONRONEY. Mr. President, I renew my request that we dispense with the morning hour tomorrow and try to get at least the final Clark amendment dealing with this subject before the Senate passed by perhaps 1 o'clock, and have no further rollcall votes on the bill for the remainder of the week.

The PRESIDING OFFICER. Does the Senator desire to recess and thereby dispense with morning business?

Mr. YOUNG of Ohio. Mr. President, I object.

The PRESIDING OFFICER. The Chair will state that the Senator should make a motion to recess rather than to adjourn, so that the morning business would be automatically dispensed with.

Mr. YOUNG of Ohio. Mr. President, I ask for a yea and nay vote on it.

Mr. CLARK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Pennsylvania will state it.

Mr. CLARK. The motion to recess has not been made so we cannot have a rollcall until it is made.

Mr. DIRKSEN. Mr. President, a motion to recess is not debatable. If we are going to make a motion, the Chair has to put the question.

The PRESIDING OFFICER. No motion to recess has been made at the present time. The Senator from Colorado [Mr. DOMINICK] has the floor and yielded only for the purpose of this inquiry.

Mr. DIRKSEN. I apologize to the Senator from Colorado.

The PRESIDING OFFICER. As soon as colloquy is concluded, the Chair will recognize the Senator from Colorado.

Mr. LONG of Louisiana. Mr. President, it has been suggested that we should come in at 11 o'clock tomorrow morning, hoping that we might adjourn earlier in doing so. I am therefore going to suggest that to the distinguished Senator in charge of the bill, the Senator from Oklahoma [Mr. MONRONEY], and also to the minority leader; and then I would propose that we continue as we were doing, to discuss the Clark amendment. Then, when we come in tomorrow, we would ask for a division of time and then have the amendment voted on.

Mr. HOLLAND. Mr. President, a parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Florida will state it.

Mr. HOLLAND. Does that part of the former discussion still apply, that discussion on the Clark amendment would largely take place tonight and tomorrow we will have only 10 minutes on a side?

The PRESIDING OFFICER. The Senator is correct.

Mr. YOUNG of Ohio. Mr. President, reserving the right to object, if we meet at 11 o'clock tomorrow morning, I desire to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Ohio will state it.

Mr. YOUNG of Ohio. Is it a part of the request that the morning hour be dispensed with? I desire to speak tomorrow for 10 minutes on a more important matter than we are discussing now. I want to serve notice that I am going to object, unless I——

RECOGNITION OF SENATOR YOUNG OF OHIO TOMORROW

Mr. DIRKSEN. We can ask unanimous consent that the Senator from Ohio can talk for 10 minutes after the vote on the Clark amendment, No. 23.

Mr. President, I make the request now. I ask unanimous consent that the very distinguished Senator from Ohio [Mr. YOUNG] be permitted to speak for 10 minutes on anything he wants to discuss, after the vote on the Clark amendment, No. 23.

Mr. YOUNG of Ohio. This is entirely agreeable to me.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MILLER. Mr. President, I should like to ask the assistant majority leader, the Senator from Louisiana [Mr. LONG], if we are going to have a rollcall vote tomorrow?

Mr. MONRONEY. If I may answer for the Senator from Louisiana, that is our intention. The author of the amendment will ask for a rollcall vote.

Mr. MAGNUSON. Mr. President, I cannot possibly be here tomorrow. I must leave on an airplane when it leaves, which is at 11 o'clock. I am going to Seattle. However, I wish to announce that if I could be in the Chamber tomorrow, I would vote in favor of the Clark amendment.

Let me add that I am going to Seattle on some very important business, too. I appreciate that the address of the Senator from Ohio [Mr. YOUNG] will be very important, and I am sorry that I will not be here to hear it, but my trip also is important.

ORDER FOR RECESS UNTIL 11 O'CLOCK A.M. TOMORROW

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that when the Senate has completed its business today, it stand in recess until 11 o'clock a.m. tomorrow; and, that on tomorrow, time on the Clark amendment be divided 10 minutes for the author of the amendment and 10 minutes to the Senator in charge of the bill, the Senator from Oklahoma [Mr. MONRONEY], at the conclusion of which, there will be a quorum call and then I would like to ask for the yeas and nays.

Mr. CLARK. Let me say to the Senator from Louisiana that I have not called up my amendment yet. If the Senator will allow me to call it up——

The PRESIDING OFFICER. There is no amendment pending. Until it is, the agreement would be out of order.

Is there objection to the unanimous-consent request? The Chair hears none, and——

Mr. CLARK. Mr. President, reserving the right to object, I did not hear the unanimous-consent request and I would like to have it restated.

Mr. LONG of Louisiana. Mr. President, the request was that when the Senate concludes its business tonight, it stand in recess until 11 o'clock tomorrow; and then, on tomorrow, time on the amendment of the Senator from Pennsylvania [Mr. CLARK] be limited to 10 minutes on each side, 10 minutes to the author of the amendment, and 10 minutes to the Senator in charge of the bill; also, that there be a quorum call at the conclusion of the limitation of time.

Mr. CLARK. Mr. President, reserving the right to object—and I probably shall not object—does the Senator from Louisiana contemplate that I may call up my amendment tonight and ask for the yeas and nays; then make my argument in chief and reserve 10 minutes for tomorrow? Will that be in accordance with the unanimous consent request of the Senator from Louisiana?

Mr. LONG of Louisiana. The Senator is correct.

Mr. CLARK. On that basis, Mr. President, I do not object.

AMENDMENT NO. 23

Mr. CLARK. Mr. President, I call up my amendment No. 23 and ask unanimous consent that it may not now be

read, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered; and the amendment will be printed in the RECORD.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Pennsylvania proposes an amendment identified as Senate amendment No. 23.

On page 2, in the table of contents, immediately after the item relating to section 122 of the bill, insert the following new item:

"Sec. 123. Standing Rules of the Senate."

On page 30, between lines 10 and 11, insert the following new section:

"STANDING RULES OF THE SENATE

"SEC. 123. The Standing Rules of the Senate are amended by adding at the end thereof the following new rule:

"'RULE XLI

"'PROHIBITED ACTIVITIES

"'1. No Member of the Senate or any officer or employee of the Senate may engage or participate in any business or financial venture, enterprise, combination or transaction with any person, firm, or corporation which is—

"'(a) engaged in any lobbying activity;

"'(b) engaged for compensation in the practice of rendering advisory or public relations services relating to the securing of contracts with the United States or any department, agency, or instrumentality thereof; or

"'(c) engaged in, or seeking to become engaged in, the performance of any construction, manufacturing, research, development, or service contract with the United States or any department, agency, or instrumentality thereof.

"'2. No Member of the Senate or any officer or employee of the Senate may accept—

"'(a) at any time from any individual, entity, or enterprise which is engaged in lobbying activity any gift of money, property, entertainment, travel, or any other valuable consideration in an amount or having a value in excess of $100; or

"'(b) within any calendar year from any such individual, entity, or enterprise such gifts in an aggregate amount or having an aggregate value in excess of $100.

"'3. No officer or employee of the Senate may be vested with or exercise any authority or responsibility for, or participate in any way in any consideration of or determination with respect to, the allocation among Members of the Senate of any funds available for use to defray expenses incurred or to be incurred by any individual for or in connection with any campaign for the nomination or election of any individual to be a Member of the Senate.

"'4. As used in this rule—

"'(a) The term "officer or employee of the Senate" means (1) an elected officer of the Senate who is not a Member of the Senate, (2) an employee of the Senate or any committee or subcommittee of the Senate, (3) the Legislative Counsel of the Senate and employees of his office, (4) an official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their duties, (5) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate, (6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate, (7) an employee of a Member of the Senate if such employee's compensation is disbursed by the Secretary of the Senate, and (8) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

"'(b) The term "lobbying activity" means any activity undertaken by any person other than a Member of the Congress to influence directly or indirectly the introduction, passage, defeat, amendment, or modification of any legislative measure in either House of the Congress.'"

Mr. CLARK. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Mr. STENNIS. Mr. President, reserving the right to object, I feel it a sense of duty to stay here until this matter is disposed of; but, as yet, there is no unanimous-consent request that we take this matter up when we convene tomorrow at 11 o'clock. There was an understanding that we do it today, after the morning hour, but we did not get to do it until well after 2:30 o'clock.

Will the Chair clarify the situation?

The PRESIDING OFFICER. The unanimous-consent request that is now pending is that the amendment of the Senator from Pennsylvania would be called up tonight. It would be debated tonight. It would be the pending business when the Senate comes in at 11 o'clock in the morning. There would be 10 minutes to a side, after which there would be a quorum call, and immediately thereafter a rollcall vote.

Mr. STENNIS. And that we would proceed——

The PRESIDING OFFICER. And when we concluded tonight, we will recess until 11 o'clock tomorrow morning, which would make the amendment of the Senator from Pennsylvania the pending business.

Mr. STENNIS. Mr. President, one further parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Mississippi will state it.

Mr. STENNIS. When are we going to get to this debate tonight? Are we going to have to wait until everyone else is through?

The PRESIDING OFFICER. The Chair cannot state that.

Mr. LONG of Louisiana. I should like to make it clear that the unanimous consent request I am making does not foreclose the right of a Senator to move to table the amendment after debate has occurred.

Mr. WILLIAMS of Delaware. Mr. President, reserving the right to object, I want to expedite the business of the Senate; but we came in here today thinking that we were going to discuss that amendment, but we had to wait around until 2:30 o'clock, I believe it was, waiting for the author of the bill to come into the Chamber. Now that we have this amendment, I see no reason to have to wait for a 10-minute limitation tomorrow, and I object.

If the Senator wants to finish it tonight, I will be glad to stay here and finish it.

The PRESIDING OFFICER. Objection is heard. Under the agreement that has already been made, there is 1 hour's limitation on the amendment. The amendment is the pending business.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that when the Senate concludes its business today, it stand in recess until 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CLARK. Mr. President, I yield myself as much time as I may require, but I would like, if I may, to have the attention of the Senator from Oklahoma [Mr. MONRONEY] and the Senator from Mississippi [Mr. STENNIS], if he is still in the Chamber, and the Senator from Louisiana [Mr. LONG]. I should like to inquire as to what their joint desire is about coming to a vote tonight.

Mr. MONRONEY. Several Senators left on the assurance that they would not miss a vote and that on tomorrow the debate on the amendment would be limited to 10 minutes to a side.

Mr. CLARK. Mr. President, since the amendment will be printed in the RECORD which we will receive tomorrow, I shall not ask that it be read again.

Mr. President, I desire to modify my amendment in order to clarify the definition of the word "gift." I modify it on page 4 after line 8, by inserting the following subsection (c):

The term "gift" does not include an honorarium or other compensation for services rendered or a campaign contribution.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. CLARK. Yes.

I ask unanimous consent that the amendment as modified be printed in the RECORD at this point.

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

On page 2, in the table of contents, immediately after the item relating to section 122 of the bill, insert the following new item:

"SEC. 123. Standing Rules of the Senate."

On page 30, between lines 10 and 11, insert the following new section:

"Standing Rules of the Senate

"SEC. 123. The Standing Rules of the Senate are amended by adding at the end thereof the following new rule:

"'RULE XLI

"'Prohibited activities

"'1. No Member of the Senate or any officer or employee of the Senate may engage or participate in any business or financial venture, enterprise, combination or transaction with any person, firm, or corporation which is—

"'(a) engaged in any lobbying activity;

"'(b) engaged for compensation in the practice of rendering advisory or public relations services relating to the securing of contracts with the United States or any department, agency, or instrumentality thereof; or

"'(c) engaged in, or seeking to become engaged in, the performance of any construction, manufacturing, research, development, or service contract with the United States or any department, agency, or instrumentality thereof.

"'(2) No Member of the Senate or any officer or employee of the Senate may accept—

"'(a) at any time from any individual, entity, or enterprise which is engaged in lobbying activity any gift of money, property, entertainment, travel, or any other valuable consideration in an amount or having a value in excess of $100; or

"'(b) within any calendar year from any such individual, entity, or enterprise such gifts in an aggregate amount or having an aggregate value in excess of $100.

"'3. No officer or employee of the Senate may be vested with or exercise any authority or responsibility for, or participate in any way in any consideration of or determination with respect to, the allocation among Members of the Senate of any funds available for use to defray expenses incurred or to be incurred by any individual for or in connection with any campaign for the nomination or election of any individual to be a Member of the Senate.

"'4. As used in this rule—

"'(a) The term "officer or employee of the Senate" means (1) an elected officer of the Senate who is not a Member of the Senate, (2) an employee of the Senate or any committee or subcommittee of the Senate, (3) the Legislative Counsel of the Senate and employees of his office, (4) an official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their duties, (5) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate, (6) an employee of the Vice President if such employee's compensation is disbursed by the the Secretary of the Senate, (7) an employee of a Member of the Senate if such employee's compensation is disbursed by the Secretary of the Senate, and (8) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

"'(b) The term "lobbying activity" means any activity undertaken by any person other than a Member of the Congress to influence directly or indirectly the introduction, passage, defeat, amendment, or modification of any legislative measure in either House of the Congress.'"

"'(c) The term "gift" does not include an honorarium or other compensation for services rendered or a campaign contribution.'"

Mr. CLARK. Mr. President, the proposed rule would prohibit Senators or Senate officers or employees from engaging in joint ventures with lobbyists and from accepting gifts worth more than $100 from lobbyists.

To paraphrase the text of the amendment, no Member of the Senate or any officer or employee of the Senate may engage or participate in any business or financial venture, enterprise, combination, or transaction with any person, firm, or corporation, which is engaged in any lobbying activity; or engaged for compensation in the practice of rendering advisory or public relations services relating to the securing of contracts with the United States or any department, agency, or instrumentality thereof; or engaged in, seeking to become engaged in, the performance of any construction, manufacturing, research, development, or service contract with the United States or any department, agency, or instrumentality thereof.

The amendment further provides that no Member of the Senate or any officer or employee of the Senate shall receive a gift from any individual or enterprise engaged in lobbying in an amount having a value of more than $100.

Mr. LAUSCHE. Mr. President, will the Senator yield at that point?

Mr. CLARK. I yield.

Mr. LAUSCHE. Why would the Senator put a limitation of $100 on the amount of a gift? If it is wrong, why should a gift less than $100 be right and a gift of $100 or more from a lobbyist be wrong?

Mr. CLARK. In answer to the question, let me say that I have a personal rule of my own, which I copied from the former Senator from Illinois [Mr. Douglas] that I would not receive, and I have not received, during my tenure in office, a gift which was worth more than $5.

When inflation came along—and it did—I upped the ante to $10. I thought perhaps the sensibilities of some of my colleagues would be better served if I made the amount $100. I think—and I say this seriously—that it takes more than $100 to bribe a Senator.

If the Senator from Ohio wants to move to modify my amendment from the $100 figure to what he thinks more proper, I will seriously consider modifying my amendment, but I would hope he would not place the amount so low that it would cost more to send the gift back by parcel post than to keep it.

Mr. LAUSCHE. During my whole career I have absolutely rejected, in my campaign efforts, any contribution from persons who had special interests in getting contracts from the Government. In my opinion, the Senator's proposal would be far more acceptable to me if he would provide that contributions from lobbyists are wrong and should not be accepted.

Mr. CLARK. May I say to my friend from Ohio that I am not talking about campaign contributions; I am talking about gifts.

Mr. LAUSCHE. That is still worse.

Mr. CLARK. If my friend can get several of his colleagues to join with him——

Mr. LAUSCHE. Would the Senator modify his amendment?

Mr. CLARK. If the Senator from Ohio tomorrow will find as few as two or three Members who would agree with him in such a proposal—perhaps the Senator from Delaware will—I would seriously consider modifying my amendment, but I do not want to do it merely at the suggestion of one Senator.

Mr. LAUSCHE. I recognize the legitimate interest and purpose of the Senator from Pennsylvania to achieve an objective that would eliminate the deleterious impact of lobbyists making contributions. I recognize that, in order to get his amendment through, he has mollified some persons in one respect by fixing the amount at $100.

Mr. CLARK. I thank my friend for his generous comments.

Mr. President, the other provision of the proposed rule, which I have not referred to, is quite important. It provides that no officer or employee of the Senate may be vested with or exercise any authority or responsibility for, or participate in any way in any consideration of or determination with respect to, the allocation among Members of the Senate of any funds available for use to defray expenses incurred or to be incurred by any individual for or in connection with any campaign for the nomination or election of any individual to be a Member of the Senate.

As we all know, in the Bobby Baker case, Bobby Baker collected goodness knows how many thousands of dollars in campaign contributions.

This was brought out very clearly in his criminal trial. I would fear that in years past, other Senate employees or officers have also collected, by reason of their connection with Members of the Senate or with committees of the Senate, substantial campaign contributions.

I do not say that that is necessarily wrong. But I do say that any employee or officer of the Senate who, having collected such contributions, then proceeds to participate in determining how they shall be distributed among various Senators, is putting himself in an invidious position. The members of the Senatorial Campaign Committee are the people who decide how contributions should be distributed among Senators running for renomination and reelection. In my judgment, to vest any part of that authority in a Senate employee or officer is in itself infinitely corrupting, as it turned out to be in the case of Bobby Baker.

So, Mr. President, those are, generally speaking, the provisions of this pending amendment; and subject to wishing to speak further this evening after the Senator from Oklahoma has made his rebuttal, I reserve the remainder of my time, with the understanding that I shall not use more than 10 minutes tomorrow, under the unanimous-consent agreement.

Mr. MONRONEY. Mr. President, I yield myself such time as I may require.

The Committee on Organization again lodges the same complaint that we have made against the previous amendments proposed by the distinguished senior Senator from Pennsylvania; namely, that this is not the place to properly consider these very important and technical amendments providing for the ethical standards of Members of the U.S. Senate.

The Senate, in open session, adopted the resolution of the distinguished senior Senator from Kentucky [Mr. Cooper] to appoint the Committee on Standards and Conduct, and they have been at work, trying to do their best, trying to carry the load that was charged to them. To short circuit that committee by premature passage of the legislation would leave nothing of moment for the committee to do; and consequently, would void the important action taken by the Senate in setting up the select committee, which was at that time—only a short time ago—our answer to handling this question.

The distinguished junior Senator from Mississippi [Mr. Stennis] has been actively engaged in making efforts to carry out the mandate of the Senate; and I feel that he is entitled, with his committee, to bring in a bill that has been properly heard, after testimony from Senators, and after arriving at some unanimity of feeling among the Senators, as to the best methods of writing and enforcing a code of the standards and conduct.

I yield such time as he may desire to the distinguished junior Senator from Mississippi, the chairman of the committee.

Mr. STENNIS. Mr. President, under the special arrangement here, I think that I should repeat, for the Record, at least some of the mere facts with refer-

ence to the development of the work by the so-called Ethics Committee. I do this because such terms have been used here as "sweeping things under the rug," "ducking our responsibilities," and activities of that kind.

For the benefit of those who may read the RECORD, this committee was appointed on July 9, 1965. It held its first formal meeting—although there had been several others—on July 27. All members of the committee were present then except one member.

I was authorized then to select a staff, with the view that they were going to elect me chairman of the committee, which I did, after some very long and rather laborious effort, assisted by the Senator from Utah [Mr. BENNETT], interviewed quite a few men who were acceptable, and finally selected a chief of staff.

By that time the session was about over. In late October, we left here, and I instructed this newly employed chief counsel and staff director to immediately start work on the every subject—matter of the amendment that is proposed now—that is, paragraph 3 of section 2 of the resolution under which we were appointed.

Mr. President, I ask unanimous consent that that portion of the resolution be printed in the RECORD at this point.

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

SEC. 2. (a) It shall be the duty of the select committee to—

(1) receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto;

(2) recommend to the Senate by report or resolution by a majority vote of the full committee disciplinary action to be taken with respect to such violations which the select committee shall determine, after according to the individuals concerned due notice and opportunity for hearing, to have occurred;

(3) recommend to the Senate, by report or resolution, such additional rules or regulations as the select committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities;

Mr. STENNIS. When we returned here, then, in January 1966, we had a meeting as early as January 5, at which time some of this work that the staff had done on this very subject matter was presented to us.

We met again on January 17, at which time a personal code for Senators and employees was presented to us, and that is part of the subject matter of the pending amendment.

I think this amendment has some meritorious parts in it. I think the Senator from Pennsylvania has worked on it hard, and is honest and sincere about it. I am not trying to reject all the amendment, although I vigorously oppose its adoption here now.

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

Mr. STENNIS. I yield to the Senator from Pennsylvania.

Mr. CLARK. I take it, then, it is the Senator's view that in due course, his committee ought to concern itself with the problems of relations with lobbyists and the acceptance of gifts by both Senators and Senate staffs, is that correct?

Mr. STENNIS. Certainly we intend to consider the major part. I do not wish to commit myself here now to anything, because it could be changed later. We are working on the idea, though, of Senators and their staffs and their outside activities and——

Mr. CLARK. With respect to lobbyists and campaign contributors?

Mr. STENNIS. I would not wish to commit myself to any particular item. I think that one thing should be kept in mind here: This is just for the Senate. Personally, I think that the Senate ought to have some rules of its own with reference to campaign matters. But others may think that there ought to be a law applying to both the House and the Senate. There is very respectable thought in that direction.

So I cannot commit the committee in any way; I speak only for myself. But I certainly am pledged to work on the idea of relations with lobbyists, both for staff members and Senators also, as far as that is concerned.

I do not promise, though, any particular result.

Mr. CLARK. There is one further question, and then I shall permit the Senator to continue.

Earlier today, as I understood him, the Senator told the Senate that he anticipated that his committee would be able to bring in recommendations on the Bobby Baker amendment then under consideration, which had to do with financial disclosure, before the end of this session, and in time for the Senate to consider the question during this session.

Would that same statement apply with respect to this proposed amendment?

Mr. STENNIS. Well, I was speaking then with reference to all three of the Senator's main amendments, and I will incorporate in the RECORD by reference now what I said then, for those who may read this particular debate of this time and date.

Reverting, now, to the continuity of the effort the beginning of which I have already related, having brought us down to the 17th of January, 1966: On February 2, we had another meeting, where we reviewed the committee staff work and studies on these various subjects, and offered, as we had before, some suggestions of our own—even some that the Members had written out.

But soon thereafter—less than a month—there had been great press coverage with reference to the so-called Dodd case, and we went into that. It proved to be very voluminous indeed, with many ramifications, literally dozens, and almost hundreds of subjects that had to be run down.

We went right on into hearings on the Klein phase of that matter, and then into the financial part of it, which led in many different directions, and, as I have said this afternoon, required more than 117 subpenas duces tecum to get certain financial records; and we are still engaged in that matter, and have announced that we would have hearings within a short time.

Now, repeating what I said this afternoon, the idea, to me at least, after we were into the major facts concerning Senator DODD's matter, and the charges involved there, to stop that investigation and go back to writing rules and regulations for the conduct of a Senator, to me was unthinkable, for the same men who were hearing the testimony with reference to one of the Members.

We have been making rules as we went along. We are already setting enough precedents in procedure.

It is a case of first impressions. It is unthinkable that the same committee charged with the duty of trying to weigh the evidence in this matter would also try to establish rules and regulations for the Senate to adopt. It just ought not to be done.

When we do adopt rules and regulations, we will have to live with them. They will be binding on the public, binding on us, and binding on the employees.

This case contains a great volume of testimony concerning the activities of staff members. More than 4,000 sheets of paper were taken from Senator DODD's office.

The staff had to go through all those papers, and we saw many of them ourselves.

We could not write rules and regulations in that atmosphere, even though that was our primary purpose. As far as I am concerned, I am not going to do it until we can get the essential facts and reach some kind of conclusions concerning the Dodd case.

I cannot say when that will be. I am old fashioned enough to believe that a man ought to be given his day in court and a reasonable time to defend himself. I know the problems involved in that, but we are down to the taking of testimony.

We already have a great volume of testimony. We have other duties. I do not know how fast we will move, but I hope that the investigation will move along quickly enough so that we will be able with the help of the hearings to write and formulate rules and present a report with some kind of recommendations as to rules and regulations for Senators and staff members on the very subject matter of this amendment at this session of Congress.

I strongly hope that this will be done in time to get those recommendations considered here. However, those of us who have been here as long as the Senator from Pennsylvania and many others know that we cannot put a timetable on these matters. We do not know what else will be up for consideration.

I hope that we can do that, and I believe that we can.

The only condition I put on it concerns the time that may be required by the Dodd case itself.

I appeal to the Senate again. There is nothing personal about this, of course, but I appeal to the Senate not to stop now in the middle of this matter. We would be trying to hear the Dodd case, and trying to pass rules and regulations that would affect these matters. It is

not the judicious way in which to do it. I do not think it is the logical way to do it.

If we were to do this, it would beset us and cause us tremendous trouble in the future.

If we are not moving fast enough in the matter, we can be replaced by others who would perhaps do a better job and do it more quickly. However, do not just say, "We will pass an amendment here after 30 minutes debate."

I do not believe the Senate will do so.

I thank the chairman.

Mr. MONRONEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. LONG of Louisiana in the chair). The Senator from Oklahoma has 17 minutes remaining and the Senator from Pennsylvania has 19 minutes remaining.

Mr. CLARK. Mr. President, I yield myself such time as I may require.

The RECORD should show again, as it did in connection with the first two Bobby Baker amendments, that these proposals have not sprung full blown on the floor of the Senate subject to only 30 minutes of debate.

I was a member of the Committee on Rules and Administration which held hearings on the Bobby Baker case which extended over more than a year.

We then had executive sessions which went on for weeks and weeks, during the course of which this amendment and the other two amendments which I have proposed in the last several days were exhaustively discussed by the committee.

The Committee on Rules and Administration brought out to the calendar its recommendations with respect to all of these matters after careful and comprehensive consideration.

In my opinion, those recommendations were quite inadequate. I filed separate views of my own and proposed my own resolutions. They were discussed in the Committee on Rules and Administration and voted on. In each instance I was voted down.

When the measures came to the floor, I attempted to substitute my resolutions for those of the Committee on Rules and Administration, but the Senate in its wisdom cut short the debate and turned to the amendment of the Senator from Kentucky [Mr. COOPER] and in my opinion, for the time being at least, swept the whole matter under the rug by creating the Select Committee on Standards and Conduct which the able Senator from Mississippi chairs.

The Senator from Mississippi has described in some detail to the Senate what has happened since that time.

I can only say that these amendments were carefully considered by the Committee on Rules and Administration. They were brought out to the floor. They were shunted aside in order to take up and pass the resolution of the Senator from Kentucky which resulted in the creation of the Select Committee on Standards and Conduct.

The Bobby Baker case broke on October 10, 1963. Today is February 8, 1967, and the Senate has still done absolutely nothing as a body to remedy the extraordinarily unfortunate conditions with respect to our conduct and that of our officers and employees which were disclosed in that case.

I say again that it is time that we act. I am delighted that the Senator from Mississippi has given us his assurance that a report will be coming back to the Senate before the end of this session and an opportunity will be afforded to us to act on the matter before we adjourn.

In my opinion we ought to act now. We do not need any further consideration of these matters. They have been carefully considered by the duly constituted committee of the Senate.

Mr. MONRONEY. Mr. President, the distinguished senior Senator from Delaware wishes time to be used tonight, and I have 17 minutes remaining. I am happy to yield him 7 minutes of that time.

Mr. WILLIAMS of Delaware. I would be glad to use part of it tonight.

Mr. MONRONEY. Five minutes tonight, and 2 minutes tomorrow? Would that be satisfactory?

Mr. WILLIAMS of Delaware. That would be satisfactory.

Mr. MONRONEY. The 10 minutes that I have reserved for tomorrow I should like to yield to members of our Committee on Standards and Conduct.

Mr. WILLIAMS of Delaware. I appreciate that. I would prefer to carry 5 minutes of the 7 minutes over until tomorrow.

Mr. MONRONEY. We are only allowed, as I understand the agreement, 10 minutes to a side tomorrow.

Mr. WILLIAMS of Delaware. There is no agreement.

Mr. MONRONEY. I cannot yield 5 minutes of the 10 minutes to the Senator.

Mr. WILLIAMS of Delaware. There is no unanimous-consent agreement as to tomorrow except the 1 hour to each amendment.

Mr. MONRONEY. Ten minutes to a side tomorrow.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. CLARK. I am prepared, in cooperation with the Senator from Oklahoma, to yield back all except 10 minutes, and we are operating under a unanimous-consent agreement. So that answers that.

Mr. WILLIAMS of Delaware. I will not press the request.

Mr. MONRONEY. I wish the Senator from Delaware could use, say, 5 minutes of the 7, and then I will give him 2 of my 10 remaining minutes, because it is a closed question.

Mr. WILLIAMS of Delaware. I will cooperate.

I ask unanimous consent that I may have 2 minutes of the time carried over until tomorrow if I cannot get any more; but I ask I be allowed to proceed tonight, and if I go a few minutes beyond the 5 minutes that it not be charged to either side.

Mr. MONRONEY. I ask unanimous consent to proceed tonight.

Mr. WILLIAMS of Delaware. Earlier today I offered an amendment in substitution to an amendment of the Senator from Pennsylvania because I thought it was important to put some teeth into his proposal if we were to act. My amendment was rejected, and after that I supported the amendment offered by the Senator from Pennsylvania because I thought that while his amendment was a Milquetoast approach to the problem it was a step in the right direction. With respect to this particular amendment, while I am not quarreling with the objective of the Senator from Pennsylvania, I think it would be particularly disastrous if it were passed while the Ethics Committee is in the midst of an investigation of a Member of the Senate.

In my opinion its adoption would in effect be saying that the Senate does not consider it has any laws to deal with the allegations now pending against this Member.

I wish to raise a serious question as to the advisability of considering this amendment at this time; and I want to make this point, and I wish the Senator from Pennsylvania [Mr. CLARK], as a lawyer, would follow this.

I refer to page 2, section 2 of his amendment:

"'2. No Member of the Senate or any officer or employee of the Senate may accept—

"'(a) at any time from any individual, entity, or enterprise which is engaged in lobbying activity any gift of money, property, entertainment, travel, or any other valuable consideration in an amount or having a value in excess of $100;'"

Then, on page 4, paragraph (b), the term "lobbying activity" is defined:

"'(b) The term "lobbying activity" means any activity undertaken by any person other than a Member of the Congress to influence directly or indirectly the introduction, passage, defeat, amendment, or modification of any legislative measure in either House of the Congress.'"

By what line of reasoning can anyone even suggest that a Member of Congress has the right to accept up to $100 from a lobbyist who is trying to influence our decisions on a legislative measure?

Such a suggestion is outrageous.

Perhaps the Senator's objective is worthy, but the question that comes to my mind is this: When we pass this as a new law are we not in effect saying that it is our opinion that we have no laws today against a Member of Congress accepting gifts from any outside person who is attempting to influence, defeat, or enact certain legislation?

I have always taken the position that it now is a violation of the law for any Member of Congress, under any circumstances, to accept a gift—$1 or $100 or $1,000—from anyone who is presenting that gift—and I quote from the Senator's own amendment—"to influence directly or indirectly the introduction, passage, defeat, amendment, or modification of any legislative measure in either House of the Congress."

If we pass this bill we would be saying, in effect, that the Senate feels that it has no laws in this respect—I refuse to accept that premise. This bill is putting in a limit: that one could accept only $100. In my opinion this is not a Bobby Baker amendment. This is—let us face it—the Dodd amendment, and we might just as well abolish the pending investigation of the Ethics Committee if it is accepted.

That case involves the question of interpretation as to what constitutes a gift.

As I understand this amendment, $100 tickets to a dinner honoring a Member of the Senate could be called gifts and, according to the amendment being offered by the Senator from Pennsylvania, it would be all right.

Perhaps the Senator from Pennsylvania is not intending this result, but I am afraid that by indirection this is what he will accomplish. If I am in error then why offer the amendment.

I raise this question: Would we not be better advised to postpone any action, any vote on this question, until this committee has completed its investigation, has learned what the defense will be, has determined what the charges will be, and has submitted the matter to the Department of Justice?

If I am correct we have adequate laws now to handle such a case. If these laws are violated the people should be prosecuted. Later after the pending case has been disposed of, if we find that we need more laws or more rules, I will join the Senator from Pennsylvania or anyone else in passing whatever is needed.

But by our actions at this time I do not wish to tell the Department of Justice and the courts that it is the opinion of this Congress that we have no laws against a Member of Congress accepting cash or gratuities from lobbyists in any amount so long as they are called gifts.

Certainly there are laws against paying cash to a Member of Congress in an attempt to influence his decision.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. CLARK. The Senator is kind enough to refer to me as a lawyer. I have not practiced law for quite a while.

I point out to my good friend, the Senator from Delaware, on the basis of my legal training, that if his premise were correct, his conclusion would follow. But his premise is wrong.

In the books are stringent criminal statutes dealing with many of the matters which are also dealt with by this proposed rule. Those criminal statutes have resulted, within recent years, in the conviction and sending to jail of at least two Members of Congress. But the concept of the criminal law, I beg the Senator to believe—I know that he is not a lawyer, but he has as good a brain as any other Member of the Senate—the concept of the criminal law is that you have to prove intent. Unless you can prove intent to defraud, intent to bribe, a person cannot be convicted of a criminal offense in this area of the criminal law.

But this proposal is a Senate rule dealing administratively with the conduct of Members of the Senate and their employees. In a sense, it is a partial code of ethics and it is not intended to be substituted for the criminal laws in any way whatever.

So I say to the Senator from Delaware that we are not telling the Department of Justice that we are substituting a law for theirs. Far from it. We would expect that any misconduct——

The PRESIDING OFFICER. Five minutes have expired.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that we may be able to proceed tonight, without the time being charged against the remaining time of either side.

Mr. CLARK. Reserving the right to object, I would amend that to ask unanimous consent that I may have 2 minutes, and no more, to complete my answer to the Senator from Delaware.

Mr. WILLIAMS of Delaware. I would yield whatever time the Senator desires because in this colloquy I wish to point out why I am concerned about this matter. I do not want to put the Senate in the position of saying that we do not have any laws with respect to this proposal or that it is all right for a Member of the Senate to accept gifts up to $100. What I want to know is that if it is recognized that we have laws now, why we should enact this proposal.

I ask unanimous consent that we proceed without regard to the limitation of time and permit the remainder of the time to go over to tomorrow.

Mr. CLARK. Reserving the right to object, and I shall object, I have no objection other than that I am going to go home, having made my point, and I am not asking for any further consideration.

Mr. WILLIAMS of Delaware. Then I will offer an amendment tomorrow and take my half hour. I intend to have time to express my opinion on this proposal. I had planned to clear this question up tonight, but there is not going to be rammed through in 10 minutes a measure that may let off the hook a man who is now under investigation by a Senate committee. We should not close the debate in any such rush. If such steamroller tactics are attempted I will be on the floor tomorrow. I intend to have ample time to state my position.

Mr. CLARK. If the Senator from Delaware and the Senator from Oklahoma want to stay here and engage in colloquy, I have no objection.

The PRESIDING OFFICER. The Senator from Pennsylvania simply said that he does not object. He just wishes it understood that he feels compelled to leave the Chamber. The Chair will assume that there is no objection to the request of the Senator from Delaware.

Mr. CLARK. I do not object.

The PRESIDING OFFICER. Objection is withdrawn. The Senator may proceed.

Mr. WILLIAMS of Delaware. I may take more time tomorrow, anyway, Mr. President.

I think that this point must be clear before we vote. I had an experience in this respect several years ago, and I want to put it in the RECORD. That is why I desired time tomorrow to explain my reasons for questioning the effect of this Clark amendment.

Mr. President, I shall proceed.

In 1952 it was called to my attention that $410,110.45 had been contributed to the Democratic State committee by three individuals under the guise of loans. I refer to a report which I made in the Senate on April 29, 1952, which appears in the CONGRESSIONAL RECORD of that date.

I shall summarize this matter briefly because it was the basis for my concern. In that particular speech I disclosed that one individual by the name of Richard J. Reynolds had contributed $310,110.45 under the guise of a loan to the Democratic State committee. Mr. Marshall Field contributed $50,000 and a David Schulte contributed another $50,000, with both of these also being called loans.

After the election was over they applied to the Treasury Department for a ruling that these be marked off as bad debts on the basis that there was no money in the Democratic campaign treasury. They wanted to write the amounts off as bad debts. A favorable ruling was approved by the Treasury Department within 24 hours from the time that the application was postmarked in North Carolina, which was an alltime speed record for action in the Department. They granted that ruling and agreed that those moneys would be deemed to be a loan and marked off as a bad business debt.

Writing the amount off as a bad business debt had this effect: It bypassed the Corrupt Practices Act which places a $5,000 limitation on contributions and gave them a special tax advantage.

Mr. President, when this matter was called to my attention, I denounced the ruling. Somebody made a suggestion and I accepted it—I do not recall who, but I accept the responsibility—it was suggested, "Here is a loophole in the law. Put in a bill to repeal that ruling and put stringent penalties on such political contributions in excess of $5,000."

With the best of intentions I submitted that amendment to the Committee on Finance. It was accepted, passed, and the President signed it, and I thought that I had accomplished something by making that practice a violation of the law with criminal penalties.

I discovered 75 or 80 days later, in talking to a member of the Department of Justice, that I had let these individuals off the hook. Apparently the law as it was before was adequate, but after my amendment was passed the Department of Justice made a decision not to prosecute. They said that their decision was based on the premise that the Senate and the House of Representatives, by having agreed to my amendment, had gone on record considering the old law inadequate. Since Congress had by its actions indicated that it did not think we had laws against such large contributions before, the Department of Justice concluded that it would be out of order to prosecute those individuals. Mr. President, I discovered that I unintentionally had let them off the hook. I do not intend that this happens again.

We had another instance of a similar attempt concerning the investigation which the Ethics Committee is now conducting. The Treasury Department on April 20, 1966, made a press release that was interpreted nationally as an announcement of a new ruling. Those press releases, which I shall later insert in the RECORD, indicated that political contributions accepted by Members of Congress when diverted to their own use, would not necessarily be taxable but that if the donor intended it as a gift it would be recognized as such.

However, when that press release was made I talked with the staff of our committee, and I was told that the existing laws were clear on this point. They

This confusion has arisen primarily as the result of a statement released by the associates of the Member affected wherein they admitted the diversion of $100,000 of these campaign funds to the personal use of the Senator but claimed that instead of being classified as diverted campaign funds they really should be treated as nontaxable gifts. They gave the impression that this argument was based on an opinion they had obtained from the Treasury Department.

To confuse this picture further, officials of the Bureau of Internal Revenue have in the past couple of weeks been quietly approaching some Members of the Senate suggesting that perhaps the present law may be fuzzy on this point and that some clarifying legislation may be necessary.

In fact, a press release prepared by the Treasury Department for release under date of April 20, 1966, only added to this confusion.

I ask unanimous consent that this Treasury Department press release of April 20 be printed at this point:

"INTERNAL REVENUE SERVICE PUBLIC INFORMATION FACT SHEET, APRIL 20, 1966

"The Internal Revenue Service has received inquiries on the tax status of funds received by Senator Thomas J. Dodd from fundraising affairs.

"IRS is prohibited by law from discussing the tax affairs of any particular individual.

"If a fund-raising activity—such as a testimonial dinner—is held to honor an individual and to provide a gift out of respect, in appreciation of public service, or similar non-political motives, and the donors intend the money as such a gift the funds are not taxable to the recipient.

"The factual circumstances in any given transaction will affect its tax status.

"The Supreme Court in Commissioner v. Duberstein (363 U.S. 278) has indicated that 'what controls is the intention with which payment, however voluntary, has been made.' If the transfer proceeds from a 'detached and disinterested generosity,' 'out of affection, respect, admiration, charity or like impulses,' it is a gift according to law.

"One of the few court cases on the point of testimonial dinners was that of union leader, Max Kralstein, decided by the U.S. Tax Court in September 1962 (38 TC 810). The Court said, in effect, because of diversity of interests of persons attending the fundraising affair, it was necessary to allocate the funds received according to the intent of the givers; some of the proceeds being gifts and some not.

"When property or services—such as household furnishings, use of an automobile and similar items are made available to an individual—whether their value constitutes taxable income to the recipient is a question that also turns on the intent of the giver.

"It has long been a position of the Revenue Service that political contributions are not taxable income to the recipient when they are held or used for present or future expenses of political campaigns. However, when a political candidate or office holder diverts campaign contributions to his personal use, these funds constitute taxable income to him. This position is set forth in Revenue Ruling 54–80, C.B. 1954–1, p. 11."

In my opinion, however, these tactics are part of a deliberate plan to create confusion as to the effectiveness of existing law in the hope that they can get Congress to accept the premise that a loophole does exist and then proceed to rewrite legislation dealing with campaign contributions.

Do not overlook this important point. Once Congress rewrites the law all past transactions are in effect legalized since our enactment of new legislation would be interpreted as the opinion of Congress that a loophole does exist in the present law and that present law does not impose a tax on these diverted funds. This would be a neat trick to excuse past violations if they could get Congress and the public to accept it.

I flatly refuse to be a part of any such backstage plan. There is no doubt in my mind but that the present law is perfectly clear and that all we need is the will to enforce it.

I shall incorporate in the RECORD today excerpts from the law along with different Treasury Department rulings confirming this point.

I shall also incorporate in the RECORD correspondence to show that the money solicited for the fund-raising dinners in question were actually collected as campaign contributions. The Treasury Department is well aware of this point.

Any effort to claim that campaign funds diverted to the personal use of a public official are not taxable is a farce—in fact as far as I am concerned even if the Member does pay tax on these diverted funds it is still improper.

To settle the point as to the existing law regarding the tax status of these political funds when diverted to the personal use of the public official or candidate I ask unanimous consent that there be printed at this point excerpts from the Federal Corrupt Practices Act as appearing in Title 2 of the U.S. Code, paragraphs 241 through and including paragraph 248.

"CHAPTER 8.—FEDERAL CORRUPT PRACTICES

"SECTION 241. DEFINITIONS

"When used in this chapter and section 208 of title 18 [1]—

"(a) The term 'election' includes a general or special election, but does not include a primary election or convention of a political party;

"(b) The term 'candidate' means an individual whose name is presented at an election for election as Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, whether or not such individual is elected;

"(c) The term 'political committee' includes any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates or presidential and vice presidential electors (1) in two or more States, or (2) whether or not in more than one State if such committee, association, or organization (other than a duly organized State or local committee of a political party) is a branch or subsidiary of a national committee, association or organization;

"(d) The term 'contribution' includes a gift, subscription, loan, advance, or deposit, of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable to make a contribution;

"(e) The term 'expenditure' includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure;

"(f) The term 'person' includes an individual, partnership, committee, association, corporation, and any other organization or group of persons;

"(g) The term 'Clerk' means the Clerk of the House of Representatives of the United States;

"(h) The term 'Secretary' means the Secretary of the Senate of the United States;

"(i) The term 'State' includes Territory and possession of the United States. (Feb. 28, 1925, ch. 368, title III, sec. 302, 43 Stat. 1070.)

"SECTION 242. CHAIRMAN AND TREASURER OF POLITICAL COMMITTEE; DUTIES AS TO CONTRIBUTIONS; ACCOUNTS AND RECEIPTS

"(a) Every political committee shall have a chairman and a treasurer. No contribution shall be accepted, and no expenditure made, by or on behalf of a political committee for the purpose of influencing an election until such chairman and treasurer have been chosen.

"(b) It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of—

"(1) All contributions made to or for such committee;

"(2) The name and address of every person making any such contribution, and the date thereof;

"(3) All expenditures made by or on behalf of such committee; and

"(4) The name and address of every person to whom any such expenditure is made, and the date thereof.

"(c) It shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure by or on behalf of a political committee exceeding $10 in amount. The treasurer shall preserve all receipted bill and accounts required to be kept by this section for a period of at least 2 years from the date of the filing of the statement containing such items. (Feb. 28, 1925, ch. 368, title III, sec. 303, 43 Stat. 1071.)

"SECTION 243. ACCOUNTS OF CONTRIBUTIONS RECEIVED

"Every person who receives a contribution for a political committee shall, on demand of the treasurer, and in any event within 5 days after the receipt of such contribution, render to the treasurer a detailed account thereof, including the name and address of the person making such contribution, and the date on which received. (Feb. 28, 1925, ch. 368, title III, sec. 304, 43 Stat. 1071.)

"SECTION 244. STATEMENTS BY TREASURER FILED WITH CLERK OF HOUSE OF REPRESENTATIVES

"(a) The treasurer of a political committee shall file with the Clerk between the 1st and

could not come up with a single suggestion as to how we could amend the existing law to make it clearer and stronger than it is now.

The law today is very clear that to the extent any public official diverts even $1 of campaign contributions toward his own use it is taxable and under no circumstances can be classified as a gift. That is the law today.

Mr. President, after I made that statement in the RECORD, on April 27, 1966, it is interesting to note that the Treasury Department then agreed that we do have a law stating that such divested funds are fully taxable as income.

Mr. President, I ask unanimous consent that my remarks of April 27, 1966, be printed at this point in the RECORD.

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

Mr. President, the Senate Ethics Committee is currently in the process of examining certain questions which have arisen as to the manner in which campaign funds have been handled by a Member of the Senate.

I have every confidence in the integrity and the ability of this committee to do its job and render an objective report to the Senate. This must be done because until these questions are answered they represent a reflection on every Member of the Senate.

I would like, however, to clear up some confusion which has arisen in the past few days concerning the tax status of political funds when all or any part thereof are diverted to the personal use of the public official.

[1] Sec. 208 of title 18, repealed by act June 25, 1948, ch. 645, 62 Stat. 862. Present provisions of said sec. 208 are covered by sec. 602 of title 18.

10th days of March, June, and September, in each year, and also between the 10th and 15th days, and on the 5th day, next preceding the date on which a general election is to be held, at which candidates are to be elected in two or more States, and also on the 1st day of January, a statement containing, complete as of the day next preceding the date of filing—

"(1) The name and address of each person who has made a contribution to or for such committee in one or more items of the aggregate amount or value, within the calendar year, of $100 or more, together with the amount and date of the contribution;

"(2) The total sum of the contributions made to or for such committee during the calendar year and not stated under paragraph (1);

"(3) The total sum of all contributions made to or for such committee during the calendar year;

"(4) The name and address of each person to whom an expediture in one or more items of the aggregate amount or value, within the calendar year, of $10 or more has been made by or on behalf of such committee, and the amount, date, and purpose of such expenditure;

"(5) The total sum of all expenditures made by or on behalf of such committee during the calendar year and not stated under paragraph (4);

"(6) The total sum of expenditures made by or on behalf of such committee during the calendar year.

"(b) The statements required to be filed by subdivision (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.

"(c) The statement filed on the 1st day of January shall cover the preceding calendar year. (Feb. 28, 1925, ch. 368, title III, sec. 305, 43 Stat. 1071.)

"SECTION 245. STATEMENT BY OTHERS THAN POLITICAL COMMITTEE FILED WITH CLERK OF HOUSE OF REPRESENTATIVES

"Every person (other than a political committee) who makes an expenditure in one or more items, other than by contribution to a political committee, aggregating $50 or more within a calendar year for the purpose of influencing in two or more States the election of candidates, shall file with the Clerk an itemized detailed statement of such expenditure in the same manner as required of the treasurer of a political committee by section 244 of this title. (Feb. 28, 1925, ch. 368, title III, sec. 306, 43 Stat. 1072.)

"SECTION 246. STATEMENTS BY CANDIDATES FOR SENATOR, REPRESENTATIVE, DELEGATE, OR RESIDENT COMMISSIONER FILED WITH SECRETARY OF SENATE AND CLERK OF HOUSE OF REPRESENTATIVES

"(a) Every candidate for Senator shall file with the Secretary and every candidate for Representative, Delegate, or Resident Commissioner shall file with the Clerk not less than ten nor more than fifteen days before, and also within thirty days after, the date on which an election is to be held, a statement containing, complete as of the day next preceding the date of filing—

"(1) A correct and itemized account of each contribution received by him or by any person for him with his knowledge or consent, from any source, in aid or support of his candidacy for election, or for the purpose of influencing the result of the election, together with the name of the person who has made such contribution;

"(2) A correct and itemized account of each expenditure made by him or by any person for him with his knowledge or consent, in aid or support of his candidacy for election, or for the purpose of influencing the result of the election, together with the name of the person to whom such expenditure was made; except that only the total sum of expenditures for items specified in subdivision (c) of section 248 of this title need be stated;

"(3) A statement of every promise or pledge made by him or by any person for him with his consent, prior to the closing of the polls on the day of the election, relative to the appointment or recommendation for appointment of any person to any public or private position or employment for the purpose of procuring support in his candidacy, and the name, address, and occupation of every person to whom any such promise or pledge has been made, together with the description of any such position. If no such promise or pledge has been made, that fact shall be specifically stated.

"(b) The statements required to be filed by subdivision (a) of this section shall be cumulative, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.

"(c) Every candidate shall inclose with his first statement a report, based upon the records of the proper State official, stating the total number of votes cast for all candidates for the office which the candidate seeks, at the general election next preceding the election at which he is a candidate. (Feb. 28, 1925, ch. 368, title III, sec. 307, 43 Stat. 1072.)

"SECTION 247. STATEMENTS; VERIFICATION; FILING; PRESERVATION; INSPECTION

"A statement required by this chapter to be filed by a candidate or treasurer of a political committee or other person with the Clerk or Secretary, as the case may be—

"(a) Shall be verified by the oath or affirmation of the person filing such statement, taken before an officer authorized to administer oaths;

"(b) Shall be deemed properly filed when deposited in an established post office within the prescribed time, duly stamped, registered, and directed to the Clerk or Secretary at Washington, D.C., but in the event it is not received, a duplicate of such statement shall be promptly filed upon notice by the Clerk or Secretary of its nonreceipt;

"(c) Shall be preserved by the Clerk or Secretary for a period of 2 years from the date of filing, shall constitute a part of the public records of his office, and shall be open to public inspection. (Feb. 28, 1925, ch. 368, title III, sec. 308, 43 Stat. 1072.)

"SECTION 248. LIMITATION UPON AMOUNT OF EXPENDITURES BY CANDIDATE

"(a) A candidate, in his campaign for election, shall not make expenditures in excess of the amount which he may lawfully make under the laws of the State in which he is a candidate, nor in excess of the amount which he may lawfully make under the provisions of this chapter and section 208 of title 18.[1]

"(b) Unless the laws of his State prescribe a less amount as the maximum limit of campaign expenditures, a candidate may make expenditures up to—

"(1) The sum of $10,000 if a candidate for Senator, or the sum of $2,500 if a candidate for Representative, Delegate, or Resident Commissioner; or

"(2) An amount equal to the amount obtained by multiplying 3 cents by the total number of votes cast at the last general election for all candidates for the office which the candidate seeks, but in no event exceeding $25,000 if a candidate for Senator or $5,000 if a candidate for Representative, Delegate, or Resident Commissioner.

[1] Sec. 208 of title 18 repealed by act June 25, 1948, ch. 645, 62 Stat. 862. Present provision of said sec. 208 are covered by sec. 602 of title 18.

"(c) Money expended by a candidate to meet and discharge any assessment, fee, or charge made or levied upon candidates by the laws of the State in which he resides, or expended for his necessary personal, traveling, or subsistence expenses, or for stationery, postage, writing, or printing (other than for use on billboards or in newspapers), for distributing letters, circulars, or posters, or for telegraph or telephone service, shall not be included in determining whether his expenditures have exceeded the sum fixed by paragraph (1) or (2) of subdivision (b) of this section as the limit of campaign expenses of a candidate. (Feb. 28, 1925, ch. 368, title III, sec. 309, 43 Stat. 1073.)"

Next I ask unanimous consent to have printed in the RECORD Revenue Ruling 54–80, dated 1954, regulation 118, interpreting this law:

"INTERNAL REVENUE BULLETIN, CUMULATIVE BULLETIN 1954–1, JANUARY–JUNE 1954

"PART I.—CURRENT RULINGS, DECISIONS, ETC., INTERNAL REVENUES CODE

"Chapter 1.—Income tax

"PART II.—COMPUTATION OF NET INCOME

"Section 22(a).—Gross income: General definition

"Regulations 118, Section 39.22(a)–1: What Rev. Rul. 54–80 included in gross income.

"The portion of a political contribution received by a political organization or a candidate for political office which is diverted from political campaign purposes to the personal use of the candidate or other individual constitutes taxable income to such candidate or other individual.

"I.T. 3276, C. B. 1939–1 (Part 1), 108, modified.

"Advice is requested whether that part of the political contributions received by a political organization or an individual seeking political office which is diverted to the personal use of the candidate or other individual constitutes taxable income to such candidate or other individual.

"Contributions to political organizations are customarily made with the intent and understanding that they be used for the expenses of a political campaign or for some similar purpose. Such contributions are not deductible for Federal income tax purposes by the donor. See I. T. 3276, C. B. 1939–1 (Part 1), 108.

"Where a political gift is received by an individual or a political organization and it is held or used for the purposes intended, i.e., for present or future expenses of a political campaign or for some similar purpose, it is not taxable income to the recipient. See I.T. 3276, supra. However, any amount diverted from the channel of campaign activities and used by a candidate or other individual for personal use constitutes taxable income to such candidate or other individual for the year in which the funds are so diverted. For example, a candidate seeking political office receives contributions totaling $1,000 from individuals and organizations for use in his campaign for election to such office. During the campaign the candidate expends $600 of the contributed funds for campaign purposes. He uses the balance of the campaign funds to reduce the mortgage on his personal residence. In such a case the candidate will be required to include in his taxable income the $400 which represents the portion of the fund which he diverted to his personal use. Such amount will be includible in taxable income in the year in which so diverted.

"I.T. 3276, supra, is modified to the extent that it is inconsistent with the views expressed herein."

I now ask unanimous consent to have printed in the RECORD another Treasury Department ruling, dated November 13, 1961, signed by Commissioner Mortimer Caplin and addressed to Senator Everett Dirksen:

"NOVEMBER 13, 1961.

"Hon. EVERETT MCKINLEY DIRKSEN,
U.S. Senate.

"DEAR SENATOR DIRKSEN: This letter relates to the treatment, for Federal income tax purposes, of campaign contributions received by an individual or a political organization, and is written to confirm our telephone conversation of November 2, 1961.

"The basic rule applicable to this area of the law, as set forth in *I.T. 3276,* Cumulative Bulletin 1939–1 (Part 1), 108, and *Revenue Ruling 54–80,* Cumulative Bulletin 1954–1, 11, is that a campaign or political contribution received by an individual or political organization is not includible in the income of the recipient, to the extent it is used for present or future expenses of a political or similar purpose; however, the portion of the contribution which is diverted to the personal use of the candidate or other individual is includible in his gross income in the year the funds are so diverted.

"The aforementioned rulings were cited with approval in the leading case dealing with campaign contributions, *O'Dwyer* v. *Commissioner* (C.A. 4th 1959), 266 F. 2d 575, where the Court held that Revenue Ruling 54–80 was declaratory of judicial interpretation of existing law, and thus concluded that political contributions were to be treated as income where the taxpayer failed to prove that they were not diverted to the taxpayer's personal use. (See also *Manson L. Reichert* (1953), 19 T.C. 1027, affirmed on other grounds (C.C.A. 7th 1954), 214 F. 2d 19, and *Orland J. Ridenour,* T.C. Memo 1957–126, which are in accord with the rulings).

"In sum, campaign or political contributions are considered gifts conditioned upon their being used for the purpose for which given.

"With kind regards,

"Sincerely,

"MORTIMER CAPLIN,
"Commissioner."

There has been no change in the law since 1954 and 1961 and these rulings are still in effect.

Next, to establish that the contributions and tickets purchased to these Connecticut dinners were normal political campaign contributions I ask unanimous consent that a letter sent out by the treasurer of the dinner committee in solicitation of these funds be printed at this point in the RECORD.

"OCTOBER 16,1963.

"DEAR ——— ———: In 1964, our friend, Senator Thomas J. Dodd will campaign for reelection to the United States Senate. It does not seem necessary for me to stress the heavy financial burden that this campaign will involve. For this reason, it is necessary for those of us who respect and admire Senator DODD to lend whatever aid we can to assist him in presenting a vigorous campaign. To this end, we have scheduled October 26th as a fund raising date throughout the State, and we are fortunate enough to be able to announce that Vice-President Lyndon B. Johnson will be here in Connecticut throughout the entire day to take part in the various activities planned for that day.

"Here in Fairfield County, we have scheduled a cocktail party at the home of Mr. and Mrs. Archie Perry, 750 Verna Hill Road, Fairfield between the hours of 3:00 P.M. and 5:00 P.M. The Vice-President and Senator Dodd will be at Mr. and Mrs. Perry's home and an invitation to that party will be sent to you at your request. Inasmuch as Mr. and Mrs. Perry have been gracious enough to give us their home for this occasion and have underwritten the expenses in connection with the party, it is our hope that the various guests will see fit to make contributions of $100 or more. I hope you can find it within your means and power to help us assist the Senator by being present.

"The cocktail party is followed by a dinner at the Stratfield Motor Inn. The dinner is scheduled to commence at 7:30 P.M. and one or more tickets will be sent at your request. We fully expect this dinner to be a gala affair and I would very much like to see you there with whatever guests you may elect to bring with you. The subscription for this dinner is $25.00 or more per person. Needless to say, I am very anxious for these affairs to be outstanding successes and I would consider it a great personal favor if you decide that you can take part.

"I hope to talk with you personally about this matter within the next few days, but in the event that I am not able to make all the necessary phone calls, I hope you will not resent it if one of my secretaries calls you concerning it.

"In the event you can reach your decision without a phone call, please feel free to send me your check for one or both affairs made payable to me as Treasurer, Dodd Dinner.

"Cordially,

"PAUL."

Mr. WILLIAMS of Delaware. Mr. President, had we passed a law dealing with this subject, as it was being proposed at that time, we would have again let all prior transgressors off the hook. I do not say that those who were proposing a new law on that subject were trying to do this, but when this was called to their attention I was told clearly that that would have been the effect.

But again I ask the question—if the proponents of the Clark amendment do not intend to let our colleague off the hook then why are they pressing the amendment?

The Senator from Pennsylvania [Mr. CLARK] admits that we have a law now against gifts or payments to Members of Congress for the purpose of influencing their votes—then why this amendment?

Mr. President, if we pass this proposal it will have the effect of excusing all past transgressions. I agree fully with the proposal that Members of Congress cannot properly accept such gifts. I would go further. We do not have the right to accept a gift of $100 or even $1 from a lobbyist who comes in to influence our decision on legislation. We do not have the right to accept a gift of $1 from anyone who comes in to influence our decisions. When a Senator accepts money from anybody trying to influence his vote in Congress he is violating a criminal statute. The acceptance of any money under any circumstances from anybody who is trying to influence our vote is a violation of the criminal statutes.

It falls into the same category as when a person goes out on election day and tries to influence a man on the street to vote Republican or Democratic, for John Doe or Joe Smith. Any persuasion or argument may be used. That would be legal. Any argument may be used to get him into the voting booth, but if in trying to persuade a voter, even if $1 is paid to that man going into the booth, it is a violation of the criminal statute for both the man giving the money and for the man accepting it.

Mr. President, the same thing is true of public officials. We do not need this bill saying that it is a violation of the law to accept a gift in excess of $100. It is a violation of the law today to accept a gift of any amount from anybody who approaches a public official and who tries to influence his vote and decision.

Mr. President, Senators have no right to accept such gifts, and if we pass this proposal the Ethics Committee might as well fold up and say, "All is forgiven; from here on we are going to be angels"; and then put a halo over our heads and tell our constituents to please forget the past.

Mr. President, that is what will happen if this pending amendment is approved. Consideration should be postponed until after the Ethics Committee has acted.

I refer to the pending Clark proposal not as the Baker amendment but as the Dodd amendment.

The Senate of the United States lost much of its prestige as the result of the coverup tactics of the Senate Rules Committee, which had been charged with the investigation of the Baker case. Let the Senate not make the mistake now of adopting this pending Clark amendment, which would have the effect of whitewashing the current investigation of one of our colleagues before the Senate Ethics Committee even gets a chance to do its job.

THE KENNEDY LIBRARY

Mr. CLARK. Mr. President, on two occasions in recent days I have inserted in the pages of the CONGRESSIONAL RECORD some of the basic documents of the controversy between Mr. Henry Fairlie, a British reporter, and Harvard University, with respect to the Kennedy Library and the Kennedy Institute of Politics, and the procedures established by the university for administering that very great and generous gift made by the Kennedy family.

Mr. President, in order that the RECORD may be complete, I ask unanimous consent that an article entitled "Too Much Aura: Calm Look at Cambridge Memorial," written by William S. White and published recently in the Washington Post, may be printed at this point in the RECORD.

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

TOO MUCH AURA: CALM LOOK AT CAMBRIDGE MEMORIAL

(By William S. White)

CAMBRIDGE, MASS.—The irresistible conclusion of an on-the-spot inquirer into the complex memorial being raised here to the late President John F. Kennedy is that it is all too much—too much aura of the Kennedy family and too much inevitable association with an active presidential aspirant, Sen. Robert F. Kennedy.

This columnist has an equally strong conviction that those primarily charged with directing this enterprise, Don Price and Richard Neustadt, are disinterested scholars who will do their able best to maintain an approach in the best academic traditions. It is not motives, however, that are in issue here; it is simply the human probabilities.

These probabilities, even granting all good intentions from everybody concerned, including Sen. Robert Kennedy, are that this whole affair will one day be seen as an unwise if quite understandable quick reaction of grief to the national tragedy of the assassination and that no one could look at it with more wry skepticism than would have John F. Kennedy himself.

The bare bones are these: Through contributions from the Kennedys, through a $2-million grant from the Ford Foundation, through proceeds from the highly controversial current book on the assassination and

through public contributions three things are being financed here in multi-million-dollar scope.

The first is the John Fitzgerald Kennedy Library, Inc., the top legal structure. The second is the Harvard School of Government now renamed the John Fitzgerald Kennedy School of Government. The third—and the crux of it all—is an Institute of Politics to operate within the Kennedy School of Government.

The Institute, however, is not to be scholastic as this term is ordinarily understood. It is intended, instead, to be both a training field and a launching pad for "inners and outers"; that is, sophisticated men ready to move into politics and government at levels far above the merely bureaucratic.

To put it another way, the Institute's purpose is to give academic shelter to, and to make academic use of, the talents of men having one foot in politics and one foot in the academic or political writing professions. The aim is to make available to any administration a cadre of savvy political skills—and this itself is an unexampled enterprise in American universities.

Looking at the thing practically, one would get you five, as they say in betting circles, that no rush of able Fellows from the Institute would besiege Washington eager to help some non-Kennedy administration, say a conservative Republican administration.

The Institute has an outside Advisory Committee made up of some of the most distinguished personages in the country. No one supposes for a moment that this group collectively would ever seek to load the dice either academically or politically. But the fact is that the Advisory Committee must by contractual stipulation always include a member of the Kennedy family—currently Mrs. John F. Kennedy. And it asks more of credulity than credulity will bear to suppose that any Kennedy member of the committee will have no special interest in one presidential candidacy—and no special influence here.

Sen. Robert Kennedy's influence is an unarguable present reality. He is a member of the directorate of the parent library corporation; and it was he who presided over the informal discussions that put this entire enterprise in motion.

To be sure, there are other memorials to other Presidents—the Roosevelt Library in New York, the Hoover Library in Palo Alto, Calif., the Truman Library in Missouri and the Lyndon Johnson Library still evolving in Texas.

But this complex at Harvard is incomparably more than a library. And, too, nobody in the Hoover, Truman, or Johnson families is now or ever was running for President. True enough, the Roosevelt sons have long had political ambitions—but the Roosevelt Library never had an Institute of Politics and was never in any way an equivalent of what is being raised up here at Harvard.

Mr. CLARK. Mr. President, I express my complete dissent from the general position taken by Mr. White who, I fear, does not really understand very well the problem which he went to Cambridge to investigate.

Mr. President, I also ask unanimous consent to have printed at this point in the RECORD an article entitled "The Name Is Still Harvard University," written by Laurence Stern, and published in the Washington Post on Sunday, February 5, 1967. Mr. Stern is a well-known staff writer of the Washington Post.

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

THE NAME IS STILL HARVARD UNIVERSITY—SOME FIRE IN SMOKE ABOUT KENNEDY DESIGNS, BUT SCHOOL HAS 331-YEAR TRADITION OF INDEPENDENCE

(By Laurence Stern)

CAMBRIDGE, MASS.—Twenty seven days after the assassination of John F. Kennedy, his two brothers gathered with a group of his Washington and Harvard friends in a private dining room of New York's 21 Club.

The purpose of the meeting was announced by then Attorney General Robert F. Kennedy: to make plans for a "living memorial" to the late President.

It was a glittering, all-Harvard assemblage. From the White House came McGeorge Bundy, Arthur Schlesinger Jr. and Richard Goodwin. From the Harvard faculty were School of Administration dean Don K. Price and political scientist Samuel H. Beer. In the party too was Richard E. Neustadt, a Harvard alumnus, White House consultant, author of "Presidential Power" and a professor of government at Columbia University.

This session was followed by others in the Georgetown home of Jacqueline Kennedy and in Harvard conference rooms. It was from these free-ranging meetings and from an ensuing deluge of memos and letters that the concept of the Kennedy Institute for Politics emerged.

MEMORIAL CAPSTONE

The institute, everyone agreed, would be the capstone of the Harvard memorial to President Kennedy.

"It was a legitimate and necessary extension of what President Kennedy had in mind when he spoke of having a place at his library where, after his retirement, he might lecture and conduct seminars," Schlesinger said.

The early stages of planning were "little more than a babble of voices on the banks of the Charles," recalled Neustadt, on whose career the first meeting—Dec. 19, 1963—would have fateful impact. "There was no certainty it would go anywhere."

The drift of things was mirrored in a Jan. 6, 1964, memorandum to Schlesinger from an eminent White House colleague:

"Our problem is the Center and here we have widely divergent views," the memo crisply asserted. "Sorensen is not interested in it; Neustadt thinks it amounts to starting a new college and the rest of us fall in between . . . If we find it hard to draw a clear charter, it seems to me that it would be harder still to frame one that carries conviction at this stage to the world at large."

But the babble finally gave way to consensus. A program was defined. Harvard recently agreed to adopt the Institute as part of a new $30 million academic and memorial complex in Cambridge. The Kennedy family would endow the university through the Kennedy Library Corp. with $10 million.

The plan was ratified by the Massachusetts courts and the state legislature as the result of the combined energies of Harvard, the Brahmin law firm of Ropes & Gray and the potency of the Kennedy name.

THE KENNEDY GOAL

In its loftiest terms, the Institute would strive for President Kennedy's goal, as Schlesinger once voiced it, of "bringing together the world of ideas and the world of affairs; the world of scholarship and the world of decision."

In physical and financial terms, it seemed to be a marvel of Yankee compromise between the venerable university and the young Kennedy dynasty. Politically, however, it nurtured talk of a Kennedy government in exile—a storehouse of professional brainpower that might some day be tapped for another Kennedy assault on the White House.

True or not, the suspicions were fanned by British free-lance journalist Henry Fairlie's article published in the London Telegraph and The Washington Post and distributed by the Los Angeles Times-Washington Post News Service on Jan. 15. Harvard, which faced British muskets with equanimity nearly two centuries ago, lost its cool under Fairlies' attack.

Fairlie charged that Sen. Robert F. Kennedy (D-N.Y.) was using the Institute as a "recruiting college" for his presidential aims. The article suggested also that the university (with endowments of $1 billion) had compromised the chastity of its School of Public Administration in exchange for the $10 million Kennedy Library Corp. endowment, one that would produce an ultimate income of $500,000 annually.

There was a prompt rejoinder from Dean Price, who branded the Fairlie article "irresponsible and inaccurate." From faculty members themselves, during five days in Cambridge, I heard a steady refrain of protest against the Fairlie article: silly . . . naive . . . uninformed . . . ridiculous.

A STRONGER CASE

On the basis of available evidence, an even stronger case than Fairlie's might be drawn on the purported Kennedy invasion of Harvard.

For instance: The endowment agreement between the Kennedy Library Corp. and the university gave the President's widow the right to veto Harvard's first three choices for any successor to Neustadt as Institute of Politics director. This extraordinary grant of authority to a member of a donor family is not recorded in the public file on the endowment agreement.

For instance: The agreement decrees to Harvard that "you will appoint as the first director of the Institute Prof. Richard E. Neustadt." As a Kennedy nominee, it might be asked would Neustadt's primary loyalties be to the family or to the university which pays his salary?

For instance: McGeorge Bundy, a Kennedy family friend and adviser as well as former dean of Harvard College, played a wide-ranging "inside" role in the formation of the Institute. Before leaving his White House job as national security adviser to become president of the Ford Foundation, he drafted the document — "An Outline Plan for the Institute of Politics in the John F. Kennedy School"—that was the basis for the university's request for a $2 million Ford Foundation grant. A copy of the Bundy document bears a hand-written notation: "By Bundy for RFK discussion with Nate Pusey." Nathan M. Pusey is president of Harvard.

Other terms of the agreement, already made public, called for the appointment of a member of the Kennedy family to a "small advisory committee" that Harvard would establish and required that the name of the School for Public Administration be changed to the John F. Kennedy School of Government.

In 1936, Harvard refused a request by the School's first major benefactor, New York glove maker Lucius Littauer, that it be named after him. In popular usage, however, it did become the "Littauer School" and the glove maker's name was engraved over the building's Greek columns.

RECRUITING COLLEGE

Fairlie's indictment of the Kennedys and Harvard hinged on one central point: Do the Kennedys exercise meaningful control over the Institute's policies and appointments? Can it, in fact, be used as a "recruiting college" for family political aspirations?

The language of the letter-agreement is explicit on this point. "Full responsibility," it says, "for the conduct of both the School and the Institute, and appointments to the staff of both, will rest with Harvard, its governing boards and officers." The one exception was the limited veto for Mrs. Kennedy.

Furthermore, most candidates for the

School of Government faculty carry senior professional status in a regular Harvard faculty department, most commonly the economics or government departments. The faculty committees of these departments are notoriously hard-nosed in judging the scholarship credentials of prospective members. Neustadt, for example, had to qualify in the government department for a professorship even though his chief mission is to create a program for the Institute.

Even if the Kennedy family were rash enough to nominate a candidate for the School of Government faculty, he would have to pass the gauntlet of a Harvard faculty committee. Here the Kennedy credentials would be of little avail. One prospective member of the Institute has already been denied senior professorial status by Harvard's economic faculty.

So it is that Harvard responds with bafflement or frosty derision to the notion that its faculty could be stacked with RFK political operatives.

"Anyone who thinks this institution can be moved by the Kennedy family stands convicted of the most incredible stupidity," said a senior professor of government who has no connection with the Institute.

Nor is Mrs. Kennedy's membership on the advisory board, or her limited veto power, a subject of faculty alarm. "Back when all this was taking shape," recalled one person familiar with the background, "I remember Bobby remarking to McGeorge Bundy, 'My God, suppose they decide to appoint Gore Vidal as director!' (Vidal is a New York author who is on exceptionally unfriendly terms with the Kennedy family.) But that atmosphere of suspicion no longer exists."

Commented Dean Price: "It would have been indecent for Harvard to have excluded the Kennedy family from membership on the advisory committee."

A LOT OF CLOUT

Even by Harvard standards, the Institute's advisory committee, headed by Ambassador at Large Averell Harriman, represents an impressive array of financial and social clout. Under its charter, however, the committee doesn't have authority over the lowliest staff appointment.

The Institute's fellowship program might be a lively point of controversy since it is there that a Kennedy patronage spigot might be turned on. But Neustadt, who no one accuses of insensitivity to political nuances, has striven to avoid any suggestion of partisanship.

One member of the current crop of Kennedy Institute Fellows, former State Department Far East hand Jonathan Moore, is widely reported to have been offered the job of foreign policy adviser to Michigan Gov. George Romney. Moore is a Republican. Another Fellow, John G. Stewart, will return to his job as special assistant to Vice President Hubert H. Humphrey. "Bobby Kennedy sure as hell isn't going to get much mileage out of me," Stewart is quick to say.

The one-year fellowships are the major element in the Institute's program. They are aimed at what Adam Yarmolinsky, head of the recruitment committee, labeled the "in-and-outer"—a careerist who commutes from public service to private or university life.

"Averell Harriman is an outstanding example of the 'in-and-outer' " observed one Institute member. "But he didn't have to worry about keeping his base in the private sector, thanks to a private fortune."

An average profile for this year's first batch of ten Fellows would be a man in his middle to late 30s who has spent the past five or six years in an influential executive or congressional job. Most are Democrats who have strong and nostalgic memories of the early Kennedy Administration days.

"Public service was challenging, exciting and interesting," said David Filvaroff, former special assistant to Attorney General Nicholas Katzenbach on civil rights matters. "To some of us the prospect of returning to government is not unattractive. This isn't tied to any particular administration."

In no sense, explained another Fellow who held a high executive position in Washington, "did I leave the Johnson Administration in anger. But there is a group here who shared the Kennedy experience with a sense of deep, emotional involvement. And I see nothing sinister about that. It might be fun to sit up here and talk about Bobby Kennedy. But we don't."

There is, one senses, a powerful institutional loyalty to the memory of President Kennedy. His photograph was a common adornment in offices I visited, although I did not see one picture of President Johnson. This sentiment goes far beyond the Kennedy Institute or School of Government.

"There are a large number of my colleagues who have become disaffected with this Administration," said an influential member of the economics department who commutes frequently to Washington. "Much of this comes from the war in Vietnam or from Johnson's personality. Yet in Washington I get the impression that the President is a careful, deliberative man who is highly skilled in his job."

The widespread adoration of the Kennedy memory at Harvard goes all the way to the top. President Pusey admired the late President in the warmest personal terms.

"I have heard him say time and time again," said a colleague of Pusey, "that without President Kennedy's vision of a union between the world of practical politics and the world of intellect, our civilization is sure to go down the drain."

This was undoubtedly an important factor in the university's decision to adopt the Institute in perpetuity as part of Harvard.

But there were also practical considerations. Pusey had long been concerned about the poor endowment position of the old "Littauer School." Dean Price acknowledges that "for a long time we were at the bottom of the heap."

After Pusey became president of Harvard in 1953, he performed prodigies of fundraising; $6 million for the Divinity School, $82 million for the College, $58 million for the Medical School. By 1965 the university's over-all endowment had reached $1 billion.

"All the while, Don Price was waiting patiently in line," a government department faculty member noted. "And then—then, along came Bobby Kennedy."

AMBITIOUS VISIONS ACHIEVED

After more than two years of planning and negotiation, the Kennedys and Harvard agreed on a grand architectural scheme to be designed by architect I. M. Pei that would achieve the most ambitious visions of both. It became known as the "Big Plan." Pusey so referred to it in a "Dear Bob" letter to Kennedy last June in which he outlined its physical and financial dimensions.

Crucial to the plan was acquisition of the 12-acre site along the Charles River, occupied by a grimy streetcar barn owned by the Massachusetts Bay Transit Commission. Harvard had coveted the site for nearly half a century. President Kennedy himself despaired of ever wresting the yards away from the Commonwealth of Massachusetts.

But in 1965 the Massachusetts legislature, under the watchful eye of Sen. Edward M. Kennedy (D-Mass.), passed a special act permitting Harvard to acquire the yards for the Kennedy memorial.

Harvard, under the Big Plan, will invest $17 million in the land and new buildings: a Center for International Studies as well as the new School of Government. The Kennedy Library Corp. will spend $12 million for the Archive and Museum as well as for the cost of the Institute. Massachusetts will pour out $5 million for the land on which the Kennedy Archive will stand.

Half of Harvard's costs for the new memorial center—about $8.5 million—will be raised in a fund campaign led by Harvard graduate C. Douglas Dillon, former Secretary of the Treasury, and a grant of $2.5 million from the Ford Foundation. Pusey has already invited the Kennedy Library Corp. to "cooperate" with the university in raising the rest of Harvard's ante.

A WELCOME "ROBBERY"

Last June, the Kennedy Library Corp. told Pusey it had raised $13 million in gifts and pledges for the Kennedy memorial. But the total bill to the Kennedys for the endowment and construction costs will be more than $22 million. Still, the family gave Harvard its "personal pledge," in an attorney's letter last June, to meet the endowment goal, even if it had to dig into the private Kennedy coffers.

"If this is a question of being robbed," said Dean Price, "I wish Harvard could get robbed like this every week."

Finally, if Harvard is the capital of the Kennedy government in exile, it was not the Institute of Politics that made it so.

John F. Kennedy tapped deeply into the university's resources of brainpower as soon as he came to Washington.

"When I would drop into the White House during the early Kennedy years, it was like dropping in on a Harvard faculty conference," reminisced one Harvard economist. "There would be Bundy, Kaysen, Schlesinger and many others from Cambridge. Even now Bobby Kennedy could pick brains all over the university without even touching the Institute."

Kennedy friends in Washington refer waggishly to the Institute as Elba, a Napoleonic allusion to show the special relationship between the Kennedys and Harvard.

This link, along with the ingredients of a respected university and an ambitious political family, was probably a sure formula for controversy.

But Harvard had, after all, sent five Presidents to Washington before JFK. It has also survived the blandishments of generations of affluent alumni. It has been entwined with public affairs for most of its 331 years. Whatever may be the fate of the Kennedys, Harvard will never go into exile.

Mr. CLARK. Mr. President, I think Mr. Stern's article relates in very fair terms the facts surrounding the controversy which took place as a result of Mr. Fairlie's quite unfair article.

RESOLUTION OF U.S. MEMBERS OF INTERNATIONAL EXECUTIVE BOARD, UAW, ON CONSULAR TREATY

Mr. CLARK. Mr. President, I ask unanimous consent that a resolution adopted unanimously by the U.S. members of the international executive board of the United Automobile Workers on the proposed consular treaty between the the United States and the Soviet Union, adopted on February 2, 1967, may be printed at this point in the RECORD.

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

RESOLUTION ADOPTED UNANIMOUSLY BY U.S. MEMBERS OF INTERNATIONAL EXECUTIVE BOARD, UAW, ON THE PROPOSED CONSULAR TREATY BETWEEN THE UNITED STATES AND THE SOVIET UNION, FEBRUARY 2, 1967

In his State of the Union Message delivered on January 10, 1967, President Johnson declared: Our objective is not to continue the

cold war, but to end it." The President outlined a number of steps already undertaken to avoid "both the acts and the rhetoric of the cold war" in our relations with the Soviet Union and to move toward a relaxation of world tensions and greater mutual understanding in the interests of world peace. Among these steps were the United Nations agreement on the peaceful uses of outer space and provisions for closer cultural and commercial ties with the Soviet Union and other eastern European countries.

A further step toward these desirable goals, specifically requested by the President, is Senate ratification of the consular convention signed by the United States and the Soviet Union on June 12, 1964. We call upon members of the Senate to approve this agreement promptly, resisting misguided attempts either to reject it outright or to condemn it by holding out for modifications which would in effect mean re-negotiation.

The United States would obtain immediate advantages through ratification of this consular treaty, for it contains provisions which would tend to minimize the uncertainty and arbitrariness which, on occasion, have marked Russian treatment of Americans arrested and detained in the Soviet Union. Under the convention now before the Senate, American officials would be assured of prompt notification and prompt access to the Americans detained in such cases. Secretary of State Rusk has pointed out that by placing such problems of detention in routine channels and taking them out of the charged atmosphere of high-level, face-saving diplomacy, the treaty would facilitate their prompt settlement. Considering the personal anxiety and tragedy and public tensions generated in recent years by such detentions, these provisions alone would justify approval of the agreement.

Yet there are additional and perhaps larger advantages. Throughout the course of our troubled relationship with the Soviet Union, we have properly extolled the strengths of our open society and deplored the closed and suspicious nature of the Soviet regime. We have condemned the Iron Curtain lowered across Europe and the "wall of shame" thrown up by the Communists through the heart of Berlin. There can, in fact, be little doubt that by the very natures of our two societies, we have been more open to the Soviets than they have been to us; they have been able, therefore, to learn more about us than we have been able to learn about them. The consular treaty could go far toward redressing this imbalance, by giving us new opportunities to obtain greater understanding of Soviet life and society.

The treaty, as the State Department has pointed out, contains built-in assurances against abuse. Soviet consular employees would be screened by the U.S. before taking up their duties. They could be sent home at our discretion. They would be subject to travel restrictions determined by the United States, and if there were any abuse, the treaty itself could be terminated on six months notice.

Even if no consular office at all were opened, other provisions of the treaty would still offer greater protection to American nationals studying, travelling or doing business in the Soviet Union.

In this, as in every instance when our relationship with the Soviet Union is under consideration, we face fundamental alternatives: we could build walls or bridges. We can seek a prolongation of tension and conflict, or we can follow paths leading to honorable accommodation to our mutual advantage. And in this as in other instances, the risks of building bridges are negligible and the possible benefits are great. Secretary Rusk has emphasized that the danger of espionage in this instance would be "both small and controllable." And he has said that it would be "very much in the national interest" for the Senate to approve the treaty.

Considering its immediate and longer-term advantages, therefore, there is every reason why the American people should ask their Senators to approve this treaty and to reject the scare tactics of those who continue to live in the past and who would condemn younger generations of Americans and Russians to live in perpetual hostility, when common sense impels us to build the foundations of a more peaceful future. We call upon the U.S. Senate, in the national interest and in support of President Johnson's peaceful initiative, to approve the consular convention with the Soviet Union.

Mr. CLARK. Mr. President, I should like to congratulate the members of that executive board for their statesmanlike and logical presentation in support of the consular treaty.

Mr. President, reserving 10 minutes of my time for the discussion tomorrow morning, I yield the floor.

RECESS UNTIL 11 A.M. TOMORROW

Mr. MONRONEY. Mr. President, under previous order, I move that the Senate stand in recess until 11 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 18 minutes p.m.) the Senate took a recess until tomorrow, Thursday, February 9, 1967, at 11 o'clock a.m.

HOUSE OF REPRESENTATIVES

WEDNESDAY, FEBRUARY 8, 1967

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is just in all His ways, and kind in all His doings—Psalm 145: 17.

O God, our Father, unto whom all hearts are open, all desires known and from whom no secrets are hid, cleanse our hearts as we this moment wait upon Thee in prayer. And as we prepare ourselves for the period of Lent, give us grace to recognize the awakening of Thy spirit within us and to listen to all Thou hast to say to us. Let us not yield to the temptations of the world, but strong in Thee may we face our experiences with courage and faith.

In all sincerity do we pray for each other and for all those with whom we associate this day. In our minds may we think of our friends with love, our enemies with forgiveness, and our fellow man with abounding good will. Unto Thee do we commend ourselves and our Nation, together may we walk in the way of Thy commandments, speak Thy word of love, and obey Thy will to serve our fellow man. In the Master's name we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 16. An act to provide additional readjustment assistance to veterans who served in the Armed Forces during the Vietnam era, and for other purposes.

THE SELECT COMMITTEE

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent that the select committee, pursuant to House Resolution, 1, 90th Congress, be permitted to sit while the House is in session.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

SUBCOMMITTEE ON ETHICS AND CONTRACTS, COMMITTEE ON HOUSE ADMINISTRATION

Mr. HAYS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS. Mr. Speaker, the Committee on House Administration met for an organizational meeting this morning with, to the best of my knowledge, only one member absent and voted unanimously to establish a regular Subcommittee on Ethics and Contracts. At the proper time a resolution will be introduced to provide funds for this committee, both the full committee and the subcommittee.

Mr. Speaker, I might say to you that as a result of the investigation held by a special subcommittee of the Committee on House Administration during December that the legality and jurisdiction of this committee was researched. There is no question but that the rules of the House and the laws of the United States not only empower it, but it is the business and the duty of the Committee on House Administration to look into matters of this kind. The committee proposes to do the duty that is laid out for it to do.

THE SELECT COMMITTEE

Mr. FRIEDEL. Mr. Speaker, by direction of the Committee on House Administration, I offer a resolution (H. Res. 177) to provide funds for the select committee pursuant to House Resolution 1, 90th Congress, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 177

Resolved, That, effective January 10, 1967, the expenses of conducting the studies and investigations authorized by H. Res. 1 of the Ninetieth Congress, incurred by the select committee pursuant to H. Res. 1, Ninetieth