last third of the 20th century America was not exciting and not raucous.

Where the Republican delegates were submissive and patient, the Democratic delegates were undisciplined and unruly. Yet who would suggest that the American people today are submissive to the false clichés and empty shibboleths of a bygone era? Who would claim that the Americans today are patient with the hunger, the poverty, and the despair which afflicts so many of us, side by side with unparalleled affluence? America today is indeed undisciplined and unruly, unable to accept the inevitability of war, the elusiveness of peace, the failure of society to respond to the reasonable needs of all of its people for decent food, clothing and shelter, for reasonable opportunity for education and employment, for solace, security and comfort for the aged.

The Democratic Convention did not run away from the issues that divide our Nation. It engaged in great debate on how to achieve peace in Vietnam. The mortmain of party machinery control over the national convention was removed by abolishing the unit role of voting at the lowest level of party organization in the selection of convention delegates. The convention opened new opopportunities for participatory politics among minority groups, heretofore excluded by archaic, discriminatory party rules at precinct and county levels.

It is very unfortunate that many of the achievements of the Democratic Convention were obscured by street tensions and violence, by disastrous confrontation between police and demonstrators. The evidence is clear that the vast majority of demonstrators were motivated by peaceful pursuits interested only in exercising their democratic right to petition. Unfortunately, a comparative handful were intent on provoking a riotous confrontation with deliberate intent to provoke intemperate police action. In this effort, they were successful and unfortunately many innocent people were ensnared in the trap of street violence, many were arrested and many injured.

Mayor Daley's reaction to events brought no honor to him, the city of Chicago, nor to the Chicago Police Department. Certainly, he could have taken steps to cool the confrontation instead of stimulating overaction by the police to events which were indeed provoking but certainly did not warrant the clubbing of innocents nor the indiscriminate use of tear gas. What happened on the streets of Chicago was clearly not the responsibility of the Democratic Party. Indeed, many delegates made clear their objection, apprehension, and concern over the needlessly sharp reaction to the activity of the demonstrators.

The two conventions were in marked contrast, each to the other. They meet at the point where the circumstances each of them has given rise to serious speculation as to whether conventions have not outlived their usefulness and should be replaced by a more efficient, more democratic procedure for selecting party nominations for President and Vice President. Those who feel that conventions are an anachronism in our technological world look toward national presidential primaries as the ultimate escape hatch from convention frenetics. Unquestionably, there is much to be said for a national presidential primary. There must also be said a word or two of caution.

Clearly a national presidential primary will add immeasurably to the huge burdens of cost which already attend presidential election campaigns. It is not unlikely that costs would become so prohibitive that invasion of the Federal Treasury to help finance campaign costs would become imperative. Alternatively, only people who could match Croesus dollar for dollar would be able to put themselves forward as national candidates.

Paradoxically, a national presidential primary also raises the problem of too many presidential candiates, among those exploiting sectionalism, racial differences, favorite sons, and sons not so favored, a host of political adventurers of every size, shape, and ideology.

It is indeed precisely within this area that the convention method of presidential nominations becomes a product of the political genius of the American people when the conventions have historically served well. The national convention has served as a catalyst smoothing the crenulated edges of sectionalism, economic power or its lack, racial tensions, and other issues which divide us. The convention is the arena in which these differences are ironed out, essential principles agreed to, and party discipline encouraged.

The alternative may lead to a multiplicity of parties like in France, which since party differences must be ironed out within the government instead of within a party structure, has produced such government instability, that only the dictatorship of De Gaulle prevented political anarchy in France.

The issues are indeed serious and complex. I support various bills introduced by our colleagues in this House and in the Senate seeking to establish various commissions to explore these problems. If any such commission is created, and I earnestly urge that this be done, I urge the commission to give particular attention to one phase of this problem which troubles me deeply.

If we discard the present system for a national primary, what happens to New Hampshire. For years now, the people of this State have voluntarily, gallantly, and I might add eagerly, hibernated for 3 years for their quadrennial moment in the sun as the Nation's first political barometer. Such loyalty and devotion deserves a fate more glorious than grinding down by the insensate wheels of progress.

THE "PUEBLO"—HOW LONG, MR. PRESIDENT?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 1968

Mr. SCHERLE. Mr. Speaker, this is the 241st day the U.S.S. *Pueblo* and her crew have been in North Korean hands.

SENATE—*Friday, September 20, 1968*

The Senate met at 10:30 a.m., and was called to order by the President pro tempore.

Bishop W. Earl Ledden, Wesley Theological Seminary, Washington, D.C., offered the following prayer:

Eternal God, our Heavenly Father, for yet another day of life we give Thee heartfelt thanks. Unnumbered—and unnoticed—blessings come from Thee, new every morning; and with the blessings, burdens to be borne. Make us sensitive to Thy goodness, and responsive to Thy will. Give us, we pray, strength equal to our tasks, integrity equal to all testings.

And grant, O God, that our minds may be so open to Thy truth, our wills so dedicated to the Power that hath made and preserved us a nation, that we, servants of Thine and of the people, may be privileged this day to strengthen the forces of righteousness and justice and good will, and subdue all violence of prejudice and partisanship and arrogance.

Move Thou upon the hearts of leaders of all lands to the end that men may yet recognize each other, across all frontiers, as members of one great human family destined by their Creator to dwell in peace upon the face of the earth.

In the name of Christ. Amen.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, informed the Senate that, pursuant to the provisions of 40 United States Code 175 and 176, the Speaker had appointed Mr. CRAMER, of Florida, as a member of the House Office Building Commission.

The message announced that the House had agreed to the concurrent resolution (S. Con. Res. 79) to correct errors in the enrollment of S. 827.

The message also announced that the House insisted upon its amendment to the bill (S. 698) to achieve the fullest cooperation and coordination of activities among the levels of government in order to improve the operation of our federal system in an increasingly complex society, to improve the administration of grants-in-aid to the States, to provide for periodic congressional review of Federal grants-in-aid, to permit provision of reimbursable technical services to State and local government, to establish coordinated intergovernmental pol-

icy and administration of grants and loans for urban development, to authorize the consolidation of certain grant-in-aid programs, to provide for the acquisition, use, and disposition of land within urban areas by Federal agencies in conformity with local government programs, to establish a uniform relocation assistance policy, to establish a uniform land acquisition policy for Federal and federally aided programs, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HOLIFIELD, Mr. BLATNIK, Mr. REUSS, Mrs. DWYER, and Mr. ERLENBORN were appointed managers on the part of the House at the conference.

The message further announced that the House had passed a bill (H.R. 19908) making appropriations for foreign assistance and related agencies for the fiscal year ending June 30, 1969, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 19908) making appropriations for foreign assistance and related agencies for the fiscal year ending June 30, 1969, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, September 19, 1968, be dispensed with.

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

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the order of yesterday, the Senator from South Carolina [Mr. HOLLINGS] is recognized.

Mr. MANSFIELD. Mr. President I ask unanimous consent that the distinguished Senator from South Carolina yield to me briefly, with no diminution of his time.

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

FARM CREDIT ADMINISTRATION—RETIREMENT OF GOVERNMENT CAPITAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1557, S. 3986.

The PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 3986) to amend the Federal Farm Loan Act and the Farm Credit Act of 1933, as amended, to expedite retirement of Government capital from Federal intermediate credit banks, production credit associations and banks for cooperatives, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205(a)(1) of the Federal Farm Loan Act, as amended (12 U.S.C. 1061(a)(1)), is amended by adding the following two paragraphs at the end thereof:

"As to any class A stock held by the Governor of the Farm Credit Administration on behalf of the United States at enactment of this paragraph, the Governor may at any time require the bank to retire such class A stock if, in his judgment, the bank has resources available therefor, and he may accept in payment for such stock, such amount not in excess of par as in his judgment and with the concurrence of the Secretary of the Treasury represents a fair value of such stock, or such retirement may be effected upon delivery to the Governor of an amount of United States Government bonds the market value of which on the date of transaction represents the fair value of the class A shares as determined by the Governor with the concurrence of the Secretary of the Treasury.

"After all class A stock held by the Governor of the Farm Credit Administration on behalf of the United States has been retired from all of the Federal intermediate credit banks, and full private ownership has thus been achieved, short-term Federal investments in such class A stock to help one or several of the banks to meet emergency credit needs shall not be deemed to change this ownership status: *Provided, however,* That this sentence shall not alter the application of the Government Corporation Control Act, as amended (31 U.S.C. 841–870), and section 206(a)(4) of the Federal Farm Loan Act, as amended (12 U.S.C. 1072(a)(4)) (relating to payment of a franchise tax to the United States if the bank has outstanding capital stock held by the United States)."

SEC. 2. (a) Section 6 of the Farm Credit Act of 1933, as amended (12 U.S.C. 1131c), is amended by adding the following sentence at the end thereof: "If an association is deemed not to have resources available to retire and cancel any class A stock held by the Governor in such association, but in the judgment of the Governor the Federal intermediate credit bank of the district has resources available to do so, the Governor may require such bank to invest in an equivalent amount of class A stock of said association and the association then shall pay the proceeds thereof into such revolving fund in retirement of the class A stock held by the Governor."

(b) Section 16(a) of the Farm Credit Act of 1953, as amended (12 U.S.C. 1131c–1(a)), is amended by adding the following sentence at the end thereof: "If an association is deemed not to have resources available to retire and cancel any class C stock held by the Governor in such association, but in the judgment of the Governor the Federal intermediate credit bank of the district has resources available to do so, the Governor may require such bank to invest in an equivalent amount of class A or class C stock of said association and the association then shall pay the proceeds thereof into such revolving fund in retirement of the class C stock held by the Governor."

SEC. 3. Section 43 of the Farm Credit Act of 1933 (12 U.S.C. 1134e) is amended by adding the following two paragraphs at the end thereof:

"As to any class A stock of any such bank held by the Governor of the Farm Credit Administration on behalf of the United States at enactment of this paragraph, he may accept in payment for such stock, such amount not in excess of par as in his judgment and with the concurrence of the Secretary of the Treasury represents a fair value of such stock, or such retirement may be effected upon delivery to the Governor of an amount of United States Government bonds the market value of which on the date of transaction represents the fair value of the class A shares as determined by the Governor with the concurrence of the Secretary of the Treasury.

"After all class A stock held by the Governor of the Farm Credit Administration on behalf of the United States has been retired from all of the banks for cooperatives, and full private ownership has thus been achieved, short-term Federal investments in such class A stock to help one or several of the banks to meet emergency credit needs shall not be deemed to change this ownership status: *Provided, however,* That this sentence shall not alter the application of the Government Corporation Control Act, as amended (31 U.S.C. 841–870), and section 36(a)(3) of the Farm Credit Act of 1933, as amended (12 U.S.C. 11341(a)(3)) (relating to payment of a franchise tax to the United States if the bank has outstanding capital stock held by the United States)."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1573), explaining the purposes of the bill.

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

SHORT EXPLANATION

This bill would—

(1) permit retirement of Government capital in the Federal intermediate credit banks and banks for cooperatives at fair value, instead of par;

(2) permit emergency short-term Federal investments in such banks after they have achieved full private ownership without changing their private ownership status; and

(3) authorize the Governor of the Farm Credit Administration to require the credit banks to purchase stock in production credit associations so that such associations can retire their Government capital.

The principal objective of the bill is to expedite retirement of Government capital in the credit banks and banks for cooperatives, so that they will not be required to curtail lending operations to accomplish the reduction in budgeted Government expenditures required by section 202 of the Revenue and Expenditure Control Act of 1968. Funds used in lending operations by these banks are acquired from the investing public, and a reduction in their lending operations would deprive borrowers of needed funds without effecting a real reduction in the expenditure of Government funds.

CONTROL OF NOXIOUS WEEDS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1558, S. 2671.

The PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 2671) to provide for the control of noxious plants on land under the control or jurisdiction of the Federal Government.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on

Agriculture and Forestry, with amendments on page 1, line 6, after the word "of" strike out "nonxious" and insert "noxious"; on page 2, line 1, after the word "agency" insert a colon and *"Provided,* That no entry shall occur when the head of such Federal department or agency, or his designee, shall have certified that entry is inconsistent with national security;"; and in line 13, after the word "by" insert "the"; so as to make the bill read:

S. 2671

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the heads of Federal departments or agencies are authorized and directed to permit the commissioner of agriculture or other proper agency head of any State in which there is in effect a program for the control of noxious plants to enter upon any lands under their control or jurisdiction and destroy noxious plants growing on such land if—

(1) such entry is in accordance with a program submitted to and approved by such department or agency: *Provided,* That no entry shall occur when the head of such Federal department or agency, or his designee, shall have certified that entry is inconsistent with national security;

(2) the means by which noxious plants are destroyed are acceptable to the head of such department or agency; and

(3) the same procedure required by the State program with respect to privately owned land has been followed.

SEC. 2. Any State incurring expenses pursuant to section 1 of this Act upon presentation of an itemized account of such expenses shall be reimbursed by the head of the department or agency having control or jurisdiction of the land with respect to which such expenses were incurred: *Provided,* That such reimbursement shall be only to the extent that funds appropriated specifically to carry out the purposes of this Act are available therefor during the fiscal year in which the expenses are incurred.

SEC. 3. There are hereby authorized to be appropriated to departments or agencies of the Federal Government such sums as the Congress may determine to be necessary to carry out the purposes of this Act.

Mr. CARLSON. Mr. President, I want to express my appreciation to the members of the Committee on Agriculture and Forestry for their efforts to expedite this bill to aid in the control of weeds on Federal lands. I want also to commend the Department of Agriculture for their cooperation in helping to put this bill together in a form which would be acceptable to the various Federal agencies affected while still accomplishing the purpose of the bill.

Weeds continue to be a serious problem in this country. Weeds impair the health and efficiency of many, many Americans, particularly those who suffer allergies. They provide protection for disease-carrying insects and serve as a reservoir for disease producing organisms.

Weeds are a threat to American agriculture. They reduce yields and lower the quality of crops and livestocks. They reduce the efficiency of production and harvesting equipment.

Weeds also spoil many of our conservation and recreational areas. They reduce the use of lakes, ponds, waterways, parks, and other areas. They make our water management programs more difficult. Weeds can be an unsightly detraction in locations which might otherwise be beautiful.

Efforts are being made at all levels of Government to do something about the control of weeds. The Federal Government has recognized the problem and has several programs underway to help in the control of weeds.

Unfortunately, however, it has not always been possible because of limitations of authority or funds to devote sufficient effort to provide for the effective control of noxious weeds on Federal lands.

At the same time, many of our States have developed adequate noxious weed control programs. In these States, there is concern about the lack of control on Federal lands for such land frequently serves as a source of reinfestation on private or State land.

It was with this in mind that I introduced S. 2671. I believe it is important that the Federal Government do all that it can to cooperate with the State and local governments and private interests which are fighting the war on weeds.

Cultural, mechanical, ecological, and other biological methods of weed control have been adopted in the struggle to control noxious plants.

More than 400 million acres of cultivated crops receive treatment each year. More than 1 billion acres of hay, pasture, and rangelands, and millions of acres of nonagricultural lands, aquatic sites, and rights-of-way are subject to weed control practices.

Yet, despite significant developments in chemical and nonchemical methods of weed control, the annual losses caused by weeds are intolerable. The U.S. Department of Agriculture estimates that weeds reduce agricultural production on all levels about 8 percent each year.

Farmers spend about $2½ billion each year to control weeds. Nevertheless, the losses caused by weeds and the cost of their control is estimated at $5 billion each year, a loss our country should not and cannot continue to bear.

Private interests have done much concerning weed control, however, their fight against this agricultural menace is only one-half of the picture. Federal agencies are responsible for the management of about 1 billion acres of public land; land closely associated with private land used for crop production, grazing and forestry.

Most of the public land is infested with one or more species of weeds; more than 10 million acres are infested by weeds classified as noxious. Many States have enacted noxious weed control laws, however, State programs are ineffective unless noxious weeds are controlled on public lands.

The losses caused by weeds on privately owned lands cannot be reduced unless weeds on federally managed public lands are controlled. Weeds on public lands and nonagricultural lands are a constant source of reinfestation of privately owned farmlands. Annual reinfestation increases the cost of control. The burden becomes endless for those who produce our Nation's food and fiber supply.

The loss to farmers is only a part of the total picture concerning the national weed menace. Many acres of public land are infested with poisonous plants. In many of our national parks, poison ivy, poison oak, and similar plants cause nearly 2 million cases of skin poisoning and other skin irritations, all of which adds up to an annual loss of 333,000 working days. In addition, these poisonous weed plants cause 3.7 million days of restricted activity and one-half million days spent in bed. We do not have statistics on the reduced efficiency, cost of medical care, and other information related to losses caused by ragweed and by other weed pollens to which hundreds of thousands of people are allergic. Weed pollens are a constant and expensive irritation to thousands of citizens who suffer from allergies.

I would like to stress that today's modern technology can provide us with the means of effectively winning the war against weeds. Recent advances in chemical and nonchemical weed control technology make it possible to control weeds effectively, safely, and economically on federally managed public lands.

We can win the war against noxious and other weeds that pose such a serious threat to health and agriculture. We must provide adequate authority and the resources needed to accomplish this important objective.

I would also like to insert in the RECORD two resolutions that expressly point out the importance of weed control; the resolution adopted by the National Association of State Departments of Agriculture and the resolution adopted by the Western Governors' Conference. Both resolutions demonstrate the growing national awareness over the need for action concerning noxious weed control. I ask unanimous consent that these resolutions be inserted with my remarks in the RECORD.

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

RESOLUTION XXII—WEED CONTROL ON FEDERALLY OWNED LANDS

(Adopted by the National Association of State Departments of Agriculture in convention in Atlanta, Ga., October 1–5, 1967)

Whereas, the American farmer has been beset by continually increasing production costs in producing a bountiful food supply for the American public as well as a large part of the world; and

Whereas, the farmer through assessment in perennial type annually cut production of crops a considerable amount; and

Whereas, the farmer through assessment in weed districts and personal expense has expended almost prohibitive sums of money in attempting to control and eradicate perennial weeds; and

Whereas, especially in our mountainous areas of the western states much of the land on the upper reaches of our rivers is federally owned; and

Whereas, much of this type of federal land is not easily accessible and is difficult to treat for perennial weed control and eradication; and

Whereas, the seed from perennial weeds on the upper reaches of our rivers is carried downstream and reinfests areas upon which private and public funds have been expended and negates much of the progress made in weed control: Therefore be it

Resolved, That The National Association of State Departments of Agriculture in convention assembled in Atlanta, Georgia, October 1–5, 1967, through its Board of Directors,

lends its support to legislation now before the Congress to appropriate necessary funds that will enable the treatment of federally-owned lands for weed eradication and control; and be it

Resolved further, That The National Association of State Departments of Agriculture requests the Agricultural Research Service of the U.S. Department of Agriculture to increase its activities in the field of research on chemicals and methods to control perennial weeds on the upper reaches of our rivers.

VII NOXIOUS WEED CONTROL

(Resolution adopted by 1967 annual meeting Western Governors' Conference, June 28, 1967, West Yellowstone, Mont.)

Whereas, Noxious weeds are a problem in all states of the United States and it is difficult for states individually to control noxious weeds without interstate cooperation; and

Whereas, A large part of the land in many states is controlled by the federal government and therefore federal cooperation is essential to effective weed control; and

Whereas, Noxious weeds do invade the states from other states and foreign countries; and

Whereas, The United States Department of Agriculture is limited in its authority of noxious weed control to the protection and improvement of future productivity of range lands;

Now, therefore, be it resolved, By the 1967 Annual Meeting of the Western Governors' Conference at West Yellowstone, Montana, that the Secretary of Agriculture be urged to obtain a noxious weed control law affecting federally-owned lands.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendments.

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

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

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1574), explaining the purposes of the bill.

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

SHORT EXPLANATION

This bill would permit State officials to destroy noxious plants on Federal lands, subject to approval of the head of the Federal agency having jurisdiction over the land and under the procedures applicable to private lands. The State would be reimbursed to the extent of available Federal funds.

COMMITTEE AMENDMENTS

The committee amendments are technical in nature. They correct spelling and grammar and include an amendment suggested by the Department of the Army to make it abundantly clear that no entry of Federal lands inconsistent with national security shall be permitted.

INTERNATIONAL CENTER COMPLEX

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1559, H.R. 16175.

The PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 16175) to authorize the transfer, conveyance, lease, and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for the Organization of American States, as sites for governments of foreign countries, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1575), explaining the purposes of the bill.

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

PURPOSE

The purpose of H.R. 16175 is to authorize the Secretary of State to sell or lease approximately 34 acres of property located in the old National Bureau of Standards site to foreign governments and international organizations "upon such terms and conditions as he may prescribe." The property involved is bounded by Connecticut Avenue, Van Ness Street, Reno Road, and Tilden Street.

PROVISIONS OF BILL

Under the terms of the bill, the Secretary is authorized to transfer or convey to the Organization of American States, without monetary consideration, all right, title, and interest of not to exceed 8 acres of land located in the Bureau of Standards site. The OAS is expected to construct a headquarters building and related improvements on the property. In return for the 8 acres the OAS will convey to the U.S. Government, without monetary consideration, its present administration building located at 19th and Constitution Avenue NW. The bill also authorizes the conveyance to the OAS, without monetary consideration, title to the property on which the main building of the Pan American Union is situated at 17th and C Streets NW., together with all interests of the United States in the improvements thereon.

In addition, it is understood that about 16 acres of the Bureau of Standards property will be sold or leased to foreign governments for chancery sites and that the remaining 10 acres will be devoted to park areas. The proceeds from the sale or lease of the property to international organizations and foreign governments are to be deposited in a special account in the Treasury to pay for the costs of construction of streets, sidewalks, sewers, water mains, et cetera, and any amounts remaining after the completion of such projects are to be covered into the Treasury as miscellaneous receipts.

COMMITTEE ACTION AND RECOMMENDATION

H.R. 16175 was passed by the House of Representatives on September 16, 1968, and referred to the Committee on Foreign Relations on September 17. The following day the committee held a public hearing on the bill and received testimony from Mr. Leonard C. Meeker, the Legal Adviser of the Department of State. His statement is reproduced in the appendix to this report. Also included in the appendix is a statement submitted by Mr. John W. Ford, the alternate U.S. representative to the Council of the Organization of American States. No public witnesses asked to be heard and, as far as the committee is aware there is no opposition to H.R. 16175.

In the committee's view, the enactment of H.R. 16175 will help to alleviate the long-standing problem of finding adequate and suitable sites in the District of Columbia for foreign chanceries and international organizations. It is hoped, therefore, that the Senate will approve the bill at an early date.

SHALL WE APPEASE COMMUNIST CHINA?

Mr. HOLLINGS. Mr. President, within the coming weeks the U.N. General Assembly will again convene, and once again, there is bound to be impassioned debate over the question of U.N. membership for Communist China.

One would have thought that the horrifying stories that have come out of Communist China since Mao Tse-tung launched his cultural revolution 2 years ago would have been enough to dampen the ardor of those non-Communist governments who have in recent years sought to bring Red China into the world organization. But, surprisingly, the obvious disintegration of Communist rule and the gruesome revolutionary terror that now exists in Red China seem to have had precisely the opposite effect.

In recent months, the suggestion has been made by a number of people prominent in public life that we change our China policy. We are told that the policy of political isolation has failed; that Communst China is here to stay; and that if we sincerely desire to achieve peace in the Far East, we will first have to achieve some kind of understanding with Red China.

This position has been spelled out, with minor variations, in recent statements by a group of American scholars specializing in Asian affairs and by prominent Members of Congress.

The call has been made in all of these statements for a serious effort to build bridges to the Chinese people. Implicitly, and sometimes explicitly, the argument has been made that our present policy is rigid and futile and that, instead of opposing the admission of Red China to the U.N., we should actively sponsor her admission.

All the indications are that we are witnessing the beginning of another big drive to admit Red China to the United Nations and, ultimately, to grant her diplomatic recognition.

It is true that changing circumstances sometimes require changing policies. But the question that has to be decided before one can recommend a new policy is whether the current policy gives evidence of succeeding or of failing. And the evidence is overwhelming that our present China policy has been successful in terms of the objectives we set ourselves.

Our China policy has not failed. The policy of containment which we have pursued has, for almost two decades now, provided an umbrella of security for the countries on China's periphery. And this policy also deserves a very large share of the credit for the chaos and demoralization that now afflict the Chinese Communist regime.

It would be useful to examine the major arguments advanced in support of changing our China policy, because the chances are that we shall hear these same arguments repeated over and over again during the coming period—and because the time to squelch a fallacy is at

the beginning and not after it has achieved widespread currency.

WISHFUL THINKING AND APPEASEMENT

It is the most human thing in the world to run away from difficult situations by indulging in wishful thinking. And the more difficult and threatening the circumstances, the greater the temptation to deny reality—the greater the temptation to delude one's self into believing that all the dangers threatening us can be dissipated by a few simple devices.

Because of its association with Hitler and World War II, the word "appeasement" has become one of the most despised words in the English language. It should, therefore, not be bandied about lightly.

Some of the arguments that are now advanced with regard to Red China bear a frightening similarity to the arguments that paved the way to the Munich agreement and to the ultimate disaster of World War II.

The similarities are many.

Then, as now, we were confronted with a ruthless, aggressive totalitarianism, contemptuous of human life and fanatically committed to the destruction of the free world.

Then, as now, the prospect of another world war was almost too horrible for civilized men to contemplate.

Then, as now, there was a terrible temptation to deny reality and to indulge in wishful thinking—to hope that the Nazis were not totally unlike ourselves; that they were not altogether impervious to reason and good will; that an accommodation with them was necessary and possible; and that war could be avoided by the simple devices of more contacts and more diplomacy.

This was not the thinking of Neville Chamberlain alone; it was the mood of an entire era to which history has given his name. The result was that, when Chamberlain came back from Munich and waved the piece of paper which, he said, promised "peace in our time," he was applauded by the overwhelming majority of his countrymen, Tory, Liberal, and Labor.

But then reality prevailed, as it always does in the end, and the wishful thinking and the wishful thinkers were swept aside by the march of events.

Two essential lessons emerged, or should have emerged, from this experience.

The first lesson is that the 20th century has spawned totalitarian regimes with which no permanent reconciliation is possible—as much as we may desire it and as hard as we may labor to achieve it—for the simple reason that they are implacably committed to the destruction of the free world.

The second lesson, which is related to the first, is that any effort to buy off or appease the totalitarian fanatics of our time is doomed to failure, and that it runs the almost certain risk of provoking the wider war which it seeks to avoid.

Those who today urge reconciliation with Communist China would be prepared to concede the truth of these statements about the Nazi regime and about the impossibility of achieving a genuine understanding with it. But they will argue that there are important differences between the Chinese Communists and the Nazis, and that it is therefore wrong to equate them.

Of course there are important differences between the Chinese Communist regime and the Nazi regime. But the essential attributes which they have in common far outweigh any differences that do exist.

Certainly no one will challenge the assertion that the Chinese Communist dictatorship is every iota as totalitarian as the Nazi dictatorship.

Nor could anyone who has knowledge of the situation challenge the assertion that the Maoist regime is as contemptuous of human rights and human life as the Nazi regime was at its worst. It is estimated by China scholars that upwards of 25,000,000 Chinese perished in the merciless purges that followed the Communist conquest of the mainland.

Nor can there be any doubt that Mao's cohorts—by their ideology, by their program, by their doctrinal pronouncements—are just as committed to the destruction of Western democracy and American power as were Hitler and his Nazi movement. One of this country's most distinguished China scholars. Prof. Richard L. Walker, director of the Institute of International Relations at the University of South Carolina, has said:

> It is doubtful whether ever in history a group of leaders has carried on as protracted and intense a campaign of international and domestic hatred as Mao Tse-tung and his colleagues have carried on against the United States.

One of the many examples he offered was this quotation from Chou En-lai in his report to the National Peoples Congress:

> U.S. imperialism has done all the evil things it possibly can. It is the most arrogant aggressor ever known to history, the most ferocious enemy of world peace and the main prop of the forces of reaction in the world. Peoples and nations all over the world that want to make revolutions and liberate themselves, all countries and peoples that want to win their independence and safeguard their sovereignty, and all countries that want to defend world peace, must direct the sharp edge of their struggle against U.S. imperialism.

To complete the roster of parallel attributes, the Maoist regime, like the Nazi regime, seeks to uproot and destroy religion. Like the Nazi regime, it seeks to wipe out completely the humanizing traditions and culture of the past. Like the Nazi regime, it carries the excesses to the point of lunacy. Like the Nazi regime, it glorifies the role of force through countless preachments like Mao's famous statement that "power grows out of the barrel of a gun."

Like the Nazi regime, it is openly and blindly committed to aggression. But whereas Nazi aggression was conceived in traditional military terms, the Chinese Communists practice both traditional military aggression, and the more indirect, more subtle, more dangerous form of aggression to which they have given the name "People's Wars of National Liberation."

The parallel between Hitler and Mao has been confirmed by more than one Western observer who had intimate experience with the ill-fated appeasement of Hitler. Thus, Andre Francois-Poncet, the French Ambassador to Berlin in the 1930's—a man whom William L. Shirer has described as "probably the best informed ambassador in Berlin," wrote recently:

> Mao Tse-tung needs a lesson. If he does not get it soon, tomorrow will be too late to administer it to him. If we had taken action against der Fuhrer, when he first stepped out of line, perhaps he would not have dared to go further. He (Mao) wants to be master of Asia and Africa, of the yellow and black races . . . Indochina is the one obstacle in his path. If he can break it down, there will be no stopping him. By blocking him, America is defending the cause of the free world, our cause, and we should give it our support.

Remarkably enough, this assessment of Red Chinese expansionism is shared completely by its Soviet neighbor. An article in the Moscow Literary Gazette, earlier this year, said:

> Mao proposes to include in his "Reich" apart from China itself, Korea, the Mongolian People's Republic, Vietnam, Cambodia, Laos, Indonesia, Malaysia, Burma and several other countries. . . . From the statements of Mao Tse-tung himself, the conclusion may be drawn . . . that a third world war will have to precede the realization of the "Mao Plan". . . . That is why Peking continues year after year doing everything to increase international tension and pour oil on fire wherever it breaks out in the world.

Against the background of these facts, one is constrained to conclude that the policy of reconciliation with respect to China smacks dangerously of appeasement.

IS RED CHINA REALLY PEACEFUL?

A leading Member of Congress in a recent speech challenged the assumption that the Chinese Government is an expanding and aggressive force. He said that "the present Chinese Government has not shown any great eagerness to use force to spread its ideology elsewhere in Asia." And while he conceded that Red China has given enthusiastic encouragement to wars of national liberation, he immediately discounted this concession with these words:

> However, China has not participated in these wars, and support, when it has been forthcoming, has been limited and circumspect.

This depiction of Red China as an essentially peaceful nation whose actions have been exaggerated and misunderstood is at complete odds with the facts.

Ask the Burmese Government who has inspired, sustained, and supplied the guerrilla insurrection in their country—and the answer will be plain and unequivocal. And while we are on the subject of Burma, it should be pointed out that there are no American bases or military advisers in the country, that until recently it had virtually no Western aid program of any kind, and that its economy has been almost completely socialized, apparently in the hope that this will somehow appease the gods of communism.

Ask the Government of Indonesia whether or not the Chinese Communists practice subversion and aggression—and

everyone knows what the answer will be. And here, again, the government which the Communists sought to overthrow was not right wing or pro-American, but leftist-neutralist and anti-American.

Ask the Governments of Malaysia and Laos and Thailand and even Cambodia the same question—and, once again, there can be no doubt about their replies.

The assertion that Red China's policy toward her neighbors represents a simple extension of China's centuries-old concern for security on her frontiers, simply cannot be sustained by the facts. The pattern is too brutal and too overwhelming.

Nor can we solve our consciences or solve any of our problems by relegating all of the smaller nations on China's periphery to a Chinese Communist "sphere of influence," as Professor Hans Morgenthau has proposed. Secretary of State Rusk put the matter aptly in these terms:

I can see no possibility of a stable peace through spheres of influence. Who is to determine which are to be the "master" nations—and which their vassals? And what happens when the "master" nations engage in struggles among themselves about spheres of influence? I cannot imagine a surer path to war—and much more devastating wars than the world has ever known. I would think that the United Nations Charter is right—that every nation, large or small, has a right to live in independence and peace, even though it is next door to a great power.

How many crimes are to be excused in the name of seeking security or in the name of "spheres of influence"?

And where does the process of seeking security end? If the whole of Southeast Asia were to fall under Chinese control, would this not create new frontiers which, applying the same logic, could only be protected by a further round of territorial expansion? And would it not be thus ad infinitum, each new acquisition of territory compelling a further acquisition of territory in the name of security?

Is there not some indication of a commitment to global imperialism in the aggregate of Red China's actions since Mao Tse-tung came to power—in Red China's intervention in Korea, in her genocidal annexation of Tibet, in her two attacks on India, in her attempted coup in Indonesia, in her support for the Vietcong movement in Vietnam, for the Pathet Lao movement in Laos, for the Thailand Independence Movement, for the Malayan National Liberation Army, for the Hukbalahap Movement in the Philippines, for the Communist insurgents in Burma?

RED CHINA AND AFRICA

Those who discount Red China's repeated acts of aggression against her neighbors and who deny that Red China has global imperialist ambitions would have a little more difficulty justifying Peking's subversive activities in Africa in terms of traditional Chinese policy. These activities have succeeded in installing pro-Peking regimes in the Island of Zanzibar on the East Coast of Africa and in the Brazzaville Congo on the West Coast; and they have been the subject of protests and denunciations and warnings by the governments of at least a dozen African countries. Such protests and denunciations have come from the Governments of Burundi, Niger, the Ivory Coast, Dahomey, Upper Volta, Malawi, the Central African Republic, Kenya, and Ghana. Several of these governments have charged Peking with organizing insurgent armies against them. Three of them—Burundi, Dahomey, and the Central African Republic—have broken off diplomatic relations with Peking to reinforce their protests against Peking's intervention in their internal affairs.

The Kenyan Government of Jomo Kenyatta has accused Peking of sending arms under disguise to pro-Communist elements in Kenya. And, when the government of Kwame Nkrumah was overthrown in Ghana, correspondents were taken to a training center for African guerrillas and saboteurs, which Peking has operated in collaboration with Nkrumah.

Even stretching a few points, it is clearly impossible to explain all this in terms of China's traditional policies and the quest for security. There is only one explanation that really makes sense—that the Chinese Communists are in deadly earnest when they talk about world revolution and about People's Wars of National Liberation.

Hitler spelled out his beliefs in the clearest terms in Mein Kampf. But the Western World was prone to dismiss his statements as the rantings of a madman. The price they paid for failing to take his writings seriously was World War II.

We run the risk of paying an even heavier price if we ignore the writings of Mao Tse-tung and Lin Piao, and if we discount their solemn doctrinal pronouncements as revolutionary rhetoric which bears no relationship to the realities of Chinese Communist policy.

RED CHINA AND VIETNAM

We are told that, in order to improve the situation in Vietnam, it is "desirable" to take "initiatives toward" the Chinese Communists and to "reshape the relationship" with them "along stable and constructive lines."

Even if one could realistically hope for an improved relationship with Communist China through new initiatives and through the patient pursuit of understanding, I think the Senators would be prepared to agree that this is something we could not look for overnight. Under the best of circumstances, it would take many years. The possibility of improved relations, even if it should exist, bears little application to the problem that confronts us today in Vietnam, or in the negotiations that are now taking place in Paris.

If there is one point on which Far Eastern experts, both doves and hawks agree, it is that Red China has been using all of its influence with Hanoi to keep the war going, and that, if Hanoi ever does agree to a reasonable settlement, it will be despite Peking's advice and against her pressure.

The commitment to "People's Wars of National Liberation," and the inevitability of their success, constitute cardinal articles of faith in the perverted totalitarian religion of Mao Tse-tung and Lin Piao. It is utterly unrealistic to hope that they will respond to an American show of friendship by calling off the war in Vietnam and abandoning their commitment to wars of national liberation. This would just about be tantamount to the Pope repudiating Christianity.

The fanatical doctrinal commitment to the destruction of America which characterizes all the speeches and statements of the Chinese Communist leaders is something that bears no relationship to traditional politics or normal human psychology. One can only comprehend it by entering into the realm of political abnormality—the realm inhabited by the ghosts of Adolf Hitler and Joseph Stalin and the other tyrannical madmen who have bloodied the pages of history.

How does one undo the fanaticism of a Lin Piao who said the following:

Everything is divisible. And so is this colossus of U.S. imperialism. It can be split up and defeated. The peoples of Asia, Africa, Latin America, and other regions can destroy it piece by piece, some striking at its head and others at its feet. That is why the greatest fear of U.S. imperialism is that peoples' wars will be launched in different parts of the world, and particularly in Asia, Africa and Latin America . . . History has proved and will go on proving that peoples' war is the most effective weapon against U.S. imperialism and its lackeys . . . U.S. imperialism, like a mad bull dashing from place to place, will finally be burned to ashes in the blazing fires of the peoples' wars. . . .

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. LONG of Louisiana. Mr. President, I ask the Senator what he has just been quoting from.

Mr. HOLLINGS. That is a quotation from Lin Piao in one of his most recent speeches in Red China.

Mr. LONG of Louisiana. I thank the Senator. It is a very interesting quotation from Communist philosophy, might I say.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Louisiana, our very informed chairman of the Finance Committee, for his interest in this particular matter this morning.

It is not only a question of keeping Red China out of the United Nations, but it is also a matter of maintaining the security of the United States and of the free world.

What hope is there that Mao Tse-tung, given a more friendly approach by the United States, will intervene to promote a conciliatory settlement of the Vietnam conflict—against the background of a thousand statements like the following:

The revolutionary upheaval in Asia, Africa, and Latin America is sure to deal the whole of the old world a decisive and crushing blow.

The great victories of the Vietnamese people's war against United States aggression and for national salvation are convincing proof of this.

The proletariat and working people of Europe, North America and Oceania are experiencing a new awakening.

The United States and all other such vermin have already created their own grave diggers and the day of their burial is not far off.

RED CHINA AND THE RACE CRISIS IN THE UNITED STATES

Any assessment of Red China, and of the possibility of achieving a reconciliation with the present Chinese leaders, would be incomplete without an examination of China's role in exacerbating race relations in the United States and in fomenting race violence.

Now, the epidemic of riots which has plagued our country in recent years is not entirely the work of extremist agitators. Our Negro citizens have many legitimate grievances, and we have to do our utmost to redress these grievances. Unquestionably, these grievances play an important role in the incubation of riots. But there can be no question, either, that extremist agitators belonging to a variety of organizations have played a major role in exploiting and expanding racial tensions, and in fanning what might have been minor disturbances into city-consuming holocausts.

If anyone has any doubt on this score, he should read the report on "Guerrilla Warfare Advocates in the United States" recently put out by the House Committee on Un-American Activities.

In this agitation, Peking plays a role of major importance through the control it exercises over two important extremist organizations—the Revolutionary Action Movement, which calls itself RAM for short, and the Progressive Labor Party, which is the pro-Peking Communist party in this country.

The Revolutionary Action Movement is led by a Negro militant named Max Stanford. However, it takes its lead from another black extremist, Robert Williams, who, for a period of time, broadcast inflammatory diatribes to American Negroes over Castro's radio, and who now makes his headquarters in Peking. Mao Tse-tung has personally praised Williams' activity and has pledged the "resolute support" of Red China to him.

With money provided by his Peking masters, Williams prints and mails to his country, in some thousands of copies—no one knows just how many—a newspaper called the Crusader.

The Revolutionary Action Movement and Robert Williams make no efforts to conceal their intentions. Calling for urban violence on a massive scale, Robert Williams said the following in his newspaper:

When massive violence comes, the USA will become a bedlam of confusion and chaos. The factory workers will be afraid to venture out on the streets to report to their jobs. The telephone workers and radio workers will be afraid to report. All transportation will grind to a complete standstill. Stores will be destroyed and looted. Property will be damaged and expensive buildings will be reduced to ashes. Essential pipe lines will be severed and blown up and all manner of sabotage will occur. Violence and terror will spread like a firestorm. A clash will occur inside the armed forces. At U.S. military bases around the world local revolutionaries will side with Afro G.I.'s. Because of the vast area covered by the holocaust, U.S. forces will be spread too thin for effective action. U.S. workers, who are caught on their jobs, will try to return home to protect their families. Trucks and trains will not move the necessary supplies to the big urban centers. The economy will fall into a state of chaos.

Max Stanford, Williams' chief disciple in this country, described what will happen when the day of liberation arrives in these lurid terms:

Black men and women in the Armed Forces will defect and come over to join the black liberation forces. Whites who claim they want to help the revolution will be sent into the white communities to divide them * * * The revolution will "strike by night and spare none." Mass riots will occur in the day with the Afro-Americans blocking traffic, burning buildings, etc. Thousands of Afro-Americans will be in the street fighting; for they will know that this is it. The cry will be "It's On!" This will be the Afro-American's battle for human survival. Thousands of our people will be shot down, but thousands more will use sabotage in the cities—knocking out the electrical power first, then transportation, and guerrilla warfare in the countryside in the South. With the cities powerless, the oppressor will be helpless.

Unfortunately for the United States, the propaganda put out by Robert Williams and Max Stanford cannot be dismissed as meaningless rantings. The fact is that members of the Revolutionary Action Movement have been active in a number of major riot situations. For example, in Cleveland—the hometown of the present distinguished Presiding Officer—the grand jury which investigated the riots in that city found that, under RAM leadership, rifle clubs have been formed before the riots and instructions have been given on the making and use of Molotov cocktails.

In Harlem, just before the major riot which took place in July 1964, William Epton, a leader of the pro-Peking Progressive Labor Party, addressed a Harlem open-air rally in these terms:

We will not be fully free until we smash this state completely and totally. Destroy and set up a new state of our own choosing and our own liking.

And in that process of smashing this state, we're going to have to kill a lot of these cops, a lot of these judges, and we'll have to go up against their army. We'll organize our own militia and our own army. * * *

Peking does not have any mass movement in this country. At the most, the adherents of RAM and the Progressive Labor Party can be numbered in thousands—with some additional thousands of Peking sympathizers in other leftist movements like the Students for a Democratic Society and the Student Non-Violent Coordinating Committee. But, through these several thousand adherents over whom it exercises ideological control, Peking is able to play havoc with the security of our cities. After all, a hundred men, each of whom throws a dozen Molotov cocktails, are enough to set an entire city on fire.

The record is admittedly incomplete. But when all the secrets are out and the full history of our time is written, there will certainly be evidence of Peking's complicity in the continuing orgy of violence, looting, and arson that afflicts our cities.

It would be dangerous to ignore the fact that certain major riots have been incited by black extremists, some of them under Peking's influence, and that the adherents of the various extremist groups have fanned the flames in virtually every major riot situation. Nor can we ignore the fact that, to the extent that it has the power to influence and direct its adherents in this country, Peking uses this influence not to urge restraint, but to foment division and chaos and rioting.

When American cities burn, Peking Radio gloats.

RED CHINA'S CRISIS

There are some people who tell us that China has a functioning leadership, that it has achieved economic progress, and that the worst of the upheavals within China appear to have ended months ago without any irreparable break in the continuity of the Government or the operations of the economy.

In recent weeks Peking has announced the establishment of so-called revolutionary committees in the last of China's 27 provinces. But it is clear that many of these committees exercise only the most nominal control and that Red China's grotesque civil war, which, according to some observers, has already cost more than 5 million lives, is still continuing.

Reports in recent months from the professional China watchers in Hong Kong were agreed that the so-called "cultural revolution" has reduced the Communist Party itself, and the Communist administrative bureaucracy, to a state of chaos.

Most of Mao's original comrades, including President Liu Shao-chi, have been purged or denounced, in the idiom of Communist lunacy, as "high party persons in authority taking the capitalist road." The powerful Peking Party Committee was one of the first casualties in Mao's war against his former comrades. Thus far, the Maoists have been able to solidify their position in only a small minority of China's 60 major cities—but wherever they have come to power, it has only been after a full-fledged civil war between the party apparatus and Mao's so-called Revolutionary Committee.

The schools remained closed for more than 2 years despite repeated efforts to open them. What measure of success the Communist regime will have in its current effort to reopen the schools remains to be seen.

In calling out the students of China and organizing them into the Red Guard as an instrument of struggle against the Communist Party apparatus, Mao has truly sown the wind and reaped the whirlwind.

It was in the summer of 1966 that Mao ordered the schools closed so that the students could take part in the so-called cultural revolution. Perhaps Mao contemplated a quick victory over his opponents. But the Red Guard movement soon turned into a Frankenstein monster which even the Maoists could not control. The excesses of the Red Guards revolted all the members of the older generations, including the older generation of Communists. But beyond this, their excesses have done so much damage to the Chinese educational system that it will be years before it returns to normal.

Peter J. Kumpa, of the Baltimore Sun, one of the ablest of the American correspondents in Hong Kong, made this re-

port last December on the damage done to the Chinese education system by the Red Guard movement:

> In the unexpected violence that followed, many schools were physically torn up. In dormitories, used by Red Guards as headquarters, desks, tables, and other combustible materials were chopped up and used for fuel last winter. Windows were shattered and some schools were even burned during factional fighting between students.
>
> More serious than plant damage was that done to the teacher corps. Encouraged by the Maoists to eliminate bourgeois ideology, Red Guard students turned on their once highly respected tutors in a violent struggle movement. Tens of thousands of teachers were persecuted, humiliated, denounced, sent out to forced labor camps. Some were killed. Many committed suicide.

Kumpa quoted a report which appeared in the Peking Daily on the results of the cultural revolution in one small provincial university, Lanchow University. According to the Peking report, there were 1,038 teachers and students at this university who were "struggled against." Of these, 61 were killed or ran away, six committed suicide, 14 made unsuccessful attempts at suicide, and 41 escaped their tormentors. The statistics which Peking Daily so proudly presented were for last winter alone. According to Kumpa, what happened at Lanchow University was a mild example of the cultural revolution.

No wonder, then, that there has been a wholesale departure from the teaching profession and that repeated efforts to entice the teachers back to their jobs have failed.

The chaos in the educational system is representative of the chaos that afflicts every aspect of Chinese society today.

An article by John Hughes in the Christian Science Monitor of July 22 reported that "the flame of revolt and disorder is licking across the great southern arc of Communist China." He said that Hong Kong observers now have overwhelming evidence of major bloodshed in Kwangtung, Kwangsi, and Unnan, the three provinces adjacent to North Vietnam. Noting that Kwangtung was supposed to be governed by a revolutionary committee, Mr. Hughes reported that, according to local radio and newspaper accounts, the pro-Mao factions in Kwangtung were protesting that their followers were being "slaughtered" by supporters of President Liu Shao-chi, in league with "die-hard capitalists, special agents, unreformed landlords, rich peasants and other bad elements."

Again quoting from Communist sources, Mr. Hughes reported that in a major battle which took place in the city of Wuchow in Kwangsi Province during April and May, more than 2,000 buildings were destroyed and 40,000 inhabitants rendered homeless. Before the fighting was over, hundreds of Mao supporters had been killed and some 3,000 arrested.

The degree of the chaos that afflicts Communist China is further dramatized by an article in a publication of the Transport Workers Union in Canton, South China's largest city. The publication charged that anti-Maoist elements had disrupted electricity, water supply, and public transportation. The Transport Workers publication said that these anti-Maoist elements—and here I want to quote:

> Beat up and kidnaped more than 110 of our drivers and conductors. More than 50 of our comrades sacrificed their precious lives or shed their precious blood in defense of the people's transport, and more than 33 drivers and conductors were kidnaped and their whereabouts are still unknown. The bandits seized our people's buses more than a hundred times . . . they seized 53 buses. They were never so mad before. The bus terminals were smashed and attacked more than 16 times.

An article by Stanley Karnow in the Washington Post of July 30 reported that the Chinese Communist leaders had still found it impossible to put an end to the factional disorders in South China which were seriously disrupting both Chinese and Soviet military aid to North Vietnam.

Mr. Karnow quoted from a top Communist directive, printed at the end of June in a Red Guard publication, calling on "competing Red Guards and labor groups in the Kwangsi border region adjoining Vietnam to surrender weapons and other supplies stolen from southbound freight trains and from Chinese troops based in the area."

The directive noted that "certain mass organizations" had looted arms and equipment bound for Vietnam, attacked trains and damaged railways, and "completely disrupted railway traffic in the Liuchow district."

In addition to asking all Chinese to surrender stolen weapons and equipment, the directive asked that all railway employees "should immediately return to their own work posts" in order to "lose no time in restoring communications and transport."

A measure of the desperation of the Chinese leaders was that they were obliged to promise that those who had been guilty of these crimes would no longer be held responsible for what they had done if they corrected their ways.

Rather than abating, therefore, all the indications are that China's internal struggle continues to grow in severity. Official newspapers now openly complain about "anarchism." In recent months, there have been an increasing number of reports of group executions of anti-Maoist elements, conducted in public before mobs of thousands of persons whom the Maoists had assembled to witness the spectacle.

Mao Tse-tung and Chou En-lai have sought to limit the destruction and turmoil by calling for unity, and even reinstating some of the purged governmental and party functionaries, military commanders, teachers, managers and technicians of industrial establishments, and leaders of farm production teams. But the cleavages remain as deep as before.

To the extent that there is any administration worthy of the name, it is kept going by a loose coalition of a small group of party chiefs led by Chou En-lai and senior officers loyal to Lin Piao who have not been too seriously discredited by the Red Guards.

The Peking regime and the Party Central Headquarters wield little effective power outside the capital. Local controls depend on the garrison commanders, while in the communes the leaders of the farm production teams have become markedly more important.

To cope with the situation, the armed forces, under Lin Piao, have been obliged to take over much of the administration and the government of the country. Not only do the armed forces manage factories and railroads and run municipal governments, but they have frequently had to discipline units of Mao's Red Guards who have run amok, and step in as arbiters between the contending Communist factions.

The most recent report indicates that the Communist civil war is entering a new stage. In the first stage the high school and university students were organized into the Red Guard organization and used as a weapon by Mao against President Liu Shao-chi and the Communist party apparatus. The second stage was characterized by desperate efforts to bring the rampaging Red Guard under control, including not infrequent intervention by the Red Chinese Army. In the new stage, the Communist propaganda apparatus, apparently with Mao's assent, has come out openly against the Red Guards and have called upon the working class to exercise leadership. According to a dispatch by Stanley Karnow in the Washington Post of September 3:

> Organized groups of soldiers, workers and peasants are moving into schools and universities, newspaper offices, factories, mines and other enterprises in order to quell unruly young activists originally mobilized by Mao as the spearhead of his drive to purify China.

Karnow quoted a Shanghai editorial which referred to the Red Guard factions as "nests of hornets that must be eradicated." The editorial said that speakers sending out worker teams in Shensi Province told them:

> We will never allow young students and intellectuals * * * to wave their hands and feet and manipulate or interfere with the proletariat.

All the indications are that no reshuffle of authority will put an end to the contradictions that are tearing Red China apart and that, even under the new directives which place workers and peasants over students and intellectuals, mainland China is in for continuing turmoil and unrest. For what is involved here goes far beyond what is commonly supposed to be a struggle between contending Communist factions. Such a struggle does indeed exist. But the scope and intensity of the conflict, as well as the specific forms which it is taking, stem from the fact that the masses of the Chinese people are taking advantage of this factional struggle to vent their hatred of the Communist regime. There is no other way of explaining the theft of weapons and equipment from the Red army and of military equipment moving by rail toward Hanoi, or the sabotage of railroads, or the strikes of railroad workers, or the sabotage of the municipal transport systems in Canton and other cities.

While those who advocate accommo-

dation appear certain that the Chinese Communist regime is here to stay, some of the most knowledgeable experts who watch developments in China on a day-to-day basis would take sharp issue with this assessment. For example, L. La Dany, the editor of China News Analysis, who has an international reputation as the No. 1 China watcher in Hong Kong, has expressed the firm opinion that Mao's dynasty cannot survive, and that it is impossible to know who will emerge when it falls. He pointed out that once before in Chinese history, some 2,000 years ago, a tyrannical regime launched a campaign very similar to Mao's campaign against "old culture, old thoughts, old customs, old habits," burying scholars and burning books in the process. This regime was finally overthrown by the people.

What, then, should our policy be toward Red China?

If the proof of the pudding is in the eating, then the policy we have pursued toward Red China in recent years has been eminently successful. The Chinese Communist tyranny is crumbling in disrepute and chaos. From the separate standpoints of China's people, China's neighbors, and the peace of the Far East, this is all to the good.

I am opposed to the proposal that we alter our China policy and seek an accommodation because its only effect would be to reverse the process.

The measures recommended, or clearly hinted at, by various spokesmen include the normalization of relations, increased trade, diplomatic recognition, and admission to the United Nations. All of these measures would serve to enhance the prestige of the Maoist regime in the world community, and, by this token, would help it to reconsolidate its position at home.

By helping the Maoist regime to overcome its internal difficulties, they would augment its capacity for aggression and subversion.

They would increase the danger to the peace throughout the Far East and in doing so they would have the gravest consequences for our own security.

The United Nations is already more than half paralyzed by the frequent vetoes and persistent obstructionism of the Soviet Union. But if Maoist China were ever admitted to membership in the United Nations, it would so poison the atmosphere and stultify the proceedings that the limited ability which the U.N. still retains to deal with world problems would be completely destroyed, while even those who are today stanch supporters of the organization would turn against it in disgust.

For all of these reasons, I believe it would be a fatal mistake to admit Red China to the U.N. or to commit ourselves to a policy of accommodation at this juncture.

I am just as strongly opposed to the proposal that we neutralize Taiwan and encourage its reunification with Communist China.

The existence of the Chinese Nationalist Government on Taiwan not merely helps to keep alive the resistance on the mainland. It also serves to keep alive the Chinese culture and Chinese traditions and the Chinese Confucian morality which Mao Tse-tung is trying so desperately to destroy.

The mere existence of its army of 650,000 soldiers—one of the largest and best trained forces in all of Asia—constitutes a powerful deterrent to Communist aggression. Its destruction or neutralization, conversely would seriously unhinge the balance of military power in the Asian continent and, in doing so, would serve to encourage Red Chinese aggression.

The existence of the Chinese Nationalist Government on Taiwan contributes in another way to the security of those Far Eastern countries that harbor substantial Chinese communities. Without the Nationalist Government on Taiwan, Peking would be in an infinitely stronger position to bid for the loyalty of the so-called "overseas Chinese" and to use them for purposes of subversion. But as long as the Nationalist Government exists, the overseas Chinese have the option of combining their natural sentimental loyalty to China with loyalty to the cause of freedom. Not all of them will take advantage of this option. But the record certainly suggests that the great majority of overseas Chinese, given the choice, will opt for freedom.

For the United States to use its great influence and power to shore up the Maoist regime in China, when all the evidence indicates that it is crumbling, would be a disservice to the Chinese people, to the security of China's neighbors, and to the cause of peace in the Far East.

Those who urge the appeasement of Red China, who call for building bridges to it and for its admission to the U.N., have, unfortunately, received a degree of attention that is out of all proportion to their actual numbers or influence.

I am convinced that they do not reflect the views of the American people. Nor do they reflect the views of Congress. This has been apparent from the impressive congressional support accorded year after year to the Committee of One Million Against the Admission of Red China to the U.N.

The Committee of One Million, I should explain, has from the beginning been a broadly based bipartisan movement, more or less evenly divided between Democrats and Republicans liberals and conservatives. And I am personally proud to be associated with it as a member of its congressional steering committee.

Let us do everything in our power to hasten the demise of the Maoist regime, rather than shoring it up.

If we adhere to the policy of firmness and resist the counsel of appeasement, we can be confident that the day will come when a free Chinese people, liberated from the cruelest tyranny in history, will take their rightful place in the community of nations.

AMENDMENT OF THE MERCHANT MARINE ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1413, H.R. 17524.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 17524) to amend section 502 of the Merchant Marine Act, 1936, relating to construction differential subsidies.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LAUSCHE. Mr. President, I send to the desk an amendment sponsored by myself and the Senator from Delaware [Mr. WILLIAMS] and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Strike the date "June 30, 1970", on line 6, and insert "June 30, 1969".

Mr. LAUSCHE. Mr. President, as indicated, the amendment which I have just sent to the desk, under the sponsorship of myself and the Senator from Delaware, contemplates the extension of the shipbuilding subsidy program until June 30, 1969, instead of June 30, 1970, as provided in the bill as it came to the Senate from the Committee on Commerce.

For the last decade we have been extending, about every 2 years, the subsidy program for the building of private passenger- and cargo-carrying ships, under the guise that eventually a program of reform would be worked out. No program of reform has been worked out.

I have personally been of the opinion that the subsidy program for the carriers of passengers and cargoes on the high seas has been a black spot in the handling of the money of the taxpayers of our Nation. This program has been in existence for about 32 years. When it was originally adopted, it was said that the United States needed a merchant marine, and that to build a merchant marine would require subsidies from the taxpayers to the private owners of passenger and cargo ships.

In 1936, when the program was originally adopted, the cost of building a ship in the United States was about 35 percent more than it would have cost to build a similar ship in one of the foreign shipbuilding nations.

Those who advocated this program also argued that the cost of operating the ships of America, owned by private owners, hiring American labor, was far greater than the cost incurred by the foreign carriers in hiring foreign labor.

Thus, in 1936, two programs were adopted; the first, to subsidize shipbuilding; the second, to subsidize ship operations.

With respect to the shipbuilding subsidy, it was said that in the course of time the cost of labor in the foreign countries would go up far faster than the cost of labor in the United States, and therefore the gap in the cost of building ships would eventually be removed.

The act of 1936 said to the taxpayers of the United States, "In order to have a merchant marine, we must subsidize the private carriers, but in no event at a cost more than 50 percent of the cost of building the ship."

Well, the cost of building a ship in the United States in 1936 was 35 percent

more than if the ship were built in the Netherlands, Japan, England, Yugoslavia, or any other country that had a shipbuilding capacity.

So we placed a limit of 50 percent of the amount that we would subsidize. If the ship cost $1 million, the U.S. taxpayer would not subsidize by more than $500,000. In this illustration, if the ship were built in 1937, the taxpayers put up $350,000 and the private owner put up $650,000.

It is interesting to examine what has happened to the argument that in the course of time the gap would be eliminated. It is now 32 years later, and the subsidy now is 55 percent as compared with 35 percent in 1936.

To make things worse, the merchant marine of the United States is now in a deteriorating position compared with its condition in 1936.

The subsidy has acted as an opiate. It has been a drug on the industry. It has caused management and labor leaders to abandon any effort to solve the problem, knowing that, regardless of what they did, the taxpayers' money would flow into the coffers of the private operators.

The amount of the operating subsidy paid by the taxpayers is the difference between the cost of operating a ship of, let us say, Japan with Japanese labor and the cost of operating a ship of the United States with U.S. labor.

Mr. President, what do you think the difference is? About 20 cents to a dollar. And it is growing worse instead of better.

It is my understanding that for every passenger ticket sold to take a trip across either the Atlantic or the Pacific, the Government, or the taxpayer, pays $275 of the cost of the ticket. That might be good if our merchant marine were getting better, but it is getting worse.

What are the subsidies that we have provided for this industry? First, the construction subsidy that has gone on for 32 years. Second, the operational subsidy. Third, the reconstruction subsidy which is supplied in order to reconstruct a ship. Fourth, the tax benefits which are granted to these operators by permitting them to set aside reserves. Fifth, the subsidy derived from compelling shippers of food of the United States—and that is the farmer—to use American ships instead of hiring foreign ships.

What the amount involved in that instance is, I do not know.

The last two Administrators of the merchant marine have publicly stated that this program is wrong; that it ought to be reformed.

Mr. Alan Boyd, Secretary of the U.S. Department of Transportation, has said that the program is wrong and ought to be reformed. The President said that he would submit a program of reformation, but that program has not come through.

I have suggested that the period of extending this program, instead of being for 2 years, be made 1 year. I think that is sound because there will be a new administration, I believe under Mr. HUMPHREY or Mr. Nixon or possibly the third candidate, and the new administration ought to take a look at this item. I think it needs reform. It is wrong, and ought not to be permitted to continue beyond June 30, 1969.

To set forth my reasons for limiting the extension to 1 year instead of 2 years, I will read that part of the CONGRESSIONAL RECORD of June 11, 1968, in which I set forth fully the pertinent aspects of this program warranting the reduction of the 2-year period to 1 year.

The Senator from Delaware [Mr. WILLIAMS] participated with me in the dialog, and therefore his remarks will also be read:

Mr. LAUSCHE. . . . I speak on this subject today, Mr. President, because, in my opinion, the deterioration of the maritime fleet of the United States has been of such a grave nature as to indicate that Government subsidies operate as an opiate rather than as a tonic in the development of any segment of the economy. The number of ships in the merchant marine has gradually gone down in number. In 1936, when the subsidy bill was passed, it was argued that we need a strong, privately operated merchant marine; that the only way to achieve that objective was for the Government to provide money in the building of ships and in the operation of them.

Mr. President, since 1936 the U.S. Government has provided for the carriers in the merchant marine, as an operating subsidy, the sum of $2,316 billion. Secondly, it has provided for the private operators of the merchant marine sailing on the high seas $920 million. It has also provided for them, as a reconstruction subsidy—different from the building of new ships—in the sum of $52 million. The total amount of money given by the taxpayers to the operators of our ships on the high seas has been $3.3 billion.

When the subsidy program was adopted, it was argued that, with our high wages in the United States, we could not compete in the shipbuilding industry with foreign shipbuilders, nor with the carriers of foreign countries, because in each of those instances the cost of operation of a foreign government was far less than the cost of operation in the U.S. market. It was argued, however, Mr. President, that in the course of time, wages in Japan, Germany, Britain, and other shipbuilding nations would go up, and that the gap between the high cost in the United States and the low cost in foreign countries would disappear. That argument was made 32 years ago.

In 1936, the subsidy for shipbuilding was limited to 50 percent. In no event was the taxpayer to be asked to put up more than 50 percent of the cost of the building of a ship. If the ship cost $3 million, the maximum that the taxpayer would put up would be $1.5 million. But, in 1936, the differential was 35 percent. So that on a $3 million ship, the Government of the United States would put up $1,050,000.

I now get back to the argument then made that, in the course of time, the gap will be eliminated. What are the facts? The differential now is 55 percent. Instead of the gap being reduced, it has been widened by 20 percent. We had to rewrite the law a few years ago and, over the objections of the Senator from Delaware [Mr. WILLIAMS], myself, and other Senators, the 55-percent limitation was adopted.

Now, getting to the operation of the subsidy, the taxpayers of the United States pay the difference to a carrier on the high seas between the cost of operating his ship with high-priced U.S. labor and the supposedly low-priced foreign labor. I have just stated that the cost of subsidizing the operating differential since 1936 has been $2.316 billion. Our ships sail on the Pacific and on the Atlantic. They are liners of magnificent structure. They provide all of the conveniences and luxuries that one can find on the land, and even more.

But, Mr. President, to the operators of passenger ships alone our Government pays, each year, $50 million. I repeat that figure: $50 million in 1 year we pay to the operators of the passenger ships on the Pacific and the Atlantic.

How much does the Senator from Delaware think the taxpayers pay to the operators of the passenger ships for carrying each passenger who is taken across the Atlantic or the Pacific? As I say, at present $50 million of taxpayers' money goes annually for the support of 13 passenger liners. This is equivalent to the taxpayers putting up $275 for each passenger ticket sold.

What good does that do for the United States? Certainly it brings a bit of prestige. But it is an expensive cost to carry: $50 million paid to 13 passenger ships, or a rate of $275 per passenger.

Mr. President, I have already identified three classes of subsidies: First, the construction subsidy, second, the operation subsidy, and third, the reconstruction subsidy. I go now to a fourth.

Congress—in my opinion unwisely—wrote into the law the requirement that 50 percent of Public Law 480 shipments must be carried in American bottoms, or in American ships. That 50-percent requirement is an indirect subsidy, and costs the taxpayers about $100 million a year.

In addition—and this is sound, in my opinion—all military equipment, all equipment needed in war or in the operations of the Department of Defense, must be carried in American bottoms.

So we have subsidies for construction, subsidies for operation, subsidies for reconstruction, and subsidies by way of commands that only American bottoms can carry goods under certain circumstances. The total cost of these subsidies since 1936, I repeat, has been $3.3 billion.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. LAUSCHE. I yield.

Mr. WILLIAMS of Delaware. The Senator from Ohio is performing a useful service in calling attention to the amount of these subsidies, but there is an additional subsidy which should not be overlooked. When we entered World War II and again when we entered the Korean war the Government took over many of these ships, and they were priced and paid for at wartime prices. Then at the end of the war the ships were declared surplus and sold oftimes to their former owners at an insignificant fraction of their original cost and an insignificant fraction of the amount which had been paid for them by the Government. Some of them, as I have mentioned on previous occasions, were sold for as litle as 10 cents on the dollar. For example, a ship just off the ways in the Bethlehem yard in Baltimore which cost around $6.5 million was sold for approximately $400,000 net.

This, too, is a part of the subsidy program. I agree fully with the Senator from Ohio that this is one subsidy program which has gotten out of hand, and instead of working in the direction of reducing the cost to the taxpayers on an annual basis it has been the opposite in that each year the requests for subsidies grow larger and larger.

The Senator from Ohio is rendering a useful service today to Congress and to the taxpayers in pointing out the extent to which we have become involved.

Mr. LAUSCHE. Mr. President, I am glad that the Senator mentioned the sale of the ships after World War II. They were sold for 10 cents on the dollar of cost, and they are now in operation, many of them.

Mr. WILLIAMS of Delaware. That is correct.

Mr. LAUSCHE. Among my papers—though I cannot lay my hands upon them at the moment—are figures which show that subsidizing the operation of those ships cost the Government $600,000 a year.

Mr. WILLIAMS of Delaware. The Senator is

correct. If he will yield further, there is one additional advantage in operations afforded the merchant marine in that they are permitted to set aside each year, before taxes, a portion of their earnings to be used toward the procurement of ships, to pay a part of the 45 percent which they must advance. That is really before-tax money.

As the result of the elimination of the tax, the Government, in effect, is paying, under existing 48 percent rates, nearly half of the industry's part of the cost of the ship. This is in addition to the 55 percent direct subsidy on construction.

So this subsidy seems to be multiplying from every angle, and I think the time is long overdue when the merchant marine, which boasts of being a part of our free enterprise system should recognize that with this free enterprise system goes a responsibility not to lean on the Federal Government and the American taxpayers for all of their operational capital and profits, but that they should assume some risks themselves.

Mr. LAUSCHE. I am grateful to the Senator from Delaware, and I think it would be worthwhile to repeat now, for the purpose of the RECORD, the list of subsidies which the operators are receiving.

First, the construction subsidy.

Second, the operational subsidy.

Third, the reconstruction subsidy.

Fourth, the tax benefits which are granted to these operators by permitting them to set aside reserves.

Fifth, the subsidy derived from compelling shippers of food under the Public Law 480 program to use American ships to carry 50 percent of their shipments across the sea.

Mr. President, the query is this: What has become of the merchant marine of the United States, in the face of the fact that the taxpayers have given it, with all of these items involved, in the last 32 years, some $4 billion?

Has it been strengthened? Has it been weakened? What has been the effect of a Socialist operation through which the government has subsidized the merchant marine on a basis different from the treatment that it accords to the railroads and the airlines? It is, of course, important to know that we have burdened the taxpayers in the amount which I have described. But of greater import to me is the absolute demonstration that governmental subsidies in the merchant marine have acted as an opiate. The subsidies nave deadened the activity of the economic body of the merchant marine. The operators and labor leaders have forgotten the need to exercise their skill so as to place them in a competitive position with the merchant marines of other countries of the world.

What is the situation in the aircraft industry? American Airlines, Pan American Airways, Braniff, Trans World, United Air Lines, and others can buy airplanes in Europe if they can get them cheaper there.

What is the situation with respect to railroads if they need locomotives or cars? They can go anywhere in the world and buy them.

But the merchant marine has to buy its ships in the United States.

The aircraft industry has thrived. The railroads have not had great success, but they have not fallen into the stagnant state which confronts the merchant marine of our country.

Only one deduction can be made: When the paternalistic hand of government begins to give handouts, individual energy and dynamics are destroyed. The more the destruction, the greater the handouts that are demanded. It is just like the human body taking a drug. The more the drug is taken, the more it is wanted; and ultimately there comes complete collapse.

The amendment that will come before the Senate, offered by the Senator from Delaware [Mr. WILLIAMS] and myself, is simple. The President and the Department of Transportation, headed by Secretary Boyd, are conscious of the need for the reform of this indefensible program which is draining the taxpayers' money and is bringing about the destruction of a merchant marine that is so vitally needed in the United States.

Mr. President, appearing before the Committee on Commerce was Mr. Alan S. Boyd, Secretary of Transportation. He spoke for the President. I ask unanimous consent that the text of Mr. Boyd's statement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. BYRD of West Virginia in the chair). Without objection, it is so ordered.

(See exhibit 1.)

Mr. LAUSCHE. Mr. President, Mr. Boyd said, among other things:

"We believe that America's maritime industries can reestablish their position of importance in the commercial life of this Nation if they are (1) revitalized through the application of advanced industrial technology and sound business practices; (2) incorporated into an integrated transportation system."

Let us take the first statement: "Revitalized through the application of advanced industrial technology." Technology has been disregarded by the industry. It has been disregarded because both the operators and the labor leaders knew that regardless of the greatness of the cost of building or operating, the taxpayers would contribute the cost in part.

The second point: The industry can be revitalized if it is incorporated into an integrated transportation system. That brings me to another thought. As I recall, it was last year or the year before last that Congress passed the bill to establish the Department of Transportation. That bill was designed to put under one head—the Secretary of Transportation—the railroads, the truckers, the inland water carriers, the high seas carriers, the pipelines, and the airlines. The bill was submitted to the Senate for the purpose of having one set of eyes to watch what the Government was doing toward helping or hindering, separately, any of the five parts of the transportation system. Everyone hailed the recommendation as sound. It was recognized that we could not help the airlines inordinately without hurting the railroads; that we could not help the railroads inordinately without hurting the carriers on the high seas and on the inland waterways.

So we proceeded to vote on the bill for an integrated transportation system. Four of the systems were allowed to remain in the bill. The operators of the merchant marine and those associated with them had the power to influence Congress to omit the merchant marine from the integrated transportation system. So Mr. Boyd states that it is needed to put this segment of the transportation system of the United States within that one department.

What did the administration propose? It proposed five major steps:

"1. Expand the scope and improve the system of ship operating subsidies, and establish the amount of subsidies according to the size of the fleet necessary for national security."

I invite the attention of the Senator from Delaware to that statement. In other words, the subsidies shall be commensurate with the moneys needed to protect the national security through the transportation facilities of our country. The issue of national security is one of the principal underlying reasons for the granting of subsidies to the merchant marine.

"2. Reform the construction subsidy system and relate this subsidy to the Nation's need for an adequate shipyard capacity for national security."

In other words, with reference to the construction and operation, the administration properly recommends that the subsidy shall be one in an amount needed to serve the national security fully.

The amount should not include the purpose of subsidizing the commercial aspect of this industry outside of what is needed for the national security.

"3. Remove restraints on the freedom of shipowners to purchase ships in the world market—treating shipowners like other American purchasers of transportation equipment and subject to the same restrictions on foreign investments and expenditures."

We compel the industry to have their ships built in the United States. That has produced a situation in which at present if a ship, built in the United States costs $8 million, in a foreign country it would cost $3.450 million. For every one ship bought with American dollars in the United States, you could buy 2 1/20 ships in a foreign country. But we prohibit the operators from buying in foreign countries. We prohibited them because we wanted to build up a strong merchant marine industry. The result, however, has not been a buildup but a destruction of it.

"4. Expand maritime transportation research."

To this proposal of the President and the administration there has been objection on the ground that no good can come from it. Well, that has not been true in the railroad industry, and it has not been true in the airline industry.

"5. Transfer the Maritime Administration to the Department of Transportation."

I have already dealt with that subject, and it needs no further elaboration.

Mr. President, someone might argue that it is folly to build in foreign countries, to buy in foreign countries, instead of buying in the United States. The answer to that argument is that Russia buys the major part of her fleet in foreign countries. It buys in foreign countries because it believes that it can build up its merchant marine by purchases in foreign lands better than it can by purchasing in its own country.

With regard to the assertion that if we buy in foreign countries, American dollars will go out and the balance of payments will become more acute, we can guard against that. A provision can be written into the law that whenever an American carrier buys in a foreign country, the moneys needed to make the purchase must be financed in the foreign country where the ship is purchased. That would eliminate the argument with regard to the balance of payments.

Now, Mr. President, what is the status of our military requirements? Mr. Boyd says:

"The merchant marine—like any other program requiring Government support—should be subsidized only to the extent necessary to meet a compelling national need. That need can be clearly identified."

And the need is related to the national security.

"Subsidy reform: The subsidy system itself is in clear need of reform. Instead of encouraging innovation and productivity, the subsidy system focuses attention on the subsidy dollar as a source of income.

"A new system must be found that will induce the industry to take full advantage of advancing technology, management ingenuity, and the resources of the skilled labor force."

There is another aspect of this problem that has not been discussed at any length. The carrier, in order to get his construction subsidy and his operational subsidy, and the Government, must keep hired a large staff of workers so as to be able, with truthfulness, to set forth the actual cost of the ship and the actual cost of operation.

"It requires a network of government auditors in the steampship company's offices as well as an overseas staff of government employees to provide estimates of foreign operating costs.

"It imposes cumbersome administrative procedures upon the operator, who is forced to make a detailed justification for each of his subsidy related costs.

"It requires strict adherence to trade routes and restricts the operator from taking advantage of shifting market conditions.

"To correct these deficiencies—and at the same time to assure operators a reasonable rate of return on their investments—the present system must be restructured to promote business judgment and operational flexibility. . . .

"The administration recommends legislation to authorize the Secretary of Transportation to enter into contracts with qualified applicants to test more productive and competitive subsidy systems."

One further word on the passenger ships of the United States. Operators of passenger ships, according to Mr. Boyd, should be encouraged to terminate their subsidy contracts voluntarily so that the funds can be allocated to more productive purposes. Once important as emergency troop transports, the defense value of these passenger vessels is now minimal. Their subsidization can no longer be justified on this basis.

Mr. President, with the development of the 400-passenger airplane and the prospective 600-passenger airplane the passenger ships will no longer be used to any important degree in the carrying of troops on our high seas to places of involvement.

Now, I shall read a bit of Mr. Boyd's statement with regard to purchasing ships from foreign manufacturers.

"In the Nation's infancy, American shipowners were required by law to buy only American built ships. This was necessary then for the development of a shipbuilding industry. Today, America's ship construction industry is the largest in the world by nearly any measure."

Why is it so large? The Government buys $2 billion worth of military equipment each year from these shipbuilders in our country.

I shall read further from Mr. Boyd's statement:

"(The maritime industry) can draw upon the country's great technological resources. Its size and health are ensured by a naval construction and repair program which infuses more than $2 billion of government funds into the industry every year. Yet, our merchant shipowners are under almost the same constraints as those of two centuries ago."

Two centuries ago the Government was buying practically very little from American shipyards; purchases were mainly commercial:

"Since merchant ship work under government subsidy amounts to less than 10 percent of the shipbuilding industry's business, this restriction cannot be justified as essential to the industry's health."

Mr. President, 90 percent of the income of the shipbuilding industry comes from the Department of Defense, mainly through the Navy; only 10 percent of the income comes from the subsidized operations. I make that point to demonstrate that if the subsidies are stopped, nothing serious will befall the shipbuilding industry.

However, there is trouble in the industry because the cost in the United States is causing our number of ships to dwindle. The lethargy and the dumbness produced by the taking of the opiate provided by the Government in the form of a subsidy has deadened the virility and the energy of this industry.

For every ship taken off the seas because of the inactivity of the industry, people are thrown out of jobs and thrown out of them in great numbers. The best way to find jobs for this industry is to put it on its own, quit giving it taxpayers money and causing it to become indifferent about the adoption of technology and indifferent about the adoption of sound business practices.

Put them on the same basis as the railroads, airplanes, and other transportation systems of our country.

What is another problem produced by the subsidies of the Government? In no industry of the United States have there been as many strikes. We have not had any strikes for the last 2 years, but I would not be surprised that they are going to pop up again, strikes paralyzing the entire eastern coast, the entire western coast, and the gulf area and affecting industry throughout the country in a substantial degree. The query can well be made: Why the great number of strikes in the merchant marine? The strikes, in my opinion, are a product of the knowledge that the taxpayer will carry the increased cost of the burden.

Mr. President, I have before me a list containing the strikes in the merchant marine, beginning in 1945 and going down to 1964. I ask unanimous consent to have printed in the RECORD the list of strikes in the merchant marine covering that period.

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

"SUMMARY OF STRIKES AND WORK STOPPAGES, MARITIME INDUSTRY, FROM 1945 TO 1964

"Year and industry category	Unions involved	Commenced	Number of— Days	Number of— Workers	Area
1945—Shipyard	IUMSWA	Sept. 24	4	17,000	Camden, N.J.
Longshore	ILA	Oct. 1	19	30,000	Port of New York.
Seamen	CIO unions	Dec. 3	1	13,000	Atlantic, gulf and Pacific coasts.
1946—Longshore	ILWU	Jan. 2	15	1,100	Port Hueneme, Calif.
Do	ILA	Feb. 4	9	30,000	Port of New York.
Harbor	UMW	Apr. 5	6	18.000	Harbor craft, Philadelphia, Pa.
Longshore	ILWU	June 15	1	1,000	Port of Los Angeles.
Seamen	NMU/SIU	July 10	4	11,500	Atlantic coast ports.
Longshore	ILWU	July 12	1	4,050	Port of Los Angeles.
Do	ILWU	July 15	1	2,500	Port of Seattle, Wash.
Do	ILWU	July 31	3	12,000	Ports of San Francisco, Los Angeles.
Seamen	AFL/CIO	Sept. 5	17	[1] 132,000	Atlantic, gulf and Pacific coasts.
Do	MMP/MEBA	Oct. 1	54		Pacific coast ports (approx. 8,000).
Do	MMP (A&G)	do	26	[1] 142,000	Atlantic and gulf ports.
Do	MEBA (A&G)	do	22		Do.
Longshore	ILWU	do	54	13,000	California ports.
Do	ILWU	Nov. 23	16	2,150	Puget Sound ports.
1947—Seamen	NMU/ARA	June 15	5	----------	All ports (stoppage incomplete).
Longshore	ILWU	do	5	12,000	California ports.
Shipyards	IUMSWA	June 26	134	50,000	All coasts (some settled in 30, 60, 90 days).
Longshore	ILWU	Oct. 1	6	2,700	Port of Los Angeles.
Do	ILWU	Nov. 7	1	2,350	Port of San Francisco.
Do	ILA	Nov. 10	17	37,000	Atlantic coast ports.
1948—Longshore	ILWU	Feb. 29	20	3,500	Ports of Los Angeles, Long Beach.
Clerical	UPWA	Aug. 16	2	50	Alabama State docks, Mobile.
Seamen	MEBA/ROU MCS/MFOW	Sept. 2	93	28,000	All Pacific coast ports.
Longshore	ILWU	do	93		
Do	ILA	Nov. 10	18	45,000	Atlantic coast ports.
Do	ILA	Dec. 18	4	5,000	Port of Philadelphia, Pa.
Do	ILWU	Dec. 21	9	2,000	Ports of Seattle, Tacoma, Wash.
Do	ILA	Dec. 23	3	3,000	Port of Houston, Tex.
1949—Longshore	ILA	Oct. 29	1	3,000	Do.
1950—Longshore	ILA	June 10	35	400	Port of Gulfport, Miss.
Do	ILA	July 6	43	4,500	Jersey City and Hoboken piers.
1951—Longshore	ILA	Jan. 3	5	5,000	Port of Philadelphia, Pa.
Seamen	MEBA/ARA/NMU	June 16	11	15,000	Atlantic and Gulf ports.
Longshore	ILA	Oct. 15	26	17,000	Ports of Boston and New York.
1952—Seamen	SUP	May 23	67	9,000	Pacific coast ports.
Do	MMP/ARA	July 29	3	1,000	Do.
Longshore	ILWU	Sept. 10	1	12,000	Do.
Seamen	SUP	Nov. 5	5	1,800	Do.
Longshore	ILA	Nov. 11	34	300	Port of Seattle, Wash.
1953—Seamen	NMU	June 19	1	2,000	Atlantic coast ports.
Shipyard	IAM	July 1	26	8,200	Pacific coast shipyards.
Harbor	UMD	July 3	5	80	Harbor tugs, Port of New York.
Longshore	ILA	July 7	6	72	Port of New York (local pier).
Shipyard	USW	July 16	2	350	Moore drydock, Oakland, Calif.
Do	IBB	July 24	5	50	Todd Shipyards, Pacific coast.
Longshore	ILA	July 27	1	234	United States Lines pier, Port of New York.
Shipyard	IBB	July 28	46	1,270	Pugett Sound Shipyards.
Do	IUMSWA	July 29	8	500	Bethlehem Steel yard, 27th St., New York.
Longshore	ILA	Aug. 4	11	400	Moore-McCormack piers, New York.
Shipyard	IUMSWA	Aug. 11	1	200	Todd-Johnson Yard, New Orleans.

See footnotes at end of table.

"SUMMARY OF STRIKES AND WORK STOPPAGES, MARITIME INDUSTRY, FROM 1945 TO 1964—Continued

"Year and industry category	Unions involved	Commenced	Number of— Days	Workers	Area
1953—Seamen	MMP	Aug. 12	2	8	Harbor pilots, San Francisco.
Do	MMP	Aug. 16	4	14	Harbor pilots, Seattle.
Longshore	ILA	Aug. 25	2	300	Cunard piers, New York.
Shipyard	IAM	Sept. 1	48	260	Broward Shipyard, Fort Lauderdale, Fla.
Longshore	ILA	Sept. 2	2	425	AEL and APL piers, Jersey City.
Shipyard	IAM	Sept. 10	22	175	Seattle, Wash., shipyards.
Longshore	ILA/IBL	Sept. 22	1	110	Pier 25, North River, New York.
Do	ILA	Oct. 1	5	30,000	Atlantic and Gulf Coast ports.
Seamen	MMP	do	8	450	Tankers—Atlantic and Gulf Coast ports.
Longshore	ILA/IBL	Oct. 7	7	15	Local pier, New York.
Do	ILA/IBL	do	5	96	Local stevedore firm, New York.
Do	ILA	Oct. 10	2	184	Holland-America Line piers, Hoboken.
Do	ILA/IBL	do	2	225	Isthmian Line piers, New York.
Do	ILA/IBL	Oct. 11	56	130	Stevedore piers, New York.
Do	ILA/IBL	do	49	200	Local Jersey City piers.
Do	ILA/IBL	Oct. 14	3	96	Do.
Do	ILA	Oct. 16	10	300	Jarka Stevedoring piers, New York.
Shipyard	IAM	Oct. 19	12	560	American shipbuilding yards, Toledo and Lorain.
Longshore	ILA	Oct. 20	1	46	Pier 74, North River, New York.
Shipyard	IAM/IBB	Oct. 27	4	465	Savannah M. & F. Yard.
Harbor	UMD	Nov. 11	55	121	Harbor Tugs, Port of New York.
Seamen	MMP/MEBA	Nov. 20	18	353	B. & O. SS Co., Miami, Fla.
Longshore	ILWU	Nov. 23	1	51	APL piers, San Francisco.
Do	ILA	Dec. 1	1	6,300	Hudson River piers, Port of New York.
Shipyard	MTA	do	36	2,000	California shipyards.
Longshore	ILWU	Dec. 3	1	6,000	California ports.
1954—Longshore	ILA	Jan. 2	16	300	Brooklyn piers, Port of New York.
Harbor		do	40	10	Tank Barge personnel, New Jersey refineres.
Shipyard		Jan. 18	34	100	Marine Welding, New Orleans (plumbers).
Do		do	1	48	Hampton Engineering, California (repairmen).
Clerical	ILA	Jan. 28	1	103	Argentine State Line office, New York.
Do	ILA	Feb. 4	2	460	AEL offices and piers, New York.
Do	ILA	do	1	273	Argentine State Line office, New York.
Do	ILA	do	2	332	Luckenbach offices and piers, New York.
Do	ILA	Feb. 18	2	75	Royal Netherlands office and piers, New York.
Longshore	ILA	Feb. 19	8	22	Isthmian piers, New York.
Do	ILA	Feb. 23	2	125	Moore-McCormack piers, New York.
Do	ILA/IBT	Feb. 26	10	4,000	Longshore versus Teamsters, Port of New York.
Do	ILA	Mar. 5	29	30,000	Port of New York.
Shipyard	IBB	Mar. 9	1	500	Marine repair yards, Port of New York.
Longshore	ILA	Mar. 17	1	5,000	Port of Philadelphia, Pa.
Shipyard	USW	Apr. 1	2	4,500	Bethlehem Steel Shipyards, Baltimore.
Do	IBB	Apr. 6	3	6,600	New York Shipbuilding Corp., Camden, N.J.
Longshore	ILA	Oct. 5	2	20,000	Port of New York.
Seamen	SUP/ILWU	Oct. 27	91	45	(SS Pacificus case, 1 ship.)
Longshore	ILA	Nov. 6	15	5,000	Port of Philadelphia, Pa.
Seamen	ARA	Dec. 2	6	1,000	Ships in Pacific coast ports.
1955—Longshore	ILWU	June 6	1	13,000	California ports.
Seamen	MMP/MEBA ARA/NMU	June 14	7	28,000	Atlantic and gulf ports (tankers).
Harbor	ILA	July 13	17	125	Baltimore tug operators.
Rivers	MMP/MEBA	July 18	3	450	Mississippi River Barge Lines.
Shipyard	IUMSWA	Aug. 1	2	150	Mathis Shipyard, Camden, N.J.
Longshore	ILA	Aug. 23	2	600	Port of New York (local piers).
Do	ILA	Sept. 7	8	32,000	Port of New York (spread to Atlantic and gulf ports).
Do	ILA	Oct. 1	20	650	Port of New York (scalemen, weighers).
Shipyard	IUMSWA	Oct. 10	45	1,500	Sun Shipyard, Chester, Pa.
1956—Harbor	IBU	Jan. 6	3	85	San Francisco Bay tugs.
Do		Mar. 9	34	60	Norfolk, Va., tug operators.
Seamen	MMP/MEBA SIU	May 11	8	6,800	Atlantic and gulf coast ports.
Harbor		May 28	4	300	Great Lakes ports.
Shipyard	IUMSWA	July 24	3	1,300	Merrill-Stevens Yard, Jacksonville.
Seamen	MEBA	Aug. 3	32	1,800	Pittsburgh Steamship Co. (Great Lakes).
Do	MMP	Aug. 7	28		
Shipyard	IAM	Sept. 18	5	2,400	Bethlehem Steel repair yards, New York.
Longshore	ILA	Nov. 16	9	60,000	Atlantic and gulf ports.
1957—Harbor	UMD	Jan. 30	36	4,000	Tugs, harbor craft, Port of New York.
Longshore	ILA	Feb. 12	10	45,000	Atlantic coast ports.
Seamen	MMP/MEBA, SIU	Aug. 19	64	1,178	Bull Line piers and ships, New York.
Shipyard	IUMSWA	Nov. 11	28	1,500	Bath Iron Works Yard, Bath, Maine.
1958—Harbor	MMP	Apr. 25	7	30	Harbor pilots, Cleveland and Chicago.
Longshore	ILA	May 1	1	900	Cleveland, Chicago (support of pilots).
Seamen	MMP/MEBA, ARA/NMU	June 16	3	6 500	Atlantic and gulf ports (130 ships delayed due MEBA).
Clerical	OEIU	July 9	5	75	Greek and Belgian Lines piers, New York.
Seamen	MEBA	July 25	4	1,200	Atlantic and gulf ports (tankers).
Shipyard	IAM	Aug. 4	64	1 200	American Shipbuilding Yards, Toledo, Lorain, Buffalo.
Do	IUMSWA	Sept. 12	8	2.100	Maryland Shipbuilding Yard, Baltimore.
Do	IUMSWA	do	40	175	Craig Shipyard, Long Beach, Calif.
Seamen	MMP	Oct. 1	7	6,100	AMMI operators, Atlantic ports.
1959—Shipyard	MTA/IAM	Jan. 1	69	1,250	Ship repair yards, New Orleans.
Seamen	MFOW/MCS	Jan. 14	1	600	San Francisco.
Harbor	UMD	Feb. 1	7	4,000	Tugs and oil craft, Port of New York.
Shipyard	UMSWA	Mar. 1	1	1,100	Alabama DD and SB, Mobile.
Longshore	ILWU	Mar. 9	3	1,000	San Francisco.
Harbor	SIU	Mar. 16	20	24	Tug crews, New Orleans.
Longshore	ILA	Mar. 19	7	4,500	Port of Philadelphia.
Harbor	IBU	Apr. 1	165	110	Tug crews, Port of Los Angeles.
Do	IBU	May 15	259	175	Tug crews, Port of San Francisco.
Do	TWU	June 15	4	1,250	Railroad tugs, Port of New York.
Rivers	MMP/MEBA NMU	July 1	122	1,500	Mississippi River Barge Line.
Longshore	ILA	July 3	19	2,000	Sugar piers, Philadelphia.
Shipyard	MTA/IAM	Aug. 24	156	8,000	Ship repair yards, San Francisco to Seattle.
Do	MTA/IAM	Sept. 2	47	11,500	Pacific coast shipyards.
Longshore	ILA	Oct. 1	8	52,000	Atlantic and gulf ports (approximately 220 ships).
Shipyard	UMSWA	Nov. 23	42	1,100	Todd Shipyard, Los Angeles.
1960—Shipyard	UMSWA	Jan. 22	149	18,500	Bethlehem Steel yards, Atlantic coast.
Longshore	ILA	Mar. 8	92	60	Grain Trimmers, Port of New York.
Clerical	OEIU	Apr. 14	8	20,000	Port of New York (including longshore).
Longshore	ILA	May 15	19	3,800	Great Lakes ports.
Do	ILA	May 16	7	150	American Export Line piers, New York.
Do	ILWU	Aug. 12	14	3,500	Containership "Hawaiian Citizen," Los Angeles.
Do	ILA	Sept. 1	8	700	Grain elevator piers, Chicago.
Do	ILA	Sept. 8	14	75	Grain elevator piers, Buffalo.
Shipyard	UMSWA	Oct. 31	37	110	Merrill-Stevens, yard, Jacksonville.
Do	IAM	Nov. 2	12	1,100	Ship repair yards, New York.
Clerical	OEIU	Nov. 21	4	120	American Export Line piers, New York.
Longshore	ILA	Dec. 7	2	3,000	South Atlantic ports.

See footnotes at end of table.

"SUMMARY OF STRIKES AND WORK STOPPAGES, MARITIME INDUSTRY, FROM 1945 TO 1964—Continued

"Year and industry category	Unions involved	Commenced	Number of— Days	Number of— Workers	Area
1961—Harbor	MMP/MEBA SIU	Jan. 10	13	600	Railroad tugs, Port of New York.
Longshore	ILWU	Feb. 9	5	125	East Bay piers, San Francisco.
Do	ILWU/IBT	Mar. 9	4	10,000	Automation, Los Angeles and San Francisco.
Do	ILWU	Mar. 27	2	1,500	Stop-work meeting, Seattle.
Clerical	OEIU	Apr. 28	8	106	French Line office and piers, New York.
Do	OEIU	May 15	1	120	American Export piers, Jersey City.
Seamen	MMP/MEBA ARA/NMU	June 16	18	13,200	Atlantic and gulf ports.
Do	MMP/MEBA ARA	June 16	18	2,600	Pacific coast ports.
Shipyard	IAM/IBE	July 1	70	1,300	National Steel Shipbuilding, San Diego.
Clerical	OEIU	July 13	4	150	Hellenic (Greek) Line piers, New York.
Seamen	MMP	Sept. 28	14	2,200	Pacific coast (resumption of June 16).
Longshore	ILWU	Oct. 9	19	60	Scrap metal piers, Los Angeles.
1962—Clerical	OEIU	Feb. 1	1	250	American Export piers, Jersey City.
Seamen	SUP/MFOW MCS	Mar. 16	27	5,300	West coast operators (excludes tankers).
Do	MEBA	Mar. 28	14	(2)	Isbrandtsen transfer of ships to AEL.
Shipyard	UMSWA	Mar. 29	13	100	American Shipbuilding yard, Buffalo, N.Y.
Seaman	MEBA	Apr. 12	7	(2)	Resumption of dispute with Isbrandtsen.
Do	MEBA	May 3	5	(2)	Do.
Do	NMU/SIU	May 16	27	1,600	Robin Line (19 Mormac ships idled).
Do	MEBA	June 13	53	(2)	Resumption of dispute with Isbrandtsen.
Shipyard	MTC	July 19	2	9,000	Metropolitan Trade Council/Electric Boat.
Seamen	MMP/ARA NMU	July 31	13	105	NS "Savannah," Yorktown, Va.
Shipyard		Aug. 3	1	200	Welders, Todd Yard, San Pedro.
Longshore	ILA	Oct. 1	5	70,000	Atlantic and gulf coasts.
Seamen	MEBA	Dec. 5	9	105	NS "Savannah," Los Angeles.
Longshore	ILA	Dec. 24		70,000	Atlantic and gulf coasts (ended in 1963).
1963—Longshore	ILA		33	70,000	Continuation of Dec. 24 strike; ended on Jan. 25, 1963; see above.
Shipyard		Mar. 4	2		Ship carpenters; New Orleans yards.
Longshore	ILA	Mar. 22	2	375	North Carolina State docks Wilmington, N.C.
Do	ILA	Mar. 22	2	125	North Carolina State docks, Morehead City, N.C.
Seamen	MMP/AMO	May 14	14	40	SS Dearborn, Brooklyn, N.Y.; MMP picketed due to AMO (MEBA) manning of deck officers.
Do	MEBA	May 6	(3)	120	NS Savannah, Galveston; engineers refuse to sail; implement resignations of Nov. 30, 1962, sailing canceled by M.A.
Do	SUP/NMU	May 19	22	90	SS P. & T. Forester, P. & T. Navigator at New Orleans; ships transferred by sale from SUP to NMU company; SUP refused to relinquish shipboard jobs.
Do	NMU/SUP	May 20	30	48	SS Mormacmar, San Francisco; NMU retaliation for P. & T. ships at New Orleans.
Do	NMU/MEBA	June 10	10	850	SS Maximus at Philadelphia, first voyage with new owners; ship manned by NMU and BMO; MEBA picketed against BMO, NMU retaliated by picketing MEBA ships on 3 coasts. 19 U.S. and 17 foreign-flag ships idled by 10th day. Truce ended stoppage June 20 to permit SS Maximus sail Cuba assignment.
Longshore	ILA	June 17	1	150	Port of Miami, ILA picketed 5 FF cruise ships for using nonunion labor handling passenger baggage.
Seamen	NMU/MNP MEBA	June 28	28	48	At Marcus Hook, Pa.; SS "Sinclair Texas" delivered by shipbuilders; unions delayed maiden voyage departure demanding increased manning; subsequently withdrew demands.
Do	MMP	July 25	20	48	Los Angeles; expiration lumber schooner contracts; SS "Cynthia Olsen" and "Alaska Spruce" strikebound; resumed operation Aug. 13.
Do	NMU/MEBA	Sept. 16	14	600	SS "America" at New York; NMU charged discrimination against NMU members by MEBA engineering officer. Sailings cancelled, crew paid off, ship laid up. Sailings resumed Feb. 7, 1964.
Shipyard	Welders	Sept. 6	14	368	Alabama Drydock and Shipbuilding, Mobile; Wildcat strike. Welders returned to work Sept. 20, 1963, grievances settled with management.
Do	Ironworkers	Sept. 23	7	400	National Steel and Shipbuilding, San Diego; seniority grievance; employees returned to work Sept. 30, 1963, pending negotiations with NASSCO.
Harbor Workers	UMD	Nov. 4	4		Port of New York; UMD Local 333 (NMU) pickets set out against ships of Sea-Land and Seatrain lines for using nonunion tugs in Puerto Rico; 2 Seatrain and 2 Sea-Land ships delayed at New York.
Ship Repair	IAM	Nov. 6	9		Port of New York; Machinists strike against 16 New York ship repair firms; 1 MSTS transport and 1 commercial ship strikebound in repair yards; FCMS acted to establish new contract; work resumed Nov. 15, 1963.
Longshore	ILA	Dec. 18	1	100	Port of New York; Norwegian-American Line pier; wildcat strike of 4 gangs; issues not given.
1964—Seamen	MMP/TOA	Jan. 3			SS "Point Vicente" (tanker) picketed by MMP (Pac) due to mates supplied by TOA, an MEBA affiliate. Minor delay to ship; Cole, AFL-CIO impartial umpire ruled against MMP action.
Do	MMP/AMO	Jan. 8			SS "Christopher" at Baltimore picketed by MMP due to deck officers supplied by AMO, an MEBA affiliate. Minor delay to ship; Cole found MMP in violation.
Do	MEBA	Jan. 16	3	9	SS "President Wilson" at San Francisco, MEBA refuses to sign on until pension demands met. 12 other ships in Pacific coast ports affected but without delay to sailings.
Harbor	UMD(NMU)	Feb. 1	33	3,000	Port of New York; commercial tug contract expired Jan. 31; crews of tugs, barges, and scows included in total workers.
Seamen	MMP/AMO	Mar. 3			SS "Columbia" picketed by MMP due to mates supplied by AMO (MEBA affiliate); ship harassed but sails; Mar. 15 longshoremen from Philadelphia join demonstration, Philadelphia, cargo activity suspended 4 hours; Apr. 10 MMP (Pacific) pickets ship at Pittsburg, Calif., terminal of U.S. Steel; MMP joined by ILWU in picketing; ship harassed but maintains schedule. Apr. 21 at Morrisville (Philadelphia) ship picketed by MMP and ILA picketing resumed at Pittsburg, Calif., May 9 and again at Morrisville, June 4. June 8, SIU crew supports ILA and leaves ship; June 18, Federal court halts ILA picketing; SIU crew rejoins ship; June 20 ship sails for west coast. July 7, ship arrives Pittsburg, Calif.; steelworkers cross MMP and ILWU picket lines. July 9, ILWU enjoined against picketing, ship departs for east coast; MMP plans for future picketing uncertain.
Longshore	ILA	Mar. 5	1	250	Brooklyn, wildcat strike re penalty cargo rate for handling talc rubber; 2 ships immobilized.
Shipyard	IBB	Mar. 16	16	3,500	New York Shipbuilding Corp., boilermakers in wildcat walkout due to employer's disciplinary actions; strikers return to work Apr. 6.
Longshore	ILA	Mar. 19	1	1,200	Port of New York; dispute with New York Waterfront Commission re seniority hiring.
Shipyard	Moulders	Apr. 6	7	15	Puget Sound Bridge & Drydock, work on MSTS 68a; moulders stage walkout over yard's contracting out work on capstan, winches, windlass, other castings. Moulders returned a.m. Apr. 13.

See footnotes at end of table.

"SUMMARY OF STRIKES AND WORK STOPPAGES, MARITIME INDUSTRY, FROM 1945 TO 1964—Continued

"Year and industry category	Unions involved	Commenced	Number of— Days	Number of— Workers	Area
1964—Longshore	ILA	May 18	1	2,500	Port of New York; 500 chenangoes charge diversion of work to longshoremen; 2,000 L/S immobilized by pickets.
Seamen	NMU	May 28	5	550	NMU charge 4 Colonial Tankers sold to Western Tankers, Inc. (Isbrandt. Sub.) manned by SIU. 11 AEIL ships strikebound. Arbitrator calls meeting; NMU declines attendance; strike action suspended by NMU; $40,000,000 damage suit filed by NMU; rejected by courts.
Clerical	OEIU	June 5	17	110	New York, office workers picket French Line; no ships in port. Strike action extended to Baltimore June 16; French Line cargo ship delayed; new contract reached June 20, workers returned June 22.
Longshore	ILA	June 27	1	40	Pier 97, North River, N.Y., 2 gangs stage wildcat walkout due to pier superintendent refusal to hire 1 objectionable individual. Passengers from 2 inbound ships handle own baggage. Pier normal following day.
Seamen	MEBA	June 29	2	.....	SS "Inger" (Reynolds Alum) at Galveston, picketed by MEBA claiming 75 percent ship's engineers were members MEBA altho represented by ALOA (American Licensed Officers Association) of Collin's Independent Tankers. Pickets removed by court order.
Shipyard	IAM et al	July 1	20	1,100	NASSCO Yard, San Diego; contracts expired June 30 for machinists, ironworkers, carpenters, electricians, operating engineers, painters, and truckdrivers. (Moulders' contract expires Sept. 1 but moulders joined walkout in sympathy.) Five other local shipyards/repair yards in area also strikebound; 5 MA-CDS hulls at NASSCO involved. Aug. 17, machinists, painters, electricians, and carpetners vote to accept terms; Aug. 19 teamsters and ironworkers vote to accept; pickets withdrawn noon Aug. 19; work resumes Aug. 20.
Seamen	MEBA	July 6	.....	.....	SS "Walter Rice" (Reynolds Aluminum) at Longview, Wash., picketed by MEBA, (same grievance as SS "Inger," above) Reynolds grants representative election; both SS "Inger" and "Walter Rice" vote against affiliation with MEBA.
Longshore	SIU	Aug. 1	159	35	Port of Galveston; grain elevator leased by Bunge (new lessee) resulted in discharge of 35 plant personnel; United Industrial Workers (SIU affiliate) picket in protest; temporary injunction halts picketing Aug. 4; no ships delayed or affected until Nov. 8 when foreign-flag ship attempts to load 390,000 bushels grain; picketing limited to elevator, foreign-flag ship SS "Jupiter" sails Nov. 12 without loading; dispute ended Jan. 7, 1965.
Do	ILA	do	5	12	Galveston, grain samplers ILA local 1849, contract expiration; longshoremen honor picket line; 1 ship affected Aug. 3; samplers return to work while negotiations resume; agreement reached Sept. 9; (20 cents over 2 years).
Do	ILA	Aug. 3	25	15	Houston, grain samplers, contract expires; pickets affect 50 percent of port activity; 17 ships idled when longshoremen honor picket lines; Aug. 6, picketing limited to grain elevators; 2 ships idled; Aug. 7 SS "Transyork" sailed without loading; agreement reached Aug. 28, (20 cents over 2 years).
Building trades	BTC	Aug. 4	6	.....	Galveston, pickets protest wage scale in city contracts for pier renovation work; all port facilities idled except banana piers; Aug. 6, picketing restricted to pier 14, Aug. 13 pickets removed, port returns to normal.
Longshore	ILA	Aug. 19	1	1,500	Philadelphia, longshoremen protest location of new hiring center, 14 ships affected. Hiring center originally introduced May 1962, meeting with similar objection then; center is to eliminate 14 shapeup points on waterfront. Port returned to normal Aug. 20.
Seamen	MEBA	do	7	.....	SS "Mormacargo" at Pascagoula; engineers dispute mechanized ship duties, refuse to sail vessel when delivered by builders; agreement between Mormac and MEBA reached Aug. 26; ship sailed Aug. 28 for Boston to load.
Do	MEBA	Aug. 20	.....	.....	SS "Margaret Brown" (Bloomfield) at Beaumont, engineers cause 33-hour work stoppage on rumors of ship's sale to States Marine; status of engineers' job security at issue.
Longshore	ILA	Aug. 25	4	2,000	Philadelphia, longshoremen resume work stoppage of Aug. 19 rehiring center; 27 ships affected Aug. 26; ILA executive committee ruled shapeup hiring to be resumed; port normal Aug. 29
Seamen	MMP	Sept. 23	16	36	SS "Gulf Crader" (GSA) at Avondale Yard, N.O., MMP refuse to sign on due to chief officer required to stand watch; dispute suspended at arbitrator's findings; GSA filed suit in Federal Court to compel MMP to provide deck officers; ship commenced loading Oct. 10, sails Oct. 20.
Longshore	ILA	Oct. 1	2	60,000	Atlantic and gulf ports; contract expired Sept. 30, 1964; 30 U.S. and 167 foreign-flag ships immobilized 1st day; restraining order Oct. 2, ports returned to normal Oct. 3; (ships crews remained assigned to their ships).
Do	ILA	Dec. 21	(4)	(4)	Atlantic and gulf ports; Taft-Hartley injunction expired Dec. 20; tentative agreement reached at Port of New York; wildcat strikes erupted at most principal ports on Dec. 31, Dec. 22, and Dec. 23; New York back to normal Dec. 23; Baltimore idle; Houston/Galveston provide 50 percent of labor required, no night gangs; Dec. 24, all Atlantic ports working except Baltimore, all gulf ports working except west gulf; Dec. 28, all Atlantic ports working, west gulf still hampered; Dec. 29, Houston longshoremen fill 70 percent of demand; Dec. 30, all ports normal except for Houston supplying 70 percent of demand.

[1] Includes related idleness, seamen strikers only, approximately 70,000.
[2] MEBA picketing caused some dislocations in American Export operations of former Isbrandtsen ships and also some AEL ships. No loss in shipboard employment; approximately 300 longshoremen affected along several Brooklyn piers for sporadic periods.
[3] Indefinite.
[4] Varies.

Mr. LAUSCHE. Mr. President, the list indicates that there have been 230 strikes in that period of time in the merchant marine.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. LAUSCHE. I yield.

Mr. WILLIAMS of Delaware. During one of the recent maritime strikes I was talking with representatives of the industry. They made it very clear that they were not in the least bit concerned about the size of the demands of the union and that they were perfectly willing to agree to all or any of the demands the following day provided the Government would also agree because, they said, to the extent any increase in wages would be granted it would automatically require an increase in their subsidy. Under the subsidy the Government would underwrite practically all of the increase.

It was not a negotiation between management and the union, but rather negotiation between the taxpayers and the union.

Mr. LAUSCHE. Exactly. When the union leaders and the operators know that the Government is going to pick up the tab, there is no restraint in trying to develop the industry, none whatsoever.

Mr. President, I also ask unanimous consent to have printed in the RECORD tabulation of the cost of the subsidies.

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

"U.S. DEPARTMENT OF COMMERCE—MARITIME ADMINISTRATION

"EXPENDITURES FOR OPERATING-DIFFERENTIAL, CONSTRUCTION-DIFFERENTIAL, AND RECONSTRUCTION-DIFFERENTIAL SUBSIDIES—BY FISCAL YEARS FROM INCEPTION (JULY 1, 1936) THROUGH JUNE 30, 1967

	Operating-differential subsidy	Construction-differential subsidy	Reconstruction-differential subsidy
Inception through June 30, 1949	$16,601,213		
Inception through June 30, 1953		$131,571,571	
Inception through June 30, 1954			$3,286,888
Fiscal year ended:			
June 30, 1950	5,784,595		
June 30, 1951	14,018,284		
June 30, 1952	41,437,567		
June 30, 1953	62,838,704		
June 30, 1954	85,038,513	5,538,417	
June 30, 1955	115,391,111	5,358,663	
June 30, 1956	135,342,146	1,613,737	14,368,668
June 30, 1957	108,292,274	16,379,076	3,909,195
June 30, 1958	120,031,522	22,637,540	4,709,383
June 30, 1959	127,693,052	21,679,547	7,065,416
June 30, 1960	152,756,154	69,156,794	4,828,227
June 30, 1961	150,142,575	102,118,519	1,215,432
June 30, 1962	181,918,753	136,858,263	4,160,591
June 30, 1963	220,676,685	90,514,302	4,181,314
June 30, 1964	203,036,847	77,234,458	1,665,087
June 30, 1965	213,334,409	87,649,008	38,138
June 30, 1966	186,628,357	70,810,939	2,571,566
June 30, 1967	175,631,860	81,592,502	932,114
Total	2,316,594,621	920,713,336	52,932,019"

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield further?

Mr. LAUSCHE. I yield.

Mr. WILLIAMS of Delaware. The Senator speaks about the shipping industry and the ship-construction industry losing their initiative as a result of having been oversubsidized. I wonder if the situation is not somewhat comparable to the experience of a certain sportsman who was feeding migratory waterfowl on a pond on his farm. The waterfowl became so used to being fed that when the pond froze over and the sportsman did not put out the corn the waterfowl stood there waiting to be fed and starved.

The Department of the Interior and the Department of Agriculture have found that when there has been too much feeding of migratory waterfowl in an area it causes the waterfowl to forget how to search for food for themselves; once the food is taken away they stay there and starve.

Our shipbuilding industry, to an extent, has been feeding at the public trough so long that it has forgotten how to operate in the free enterprise system.

Mr. LAUSCHE. I think the illustration which the Senator has given is excellent.

At this point, I wish to ask the Senator from Delaware a question. I have the figures on my desk, but the Senator from Delaware can give them to me.

What amount did the administration recommend for the shipbuilding industry for fiscal year 1969?

Mr. WILLIAMS of Delaware. The administration recommended a construction of differential subsidy total of $119,800,000. The committee approved a total in the bill before us of $237,470,000. This represents an increase of almost double the amount which the administration asked for, or an increase from $119,800,000 to $237,470,000, which is an increase of $117,670,000. The pending amendment which is being offered on behalf of myself and the Senator from Ohio would reduce that figure to the exact amount requested by the administration, or a reduction of $117.6 million.

On another item——

Mr. LAUSCHE. Let us not go into that other item at this time. I hope the Senator will not insist——

Mr. WILLIAMS of Delaware. Surely.

Mr. LAUSCHE. Mr. President, the former head of the merchant marine of the United States, Mr. Johnson, based upon his experience as chairman of the board, practically made the same recommendations and the same argument that Mr. Boyd made, and the same approach the administration has made, about the need to reform the laws of the merchant marine.

I ask unanimous consent that the statement made by Mr. Johnson dealing with the subject be printed in the RECORD.

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

"THE AMERICAN PARTNERSHIP: THE U.S. MERCHANT MARINE

"(Remarks prepared for delivery before the Mid-Gulf Conference on Transportation and Industrial Modernization for Profit and Growth, luncheon, New Orleans, La., February 9, 1965, by Nicholas Johnson, Maritime Administrator, U.S. Department of Commerce)

"Problems of modernization in the transportation industry are among the most exciting and potentially rewarding facing the United States today; and, of course, I think that those confronting the maritime industry present many of the most fascinating challenges of all.

"The shipping industry has only recently commenced to be attuned to modernizing and mechanizing the fleet. And now, when the pace of technological advance has picked up, we discover that modernization is not alone a question of technology. It is a search for new perspectives.

"This search has been an exciting one for me, for I have been seeking the ideas, experience and judgment of those who know the shipping business and of the laboring men who serve it. It has, I think, been exciting for the industry as well. We have stumbled over a few myths and misunderstandings, and found new truths.

"Some of our problems remind me of the fellow who joined the Navy and found himself on a training ship. When he lost his hat overboard one day, he was told he would have to pay for it. He protested, and said, 'Suppose I had borrowed a jeep and it had been stolen, would I have to pay for that?' The supply officer patiently explained that in the service one paid for all the government property lost. 'My Lord,' gasped the boot, 'now I understand why Captains go down with their ships.'

"The story has a special point for Americans, for as a nation we do have to pay for our ships, and although in doing so there is not yet any question of going down with our ships, our problems have certainly diminished our stature as a maritime nation.

"These are serious problems, for the merchant marine is an essential part of our economy and of our whole national life.

"We are the world's largest trading nation, supplying some 315 million tons of imports and exports each year—99% of which go by ship.

"Nearly six out of ever hundred workers in this country make their living on farms and factories providing goods for export. Last year America's 3.5 million farm families produced and sold over 1.6 billion bushels of grain for export. Most of the major cities of the United States, and scores of others, are ports. One ton of general cargo handled in a port generates between $15 and $20 for the economy of the surrounding area—close to $1 billion per year in our port communities.

"The shipping industry generates about $1.5 billion of gross national product, and pays about $75 million in federal and local taxes; its workers pay over $80 million in personal income taxes. It provides employment for about 200 thousand men, including longshoremen.

"The merchant ships under our control are vital elements in our power as a trading nation. We must have a strong voice in international shipping circles, and maintain an impact on world shipping rates. Our national security, in wars both hot and cold, requires the availability of U.S.-flag merchant ships for many support services. Our shipping policies affect virtually every Department in our federal government in some way.

"It is plain, therefore, that any serious diminution in our merchant seapower is a matter of grave national concern.

"In part, it is a problem which can be met by American shippers simply understanding the benefits—to them and to our nation—of shipping on American vessels. Our liner service is better than any in the world, and yet offers rates as low as on foreign ships.

"Because the merchant marine is an essential part of our economy, vary early in our national life there was created a uniquely American partnership of industry and government, a partnership whose goal was to create and maintain an American merchant marine. In times of crisis that partnership has produced miracles—like the 50 million gross tons of ships built during World War II. But even in times of calm the need continues.

"As one partner, it is my job to report to you the facts, problems, and alternative solutions—for solutions there are. It is our job together to make the choices that will rebuild our fleet—for rebuild we must. All my energies are presently committed to that end.

"Subsidized liners, 315

"A few figures will suggest the depth and immediacy of our problem. Our foreign trade liner fleet is composed of some 315 subsidized and about 100 unsubsidized liner ships. The subsidized ships are as fast and modern as any in the world, and although there have been some alterations in the original replacement schedule, the fleet nevertheless is being renewed.

"Unsubsidized liners, 100

"Of the 100 unsubsidized ships, however, all but 5 date from World War II. Yet no provision has been made for the replacement of this fleet. Unless we alter course, these 100 ships will disappear from the American-flag merchant marine over the next five to ten years.

"To grant applications for operating subsidy on these old ships would require an additional subsidy of about $50 million per year. To replace them under present programs would cost the government on the order of an additional $600 million.

"We are not faced with an easy choice. Look

at the result if we do not replace these ships. In 1963 the total amount of government-sponsored cargo moving on American liner ships was about 7.2 million tons. Without the unsubsidized liners all of this cargo will have to go on the subsidized ships, and the percentage of purely commercial cargo on these ships will then decline to at most 40%. What would be left of our purely commercial merchant marine?

"If we look at the dry bulk segment of our fleet, the situation is even more serious. We now carry about 5% of our total dry bulk trade: wheat, coal, iron ore, etc. In the next twenty years the amount of dry bulk cargo in the international trade of the United States will leap from 140 million to 380 million tons. Meanwhile, our capacity to carry that trade will decline from today's small 7.8 million tons to a puny 3.9 million tons—about 1% of the total.

"Tramp fleet

"The tramp fleet is composed of about 130 vessels. Only seven of these ships were built since World War II. They are inadequately maintained. An American in India recently wrote to me that some were in such dreadful condition he was ashamed to see them flying the American flag. Last month off the coast of Florida one simply sank. Over the next five or ten years the rest of this fleet will be unable to meet class requirements—or will just break down forever in some foreign port.

"Today we are paying $80 million a year in subsidy through cargo preference freight-rate differentials to perpetuate this fleet. There presently exists no program to replace it. To put 100 modern dry bulk carriers under operating subsidy probably would cost the taxpayers on the order of $30 to $40 million a year in operating subsidy. To build them in American yards probably would cost the government an additional $400 to $500 million.

"I will not burden you with more figures on the decline of our fleet. The same sad story could be told about our domestic fleet. But it must be plain by now that our problems are acute: our fleet is growing smaller and more expensive.

"There is an almost unavoidable human tendency to act as my daughter did the other day when she and a friend were deciding who would ride the friend's new bicycle first. Finally my daughter suggested, 'Let's take turns. You have it today.' The friend agreed and began to walk away with the bike. 'Wait,' my daughter said, 'Now we are playing it's yesterday.'

"In many ways we are playing it is yesterday: boasting of our fleet even as it sinks.

"Let us for a moment play that it is tomorrow. What alternatives remain open for America?

"Shipbuilders

"It is appropriate to begin with our shipbuilding industry, for although little understood, many of the problems of the merchant fleet can be traced back to policies regarding the yards.

"The Maritime Administration's Office of Ship Construction is the largest in the agency, administering $100 million in subsidy for shipyards each year.

"The need for a shipyard subsidy derives from the statutory requirement that all subsidized ships in the U.S. merchant marine must be built in American shipyards. It costs more than twice as much to build a ship in the United States. The government pays the excess over world market price. Without the build-American requirement, however, shipowners would be free to build where they chose and would not require one dollar of construction subsidy.

"Russia

"The United States is the only major maritime nation in the world to require all of its subsidized commercial ships to be built at home. Under Russia's massive merchant fleet expansion program only 30% of the new ships are being constructed in the Soviet Union. Norwegian shipowners build over 80% of their ships abroad.

"Nor is any other American transportation industry required to purchase its equipment in this country. Other American businessmen may purchase and operate in the U.S. airplanes, locomotives, automobiles, trucks, and pipelines, which were manufactured abroad.

"What have been the reasons for our shipbuilding policy?

"Under ordinary conceptions of American free enterprise and world trade our shipyards would have gone out of the merchant ship business. Why have we prevented this happening? The experience in the First and Second World Wars was that a substantial shipbuilding capacity was required. During World War II, for example, we built over 5,600 vessels at a cost of more than $15 billion. That experience is still fresh in our minds.

"But do similar needs exist today? A great deal has changed since 1945—in both war and transportation. Perhaps today's needs are centered more on a fleet in being, quickly responsive to emergency needs, and less on long term shipbuilding capability. In any event, the magnitude of the need for shipbuilding capability ought not to be confused with the magnitude of the need for ships. They are significantly different needs. For example, it could be that both civilian and military requirements would suggest a larger fleet than we presently possess, even though the present level of shipbuilding capability were sufficient for emergency needs. The lack of relationship between ships and shipyards is further emphasized by the existence of our national defense reserve fleets, which provide for immediate expansion of the fleet without any new building at all.

"In fact, the relationship between the shipping subsidy and shipyard subsidy is no more inevitable than that between the farm subsidy and a subsidy for the farm tractor industry.

"What does the maritime shipyard subsidy mean to American shipyard workers and owners?

"The total government-sponsored input into Navy and private shipyards in this country runs to about $3 billion each year—mostly new construction and repair for the Navy. Thus, subsidized commercial shipbuilding represents less than 7% of the total. And of the 21 American private yards capable of constructing merchant vessels, only 5 are participating in subsidized shipbuilding. For example, America's largest yard, Newport News Shipbuilding and Dry Dock Company, which employs 19,500 men and presently has $511 million of work under contract, has not built a subsidized merchant ship for 2 years, and appears to have no plans to do so. Even among the five yards which are doing subsidized commercial work, an average of 50% of their income is generated by the Navy.

"Not only is the statutory restriction prohibiting subsidized shipowners from purchasing ships abroad doing little for the plight of the American shipyards, but it has had a devastating impact on the growth of our merchant marine.

"Our total merchant fleet has decreased from 3,421 ships in 1949 to 2,529 today. Even after discounting the decrease resulting from the sale or scrapping of war-built ships, our active commercial fleet has declined by 25% during the same years.

"Why

"Why is this so? It is in part because the build-American requirement means in practice that once the annual shipbuilding subsidy has been spent, no more ships will be built. Unless the Congress were to provide an unlimited appropriation for subsidizing American shipyards, the size of the fleet inevitably will be a function of the construction appropriation. And the cost of American construction is so sigh—over double world rates—that the restriction has been severe.

"Few Americans realize how severe our ship replacement needs are today. The 15 subsidized companies have a contractual obligation to replace their 317 ships. If the ships had been replaced at the end of their statutory 20-year lives, the operators would have built an additional 80 to 90 ships by now. In addition, the 100 unsubsidized liners have applied for subsidy—and subsidized replacement. Our domestic fleet, 192 dry cargo and passenger ships in 1949, has dwindled to but 93 ships today (excluding tankers). Our 120 tramp ships require replacement, and applications for nine new bulk carriers are pending before the Maritime Subsidy Board. Thus, hundreds of ships are required simply to hold our own. Expansion would require more than that.

"Nor does there appear to be much prospect for the costs of ship construction being reduced. American shipyards are relatively among the least competitive, by European Standards, of all U.S. industries. A study of 44 major American industries, using productivity in the United Kingdom as a base, revealed that many were 300% to 500% more productive than their foreign competitors—a difference fully adequate to offset higher wage costs. By this standard, our shipyards were ranked 44th—about equally as productive as the foreign competition. Today our yards charge about 220% of foreign ship prices, and yet reap relatively low profits. American shipyard owners are good businessmen, and shipyard workers are as efficient as any others. But shipbuilding is not readily adaptable to automation (about 750,000 man hours may go into a ship), and with the relatively few ships each year, and the 21 yards operating at only 42% capacity, there is little incentive for extensive capital improvements.

"These are some of the basic facts. What are our alternatives?

"(1) We could continue the status quo: require all subsidized merchant ships to be built in American yards and appropriate enough money to replace our fleet at the present level of 16 to 18 ships per year. We thus accept the fleet's continued decline, and at a faster rate than today because of the bloc obsolescence of the war-built ships.

"(2) We could continue the build-American requirement but increase the appropriation well beyond the present $100 million level.

"(3) Finally, we could determine our national security or other needs for shipbuilding capacity, and spend sufficient money in addition to naval construction to insure that this capacity is maintained. Beyond that the fleet could be expanded to its economic limits by permitting American shipowners to purchase ships wherever they wish.

"This third alternative, of course, carries with it an impact on the American shipyard workers. While the dimensions of the impact are far from inconsequential, they must be viewed in perspective. It is a fact that there are about 100,000 shipyard workers. It is also a fact, however, that all of the subsidized merchant shipbuilding put together creates no more than 7,600 jobs. So that the dimensions of this particular problem relate to 7,600 jobs—to which serious consideration must be given. Finally, preservation of these jobs may result in the loss of an even greater number of shipboard jobs if present policies continue.

"Bulk fleet

"That these are difficult decisions makes them no less inevitable.

"How about our bulk fleet? I spoke a few moments ago about our diminishing dry bulk capacity in contrast to the enormous growth of this element of our trade. Upon closer examination the inadequacy is even more

disturbing. For example, in 1965 we will export about 45 million long tons of coal. We now possess only four aging ore carriers built in the first four years following World War II. By 1975 our coal exports will have jumped to 72 million long tons, and—if present policies continue unchanged—not a single ore carrier will be built to carry that coal.

"There have been a number of suggestions that an extension of the cargo preference principle is the answer to the problems of the dry bulk fleet. For example, quotas for American-flag carriage of ore imports have been suggested. Yet I think the experience of the past decade raises serious questions about this conclusion.

"In 1954 a series of temporary and individual cargo preference requirements finally culminated the adoption of Public Law 664—a permanent, general cargo preference statute requiring that 50% of government-sponsored cargo be shipped in American ships. The Senate and House Committee Reports make it clear that the cargo preference principle was chosen as a means of implementing the objective of carrying a substantial portion of our foreign commerce in American ships.

"Considerable controversy surrounded this legislation, and in 1956 the Secretary of Commerce, at the request of the President, reviewed the situation. His report supported the cargo preference principle. It pointed out that early fears the legislation would produce restrictive shipping legislation in other countries had no foundation; it countered the argument that cargo preference was undesirable as an indirect subsidy on the grounds that it was, quite plainly, a direct subsidy; and finally, the report speculated that the permanence of the P.L. 664 legislation would provide an incentive for the construction of a 'modern and efficient' dry bulk fleet.

"Unfortunately, our experience since that report has not borne out the predictions of its authors. Since 1956, 15 countries have adopted restrictive shipping legislation, and most of the maritime world points to United States practice as the cause. Whatever may be said regarding the futility of such laws for the countries in question, and their impact on American trade, it seems clear they are not in the best interests of American shipping. As a subsidy, direct or indirect, cargo preference has been a miserable failure: not a single new tramp ship has been built since 1956, and the cost of keeping the old ones in existence climbs higher and higher. A converted 10,000 deadweight ton Liberty employed in the grain trade costs the taxpayers about $700,000 in freight-rate differential payments annually. By contrast, our most modern liner ships, with 40% more carrying capacity and twice the speed require an average of only $500,000 per year; this means an equivalent shipping capability at 25% of the subsidy cost.

"Here, too, the American people are faced with a number of alternatives.

"(1) Present programs could be continued—at least so long as there is an agricultural surplus disposal program. The result would be a steady rise in subsidy cost as these vessels become increasingly inefficient, followed by a rapid decrease in the cost as the subsidy disappears with the ships.

"(2) The tramp fleet could be eliminated more quickly by simply eliminating the cargo preference program.

"(3) Cargo preference could be continued, but supplemented with construction subsidy for replacement ships. Because the present production of 100 tramp ships easily could be matched with only 22 modern dry bulkers, however, any meaningful dry cargo fleet cannot be hitched alone to the cargo preference grain trade. The future of the dry bulk fleet, like the rest of our merchant marine, necessarily depends upon the capacity to compete for commercial cargoes. Moreover, adding construction subsidy on to the existing cargo preference system would provide subsidy without any provision for mandatory ship replacement, for reserve funds, for recapture, or for any of the other safeguards of the public interest built into the 1936 Act.

"(4) Cargo preference could be eliminated gradually, no faster than some form of direct operating subsidy is substituted for it, making it possible for these ships to compete for commercial cargoes at world rates. Dry bulkers are more simple ships than liners, and proposals have been made to construct, for example, a 30,000 ton ship for as little as $9 million, and operate it with a small crew and only $300,000 to $400,000 in annual operating subsidy. In order to give you some idea of what these figures mean, if the present $80 million per year spent on cargo preference freight-rate differentials were all paid in operating subsidy to such new ships, we could maintain about 200 modern dry bulk carriers, with a total capacity about eight times our present dry bulk fleet. Even with reduced crews on highly mechanized ships it is obvious where the greatest long-term job opportunity is to be found.

"Necessarily, in making these choices the number of competing interests is too great to satisfy everyone completely. In discussing various new ideas with members of the industry, I sometimes feel like the fellow whose wife bought him two ties for Christmas, one red and one green. He expressed delight with both, and when she appeared skeptical about the genuineness of his feelings, he put on the red one to prove it. 'What's the matter,' she said, 'don't you like the green one?'

"This kind of a reaction is especially common in discussions about our passenger ships.

"American operators have 13 remaining passenger ships, staffed with crews ranging from 260 to 1,000. In 1965 these ships will absorb almost one quarter of the total money available for operating subsidy—about $46 million. And if they are expensive to run, they are even more expensive to build. The government's share of replacing the SS United States today, for example, could run to about $100 million. Like any other major investment the benefits derived from these ships—to the industry and to the government—deserve the closest examinations. The arithmetic is striking.

"In 1962 the then 15 passenger ships produced a loss, before subsidy, of about $44 million. The subsidy amounted to $48.7 million, or more than ten times the after-subsidy profits for the 15 ships. In 1963, financial results were little better. The subsidy bill was nine times the companies' profits after subsidy. Eight of the 15 ships lost money even after subsidy, and two others did little better than break even.

"By contrast, comparable figures for general cargo ships show a subsidy bill only two or three times profits after subsidy. For the companies operating both passenger and general cargo ships, the gross revenue from cargo operations was three times that for passenger operations, and profits after subsidy were more than seven times as high.

"It is not surprising that shipowners have shown little inclination to replace their passenger ships.

"Nor do the passenger ship operators have much hope for improved profits. The productivity of cargo ships has increased in recent years. But 73% of the crew on a passenger ship are stewards—cooks and waiters—and mechanization can do little to increase their productivity. Indeed, it is this personal service which tends to attract those relatively few people who travel by ship rather than air.

"Even if passenger ships are not a profitable business for the owners or the government, it is often argued that they are of great benefit to us as a nation. If so, they are surely worth the investment. But what are these alleged benefits?

"How about their balance of payments contribution? In 1963, the net balance of payments contribution of U.S.-flag passenger ships was about $47 million. Since we spent about $46.3 million in subsidy to secure that saving, you can see that it was bought rather dearly. By contrast, in 1962 the international commercial airline industry contributed $128 million to our balance of payments from passenger fares alone—and without the necessity of any contribution from the taxpayers. Or compare the like figures for general cargo ships. In 1963 the net balance of payments impact of the 285 subsidized cargo ships was about $204 million—at a subsidy cost of approximately $135 million. Thus, even by standards of return on shipping subsidy, the balance of payments impact of one dollar of subsidy spent on a cargo liner is almost double the impact of a dollar spent on a passenger ship.

" 'Prestige' is also said to be a benefit of passenger ships. Of course, prestige is an elusive thing. Our present operating subsidy expenditures for passenger ships would support close to 100 modern liner ships, which might well do more for our prestige around the world than a few passenger ships known to be highly unprofitable.

"Moreover, two important reasons for having a merchant marine—trading leverage and stability of freight rates—are virtually unaffected by passenger ships.

"Finally, there is national defense. Historically, passenger ships have played a major role in our defense efforts. During World War II, for example, most of our troops were transported in ships which once sailed as commercial vessels. By the time of the Korean hostilities, however, the situation had changed and only one passenger ship was removed from commercial service for troop carrying to the war zone. Three small passenger ships under construction were transferred to MSTS but were fitted primarily as passenger ships for military dependents. All other troops were carried by MSTS troop carriers or by air.

"Our defense needs today still call for a passenger ship capability. But the development of new aircraft, like the C–141 and the recently announced 600 passenger plane, is eroding the justification for heavy government investment in constructing and maintaining commercial passenger ships.

"To some extent modern cargo liners could be converted to effective troopships if necessary. Even commercial passenger ships must be converted to troop-carrying conditions—still need conventional passenger ships it might better safeguard our national security if the conversion were done in advance, and the ships preserved in the reserve fleet in a high degree of readiness—at about one tenth the present annual cost.

"But all of this analysis really adds little to the stark economic reality that American businessmen have little desire to build and operate passenger ships at a loss. Unless some presently unforeseeable change comes about some 5,500 jobs will disappear from these ships over the next ten years irrespective of how the government feels about the wisdom of this $50 million subsidy account.

"The question before us is not whether the 5,500 jobs will be affected, but whether any ships and jobs will be substituted in their place.

"Of the 5,500 men on passenger ships about 4,000, or 73%, are stewards who can find ready transferability of their skills in the hotel and restaurant trades. But what of the 1,500 deck and engine men? Their jobs are not as easily transferable. If the $42 million passenger ship subsidy were used for cargo liners—even the most highly mechanized now imaginable—we would need about 3,000 men to operate them. The road to true job opportunity seems clear.

"Finally, I want to say a few words about two aspects of our present system of paying operating subsidy.

"First, the trade route idea.

"At the present time the Maritime Administration has designated 30 trade routes and three services as essential to the foreign trade of the United States. A subsidized shipping company wishing to move from one trade route to another is required by law to undergo a long and arduous public hearing, effectively eliminating its ability to respond rapidly to competitive pressures. In addition, an operator's activities on any particular trade route—the frequency of sailing and the ports at which has ships call—are all subject to the approval of the Maritime Administration.

"Many questions are called to mind. Is it not strange to have this high degree of protectionism for American operators against only a small part of their competition? For U.S. trade route restrictions obviously do not affect the foreign companies carrying about 70% of our liner cargo. What is the impact of these restrictions on the behavior of American shipping companies? What are the supposed benefits of the system, and how real are they?

"It is usually urged that the trade routes underlie the 'service' concept of the 1936 Act, and that they serve to prevent 'cutthroat competition.' Each of these assertions requires close examination.

"As for the first, to my knowledge there is not a single American operator serving a trade route because he was ordered to do so by the Maritime Administration. In each case the operator requested permission to serve that route because there was cargo to be carried. Look, for example, at the number of foreign companies, which may come and go much as they please, serving small ports on regular schedules because the existence of cargo makes it profitable for them to do so. Look at the American companies providing regular service to Alaska, Hawaii and Puerto Rico for the same reason. There is no reason to expect that American companies in foreign trade would act so very differently even if not bound by the strictures of the trade route concept.

"And if there is not sufficient cargo to justify shipping services at all, I doubt very much whether the framers of the 1936 Act intended that American companies be compelled to service ports at a loss to themselves as well as the taxpayers. For example, if it is cheaper to ship cargo by barge from a small to a larger port and then out by ship, that is probably the way the cargo ought to move. That is the basic principle underlying the new Lykes Sea Barge Clipper concept.

"I doubt, therefore, if a relaxation of the present rigorous trade route requirements would undermine adequate service for American shippers—quite the contrary.

"Many shipowners have told me that the tortuous procedures necessary to gain permission to operate on a different trade route, even for a short time, have forced them to forego many attractive commercial opportunities—to the benefit of the merchant fleets of other nations. This reminds me of the story about the Cape Cod garbage collector, whose weekly charge was twenty-five cents. One newcomer, seeking to do a little better, asked for his monthly rate. '$1.50,' was the reply. When the newcomer inquired why the monthly rate should be so much higher than four times the weekly rate, the old man replied, 'The extry is for bein' tied down.' I rather suspect that we may be paying 'extry' for tying down our shipowners, too.

"We turn, then, to the question of cutthroat competition. Whenever I hear that term, I am reminded of a story an old Texan used to tell about the general store in the small town where he grew up. The store had a monopoly for many years, but as the town grew it began to attract new business, and in due course a competitor opened his doors across the street from the general store. The old proprietor began to bemoan his fate to the town at large, and one young man, recently back from a freshman economics course at the local college said, 'But sir, isn't that just competition?' 'Oh, no,' he replied, 'it's worse than competition.' Some shipowners have expressed similar sentiments to me, explaining that they have competition now, and that relaxing trade route restrictions would be worse.

"Since trade route restrictions have no impact on the activities of foreign shipping companies, the danger arising from a relaxation of the trade routes must be seen to come from the competition of other American shipping companies. Some shipowners feel that a new American company will come on the route and take one-half of the 'American' cargo, putting them both out of business.

"But, by and large, an established steamship company will tend to stay on its old routes, since it is costly and time-consuming to develop new trade relations. Moreover, such a company will consider carefully whether it can make a sufficient dent in the foreign market on a new trade route. With such high capital costs, few shipping companies would be foolhardy enough to enter a wholly new competitive environment solely with the idea of taking away from a preexisting American company most of its established business.

"Moreover, shipping conferences will tend to act as a moderating force. For example, foreign-flag companies would seem to be in much the same position vis-a-vis each other as would American companies in the event of a relaxation of trade route restrictions. Yet there have not been a series of protracted rate wars.

"There is, of course, a perfectly legitimate basis for fearing the activities of an irresponsible 'raider,' an operator with no interest in establishing any sort of trade relations, whose sole aim is to skim off the cream of the trade at the peak of the season with exceptionally low rates. But this problem can be solved without abandoning the whole idea of trade route flexibility. There would seem to be no reason why a procedure could not be designated to sift the serious competitor from the fly-by-night.

"The present rigid system prevents companies from taking advantage of fluctuations in world trade. And to the extent that it is an effective shield against competition, it tends to insulate the companies on the trade route from the salutary effects or competition. Finally, the present system puts into the hands of the government too much of the question whether a shipowner will change trade routes.

"Finally, I would like to say a few words about what has come to be called an 'incentive operating subsidy.' I have spoken about this issue at length in the past, and there is no reason to belabor it here. But there is one common misconception which I would like to clear up.

"A number of people have told me of their impression that the incentive subsidy is an economy measure—that we will somehow end up with a lower subsidy bill. Nothing could be further from the truth. An incentive subsidy may result in increased productivity, higher profits and wages, and relatively less need for subsidy. But whatever the needs for subsidy may be they must be met if the industry is to continue. No one argues with that basic truth.

"I think that $380 million is a substantial sum and, as Maritime Administrator, I feel an obligation to insure that it is spent in the most productive way possible. If it is being spent under a system which could be improved, then that standard has not been met. If it is producing one less ship than it could, and I remain silent, I am not doing my job.

"In the shipping business, like most others, profits may be increased by cutting costs or increasing revenues. But operators have little incentive to reduce subsidizable costs under the present system, for the government will simply pay them less in subsidy. This puts a responsibility on the government alone to maximize the public's return from its subsidy bill. Often government is forced to take positions which segments of labor and management find objectionable. But under the present system it is inevitable.

"On the other side of the profit picture, one of the chief means for most businesses to increase the utilization of their capacity is by reducing rates.

"The conference system, however, precludes this. It would seem obvious then that the system could be substantially improved, especially by providing some meaningful incentive to management and labor to cut costs—removing the government from the process.

"As I see it, and as I hope you do, as well, there are many alternatives open to the American merchant marine. Each of our problems has at least one solution. Some require the expenditure of much larger sums of money; others seem to spell the continued decline of the fleet. Still others seem to promise more shipping capability at a relatively lower cost—even though perhaps pointing the way to larger total expenditures.

"The American merchant marine is at the crossroads. Basic decisions must be made. They must be made by you, and every American concerned about our trade and economic growth. We cannot hope to make every decision exactly right, but when the alternatives are clear before the people their record is pretty good.

"The problem is worthy of our effort."

Mr. LAUSCHE. Mr. President, in the face of Mr. Johnson's recommendations and in the face of Mr. Boyd's recommendations, as well as those of the President of the United States, a bill has been sent to the Senate floor raising the subsidy from the $119 million recommended by the President to $237 million.

Mr. President, I just cannot understand it. Taxes are being raised. Recommendations are being made to cut spending. The taxpayer is complaining. The 10-percent tax increase for 1968, in my opinion, will be inadequate to meet our deficits in 1970. Yet, a bill is sent to us for passage entailing an expenditure of $118 milion more than the administration recommended.

My query is: What does this industry feed upon? what does it take into its system that, in spite of all the help we have given it, practically $3 billion in the past 32 years, still is not content and wants more?

Where does it get its power? Upon whom does it operate? What chains does it have on Congress? How did it get itself exempted from the integrated Transportation Act?

How was it that the airlines, the railroads, the truckers, and the pipeliners have to be placed under one roof, but the merchant marine succeeded in getting itself exempted?

Mr. President, I shall be leaving the Senate next January. But one thing will remain everlastingly in my mind: How can this shameful condition be allowed to continue? Why can it not be stopped?

I think that the President and Mr. Boyd are on the right track. I hope they press it. My hopes are that the amendment offered by the Senator from Delaware and myself will be adopted.

There are one or two shipbuilding companies in Ohio. There are shipbuilding companies in Maryland, California, Pennsylvania, Virginia, and probably in Florida. But the selfish purpose of serving those industries at the expense of the general taxpayer should not be condoned. For the good of the merchant marine, it should be placed on the same basis as the airlines, railroads, and truckers. Preferential treatment should not be given to it.

Mr. President, I thank the Senator from Delaware [Mr. WILLIAMS], and I also thank the Chair.

Mr. President, I ask unanimous consent to include Mr. Boyd's statement at this point in the RECORD.

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

"THE NEED TODAY

"(Statement of Alan S. Boyd, Secretary of Transportation, before the Senate Commerce Committee, Subcommittee on Merchant Marine and Fisheries, New Senate Office Building, May 20, 1968)

"During this Nation's first century, a strong merchant fleet carried American commerce—under the American flag—to and from the seaports of the world.

"From that early development of commercial water routes, our Nation grew to its present position as the world's largest trading power. In 1967 alone, more than 400 million tons of goods—valued at over $36 billion—moved in our oceanborne foreign trade. This was about one-sixth of the world's foreign trade, far more than any other country's share.

"Our national growth and prosperity have depended in part on this foreign commerce. Our future growth and prosperity demand that our trade in the markets of the world continue to expand. In little more than a decade—by 1968—our waterborne foreign trade should nearly double in size, reaching 700 million tons.

"In the course of our trade expansion, the U.S. Merchant Marine has lost much of its vitality. Because of outmoded and uneconomical practices, capital and operating costs have skyrocketed. Lower construction costs in foreign shipyards, and lower operating costs of foreign vessels, have made it difficult for the Merchant Marine to compete with ships of other nations to carry our foreign trade.

"Both the Merchant Marine and the shipbuilding industry have become increasingly dependent on Government subsidies. In fact, direct and indirect subsidies, together with preferential movement of Government cargo on U.S. flag ships, are largely responsible for keeping our Merchant Marine alive.

"This dependence on Government support has led to detailed Government involvement in matters of management.

"Over the past several years, programs to strengthen the industries have been subjected to exhaustive study and intensive debate—within the Government and in public forums as well. There have been a large number of proposals aired recently on what to do about the Merchant Marine. All of them agree that changes and reforms are essential and long overdue. At the same time there is little agreement regarding the direction or details of reform.

"The problem is not an easy one. For the last three years we have analyzed and discussed the many arguments and the suggested solutions. We have talked at length to all representatives of the merchant marine and shipyard industries—both on the management and labor sides. The Administration has thoroughly considered the possible alternatives. Now more than ever we are convinced that the future of our Merchant Marine demands a shift from past policies: To provide the streamlining and flexibility that is needed to enable it to cope with the competitive world of today and the future. These conclusions emerge:

"Subsidy support should be provided only to meet this Nation's security needs. Ship operating support should be clearly distinguished from ship construction support.

"Although Federal support must continue if the Merchant Marine is to survive, Federal dollars alone will not solve the problems of the maritime industries.

"The genius of the free enterprise system—of skilled labor and profit-motivated businessmen, stimulated by competition—must be called into full play if the industries again are to prosper.

"Our present subsidy systems do not provide incentives to use fully the resources and talents of American industry.

"A new maritime program

"I am here this morning to present the Administration's Merchant Marine program.

"We are convinced that the program being proposed is based on the kinds of public interest considerations which should guide the formulation of any Federal program.

"Certainly, the public interest requires of the maritime program that we examine:

"How much and what kind of a Merchant Marine we need to subsidize and for what purposes.

"How much shipbuilding capacity we need to support and to what extent this should be supported by subsidized merchant marine programs—rather than Navy or other programs for building and repairing government-owned vessels.

"What specific policies and programs would best implement our determinations of the public interest in these areas.

"We believe that America's maritime industries can reestablish their position of importance in the commercial life of this Nation, if they are—

"Revitalized through the application of advanced industrial technology and sound business practices.

"Incorporated into an integrated transportation system.

"Proposal

"The Administration proposes five major steps to accomplish these purposes to modernize our maritime industries:

"1. Expand the scope and improve the system of ship operating subsidies, and establish the amount of subsidies according to the size of the fleet necessary for national security.

"2. Reform the construction subsidy system and relate this subsidy to the Nation's need for an adequate shipyard capacity for national security.

"3. Remove restraints on the freedom of shipowners to purchase ships n the world market—treating shipowners like other American purchasers of transportation equipment and subject to the same restrictions on foreign investments and expenditures.

"4. Expand maritime transportation research.

"5. Transfer the Maritime Administration to the Department of Transportation.

"Ship operating subsidies

"Enduring through the years as a tradition, the Merchant Marine has declined as an industry. Its decline parallels its increasing dependence on Government support through subsidies of one kind of another. Subsidies—direct and indirect—have been a compromise answer to a difficult situation. They have prevented both the death and the nationalization of the Merchant Marine. At various times in our history, the Congress and the Executive Branch have shaped the principle of subsidy to meet the demands of the day.

"The Merchant Marine Act of 1936, which established the basic policy under which we operate today, was a remarkable accomplishment for its time. Three decades ago—and for a considerable period after—it helped to promote our foreign trade and our national security. Now it is time to take another thorough and searching look at the Merchant Marine and the subsidy system that sustains it. In this time of budget stringency, Government spending must meet the most rigorous tests of necessity.

"The Merchant Marine—like any other program requires Government support—should be subsidized only to the extent necessary to meet a compelling national need. That need can be clearly identified: We must have adequate shipping to meet our military requirements and those urgent non-military demands that would prevail in time of emergency. It is only to this extent that our maritime fleet should be subsidized. Beyond this level, the fleet should meet the tests of the free market.

"Subsidy Reform

"The subsidy system itself is in clear need of reform. Instead of encouraging innovation and productivity, the system focuses attention on the subsidy dollar as a source of income. A new system must be found that will induce the industry to take full advantage of advancing technology, management ingenuity, and the resources of a skilled labor force.

"The Government now subsidizes the ship operator to make up the differences between certain elements of his operating costs and those of his foreign competitors. This process has proven inadequate and unsound. For example:

"It requires a network of Government auditors in the steamship company's offices, as well as an overseas staff of Government employees to provide estimates of foreign operating costs.

"It imposes cumbersome administrative procedures upon the operator, who is forced to make a detailed justification for each of his subsidy-related costs.

"It requires strict adherence to trade routes and restricts the operator from taking advantage of shifting market conditions.

"It gives the operator little incentive to hold down costs, since increases are borne by the Government.

"This direct subsidy has only been available to a part of the fleet.

"To correct these deficiencies—and at the same time to assure operators a reasonable rate of return on their investments—the present system must be restructed to promote business judgment and operational flexibility, and minimize Federal involvement and intervention. The restructed system should be made available to other categories of ship operators to replace indirect subsidies they now receive.

"The Administration recommends legislation to authorize the Secretary of Transportation to enter into contracts with qualified applicants to test more productive and competitive operating subsidy systems.

"Over the past few years, a number of alternative subsidy systems have been studied and developed. These systems will be examined thoroughly. The Government and operators together will examine these systems and experiment with the most promising. Different systems can very likely be tried simultaneously, in different trading areas. Whichever are found the most productive through actual experience will then be put into effect. All operators will be required to use the systems selected to be eligible for subsidy support—new operators upon entry and the present subsidized operators upon expiration of their current contracts.

"Bulk cargoes

"Dry bulk cargoes total about 35 percent of our foreign trade. More than 140 million long tons are carried each year. By 1980, that trade is expected to rise to over 380 million tons. Very little of this goes on U.S. flag ships, however—because the American ships in this bulk trade are old and inefficient and unable to compete for commercial shipments. The answer is to promote the development of an efficient and up-to-date U.S. flag bulk carrier fleet. At the present, this cannot be done because operating subsidies are not extended to bulk carriers.

"The Administration recommends legislation to authorize a system of innovative operating subsidies, such as those described above, for new bulk carriers to be built under a new construction subsidy program—which is detailed later in this testimony.

"Passenger ships

"Passenger ship operations under the American flag are costly in subsidies, and

return only minor benefits. The sharply accelerating trend to air travel raises serious questions about the economic future of this mode of transportation.

"At present, about $50 million goes annually to the support of 13 ships—which are turning more and more to luxury cruises. This is equivalent to $275 for every passenger carried.

"Once important as emergency troop transports, the defense value of these vessels is now minimal. Their subsidization can no longer be justified on this basis.

"Operators of passenger ships will be encouraged to terminate their subsidy contracts voluntarily so that the funds can be allocated to more productive purposes.

"Nuclear ship program

"There is serious doubt as to the attractiveness and wisdom of proceeding with a broader nuclear ship program at the present time. It appears that power reactors of the relatively small sizes required for merchant ship propulsion will continue to be non-competitive with oil over the foreseeable future.

"Construction subsidies

"At this time, the Administration does not seek increased subsidies for the construction of ships. For the present, I believe the construction subsidy program should be held at a level of about 110 million, roughly its present level. For the future, however, we need to know how much will be required to meet national emergency demands for shipbuilding capability.

"The proposed legislation would authorize the Secretaries of Defense and Transportation to recommend jointly to the President the level and character of ship construction subsidies.

"Each year the two Secretaries will:

"Determine the national emergency need for private shipyard activity and capacity.

"Ascertain how much and what kind of Federal support is necessary—beyond that provided through Navy and other programs which build Government vessels—to maintain an adequate emergency capability for ship construction and repair.

"Determine to what extent this additional support should be provided by subsidies for merchant marine construction.

"In making their determinations the Secretaries will consider such factors as long-range plans for emergency construction or repair, and the need to maintain specialized skills.

"For greater flexibility

"The present construction subsidy system is too inflexible. It does not encourage shipyards to propose a standardized design which several operators can use. It fosters, instead, costly individual designs. Under existing practice, an operator submits to the Maritime Administration a design tailored to his individual needs—for one ship or a few. This individual design is then put out for bids among the shipyards. The bids are generally high—reflecting the cost of constructing just a few custom-built ships. The small market for commercial ships in the U.S., and limited competition, add further to the cost of ships built in American yards. In large measure, these costs are borne by the taxpayer—since the Federal subsidy to the ship buyer is the difference between the shipyard's high price and the estimated cost the operator would pay in a foreign shipyard.

"The construction subsidy program should be made more flexible and better able to produce ships less expensively.

"The Administration recommends legislation to encourage the shipyard to design and develop ships which can be built with the modern production techniques that have made our aircraft industry predominant in the world today.

"Under this system, this subsidy would be paid directly to the shipyards. Shipbuilders would be told precisely what proportion of construction costs the Government would pay. The yards would then compete with each other for sales to domestic or foreign ship purchasers on the basis of what they could construct with available subsidy funds. The proposals calling for the latest subsidy dollar per productive unit would receive the subsidy.

"With preference thus going to shipyards producing at the lowest cost per ship, yards will be encouraged to design and sell their ships on an efficient multiple-production basis—just as aircraft companies aggressively market their designs to the airlines.

"Foreign ship purchase

"In the Nation's infancy, American shipowners were required by law to buy only American built ships. This was necessary then for the development of a shipbuilding industry. Today, America's ship construction industry is the largest in the world by nearly any measure. It can draw upon the country's great technological resources. Its size and health are ensured by a naval construction and repair program which infuses more than $2 billion of Government funds into the industry every year. Yet our merchant shipowners are under almost the same constraints as those of two centuries ago. To engage in domestic trade, or to be eligible for a subsidy, they must buy only in U.S. shipyards.

"Since merchant ship work under Government subsidy amounts to less than 10 percent of the shipbuilding industry's business, this restriction cannot be justified as essential to the industry's health. An American operator should not have to base his plans for purchases of new ships on the amount of construction subsidies available.

"After the necessary level of ship construction in U.S. shipyards has been reasonably assured, American ship operators will be permitted to purchase their vessels in the world shipbuilding market and these ships would be accorded the same treatment as ships built in American yards.

"To protect our balance of payments position, controls will be exercised in accord with our programs restraining foreign expenditures and investments. By requiring the cost of the vessels to be financed through foreign loans, we can avoid a drain on American dollars. Ships built in foreign shipyards for documentation under the U.S. flag would be required to meet all U.S. standards of safety and construction. They would be eligible for all privileges available to U.S. flag operators in the U.S. foreign trade. American flag operators in domestic trade would also be permitted to employ a limited number of foreign-built ships—with procedures to assure established operators will not be harmed.

"Reserve funds

"The maritime industry—as do many other industries—requires large amounts of capital for the construction of modern, efficient equipment. At present, certain ship operators are not taxed currently on funds put in reserve and used for this purpose. These operators therefore pay taxes on different terms from other ship operators and other businesses. This system is complex and inequitable.

"The Administration program contemplates that the setting aside of these funds will be terminated at the expiration of the present contract commitments. The future capital investments of the Merchant Marine can then come under the depreciation guidelines and the investment credit rules of the Treasury Department similar to those governing other industries. We also contemplate orderly liquidation—consistent with existing contracts—of present reserve funds over a reasonable period of time.

"In addition, the Secretary of the Treasury will undertake a review of our tax law as it affects the shipping industry including U.S. owned ships under foreign flags, with a view toward recommending other legislation to remove unjustified tax advantages.

"National defense shipping needs

"National Defense Reserve Fleet

"The National Defense Reserve Fleet was established at the end of World War II. It has served this Nation well in two major emergencies. During periods of crisis, the breaking-out of this inactive fleet has been an important factor in preserving our national security and in maintaining stable rates in the world shipping market. This method of meeting peak emergency needs is less expensive in limited emergencies and causes less disruption of commercial service than other alternatives.

"To improve this capability, we ask authorization for an initial appropriation of $30 million for Fiscal 1970, to revitalize the National Defense Reserve Fleet.

"These funds will be used to build a limited number of new vessels of austere type, and to convert some relatively unused reserve troop ships into general cargo ships. These ships will be retained in the reserve fleet for emergency use.

"Fast Deployment Logistic Ship Program

"No expansion of the Merchant Marine will fill the military need for rapid-response sealift. This vital need can best be met through the Fast Deployment Logistic Ship program.

"Fast Deployment Logistic Ships (FDL's) will not compete with the Merchant Marine. The ships are designed for quick and flexible military response. They can operate without ports, if necessary. They are an essential part of our strategic planning. They must be available at all times to enhance our national security. Last year the Congress did not act on the Administration's recommendation that an FDL program be started.

"This year, the budget includes a request for $184 million to fund this important program. The Administration urges the Congress to approve it promptly.

"Expanded research

"The Administration recommends a 5-year program of $25 million annually commencing in Fiscal 1970, to increase both basic and applied maritime research activity—conducted in cooperation with private industry.

"The goal of this research will be to improve the competitive position of the U.S. maritime industries by acquiring new knowledge of:

"Ship operations and design,

"Cargo handling systems on ships and ashore,

"Port facilities,

"Basic hydrodynamics related to modern merchant ship hull forms,

"Ship construction methods, and

"Integration of sea and land systems.

"Management-labor responsibility

"The program of reforms that I have outlined will aid in bringing the U.S. Merchant Marine into today's competitive world and make it an active and productive part of our commercial life and our future growth.

"The Government can go only a part of the way toward this goal, however. Essential steps must be taken by the elements of the maritime industries themselves—management and labor in the operating Merchant Marine, in the shipbuilding industry, and in allied industries. Federal subsidy dollars must not be dissipated through price inflation or excessive wage increases. Otherwise, their potential benefits would never be realized. America's maritime capabilities would remain weak and ineffective. An important part of the program being recommended today is to insure that wages will be stabilized and that bid prices will be reasonable and competitive.

"Wage Structure Stabilization and Work Stoppages

"If the U.S. Merchant Marine is to respond to the needs of the American shipper, both management and labor must work closely to—

"Eliminate the recurring interruptions in service caused by work stoppages. Such interruption destroys confidence in U.S. flag carriers. Shippers consequently turn to foreign flag vessels for their needs.

"Stabilize the maritime industry's wage costs.

"A series of labor-management agreements, negotiated in 1965 to help assure wage stability, have in practice accomplished the opposite. Under these agreements, if the members of one union receive a wage increase or other benefits, other maritime unions can reopen their contracts through a 'me too' clause and demand arbitration to obtain a matching increase. By the time several unions have received such increases, the first union is in a position to assert that it is once again behind the others—and the cycle starts over again.

"Because of this practice, employment costs in the industry have risen more than 30 percent since 1965. These costs increase Federal expenditures through the operating subsidy program and shipping costs on Government cargoes. They diminish the ability of the U.S. Merchant Marine to compete with foreign fleets. Not only do spiraling employment costs threaten the industry with economic ruin, they imperil the American public as well, for they have a shattering impact on our Nation's wage-price stabilization objectives.

"We call upon management and labor—working with the Secretaries of Labor and Transportation—to begin discussions promptly to solve this problem.

"An integrated transportation system

"No improvements we can make in our maritime fleet will permit it adequately to meet America's need today unless it is fully integrated into a unified national system of transportation. When the President signed the Department of Transportation Act in October 1966, he expressed regret that the new Department did not include the Maritime Administration. He expressed hope that the Congress would reexamine its decision. This reassessment is now vital to our maritime future.

"The Administration recommends legislation to transfer the functions of the Maritime Administration to the Department of Transportation.

"This step will bring increased recognition to ocean shipping in the transportation policy councils of the Executive Branch.

"The Department of Transportation was created to promote a more efficient national transportation system. This cannot be fully accomplished so long as the maritime component of the transportation system remains outside the Department's jurisdiction.

"The Maritime Administration itself suffers in its isolation from the new technology and promotional support which the Department now provides to other elements of our national transportation system. Potential developments which hold great promise for maritime commerce affect other modes of transportation as well. Ports, for example, must provide facilities which can rapidly handle cargoes arriving and leaving by rail and highway. Container systems must be developed which can be economically used on all modes of transportation, so cargoes can move without interruption from origin to destination.

"Transfer of the Federal Government's maritime programs to the Department of Transportation will permit fuller coordination of all our research resources for the improvement of our entire transportation system. Each mode will benefit greatly. But most important, the Nation's intricate and extensive transportation network will be strengthened, and better able to serve the complex needs of our society. This organizational change is the key to a truly effective maritime program. Legislation to accomplish this and other elements of the program I have outlined is attached as an appendix to this statement.

"Conclusion

"A strong and healthy Merchant Marine has been a proud element of our national strength. It can be so again.

"It is deeply in the national interest that we revitalize our Merchant Marine and make it both effective and competitive—a maritime service which is not just barely kept alive by Government subsidies and Government cargoes, but one able to attract a significant share of our commercial trade as well.

"I believe the program I have outlined will accomplish this. With its passage, and with the cooperation of maritime management and labor, we can realize the goals we have set. This program provides the cornerstone on which we can build anew the maritime tradition of the American past."

Mr. LAUSCHE. Mr. President, next January there will be a new President of the United States. It is my hope and fervent prayer that the incoming President will recommend a course that will relieve the taxpayers from this unjustified subsidy and stimulate the merchant marine under the free enterprise system to assume its responsibilities in a constructive way.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. LAUSCHE. I yield.

Mr. WILLIAMS of Delaware. Mr. President, I join the Senator from Ohio in offering this amendment. I think this is the best solution, because it will enable this problem to be carried over so that it can be handled by the next administration, whatever it may be.

I feel very strongly, as does the Senator from Ohio, that these subsidies have got out of hand, and it is time that there be a revision downward, and the American taxpayer be given better protection than now exists.

Therefore, as I have stated, I join the Senator from Ohio in the offering of his amendment.

Mr. LAUSCHE. Mr. President, someone might ask, "How much is this costing the taxpayers of the Nation?" The answer is $300 million a year. That has been going on for 32 years. And while it has not cost that much each year, the aggregate cost has been about $5 billion.

Mr. WILLIAMS of Delaware. And has been getting greater.

Mr. LAUSCHE. With that $5 billion, how much could we do for the poor, for schools, and for others? But we have been unable to break this program because of the mighty power of those who run the merchant marine.

I shall not be here next January, but I say that this is an indefensible situation that prevails in the Government, and the program ought to be eliminated.

Mr. WILLIAMS of Delaware. The Senator is correct. In addition to that, the cost is getting higher each year. I can assure the Senator that this fight will continue for at least another couple years.

Mr. LAUSCHE. I thank the Senator from Delaware for the help he has consistently given me in bringing this subject before the Senate each year.

Mr. FANNIN. Mr. President. I commend the distinguished Senator from Ohio [Mr. LAUSCHE] and the distinguished Senator from Delaware [Mr. WILLIAMS] for their always diligent efforts in calling to the attention of the Senate, as here today, and of the American people, what is happening in total disregard of the original intent of Congress when these subsidies originated.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Ohio.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that certain significant excerpts from the report accompanying the measure be printed in the RECORD.

There being no objection, the excerpts from the report (No. 1433) were ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, H.R. 17524, is to amend section 502 of the Merchant Marine Act, 1936, as amended, so as to authorize the extension for an additional 2 years of the present 55-percent ceiling on construction-differential subsidy payments and 60 percent on reconstruction or reconditioning of passenger ships.

BACKGROUND AND NEED FOR LEGISLATION

Title V of the Merchant Marine Act of 1936, as amended, authorizes the Secretary of Commerce to make construction-differential subsidy payments so that approved U.S. steamship companies can purchase new vessels constructed in American shipyards at the estimated cost of building similar vessels in foreign shipyards.

Originally, the Merchant Marine Act of 1936 provided that the construction-differential subsidy should not exceed 50 percent of the total domestic prices of the vessels involved. However, in 1960 this ceiling was exceeded on several contracts, and the Congress authorized a 55-percent ceiling for new vessel construction, as well as a ceiling of 60 percent in the case of reconstruction or reconditioning of passenger ships. The 60-percent ceiling for reconstruction or reconditioning of passenger ships was allowed in recognition of the special problems arising in such work, it having been demonstrated at that time that in view of the large proportion of labor at higher American wages which goes into reconstruction and reconditioning work, as compared with new construction, the differential would usually be higher in such cases. This higher incidence of labor costs was shown to result from the necessity of tearing out and changing existing structures, as well as construction with new material.

Since 1960, the 55-percent ceiling on new construction, as well as the 60-percent ceiling on reconstruction or reconditioning of passenger ships, has been extended by the Congress on three occasions for a period of 2 years, and on two other occasions for a period of 1 year.

The final construction-differential subsidy rates approved by the Maritime Subsidy Board of the Federal Maritime Administration since August 1964 have averaged a little in excess of 53 percent.

There is no early prospect of reduction in the differential percentages. However, unless this bill is enacted, after June 30, 1968, the construction subsidy ceiling reverts to 50 percent, which would deny to the subsidized operators the ship construction cost parity intended by the 1936 act.

There are several reasons why the earlier 50-percent ceiling has been exceeded in re-

cent years. Construction subsidy payments are related to the price level of shipbuilding in foreign shipyards which has declined in recent years owing to high volume construction in modernized shipyard facilities at a time when American merchant shipbuilding programs have been at a much lower volume level. Efforts to reduce the absolute cost to the Government have included such measures as multiple ship construction contract awards to shipyards where possible and a degree of standardization in vessel design. It should be borne in mind that the higher construction-differential subsidy rate does not necessarily mean a higher dollar cost to the Government, since the rate in any case depends on the cost difference between American yards and foreign yards on the same ship, and these differ at different times.

There was no opposition to this legislation. The Committee of American Steamship Lines, the association representing the subsidized lines, reported on the strong evidence indicating the continuance of construction-differential subsidy rates in excess of 50 percent in a letter of June 10, 1968, to the chairman of your committee that said:

The large, high-speed, ships being built or planned by U.S. operators today represent a major advance in maritime efficiency, with a single new vessel often having the annual ton-mile capability of 3 to 5 old or more conventional ships. These new ships, with their high speed and advanced technology, are expensive with prices commonly around $20 million and occasionally over $30 million for a ship of a specialized type. With capital expenditures of this level and with the industry earnings remaining very low, parity on capital cost is perhaps more important than ever in the past.

The report of the Department of Commerce on this bill presented the necessary evidence to support its objectives by showing construction-differential subsidy rates approved by the Maritime Subsidy Board since August 1964.

The departmental report, however, without opposing this bill, called attention to a draft bill submitted to the Congress on May 20 embodying a proposed maritime program which included a section to achieve the objectives of this bill for the next 2 years. It should be pointed out in this case that the provisions of this bill are embodied in H.R. 13940 and S. 2650, initiated in the Congress calling for a long-range maritime program.

The administration's proposed maritime program involves a number of untried concepts which are in the opinion of your committee unrealistic and, in fact, destructive of the objectives of our national maritime policy. Accordingly, even if your committee were to consider the administration's draft bill, efforts to arrive at acceptable legislation would be too protracted to hope to achieve enactment soon enough to be anywhere near the June 30 expiration date of existing construction-differential subsidy ceilings.

Therefore, your committee believes it essential that this bill should be enacted as soon as possible without waiting for full and complete consideration of broader scale and more complicated long-range program legislation.

The enactment of this legislation is essential to the consideration of the current long-range ship replacement program of American-flag operators. Lacking adequate Government support in this program to keep the American operator on a parity with his foreign competitor could seriously impair the orderly replacement of aging American-flag vessels. Accordingly, your committee reports this bill and urges its prompt enactment.

COST OF LEGISLATION

The cost of this legislation during the next 2 years cannot be accurately estimated, since it will be dependent upon a number of unknown factors, including such matters as the future vessel construction cost in the United States and abroad as well as the number and type of vessels to be approved for construction under this section of the Merchant Marine Act of 1936, as amended.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 17524) was read the third time and passed.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on the District of Columbia be permitted to meet during the session of the Senate today.

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

Mr. MANSFIELD. Mr. President, due to the fact that there are only two other committees meeting this morning, Foreign Relations and Interior and Insular Affairs, I ask unanimous consent that those two committees be permitted to meet during the session of the Senate today.

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

ORDER FOR ADJOURNMENT UNTIL MONDAY AT 10 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. Monday morning next.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, there may well be rollcall votes today.

The PRESIDING OFFICER. Pursuant to the previous order, the Senator from Arizona is recognized.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. For what length of time is the Senator recognized?

The PRESIDING OFFICER. The Senator from Arizona is recognized, under the previous order, for not to exceed 30 minutes.

LOFTY LABOR BARONS

Mr. FANNIN. Mr. President, riding at anchor in the Washington Channel last week was one of the most audacious symbols of perverted union power existing in the United States today.

According to the September 9 issue of the Evening Star a 260-foot steam yacht was moored in the Washington Channel "to convince Capitol Hill of the worthiness of the Seafarers International Union and to this end, almost nightly parties with union leaders, Congressmen, and others are held." The ostensible reason for making this voyage to Washington was for "training" purposes. The plain fact of the matter is the SIU came to town in high style to wine and dine its friends and map strategy against its enemies.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks two articles published in the Washington Evening Star of Monday, September 9, 1968, which describe the luxurious "training ship" which the Seafarers and two other unions have chosen to bring to Washington at this time.

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

(See exhibits 1 and 2.)

Mr. FANNIN. I suggest that my colleagues who, like myself, are regularly treated to the plight of the poor workingman as represented by union bosses, check into the stories of champagne and cigars, teakwood paneling, and white fir decks. They will get a somewhat better perspective on the "difficulties" endured by the union bosses "protecting" the workingman.

But I am happy the SIU chose this time to grace the Washington social scene with its official presence, Mr. President, because it points up a matter which I have brought before this body before and which I intend to keep bringing up until something is done about it—that is the strange case of SIU official Harold C. Banks, and $100,000 contributed to the Democratic presidential campaign.

On July 20, Mr. President, I brought this matter to the attention of the Senate and inserted into the RECORD a Wall Street Journal account of $100,000 contributed to the Democratic campaign of Vice President HUMPHREY shortly after administration officials intervened on behalf of Harold Banks, convicted of conspiracy to commit assault in Canada. The story details how a memorandum from Secretary of Labor Wirtz appeared to be instrumental in the decision of Secretary of State Dean Rusk's decision not to return Mr. Banks to Canada to serve the sentence he had posted a $25,000 bail to appeal. Members who wish to review that entire episode can refer to the CONGRESSIONAL RECORD of July 20, page 22478.

Also, my distinguished colleague from Delaware [Mr. WILLIAMS], feeling that there was enough substance to the charges exposed in the newspaper, put the same article in the RECORD and queried the Justice Department as to whether or not a violation of the Corrupt Practices Act had occurred. I hope the Senator from Delaware will let the Senate know if he has better luck with the Justice Department and Attorney General Clark—who is ever ready to lecture the Senate, but slow to function as Attorney General—than I have had with my inquiries to the Department of Labor.

On July 22 I dispatched a letter to Secretary of Labor W. Willard Wirtz in which I asked him to detail his role in the Banks matter.

Mr. President, I ask unanimous consent that my letter be printed in the RECORD at this point.

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

JULY 22, 1968.

Hon. W. WILLARD WIRTZ,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: From information appearing in the public media as well as other facts that have come to my attention independently, it appears that you have become involved in the extradition proceedings involving Harold C. Banks, a Canadian official of the Seafarers International Union. This information indicates that you may have written a memorandum to the Secretary of State, apparently on behalf of Mr. Banks. If this is so, Mr. Secretary, as a member of the Senate Labor and Public Welfare Committee, it would be helpful to me and other members of the Committee if you would clarify your part in this matter by providing some information, including:

1. The content of the memorandum on the Banks case written to Secretary Rusk.

2. A justification of any possible recommendation that Mr. Banks not be extradited to Canada in view of his conduct and background.

3. The names of any union or Administration personnel who suggested that you make such an intervention in this international matter.

By now, Mr. Secretary, I am sure you are aware of the politically charged atmosphere surrounding this case on both sides of the border. I think it only fair to state also that among my colleagues in the Senate, with whom I have discussed this matter, there is considerable concern upon several points. Senators have questioned the propriety of a Cabinet level official intervening in an international question which has such obvious political overtones.

You know my continuing concern regarding the abuse of power, political and economic, by irresponsible union leaders. I am particularly alarmed by the published reports of sizable political contributions that are reported to have followed in the wake of this intervention and the subsequent release of Mr. Banks.

I shall appreciate your attentiveness to this matter and look forward to an early reply, before the end of this week if at all possible.

Sincerely,

PAUL FANNIN,
U.S. Senator.

Mr. FANNIN. On July 25 I received a phone call from the Secretary in which he was very courteous and summarized for me the details surrounding the fact that he had sent a memorandum to Secretary Rusk concerning Harold Banks and the SIU. Briefly he said it outlined the history of the Great Lakes labor problem. He said he did not feel he could release the memorandum but he would write me a letter summarizing it and his reasons for not sending it.

In response to my question he indicated that "top union officials" had conferred with him over the Banks matter and asked that he undertake to inform the Secretary of State as to what was at stake if Banks were to be returned to Canada.

Now I must pause here and state, Mr. President, that this is my recollection of what Mr. Wirtz said to me. I took a few longhand notes at the time of the conversation, but since Mr. Wirtz indicated he would repeat approximately the same thing in a letter he would shortly send to me I did not think it important to try to get an exact quote from the Secretary.

On August 2, over a week later, I received the letter from Mr. Wirtz. I ask unanimous consent that the letter to which I refer be printed in the RECORD at this point.

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

JULY 31, 1968.

Hon. PAUL FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: I refer to your letter of July 22 and to our telephone conversation of July 25.

The Memorandum to which you refer was transmitted on December 26, 1967. It identified briefly the 10-year background of the Labor disputes on the Great Lakes, in which Mr. Banks was a central figure. It noted the possible relationship of the extradition proceeding to a potential renewal of that disruptive situation, and included the suggestion that further details would be supplied with respect to this if they were desired.

With respect to your inquiry about the relationship to the extradition procedure of Mr. Banks' conduct and background, I noted in my Memorandum my not being in a position to express a judgment on this—or on the disposition of the extradition case itself.

You ask for the names of "union or administration personnel who suggested that (I) make such an intervention in this international matter." The overtones of the form of your inquiry aren't important, and I note them only to disassociate my answer from them. There were no suggestions regarding this from any administration personnel. Nor was there such a suggestion—in the form your letter may seem to imply—from any union personnel. But "the Banks case" has been a matter of four or five years of concern to this Department (involving, among other things, conferences both in Washington and Toronto with the Canadian Minister of Labor), and conversations about the extradition proceedings phase of it go back to September or October, 1967. These include discussions at various times with various AFL–CIO and SIU personnel. The decision to acquaint the Secretary of State with the long international labor relations background of this matter was one for which I assume full and independent responsibility as Secretary of Labor.

Thank you for your courtesy and consideration of this matter in our telephone conversation.

Sincerely,

WILLARD WIRTZ,
Secretary of Labor.

Mr. FANNIN. As you can see, Mr. President, the tone of the letter, particularly paragraph four, is to my mind substantially different from the mood he projected on the telephone. Mr. Wirtz evidently finds something out of order in my inquiry, although he did not indicate that to me verbally. He does not offer to supply me with a copy of the Banks memorandum even though I asked for it. He seems to suggest that I am rather impudent for even asking about it. Perhaps I am overly sensitive, Mr. President, but when a man tells me he will respond on the telephone and then evades the question in a letter with a rather haughty tone, that is the best construction I am able to put on it.

Up until today, Mr. President, all that I had released to the public media was a copy of my original Senate speech and a copy of my letter to Mr. Wirtz. I only released the latter item after he had ample time to receive it and answer.

As one can well imagine, Mr. President, the Canadian press and radio have been most interested in this case. Some Canadian newsmen who are in Washington today were covering "Bluff Prince Hal," as he came to be known, when he received considerable notoriety for his skull-cracking techniques on Canadian waterfronts. Some of them have scars to show from their personal encounters with this "gentle" man's employees. They are interested in what the United States proposes to do about returning this fugitive from Canadian justice. So after an appropriate wait I released my letter to them. Today, however, is the first time I have made public Mr. Wirtz' reply.

After considering the Secretary's written response in the light of his verbal response, I decided to ask him once again for a copy of the memorandum. Accordingly on August 9 I wrote him the following letter which I make public today and ask unanimous consent to have it printed in the RECORD at this point.

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

AUGUST 9, 1968.

Hon. W. WILLARD WIRTZ,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: This is in reply to your letter of July 31, 1968.

In our telephone conversation of July 25, you had given me the impression that your answering letter would be much more responsive than it now turns out to be.

From your explanation on the telephone, although you indicated that you would not be willing to send the memorandum, I did feel that you were willing to explain in some detail what had transpired including what had prompted you to counsel the Secretary of State. It now seems to me that the matter can be more clearly understood if you could send a copy of the memorandum. I therefore renew my request for a copy of the memorandum.

My interest lies in seeing the individual working man benefit by having labor organizations free of coercive and hoodlum elements. You are, I know, interested in this same goal. I hope therefore that you will be able to provide me and other Senators who share my concern with more specific answers in this matter.

Sincerely,

PAUL FANNIN,
U.S. Senator.

Mr. FANNIN. I repeated my request for a copy of the Wirtz memorandum concerning Mr. Banks so complete light could be shed on the matter.

Receiving no reply after more than a month had gone by, on September 10 I wrote the Secretary again asking if he intended to respond and if he did to let me know within the next day or so. I ask unanimous consent to have this letter printed in the RECORD at this point.

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

SEPTEMBER 10, 1968.

Hon. W. WILLARD WIRTZ,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: In checking my correspondence, I find the letter I dispatched to you on August 9, 1968 (copy enclosed)

has to my knowledge received no acknowledgment or reply. I am still very interested in getting the information which I requested in my letter of August 9th, specifically that you supply me with additional information regarding the Harold Banks matter. It is my hope that you will be able to enlarge upon the role you and other Administration officials played in this very delicate situation.

I would appreciate having a response from you within the next day or two since more than a month has passed while I have been waiting.

Sincerely,

PAUL FANNIN,
U.S. Senator.

Mr. FANNIN. I suppose it is fairly evident that I still have received no reply from the Secretary and apparently he does not intend to voluntarily respond to a U.S. Senator who is a member of the Labor and Public Welfare Committee and very much concerned about this case.

I cannot imagine what is so damaging about this Banks memo that it cannot stand the light of senatorial scrutiny. Under the recently passed freedom of information law the public is supposed to be able to get such information as this if their interests are involved. I would hate to think that this administration has declined to the point where Members of the Senate would have to go to court to elicit information from the executive branch to which they are entitled.

Is the national security involved in this case? I think not. Are we revealing military secrets to let a Senator look at an executive memorandum that touches on extradition treaties which the Senate is expected to ratify? I cannot fathom any legitimate reason why the Secretary of Labor refuses to let me see the Banks memorandum, or even respond to my correspondence. This is a matter which I hope to pursue further.

I should like to point out why I am so concerned about this Banks case, as well as other abuses of union power. We are allowing a monstrous machine to grow unfettered in the midst of our economy. This ever-hungry political-economic power will eventually turn and devour the very economy which nourished it. Mine is not an idle warning. The state of the British economy gives fair warning to what can happen when the forces of big government and big labor join.

Mr. President, I am concerned, and I think the Nation should be concerned about the growing signs of unbridled power in the hands of union bosses. I am not only referring to the $100,000 which flowed from the SIU war chest into the campaign coffers after this administration freed an official of the Seafarers International Union; but I am also concerned that the few restraints we still have over abusive union power are largely being ignored.

I intend to lay the Banks case more fully before the Senate in just a moment, Mr. President, but I wish to cite just one example of the laxity and indifference which characterizes this administration's attitude toward law violations by union leaders.

After I became interested in the Banks matter and began to delve into the facts a bit, it came to my attention that one of the major maritime unions is apparently operating in open violation of the Corrupt Practices Act and the Federal Government has made no move to either prosecute the union leaders responsible, or otherwise induce them to comply with the act. I refer specifically to the National Maritime Union, which openly publishes the fact that funds are contributed to candidates for Federal offices. Yet this huge union has failed to file the first report with the Clerk of the House.

An NMU publication—published monthly by the union—lists at least three contributions made to candidates for Federal office since December 1967. As of today the Clerk of the House has not received a single political contribution report from the union. Four would have been required in that particular period from December of last year if the union were obeying the law. The listings are as follows:

Contributions:	
December 1967: Garmatz anniversary banquet committee	$500
February 1968: Citizens for Pucinski dinner	500
March 1968: Bert Podell, Democratic candidate for Congress in the 13th District	3,500

There are others. This is not an exhaustive list. I simply satisfied myself that these were Federal races and that no report exists in the files of the Clerk of the House. The question is, Why?

This union is sophisticated enough to register its lobbyists. It says it has more members than the Seafarers who claim around 80,000. Why is such a huge organization permitted to violate at least one section of the Corrupt Practices Act, and possibly two?

The Corrupt Practices Act, as amended, forbids a union from making direct political contributions, and provides stiff penalties for violation. Many unions get around these provisions by creating special political committees to which union members may contribute "voluntarily." But even these contributions to Federal elections in one or more States must be reported to the Clerk of the House. Is our Attorney General so busy lecturing the Senate, and indeed the Nation, on gun control and Supreme Court appointments that he has no time to attend to these duties?

Mr. President, this is a flagrant and open violation of a Federal law that is designed to check just such an abuse of union power. I ask the question:

Where has law enforcement drifted under this administration? Who is going to enforce the law?

To those who may say I am just playing politics—that this is a political year—I ask: Is there a more important year in which the laws surrounding our election processes should be enforced? This is an election year, true enough. We are electing a President of the United States this year. Is this a time to allow fat union cats to dole out money with both hands to those who either do their bidding or promise to do their bidding—with no accounting required? Are we to sit by and see $100,000 political payoffs apparently take place in front of our eyes and not even cry out? I say there is no more logical and necessary time to curb these abuses of the labor barons who openly moor their huge yacht within sight of the Capitol and let the champagne, cigars, and money flow freely. That such practices could be known and condoned bespeaks the low estate to which our national conscience may have settled.

Today, I am sending this information I have to the Justice Department asking that a full examination of the union files be made immediately and, if the union leaders are found in violation of the Corrupt Practices Act, that prosecution begin at once.

How is it, Mr. President, that some unions come by so much money to employ in political pursuits? I think it would certainly behoove the Senate to look into the method by which some of these so-called voluntary political contributions are extracted from union members. For instance, in these unions which have members at sea for long periods of time, the men do not get paid off until they reach port, at which time there are certain little green union forms to fill out before a seaman can collect his pay. Part of one of these forms includes a checkoff for the voluntary contributions.

I ask the Senate to imagine an ordinary seaman who has been at sea for 3 or 4 months—he is planning to rejoin his family or planning to engage in a shoreside celebration upon the completion of his voyage. Does one think he is likely to quibble with a union steward who is holding up his pay until all the items on that union form are checked off? Can a political contribution under such circumstances be called voluntary? That is what happens day after day in the seaports of our Nation.

There is tremendous pressure brought to bear on the individual union member to cooperate with his union leaders. Does the Senate realize that when all the initiation fees are added up in these unions the cost to join runs anywhere from $400 to $800? Union members joining the Seafarers International Union are required to pay every single special assessment levied since the union was organized. That means that some young men are paying for special union assessments that were made before they were born. Dues run $120 per year. When a man has an investment like that in a union membership, is he likely to quarrel with his leadership over a few dollars of voluntary political contribution? In most cases I think not.

Let us just look at some of the fantastic sums of money concentrated in the hands of these labor barons.

According to the SIU report—filed 1 week late with the Clerk of the House on September 17—as of the end of August 1968, the union had at its disposal for political purposes during the calendar year the total of $921,314. They carried over $500,366 in their two political committees—SPAD and COPE—from 1967. Since the first of January, SIU reports say the two committees have amassed $420,948. They have spent $539,732 in the 1968 elections. Twenty checks of $5,000 each were made out to Democratic presi-

dential race committees around the country—that is $100,000. Apparently the SIU still has $391,582 on hand—plus what it collects between now and November—to funnel into helping its friends.

I submit to the Congress that this is simply an inordinate amount of money for a single union to be throwing around. Consider this: The SIU claims 80,500 members, according to the most recent Government statistics. Actual membership is reliably reported to be closer to 50,000. The Government's maritime figures show the union actually has contracts covering about 12,800 jobs at sea. However, if we use the maximum figure of 80,500 members, that means the union collected "voluntarily" better than $5.30 per man in the first 8 months of this year. A more accurate estimate comes to about $8.60 per man, and the union collected around $34.20 this year for each sea job it represents—all voluntarily, of course. Does that sound reasonable for men whose average weekly wage runs in the $150 to $200 bracket?

To get a better perspective, here is a comparison of the political contributions of the SIU with some other major unions:

	Union members [1]	Reported 1968 contributions to May 31, 1968	Amount per member
SIU	80,500	$294,639	$3.66
UAW	1,402,700	27,391	.0195
United Steelworkers	1,068,000	57,206	.0545

[1] Bureau of Labor Statistics, 1966.

The entire national AFL–CIO Political Action Committee—COPE—in its report covering the period of January 1 to May 31 of 1968 lists contributions of only $208,875 compared with the SIU's $294,639.

There may be something drastically wrong with the reporting system, or with the SIU's method of getting "voluntary" contributions—or both; but at the very least these figures indicate that Congress needs to take a good hard look at union funds again—specifically how they are collected and how they are disbursed. To me, this is a matter of utmost urgency.

Mr. President, the more I look into these matters involving the misuse of union power, the more convinced I become that we must have legislation that will correct this gargantuan imbalance that threatens to topple both our political and economic structures. I wish to remind the Senate of the great debt this Republic owes to the distinguished Senator from Arkansas [Mr. McCLELLAN], who did such superlative work in exposing labor rackets some years ago. I respectfully suggest that the time is apparently ripe for another look into the handling, or mishandling, of union-collected funds.

I think it is particularly apparent that these affairs are again in need of congressional inquiry, when the Secretary of State refuses to honor an extradition request by Canada. The man they want returned committed perjury before a Royal Investigating Commission, jumped $25,000 bail, and fled to the shelter of this great Seafarers' yacht that was moored here in Washington last week. In the absence of definitive administration information to the contrary, the Secretary of Labor apparently intervened with the Secretary of State on behalf of this man, who has a lengthy police record, who served time in San Quentin, who lives in the lap of luxury at Seafarers' expense, and who apparently sees to it that those who oppose him wind up in a cast or in the hospital.

Harold Chamberlain Banks' notoriety as a leader of labor goons is a blot upon the record of legitimate and honest unionists—yet his actions in fleeing Canada to avoid prosecution are not only being condoned by this administration, but also, he appears to be receiving protection from Cabinet-level officials in exchange for what amounts to one of the biggest single political "contributions" of recent times. Mr. President, in order that the background of this man, Harold C. Banks, be fully reported, I ask unanimous consent that a portion of an article from McLean's magazine entitled "Hal Banks—Waterfront Warlord," be printed at the conclusion of my remarks along with the other newspaper articles to which I have referred.

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

(See exhibit 3.)

Mr. FANNIN. Mr. President, I have attempted to investigate to the limit of my ability the facts surrounding this odious affair. I have attempted to be fair and to give administration spokesmen an ample opportunity to reply or explain. By their lack of candor, by simply ignoring my requests, by foot-dragging in legal prosecutions, I can put but one construction on the matter—they simply do not want these cases examined; they hope the Banks case will just "go away"; they have no intention of prosecuting union leaders for their openly illegal acts until compelled to do so by public opinion. If this construction is too harsh, then I shall be most happy to stand aside and listen to their explanation. Until then I can only lay the matter before the Senate and the American people, with the request that each Senator and each American take the action that conscience demands.

EXHIBIT 1

LAST STEAM YACHT RECALLS BYGONE ERA

(By Duncan Spencer)

It is difficult to realize that "Dauntless," the huge steam yacht recently moored in the Washington channel, is only one of the hundreds of similar ships which once were the diadem of American yachting.

She is the only one left. All of her graceful and impossibly luxurious sisters fell prey to taxes and death duties long ago. She deserves a long and hard look.

She was built of riveted plating on iron frames and launched near Detroit in 1921 for Horace Dodge of the auto family. One of the reasons for her longevity is that she has spent over half her life in fresh water—there is very little evidence of any corrosion in her hull.

One other reason she is still with us is that she was hardly ever used by the Dodges, and during her lengthy war service lay here at dockside, where she acted as flagship for Admiral Ernest J. King, U.S. Fleet commander.

Her deck is white fir laid over steel, her cabins and super-structure almost entirely of teak and in very fine condition. Her beam is 35 feet and her draught a whopping 18 feet.

The life that was once lived aboard such a vessel is difficult even to imagine now. A glimpse of it is offered in the writings and observations of L. Francis Herreshoff, son of the famous yachtman and designer.

Herreshoff, now in his 80s, writes: "One of the things I remember about the large steam yachts was their characteristic and delightful odor. If you passed under the stern or close to leeward of one of them, you smelled the combined odor of new varnish, linseed oil, brass polish, Havana cigars and champagne, all mingled with engine room smells and the slight odor of teak and other exotic woods, to say nothing of the burned gases of the naphtha launches. To a sailor this combination was delightful."

Such a bouquet can be conjured from the stern sheets of Dauntless.

The big steamer, with her original engines intact, has been since this spring the property of the Seafarers International Union and the Marine Engineers Beneficial Association. She is used in conjunction with the Harry Lundeberg School of Seamanship of Piney Point, Md., to train young merchant seamen.

On deck and below, Dauntless (she was known as the Delphine II under the Dodges) leaves an impression of complete unforced luxury and spaciousness. Her principal interior spaces include a large dining room, music room, an intimate ballroom and a main saloon. She is entirely paneled in teak, with elaborate mouldings and carvings, many of them painted.

Her cabins are as large as the bedrooms of many houses, her bathrooms fitted out in marble and white tile. The new owners have temporarily furnished her with rather nondescript modern furniture while gathering authentic period pieces from all over the world. Eventually, according to her captain, Joean Patrick, she will be completely outfitted as she was in the 1920's.

Dauntless seems a lively creature to those aboard, and a soft steady thrumming comes from the engine room. There, in a space as tall as a three-story building, are her two four-cylinder 1,500-horsepower steam engines. The engine room is crammed with a jungle of piping. The boilers are force fired by more than a dozen individual oil burners; a fireman is constantly in attendance for the fires burn 24 hours a day.

"This is a museum piece; you won't see another like it," said the fireman on duty. He stood on the central catwalk, and though not a small man, his body was dwarfed by one of the exposed connecting rods which extended both above and below him. He reported that the machinery on board is in A–1 condition in spite of its age, and that it ran as quietly as a sewing machine at 115 revolutions per minute, giving the "Dauntless" a speed of over 15 knots.

Reflecting on ships of Dauntless' size, Herreshoff concludes: "While in this corrupt age some may refer to them as the playthings of the rich, I see them as something quite different—a perfect combination of art and science and a moving home far grander and more satisfying than anything known before."

EXHIBIT 2

[From the Washington Star, Sept. 9, 1968]

MILLIONAIRE'S YACHT NOW UNION SHOWPIECE

(By Duncan Spencer)

Horace Dodge spent 2.5 million 1921 dollars to build himself a 260-foot steam yacht.

If he had ever dreamed even after a heavy lobster dinner, that she would come to be owned by three unions, and that she would come to be anchored in the Washington Channel to press the interests of the seagoing working class, he might have spent the money on race horses instead.

For his Delphine II, a steel-plated, varnished, teak-paneled vision of moneyed splendor is now the Dauntless, is now the chattel of deck swabs, and is now riding at anchor here. It's the American version of the storming of the Winter Place.

Dauntless is that huge ship at anchor between the East Potomac Park Golf Course and the high rise apartments of the new Southwest. She is the largest, if not the only, steam yacht still in operation anywhere in the world.

Dauntless is here on a mixed mission. Part of it is to train groups of apprentice merchant mariners in the intricacies of running a large ship. The youths, 18 of them in six-week tours, come from all parts of the country, receive instruction from the crew of 28 union mariners, and at the end of their time are awarded the rating of ordinary seaman, worth about $150 a week.

But the rest of her mission is to convince Capitol Hill of the worthiness of the Seafarers International Union, the Marine Engineers Benevolent Association and the Associated Maritime Officers Union.

To this end, almost nightly parties with union leaders, congressmen and others are held.

Within the huge ship is a strange combination of 1920's glory and motel. The dining room is finished in white and gold, mullions on the panels; the music room is a symphony of polished wood and painted walls, while the sitting room could accommodate a small political convention.

The bridge is paneled in freshly refinished teak and electronic gray, but the engine room is mainly revolving steel.

There is always too little or too much to be said about such a vessel. Luckily, she will be with us yearly, for a regular visit to Washington for labor conferences.

Deep in the bowels of the old hull the original engines, two 1,500-horsepower steam expansion motors, wait the call, indifferent to whether a Dodge or someone else turns the throttle.

There is a fireman on duty at all times, and the heat is intense. The massive connecting rods shine like silver; every tube is shined brass. Said the fireman on duty, "These engines sound like sewing machines." He spoke disparagingly of the noisy steam machinery of the Liberty ships he was used to.

The captain, Jean V. Patrick, sat in a motel mahogany armchair. He is a round-faced, sallow man in bermuda shorts and a plain white tee shirt. During World War II, he commanded a Liberty ship at the age of 23, making him the youngest U.S. shipmaster of modern times.

His mate, wearing sunglasses and reluctant to announce his name, offered cold beer from a small electric icebox hidden behind some intricate paneling. "Yes," he said, "You might say that while we're here, we gotta be the hostess with the mostest."

The mate explained that people in Washington had the wrong impression of the merchant marine and the unions that serve it, and that Dauntless provided a precious platform of proof that their thinking was wrong.

The unions came into ownership of Dauntless just this April. She had been in the Dodge family from her launching in 1921 until 1967, with a 54-month interval during World War II when she was here as flagship for Adm. Ernest J. King, commander of the U.S. fleet.

She is leaving now for Norfolk and refueling; she has only 14,000 gallons of her 96,000 gallons capacity left after cruising up and down the East Coast from her home base of Piney Point, Md., where the Merchant Marine keeps a sizeable fleet of unusual vessels.

EXHIBIT 3

[From Maclean's, May 18, 1968]

HAL BANKS—THE FIGHT TO BREAK CANADA'S WATERFRONT WARLORD

(NOTE.—The bully at the head of the Seafarers' International Union is a kind of Hoffa-in-Canada—a violent labor despot whose abuse of men and funds are on the record but whose grip on power has survived every effort to break it. This is the story of society's most recent look at Banks: last winter's sweeping inquiry into waterfront violence, conducted by Judge T. G. Norris, whose report will be issued soon.)

(By Peter Gzowski)

Harold Chamberlain Banks, fifty-two years old, rough, burly, arrogant, a public villain but friendly in person, ex-convict, ex-deckhand, arch-enemy of at least one big shipping company but arch-ally of others, scathingly disliked by most of the labor movement in Canada but cheered on and admired by such members of his own Seafarers' International Union as have never crossed his will, spent ten days in a witness box in Ottawa this winter and all but dared the long arm of the government to wrench him from his throne. The ten days were the 72nd through 81st of the special commission that had set out, under B. C. Appeal Court Judge T. G. Norris, to inquire into the disruption of shipping—the waterfront war—on the Great Lakes and St. Lawrence last summer. This commission eventually sat for a hundred and seven days scattered over nearly eight months, heard a hundred and ninety witnesses and took down four and a half million words of testimony. Sometime this spring or early summer, Mr. Justice Norris will bring out his recommendations about what the government might do to restore peace to our inland coastline.

The Norris commission was the climax of a long, bitter and, in its last stages, violent fight centered around one man: Banks. If there was war on the waterfront, he was the warlord. With him as its single and virtually unopposed head, the SIU stood off all enemies, labor and management. Banks' SIU brought to the struggle a long history of violence in the Forties and Fifties, and the SIU was clearly involved in the violence that brought Great Lakes shipping to a halt in the summer of '62. Whatever Judge Norris recommends will, by its implications, be focused on Banks and, just as precisely, the commission hearings came to a focus during the days Banks spent in the box.

Through these days, the chief antagonists in the dispute were face to face. On the one side, Banks, sometimes evasive, sometimes naively frank, sometimes smiling, sometimes surly. On the other, a trio of burrowing lawyers: Charles Dubin, senior counsel for the commission, formal, proper, but one of the fastest guns at cross-examination in the country; Maurice Wright, an Ottawa labor lawyer with years of battle-training before the Canada Labor Relations Board, representing a group of anti-Banks unions; John Geller, a glib corporation counsel from Toronto, representing Upper Lakes Shipping, the company that opposed the SIU. Banks had been on the witness stand twice before, on brief, specific matters. This time, the subject was purely and simply his record.

These were tense, dramatic days. Again and again the lawyers sprang their surprises. As the hearing wore on, former SIU members and even officials had quietly supplied the lawyers with more and more damaging evidence. Some of it was old copies of the "DNS" (for Do Not Ship) lists—the union blacklists by which Banks was said to dispose arbitrarily of anyone who displeased him. There was some question as to how many names he had put on. Grudgingly, he admitted to about a thousand. Maurice Wright began producing lists, none of which Banks attempted to deny. One by one, Wright added the lists to the record, until he had more than *two* thousand names of blacklisted sailors under Banks' nose.

No matter how slim or how serious the evidence, Banks never really admitted to any wrongdoing. Here is some typical dialogue:

DUBIN: "Are you a vain man?"

BANKS: "No."

DUBIN: "Then why should the apartment (a luxurious flat on Drummond Street in Montreal, paid for by the union but used mostly by Banks) contain fourteen mirrors costing a total of $1,082?"

BANKS: "I got dollar for dollar value."

DUBIN: "I put it to you that it was completely lavish and extravagant."

BANKS: "I deny that."

He could not deny everything. As the testimony rolled on, a clearer and clearer picture emerged of Banks' personal control over, and personal gain from, his union. It was a picture unlike anything revealed in Canada before, reminiscent in many ways of the picture of U.S. Teamster Boss Jimmy Hoffa that came out of the hearings of Senator John McClellan's committee on improper activities in the labor and management fields a few years ago. Twenty thousand dollars a year salary; another twenty thousand in expenses, with only about two thousand a year accounted for. A yearly Cadillac. Female companionship on business trips, at union expense. Furniture and appliances sent to his stylish Pointe Claire home, near Montreal, paid for by the union. A payment of five hundred dollars to a Montreal police officer (Banks: "He did some work for the union.") A payment of a hundred dollars by a public relations officer of Banks' to a hotel switchboard operator (Banks: "Maybe she did his laundry for him"). Night club bills. Hotel bills. Dinner parties. (Banks: "When you get to the entertainment, you always seem to raise your voice a little." Dubin: "I'm sorry, but there's absolutely nothing to support what you say in these statements.' Banks: "Mr. Dubin, I could carry a bookkeeper with me, but the bookkeepers expenses might be higher than mine.")

Most of these exchanges, with one or other of the lawyers droning out facts or figures from the union's files, were calm, even casual. Banks often seemed surprised that anyone would find his conduct or his expenditures unusual. When he was caught in a statement or shown a document that put him in an uncomfortable position—as when the lawyers proved that union funds under his supervision had gone to pay for hired tough guys—he blandly blamed the evidence on "a mistake." "There must have been a mistake," is one of his most frequently recorded utterances during the hearings. But his candor in some answers was as noticeable as his evasion with others. (WRIGHT: "Is it believable that every proposal of yours in the past three years has gone through unopposed?" BANKS: "Believable? It certainly is. It's a fact.") Only infrequently did the language get as bitter as it did on one of the occasions when Banks appeared as a witness on another matter. (GELLER: "Do you usually do the work your patrolmen should be doing or that your ships' delegates should be doing?" BANKS: "I am liable to be fixing a toilet, Mr. Geller." GELLER: "I have no comment, Mr. Banks.")

At the same time as they worked over the misuse of union funds, the lawyers sketched the lack of democracy in the SIU. Banks, it rapidly became clear, is in the true sense of the phrase a benevolent despot, and the only question the evidence left was of how significant his benevolence is. He is, it became obvious, ruthless with anyone who dares to oppose him or his conduct. The dreaded DNS list, which a court had ruled illegal in the mid-Fifties, had simply been replaced by a card-index. The SIU—meaning Banks—can add a notation of "ROC" (for Report of Charges) to a sailor's file card and keep that man from ever working on an SIU ship again. Yet Banks *is*—and this might have been brought out more clearly at the hearing—helpful to *his* kind of sailor. Sometimes, indeed, he is too helpful, and one of the facts that came out about the SIU's welfare fund was that sailors often got benefits they weren't, strictly speaking, entitled to.

So precisely was attention focused on Banks' personality and his personal conduct that it was often possible for the newspaper reader to believe that the Norris inquiry was not an inquiry at all, but a trial, in which the defendant was Banks and the prosecution was the commission. Well, it was not a trial. Banks faced no charges and was proved guilty of no crime. Yet the implications are unmistakable, particularly in the most shocking aspect of the shocking situation that the Norris commission revealed: violence.

A man who wants to sail on a Canadian lakeship faces more than the domination Banks exerts through ROC cards and other weapons within his own union. He faces the chance, if he joins the Canadian Maritime Union, the only other union that is now open to him, of getting his head beaten in. Witness after witness at the Norris commission testified about terrible beatings. One of them appeared on the stand in August, still wearing a cast from a beating suffered in April. At least one appeared still woozy. Some of them had been beaten by as many as seven men. Some had been struck by baseball bats. One had been nearly killed on his own front lawn. The victims included women.

As Norris himself said, after only twelve days of testimony: "Without at all at this time deciding who is responsible for these attacks, these cowardly attacks, it is very difficult for me to understand how in this state of our so-called civilization, things of this sort could happen in Canada. We have heard, day after day, witnesses coming here and telling us of these most cowardly attacks. That is why I referred to them as a pack of jackals."

In all the hundred and seven days of hearings, no one ever *proved* that the beatings were inflicted by the SIU. Certainly Banks, the central figure, was never even accused of being directly involved. Yet all the victims of the beatings had one thing in common; they opposed the SIU. Nearly all were members of the Canadian Maritime Union, Bank's only opposition. The testimony of William Dodge, vice president of the Canadian Labor Congress and an elder statesman of the Canadian union movement, seemed incontrovertible: "One has to make one's decision about who is responsible by a process of elimination. In the army we used to refer to self-inflicted wounds. I don't think we can consider that a possibility—that, for instance, an individual would take a crowbar and beat himself across the kneecap as a simple act of self-indulgence. I think the next possibility . . . is that the employees of the Upper Lakes Shipping Company and members of the CMU are simply accident prone . . . I think we have certainly to eliminate that. Obviously, there is a systematized program of beatings going on. If that is so, who is responsible for it? The Imperial Order of the Daughters of the Empire? The Women's Christian Temperance Union? The Steelworkers' Union? There is only one pattern that answers the question. . . . The Seafarers' International Union is clearly responsible."

Hal Banks came to Canada in 1949, when nearly everyone thought it was a good idea. The frankly communist Canadian Seaman's Union had forced chaos on the Canadian waterfront, calling sixty-six strikes and work stoppages, most of them illegal, in twelve months. The SIU had a foothold in Canada, with seven hundred members, and acting together, the Trades and Labor Congress (which had expelled the CSU) and the shipowners, approached the SIU's U.S. headquarters for help. The SIU volunteered Banks, who had been working as a troubleshooter in its San Francisco office.

The CSU was a tough union, made of tough men, and it took a tough man to break it. Just how tough Banks was, it now seems clear, no one in Canada really knew. It was a couple of years before his criminal record in the U.S. (he had done time in San Quentin, for writing bad cheques, but was later given a certificate of rehabilitation) was made known here. The SIU's battle against the CSU involved a number of broken heads and gunshot wounds—Banks received neither—and the SIU won it quickly and neatly. Banks then cleaned out the "deadwood" officials of his own union. By late 1949, he had converted to the SIU a hundred and fifty-seven crews that had formerly been CSU.

The next months were peaceful ones. Banks and his union grew in stature, if not in wisdom, and the ships sailed on time. Yet through the whole period, Banks, who was only the "administrator" of the SIU's Canadian district, called no conventions, wrote no constitution, held no elections. In late 1950, there was pressure from a few sailors for more democracy. Appearing to bend to it, Banks called a convention for Montreal in January of 1951. There were only twenty-seven delegates, all picked by Banks. They voted for "autonomous democracy."

Democracy did not come. For the next decade, Banks intensified his personal powers. These powers had many bases. The first, of course, was the DNS list. Banks maintains that he needed the economic war club of the DNS to clear the communist off the lakes, but there is some question about how effectively he used it against them. The Canadian Labor Congress brief to the Norris commission says that only a few of the two thousand names on Banks' 1951 DNS list were the names of men who were known to be communists, and implies that there were many known communists *not* on the list. There is no question at all that he used the list to make certain that anyone who worked against him never worked on a ship.

How many men Banks put on the DNS list altogether is still an unanswered question. The list that Maurice Wright produced before the Norris commission was from 1951, and no one who appeared during the inquiry contended that it was complete. The ROC-card system that the SIU switched to after the DNS was outlawed is harder to draw an exact total from, but Marc Lalonde, the junior counsel of the commission who did much of its investigatory work, has reported that he saw 3,999 names on ROC cards in the SIU files. None of these men, of course, can work on SIU ships—which meant, until the Canadian Maritime Union was formed in 1961, that they couldn't work at all at their chosen trade.

The second source of Hal Banks' power over his men was, and is, persuasion. In an interview after the close of the Norris commission, Maurice Wright, the labor lawyer, said: "The most lasting impression I got from these hearings was one of brainwashing." The principal washrag is the *Canadian Sailor*, a tabloid organ published roughly once a month by the SIU and, perhaps, the principal reading fare of the seven thousand sailors who spend most of their time on board Canadian lakeships for eight months a year. The *Canadian Sailor*, not to put too fine a point on it, is a propaganda sheet, which usually refers to SIU members as the "decent men" who are up against the "finks" and the "scabs" and the "filthy commies." (In an issue published in 1957, which later led to a libel action, the *Canadian Sailor* outdid even itself with this sentence: "When this worm was brought out from under his slimy rock, the stench was so bad around the board hearing room, it was almost nauseating.")

Banks is, altogether, a master propagandist in the classic tradition. He, or the SIU (they are all but interchangeable), is an expert at, for instance, The Smear. One example of this technique in action that was brought out at the Norris commission was the SIU's publication, during its dispute with Upper Lakes Shipping, of a pamphlet called *The Strange Conspiracy to Destroy the Standards and Security of Canadian Workers*. This pamphlet goes once again into the somewhat murky record of James Norris, the U.S. millionaire who has been involved with, among other people, the mobster Frankie Carbo. The pamphlet's accusation is that the same James Norris controls Upper Lakes. The truth is, as was brought out in evidence, that the U.S. holding company that has money in Upper Lakes is controlled by *Bruce* Norris, and although James is Bruce's half-brother, James has no interest in the company whatever.

Seeing "conspiracy" all around it, to digress for a minute, is another favorite manoeuver of the SIU. The *Canadian Sailor*, in many of its issues, and Banks, frequently before the Norris commission, both saw plots around them everywhere—plots devised by the minister of labor and the Canada Labor Relations Board; devious stratagems on the part of the St. Lawrence Seaway Authority; collusion here and cliques there. Judge Norris, of course, was "prejudiced" from the outset, holding a "stacked deck" against the SIU. As Paul Hall, president of the international union, told an American reporter in March, "We proved that there was and is a conspiracy against this organization—the record brought that out to a 'T.' "

Another classic smear during the hearings was Banks' reference to Claude Jodoin, president of the CLC, as a "fellow-traveler." Banks' tricks, though, are often much subtler. The union rules about who may sail on what ships are called, by the union, the National Shipping Rules. During the commission, Banks referred to these rules as "legislation" until Norris told him to cut it out.

The minutes of SIU meetings, which are mimeographed and distributed to members, form still another instrument of propaganda. In these minutes, Brother Banks' speeches are usually received "with loud applause," and motions are always passed "unanimously." The reporting of all speeches and discussions is, to say the least, vivid, and were it not for their slight overtones of exaggeration—no union could run *that* smoothly—one could easily imagine the benign and harmonious atmosphere of a missionary society's annual convention. In fact, of course, the SIU *is* harmonious, and Banks *does* draw, if not unanimous, then nearly unanimous support for all his proposals. Partly, this is because anyone who disrupts the SIU or tries to battle Banks won't be in the SIU much longer. But Banks' support also relies on the fact that, materially, he has done rather well by his membership. A deckhand on a Canadian laker now draws more than $315 a month, compared to $189 he was getting as recently as 1953; an oiler gets about $375 compared to $225. Furthermore, the SIU halls around the lakeports, of which the headquarters in Montreal is the most elegant example, give a sailor in town a comfortable place to relax, get a shave, eat what one former SIU public relations man who now works for the Montreal *Star* described as "the best meal in town for a half dollar" and, of course, see what the job situation is.

Generally, over the past few years, the job situation has been ba'. Although the union claims over fifteen thousand members, there have been, during the shipping season, only about seven thousand berths to fill. This has made the SIU hiring halls something very close to black markets in jobs. A man pays $240 to join the SIU, which can be deducted from his first six months' pay; but even then he doesn't get a vote on anything except a strike he will be involved in. He pays another hundred at the end of eighteen months to get his "book." There are, obviously, many questions that one could ask about the responsibility of a union that would continue to sign new members when it already had more than twice as many as could conceivably be working at one time. "You have jobs to

sell," Charles Dubin, the commission counsel, said to Banks at one time during the inquiry. BANKS: "That's not true at all." DUBIN: "I put it to you: to get a job I have to go through a hiring hall. And I cannot go on the board (where names are picked for available jobs) unless I'm a member . . . You run the hiring hall. I cannot get a job in this country without going through the hiring hall." BANKS: "There are exceptions to that, but for all practical purposes what you're saying is essentially correct." The union has, on occasion, even profited from sailors' pockets *after* the sailors have done their jobs. Seamen, who can work only eight or nine months a year, often take their holiday benefits in cash, and, because some companies in the past had been guilty of not paying those benefits, the SIU arranged to have holiday pay given to the union when a sailor was signed off a ship. This curious practice gave to Banks, instead of the employers, the final say about who would be able to collect money that was legally owing to him. There were several cases put before Norris of men who had waited months to be given money they had already earned.

Banks' domination, however, is not confined to the men who depend on him for their right to work. To quite an astonishing degree, it became evident during the commission hearings, the shipping companies have played along with Banks. Some time after the hearings were over, in fact—after all the evidence about the way Banks runs his union was in—a reporter phoned T. Rodgie McLagan, the president of Canada Steamship Lines, the biggest employers in Canada of SIU personnel. The reporter said he wanted an interview to discuss Banks. "I'm not interested in making any derogatory statements," McLagan said. "We get along well with him. We get along well with the union. We're not in this fight."

Neither, it has turned out, were many of the other companies that put ships on the Great Lakes. The responsibility for Banks' presence in Canada is really threefold: the labor movement helped to bring him here and, in the face of strong evidence about the way he was running his union, took a very long time indeed before doing anything about getting rid of him; neither the Liberal government in power when he came nor the Conservative one that watched him prosper has done anything about him (Walter Harris, the Liberal minister of citizenship and immigration, quashed a deportation order for Banks on his last day in office), and nearly all the shipping companies that put vessels on the Great Lakes have played footsy with him. The attitude of the companies towards Banks has been not unlike the attitude of the English-speaking Montreal establishment toward the late Premier Maurice Duplessis: as long as there was no trouble directly concerning them, they have turned their back on the abuse of other men's liberty. At one point during the Norris inquiry, the representative of a company called Transit Tankers said he had quit supplying fuel to Upper Lakes Shipping—the firm with which Banks was then feuding—after Banks had done no more than *point out* to him on the phone that he had been Upper Lakes' supplier. "I thought it might be better in the interests of harmony," he testified. (Banks later denied making the call.)

THE STRAW that broke the toleration of Banks and the SIU on the Great Lakes, and eventually precipitated the Norris commission, was an incident of shooting. This incident occurred in June of 1961, off the shore of Seven Islands, Quebec. One man was wounded, but several others were, to say the least, scared silly, and a number of people got fighting mad. One of the men who got mad was Jack Leitch, the soft-spoken president of Upper Lakes Shipping company, owners of the boat that was fired upon.

This boat was the *Wheat King,* a converted tanker that Upper Lakes, through a subsidiary called Island Shipping, had just put into commission in the spring of 1961. Leitch and Upper Lakes at the time were on quite bad terms with Banks. The SIU had, the previous year, attempted to sign the "licensed" personnel—engineers—on all the Great Lakes boats as members and it had used some pretty devious means to do so. During a vote about representation, the Upper Lakes engineers were the only group who voted against joining the SIU and later, when the SIU's bid for certification had been thrown out because of fraud, the SIU apparently blamed its comeuppance on Upper Lakes. In any case, according to Tom Houtman, the personnel manager of the company, an SIU official had told them quite clearly that they would be "punished."

The SIU first agreed to put a crew on the *Wheat King,* but shortly after the ship was put in service, Island Shipping and the union began squabbling about how many men ought to be on her. The SIU wanted seven more than Island Shipping would agree to. On June 6, 1961, the crew walked off the *Wheat King* at Levis, Quebec. Island Shipping (still Upper Lakes in disguise) promptly charged them with desertion, and also laid charges of inciting to desert against two SIU officials who were in town at the time. After a telephone conversation between Leitch and Banks, though, the company agreed to put three more men on and drop the charges against the crew, but not against the two union officials. Shortly afterward, the *Wheat King* tried again to go to sea, but had engine trouble. She returned to Levis and, with a long delay envisioned, the crew was signed off. The engine troubles were cleared up quickly. The company asked the SIU for a new crew. The SIU declined to provide one, this time insisting that the charges against the union officials be dropped too. They were not, and Island Shipping signed on a new crew—a group of Greek immigrants who were found in Montreal and who were immediately enlisted in the Canadian Brotherhood of Railway, Transport and General Workers. The CBRT, as the union is generally called, already had a grudge against Banks dating back to a west-coast conflict that also involved violence and they were, presumably, only too glad to join the opposition.

It was this crew that was on the *Wheat King* a few days later when the ship was fired on off Seven Islands. A small boat pulled out in the early hours of the morning and peppered the *Wheat King* with rifle shots, shooting out, among other things, several of its lights. The *Wheat King's* captain, who had a .303 on board, began firing back, hitting one man in the boat.

These were the shots that were heard around the waterfront, in that they were the real beginning of the violence of 1961 and 1962.

Jack Leitch and Upper Lakes, though, probably could not have forced the government's hand in calling an inquiry into Great Lakes shipping without the simultaneous action of the Canadian Labor Congress. Just as Upper Lakes' record was not entirely unblemished in respect to Banks—they had dealt with him quite comfortably from 1950 almost until the *Wheat King* incident and, indeed, had been one of the companies that signed an agreement with the SIU for a group of men already under an agreement to another union—the CLC had played along with the SIU for years. As late as 1957, in fact, Claude Jodoin, then as now president of the CLC, testified at a citizenship hearing in favor of making Banks a Canadian. Banks broke with the CLC in 1959, when his union was temporarily suspended for "raiding" the membership of another group on the west coast, and the next year, when the SIU did not deign to appear at the CLC's convention to defend itself, the expulsion was made permanent.

In July of 1961, Island Shipping put another converted tanker onto the Great Lakes, the *Northern Venture,* with Upper Lakes acting as agent. With the *Wheat King* contract as a precedent, the CBRT was again asked to supply the crew. On July 6, the sailors began to go aboard at Port Weller, Ont., near St. Catherines. On July 10, the SIU began to picket. Several of the crewmen, who had not yet signed articles left the ship to join the picket line (the SIU was offering them cheap memberships). As the *Northern Venture* began her sea trials, crowds of SIU pickets paraded up and down the waterfront. On July 14, Upper Lakes got an injunction from the Ontario Supreme Court restraining picketing against both the *Northern Venture* and the *Wheat King*—which had perfectly legal agreements with their crews—but the picketers were so intent on harassing the *Venture* that the mayor of St. Catherines had to read the Riot Act to them before they'd disperse. The *Northern Venture* left for Duluth, Minn., to pick up cargo, but there it was picketed by American members of the SIU, and stayed tied up for a month before supervisory personnel loaded her themselves.

The summer of 1961 was a summer of battle between the SIU and the owners of the *Venture* and the *Wheat King.* Injunctions pretty well kept the pickets away from Canadian ports, but whenever one of the Island Shipping boats docked in a U.S. port it would be greeted by, first, SIU pickets and then, in states where the Island Shipping lawyers were able to get injunctions against the SIU, pickets carrying such signs as "unemployed sailors." There was scattered violence. That fall, Michael Sheehan, a burly Liverpool Irishman who had been one of Banks' chief aides in the SIU, but who had deserted, helped to form the Canadian Maritime Union. The CMU, which had strong backing from the Canadian Labor Congress, was created, as the CLC has made no bones about admitting, for the single purpose of getting the Seafarers' International Union off the lakes.

The next spring, the SIU put its contract demands before Upper Lakes. They were high, asking for increases that, according to Upper Lakes, would have raised their personnel costs more than sixty percent. Though personnel costs on the big lake ships—which can be crewed by about thirty men each—are a relatively low part of their overall operating expense, an increase of that dimension would have had a serious effect on the profit of Upper Lakes. Lake shipping is a tough, competitive business, and a raise in one companys' costs could hurt it quite severely. The company and the union met briefly, only to agree that they disagreed, and to ask for a conciliation board. While the conciliation board was sitting, the SIU, claiming that the hearings were unfair, managed to get a Quebec court to issue a writ of prohibition against it. Two of the three members of the board then wrote to the minister of labor, Michael Starr, in effect throwing up their hands and saying they couldn't bring the company and the union together. Starr chose to regard the letters of the two conciliators as a report. Legally, seven days after a conciliation board has reported that it cannot bring about a solution, the two parties it has been conciliating for may bargain for new contracts. Seven days after Starr made his announcement, Upper Lakes signed an agreement with Sheehan's CMU. The SIU claims—and some neutral authorities agree with them—that what really happened here was that Upper Lakes locked out the SIU. The SIU also charges that Jack Leitch of Upper Lakes and the union leaders who backed the new CMU were in collusion. These men have in fact, admitted that they were talking together while the SIU was still negotiating, but have maintained firmly that all their talks were conditional on the SIU being

given every chance to keep the Upper Lakes crews. Whatever the background, Upper Lakes now had some twenty ships with more than three hundred and fifty men holding CMU cards, and Island Shipping had two ships with men holding CBRT cards.

Last summer the violence grew worse. Days lost because of picketing and harassment in American ports—injunctions still kept the pickets away in Canada—cost Upper Lakes more than one and a half million dollars. Private detectives, which Upper Lakes says it had to hire to protect its property, cost another three hundred thousand. CMU sailors were beaten up in a dozen ports, some in Canada, some in the U.S.

The most frustrating fact of these troubled times was that the ships being harassed were Canadian ships, manned by members of a Canadian union, whose right to representation had not been questioned by any Canadian court—and they were being picketed and held up in American ports. Upper Lakes had exhausted all its legal avenues by this time—except for a few places, like Minnesota, where it just couldn't get an injunction—and yet the problem continued. By this time too, the CLC was fed up. Both the CBRT and CMU were, of course, members in good standing of the Congress, their men were not being allowed to do their jobs properly and many of them were suffering violence. Both the CLC and Upper Lakes had made repeated requests to the government to step in, and the Congress had written to at least one senior official of the AFL–CIO, its counterpart in the U.S. (although the SIU is still *in* the AFL–CIO), asking it to stop the harassment of Canadian ships. When nothing was done, the CLC with, in the words of its lawyer Maurice Wright "considerable regret, nay trepidation," took a drastic step. The CBRT, which represents most of the men who man the St. Lawrence Seaway, decided to boycott ships with SIU personnel.

The head office of the CBRT asked the locals affected to present resolutions to their own memberships agreeing to take "retaliatory action." The evening before this resolution was to be presented to the union local in St. Catharines, John MacNamara, the local president and also lockmaster of the Number One lock on the Seaway, was viciously attacked in front of his own home, and assaulted with garden shears. The local members of the CBRT were outraged—as were most of the citizens of St. Catharines. The "retaliation" resolution passed the next day.

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO

Mr. MANSFIELD. Mr. President, I ask unanimous consent—this is a little unusual—that the time which the distinguished Senator from Ohio [Mr. YOUNG] had requested begin, for not to exceed 15 minutes out of order, when he arrives in the Chamber.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

MESSAGE FROM THE PRESIDENT

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

EXECUTIVE MESSAGE REFERRED

As in executive session,

The PRESIDING OFFICER laid before the Senate a message from the President of the United States submitting the nomination of Francesco Costagliola, of Rhode Island, to be a member of the Atomic Energy Commission, which was referred to the Joint Committee on Atomic Energy.

BILL INTRODUCED

A bill was introduced, read the first time, and, by unanimous consent, the second time, and refered as follows:

By Mr. MONDALE:

S. 4061. A bill authorizing construction of certain improvements on the Wild Rice River in Minnesota, in the interest of flood control and allied purposes; to the Committee on Public Works.

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

S. 4061—INTRODUCTION OF BILL TO AUTHORIZE WILD RICE RIVER FLOOD CONTROL PROJECT, MINNESOTA

Mr. MONDALE. Mr. President, I introduce, for appropriate reference, a bill authorizing the construction of a dam and reservoir on the Wild Rice River above Twin Valley, Minn., for flood control, general recreation, and allied purposes. Although I will not discuss the details or merits of this important project in this brief statement, I am requesting unanimous consent that pertinent reports supplied by the Secretary of the Army be reprinted in their entirety at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MONDALE. Ordinarily such authorizations are recommended to the Senate by the Public Works Committee in an omnibus rivers and harbors bill. The project authorized by this proposal was reviewed by the distinguished members of both the House and Senate Public Works Committees and would almost certainly have been included in the 1968 bill, Public Law 90–483. Indeed, the legislation I propose today is offered only because Executive Branch delays in submitting essential reports to Congress resulted in the exclusion of this worthy and vital project from the 1968 omnibus bill. I believe it is important to stress that the essential Executive reports were submitted in late July and are favorable to the project. It is regrettable that they were not received in time to assure the inclusion of this project in the 1968 omnibus bill.

Mr. President, I am hopeful that the Senate Public Works Committee under the able leadership of Senator RANDOLPH will proceed to consider this bill and that construction of the Wild Rice River project, substantially in accordance with the provisions of House Document 366, 90th Congress, will be authorized at the earliest possible date.

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

The bill (S. 4061) authorizing construction of certain improvements on the Wild Rice River in Minnesota, in the interest of flood control and allied purposes, introduced by Mr. MONDALE, was received, read twice by its title, and referred to the Committee on Public Works.

EXHIBIT 1

DEPARTMENT OF THE ARMY,
Washington, D.C., July 19, 1968.

Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I am transmitting herewith a favorable report dated June 3, 1968, from the Chief of Engineers, Department of the Army, together with accompanying papers and illustrations, on an interim survey of Wild Rice River, Minnesota, in partial response to resolutions of the Committees on Public Works, United States Senate, adopted June 15, 1950, and House of Representatives, adopted June 27 and July 19, 1950.

The views of the State of Minnesota, the Governor of Minnesota, the Departments of the Interior, Agriculture, Commerce, Transportation, and Health, Education, and Welfare, and the Federal Power Commission are set forth in the inclosed communications, together with the reply of the Chief of Engineers to the Secretary of Agriculture.

The Bureau of the Budget advises that there is no objection to the submission of the proposed report to the Congress; however, it states that no commitment can be made at this time as to when any estimate of appropriation would be submitted for construction of the project, if authorized by the Congress, since this would be governed by the President's budgetary objectives as determined by the then prevailing fiscal situation. A copy of the letter from the Bureau of the Budget is inclosed.

Sincerely yours,

STANLEY R. RESOR,
Secretary of the Army.

DEPARTMENT OF THE ARMY,
Washington, D.C., July 19, 1968.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am transmitting herewith a favorable report dated June 3, 1968, from the Chief of Engineers, Department of the Army, together with accompanying papers and illustrations, on an interim survey of Wild Rice River, Minnesota, in partial response to resolutions of the Committees on Public Works, United States Senate, adopted June 15, 1950, and House of Representatives, adopted June 27 and July 19, 1950.

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Sincerely yours,

STANLEY R. RESOR,
Secretary of the Army.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D.C., June 3, 1968.

Subject: Wild Rice River, Minn.

The Secretary of the Army.

1. I submit for transmission to Congress the report of the Board of Engineers for Rivers and Harbors, accompanied by the reports of the District and Division Engineers,

on Wild Rice River, Minnesota, in partial response to a resolution of the Committee on Public Works of the United States Senate, adopted 15 June 1950, and two resolutions of the Committee on Public Works of the House of Representatives, adopted 27 June and 19 July 1950, concerning the advisability of providing further improvements in the Red River of the North drainage basin, Minnesota, North Dakota, and South Dakota. The reports cover the flood and related water problems of the Wild Rice and Marsh River basins recognizing their relationship to problems in the Red River of the North basin.

2. The District and Division Engineers recommend construction of a dam and reservoir on the Wild Rice River above Twin Valley, Minnesota, for flood control, general recreation, and fish and wildlife enhancement, subject to certain items of local cooperation. They estimate the first cost of the improvement at $8,352,000, including $82,000 for future recreation facilities, of which $8,196,000 would be Federal and $156,000 would be non-Federal, after allowing for non-Federal repayment of one-half the separable cost allocated to recreation and fish and wildlife enhancement. The annual charges are estimated at $310,200, including $19,900 for maintenance, operation, and replacements. Average annual benefits with and without redevelopment benefits are estimated at $465,300 and $399,000, respectively. The benefit-cost ratio is 1.5 with, and 1.3 without, redevelopment benefits.

3. The Board of Engineers for Rivers and Harbors concurs generally in the findings of the reporting officers and recommends construction of the improvement subject to certain requirements of local cooperation. The Board considers, however, that the portion of the relocation of County Road 36 necessitated by the reservoir development should be constructed to the same design standards as other portions of the relocation, and the additional costs therefor (presently estimated at $7,000) should be borne by the Federal Government as a part of the project costs. Such adjustment would be minor and would have no significant effect on the benefit-cost ratio.

4. I concur in the views and recommendations of the Board.

WILLIAM F. CASSIDY,
Lieutenant General, U.S. Army, Chief of Engineers.

DEPARTMENT OF THE ARMY,
CORPS OF ENGINEERS,
Washington, D.C., March 26, 1968.

Subject: Wild Rice River, Minn.

CHIEF OF ENGINEERS,
Department of the Army,
Washington, D.C.

1. *Authority.*—This report is in partial response to the following resolutions adopted 15 June 1950, 27 June 1950, and 19 July 1950, respectively:

"Resolved by the Committee on Public Works of the United States Senate, That the Board of Engineers for Rivers and Harbors, created under Section 3 of the River and Harbor Act, approved June 13, 1902, be, and is hereby, requested to review the reports on the Red River of the North, Minnesota and North Dakota, submitted in House Document Numbered 185, Eighty-first Congress, and prior reports, with a view to determining if the recommendations contained therein should be modified at this time in view of the disastrous floods of April and May, 1950, and in view of the international aspects of the flood problem on which much information may be obtained from Dominion, provincial, municipal and other interests in Canada through the investigations already under way in accordance with Article IX of the Boundary Waters Treaty of January 1909."

"Resolved by the Committee on Public Works of the House of Representatives, United States, That the Board of Engineers for Rivers and Harbors be, and is hereby, requested to review the reports on the Red River of the North Drainage Basin, Minnesota, South Dakota, and North Dakota, submitted in House Document No. 185, 81st Congress, 1st Session, and prior reports, with a view to determining whether the recommendations contained therein should be modified in any way at this time."

"Resolved by the Committee on Public Works of the House of Representatives, United States, That the Board of Engineers for Rivers and Harbors be, and is hereby, requested to review the reports on the Red River of the North Drainage Basin, Minnesota, South Dakota, and North Dakota, submitted in House Document No. 185, 81st Congress, 1st Session, and prior reports, with a view to determining if the recommendations contained therein should be modified at this time in view of the disastrous floods of April and May, 1950, and in view of the international aspects of the flood problem on which much information may be obtained from Dominion, provincial, municipal, and other interests in Canada through the investigations already under way in accordance with Article IX of the Boundary Waters Treaty of January 1909."

It covers the urgent flood and related water problems of the Wild Rice and Marsh River basins, recognizing their relationship to problems in the Red River of the North basin. Other reports in response to the resolutions will be submitted later.

2. *Basin description.*—The Wild Rice River is an eastern tributary of the Red River of the North in northwestern Minnesota. The river heads at Lower Rice Lake in Clearwater County and flows westerly for about 160 miles, joining the Red River of the North about 30 miles north of Moorhead, Minnesota. In the latter part of the 19th century, local interests constructed a 10-mile-long ditch to divert a part of Wild Rice River floodflows into the adjacent Marsh River. These two streams drain an area of about 1,950 square miles, of which 300 square miles are in the Marsh River watershed. Above the point of diversion, the Wild Rice River drains 1,090 square miles. The lower portion of the basin is a nearly flat lacustrine plain which was the bed of glacial Lake Agassiz. Lacustrine deposits extend to great depths over this plain. Stream slopes average about 4 feet per mile in the upper reaches and about 1 foot per mile in the lower 27-mile reach. Channel capacity immediately upstream from the point of diversion is 3,100 cubic feet per second (c.f.s.). Below the diversion, the Wild Rice River channel capacity ranges from about 2,200 c.f.s. to 2,600 c.f.s. Marsh River channel capacities vary from 940 to about 1,360 c.f.s.

3. *Economic development.*—The population of Norman and Mahnomen Counties, which comprise most of the Wild Rice and Marsh River basins, totaled 17,594 in 1960. The largest communities in the basin are Ada, Mahnomen, and Twin Valley with populations of 2,064, 1,462, and 841, respectively, in 1960. Agriculture, primarily cash crop farming, is the major occupation. Industries are those associated with the processing or marketing of food and kindred products.

4. *Existing improvements.*—In 1954, the Corps of Engineers completed about 39 miles of channel improvement, of which about 15 miles were on the Wild Rice River above mile 27.3 and 24 miles on the Marsh River above mile 20.8. The improved channels are designed to carry floodflows corresponding to a discharge above the point of diversion of about 3,100 c.f.s. Federal costs have amounted to about $405,000. In 1964, snagging and clearing of a 12-mile reach of the Wild Rice River between miles 15.2 and 27.2 for flood control was completed by the Corps of Engineers at a Federal cost of about $86,600. In 1895. local interests constructed a diversion ditch together with a low concrete weir to divert part of the Wild Rice River floodflows into the Marsh River. In 1906, the State dredged a series of cutoffs on the Wild Rice River between miles 35 and 40 in the interest of flood control. Municipal and private interests have built several small dams for water supply and power, two of which still remain at miles 3.6 and 57.4.

5. *Floods and damages.*—Flooding along the Wild Rice and Marsh Rivers occurs frequently and high flows on these streams aggravate downstream flooding along the Red River of the North. The maximum flood of record in July 1909 inundated the entire community of Ada as well as nearly 100,000 acres of cropland in the Wild Rice and Marsh River basins. Average annual flood damages based on June 1966 prices are estimated at $497,800 of which $292,500 is agricultural, $20,600 is rural road and bridges and $174,700 is urban. In addition, average annual crop damages along the Red River of the North from the mouth of the Wild Rice River to the international boundary are estimated at $1,481,600 and urban damages to the city of Grand Forks, North Dakota, at $710,200.

6. *Improvements desired.*—At a public hearing held by the District Engineer in January 1963, local interests strongly favored multiple-purpose reservoir storage. They particularly desired provision of an assured water supply in anticipation of industrial expansion in the Wild Rice River basin which subsequently failed to materialize. Following the damaging floods of 1965 and 1966, they have urged early construction of a reservoir principally for flood control. They now strongly support the reservoir plan proposed by the District Engineer.

7. *Plan of improvement.*—The District Engineer finds that a reservoir on the Wild Rice River, with the dam located about 1 mile above Twin Valley, for purposes of flood control, recreation, and fish and wildlife enhancement, would constitute the most practical and economically feasible solution to the flood and water-related problems of the Wild Rice River basin and would also provide beneficial flood stage reduction along the Red River of the North. The drainage area at the damsite is 888 square miles. The dam would be a rolled earthfill structure about 90 feet high with a crest length of 4,280 feet including the spillway. The spillway would consist of a concrete ogee crest and chute equipped with two tainter gates. A gated low-flow outlet conduit would be combined with the spillway gate pier. The reservoir would provide 47,000 acre-feet of storage of which 39,500 acre-feet would be for flood control and 7,500 acre-feet for sediment reserve to be used as a conservation pool for recreation and fish and wildlife enhancement. The project plan provides for development of three recreation areas for public use, two along the rim of the reservoir and one below the dam.

8. *Economic evaluation.*—The District Engineer estimates the first cost of the proposed dam and reservoir project at $8,270,000 for initial construction and $82,000 for future recreation facilities of which the Federal cost would be $8,155,000 for initial construction and $41,000 for future recreation facilities. The initial and future non-Federal share would amount to $115,000 and $41,000, respectively. Using an interest rate of 3¼ percent and a 100-year period of analysis, the District Engineer estimates the annual charges at $310,200, including $19,900 for operation, maintenance, and replacements of which $7,300 would be non-Federal. The average annual benefits are estimated at $465,300, consisting of $363,700 for flood control, $31,300 for general recreation, $4,000 for fish and wildlife enhancement, and $66,300 for redevelopment effects. The ratio of benefits to costs is 1.3 without redevelopment benefits and 1.5 with these benefits included. The District Engineer recommends that a dam and reservoir on the Wild Rice River, Minnesota, be authorized for flood control,

general recreation, and fish and wildlife enhancement essentially in accordance with his plan, subject to certain specified local cooperation. He further recemmends that, in accordance with the recommendation of the Director of the Bureau of Sport Fisheries and Wildlife, additional detailed studies of fish and wildlife resources be conducted as necessary, after the project is authorized, and that such reasonable modifications be made in the authorized project facilities as may be agreed upon by the Director of the Bureau of Sport Fisheries and Wildlife and the Chief of Engineers for the conservation, improvement, and development of these resources. The Division Engineer concurs.

9. The Division Engineer issued a public notice stating his recommendations and affording interested parties an opportunity to present additional information to the Board. Careful consideration has been given to the communications received.

VIEWS AND RECOMMENDATIONS OF THE BOARD OF ENGINEERS FOR RIVERS AND HARBORS

10. *Views.*—The Board of Engineers for Rivers and Harbors concurs in general in the views and recommendations of the reporting officers. The proposed improvements are economically justified and the requirements of local cooperation are generally appropriate. The Board notes, however, with respect to the proposed relocation of County Road 36, that the portion of the relocation necessitated by the reservoir development should be constructed to the same design standards as other portions of the relocation, and the additional costs therefor (presently estimated at $7,000) should be borne by the Federal Government as a part of the project costs. Such adjustment would be minor and would have no significant effect on the benefit-cost ratio.

11. *Recommendations.*—Accordingly, the Board recommends the construction of a dam and reservoir on the Wild Rice River above Twin Valley, Minnesota, for flood control, general recreation, and fish and wildlife enhancement, generally in accordance with the plan of the District Engineer and with such modifications thereof as in the discretion of the Chief of Engineers may be advisable, at an estimated cost of $8,359,000 for construction and $19,900 annually for maintenance, operation, and replacements: Provided that, prior to construction, local interests furnish assurances satisfactory to the Secretary of the Army that they will:

a. In accordance with the Federal Water Project Recreation Act:

(1) Administer project land and water areas for recreation and fish and wildlife enhancement;

(2) Pay, contribute in kind, or repay (which may be through user fees) with interest, one-half of the separable cost allocated to recreation and fish and wildlife enhancement, presently estimated at $115,000 for initial development and $41,000 for future facilities;

(3) Bear all costs of operation, maintenance, and replacement of recreation and fish and wildlife lands and facilities, presently estimated at $7,300 annually;

b. Prevent encroachment which would reduce the flood-carrying capacities of the Wild Rice and Marsh River channels below the proposed reservoir;

c. At least annually inform affected interests that the project will not provide complete flood protection;

d. Provide guidance and leadership in preventing unwise future development of the flood plain by use of appropriate flood plain management techniques to reduce flood losses; and

e. Hold and save the United States free from damages due to water-rights claims resulting from construction and operation of the project.

12. The Board further recommends that additional detailed studies of fish and wildlife resources be conducted, as necessary, after the project is authorized, and that such reasonable modifications be made in the authorized project facilities as may be agreed upon by the Director of the Bureau of Sport Fisheries and Wildlife and the Chief of Engineers for the conservation, improvement, and development of these resources.

13. The Board further recommends that, following authorization of the project, detailed site investigation and design be made for the purpose of accurately defining the project lands required; that subsequently, advance acquisition be made of such title to such lands as may be required to preserve the site against incompatible developments; and that the Chief of Engineers be authorized to participate in the construction or reconstruction of transportation and utility facilities in advance of project construction as required to preserve such areas from encroachment and avoid increased costs for relocations.

14. The net cost to the United States for the recommended improvements is estimated at $8,203,000 for construction and $12,600 annually for operation, maintenance, and replacements.

For the Board:

R. G. MACDONNELL,
Major General, U.S. Army, Chairman.

ADDITIONAL COSPONSORS OF BILLS

Mr. ELLENDER. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Oklahoma [Mr. HARRIS], be added as a cosponsor of the bill (S. 3987) to amend the Revenue and Expenditure Control Act of 1968.

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

Mr. BIBLE. Mr. President, I ask unanimous consent that, at its next printing, the names of the Senator from Utah [Mr. Moss] and the Senator from Idaho [Mr. CHURCH] be added as cosponsors of my bill (S. 4049) to exempt highway trust fund moneys from the expenditure limitations of the Revenue and Expenditure Control Act of 1968.

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

NOTICES OF MOTIONS TO SUSPEND THE RULE—AMENDMENTS TO DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1969

AMENDMENT NO. 983

Mr. RUSSELL submitted the following notice in writing:

In accordance with rule XL, of the standing rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 18707) making appropriations for the Department of Defense for the fiscal year ending June 30, 1969, and for other purposes, the following amendment, namely: On page 44, after line 21, insert the following:

"SEC. 542. Effective on the date of enactment of this Act—

"(1) The provisions of Section 201 of the Revenue and Expenditure Control Act of 1968, shall not apply with respect to those employees of the Department of Defense in positions established after June 30, 1966 in support of Southeast Asia operations and scheduled for abolition on termination of those operations: *Provided,* That this paragraph shall apply to not more than 150,000 of such employees.

"(2) In applying the provisions of such section to the departments and agencies in the Executive Branch those employees (not exceeding 150,000) covered by (1) above shall not be taken into account.

"(3) Notwithstanding the provisions of Section 201(a) of the Revenue and Expenditure Control Act of 1968, employment in temporary and part-time positions in the Department of Defense may be programed on an annual basis in an average number not exceeding the average number of such employees during 1967."

On page 44, line 22 strike out "542", and insert "543".

Mr. RUSSELL also submitted amendments, intended to be proposed by him, to House bill 18707, making appropriations for the Department of Defense for the fiscal year ending June 30, 1969, and for other purposes, which were ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

AMENDMENT NO. 998

Mr. MANSFIELD submitted the following notice in writing:

In accordance with rule XL, of the standing rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 18707) making appropriations for the Department of Defense for the fiscal year ending June 30, 1969, and for other purposes, the following amendment, namely, on page 42, strike lines 23 and 24 over to and including lines 1 and 2 on page 43, and insert the following:

"SEC. 537. No part of the funds provided in this or any other Act shall be used to pay any recipient of a grant or contract for the conduct of a research project an amount for indirect expenses in connection with such project in excess of twenty-five per centum of the direct costs."

Mr. MANSFIELD also submitted an amendment, intended to be proposed by him, to House bill 18707, supra, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

PROTECTION OF THE PUBLIC HEALTH FROM RADIATION EMISSIONS FROM ELECTRONIC PRODUCTS—AMENDMENTS

AMENDMENT NO. 984

Mr. YARBOROUGH (for himself, Mr. JAVITS, Mr. MORSE, Mr. CLARK, Mr. RANDOLPH, Mr. WILLIAMS of New Jersey, Mr. PELL, Mr. KENNEDY, Mr. NELSON, and Mr. MONDALE) submitted amendments, intended to be proposed by them, jointly, to the bill (H.R. 10790) to amend the Public Health Service Act to provide for the protection of the public health from radiation emissions from electronic products, which were ordered to lie on the table and to be printed.

(See the remarks of Mr. YARBOROUGH when he submitted the above amendment, which appear under a separate heading.)

DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1969—AMENDMENTS

AMENDMENTS NOS. 985 THROUGH 994

Mr. MANSFIELD (for Mr. CLARK) submitted 10 amendments, intended to be

proposed by Mr. CLARK, to the bill (H.R. 18707) making appropriations for the Department of Defense for the fiscal year ending June 30, 1969, and for other purposes, which were ordered to lie on the table and to be printed.

AMENDMENT OF INTERNAL REVENUE CODE OF 1954, RELATING TO AMORTIZED DEDUCTIONS FOR CERTAIN ASSESSMENTS FOR DEPRECIABLE PROPERTY—AMENDMENTS

AMENDMENTS NOS. 995 AND 996 AND NOS. 999 AND 1000

Mr. WILLIAMS of Delaware submitted four amendments, intended to be proposed by him, to the bill (H.R. 2767) to amend the Internal Revenue Code of 1954 to allow a farmer an amortized deduction from gross income for assessments for depreciable property levied by soil or water conservation or drainage districts, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 997

Mr. LONG of Louisiana (for himself and Mr. HILL) proposed an amendment to House bill 2767, supra, which was ordered to be printed.

NOTICE OF HEARING ON AIRCRAFT CRASH LITIGATION—S. 3305 AND S. 3306

Mr. TYDINGS. Mr. President, as chairman of the Senate Judiciary Committee's Subcommittee on Improvements in Judicial Machinery, I wish to announce the continuation of hearings for the consideration of S. 3305 and S. 3306. These bills would improve the judicial machinery by providing for Federal jurisdiction and a body of uniform Federal law for cases arising out of certain operations of aircraft.

The hearing will be held on September 25, 1968, at 9:30 a.m., in room 6206, New Senate Office Building.

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

ECONOMIC OPPORTUNITY LOAN PROGRAM

Mr. MONDALE. Mr. President, one of the most successful programs of the Small Business Administration is its economic opportunity loan program which helps disadvantaged persons become owners and operators of their own small businesses.

Time and again it has been demonstrated that many of these people in our inner cities have the capability of becoming successful business owners and operators, but they simply lack the financing and managerial skills that any successful business must have.

This program, which is the direct outgrowth of President Johnson's concern over the welfare of people in America's inner cities, is not something that is waiting for the future. It is providing help now.

As evidence of this, I offer the stories of three successful small businesses that have recently been started in the Twin Cities. In each case it was a Small Business Administration loan that made the difference. And the loans are being repaid, with interest.

These stories involve Matt's Auto Body Shop, 974 Rice Street, St. Paul, owned and operated by Matthew Walker; Robert Upholstering Co., 2139 Lowry Avenue North, Minneapolis, owned jointly by Russell R. Taylor and L. Williams Samuelson; and Phillips Groceries, 38th and 3d Avenue South, Minneapolis, owned by William Phillips.

Mr. President, the stories of these three successful small enterprises are related in articles appearing in the Minneapolis Spokesman for July 11, 1968; the Twin Cities Observer for July 11, 1968, and the Twin Cities Courier for July 13, 1968.

Because of the interest many people will have in these stories, I ask unanimous consent that they be printed in the RECORD.

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

[From the Minneapolis Spokesman, July 11, 1968]

MATT WALKER AUTO BODY SHOP

Personable Matthew Walker is the owner and manager of Matt's Auto Body Shop located at 974 Rice Street in St. Paul. Matt was born in Dallas, Texas 38 years ago and came to St. Paul in August of 1957.

When he arrived and learned of the cold and heavy snowfalls that occurred in the winter in this area, he was nearly scared away and thought that perhaps he should return to Texas.

However, he decided to stick it out and got a job shortly thereafter washing cars at the Auditorium Garage in St. Paul. Later he became manager and in a period of two months he was washing and waxing 33 cars a week.

Subsequently Mr. Walker took over a parking lot for the S & L Company and built up a sizeable business.

While in Dallas Matt Walker had learned how to take the dents out of cars and became an expert auto body mechanic. One day one of his customers came in at which time Matt suggested a wax job. However, the customer said he wanted to wait for a week or two while he had a dent removed from one of his fenders. Matt learned that this job would cost $35 and since the dent was insignificant he thought it might be well for him to go back to his old profession of auto body work.

This he did and for several years worked with major automobile agencies and other body shops as a mechanic.

With all of his experience Mr. Walker decided that the time had come for him to start a business of his own and about three years ago he set up a shop which is located at 974 Rice Street. Mr. Walker is an expert body mechanic whose philosophy is that "if a job is worthwhile doing it is worth doing right." Under this philosophy Mr. Walker feels that he can always guarantee his customers a good job and at a reasonable rate.

Mr. Walker knows the hard knocks of life and was unable to go beyond the fourth grade in school. However, he taught himself with the help of his wife Jequita. He learned how to read and write and this happened in a very short time. In order to add to the family income his wife is in school learning to become an IBM key punch operator. During the past year it was necessary for Mr. Walker to expand his operation by increasing the size of his building and obtaining additional equipment. He went to Small Business Administration for a loan and was able to obtain the financing to bring this expansion about.

Mr. Walker is a kind and gracious individual living by the Golden Rule. If there is any one fault that he has it is being too good hearted. Mr. Walker has helped many people and given away much of his money to those out of money without their even knowing the source. Nevertheless this has given Mr. Walker much personal satisfaction and the feeling that he has contributed to the welfare of others. Mr. Walker, his wife and five children live at 644 Dayton Av., in St. Paul.

[From the Twin City Observer, July 11, 1968]

ROBERTS UPHOLSTERING AND PHILLIPS GROCERIES BOTH BENEFIT FROM SMALL BUSINESS ASSOCIATION

One of the fastest growing businesses in the Twin Cities is the Roberts Upholstering Company located at 2139 Lowry Ave. N., started nine years ago by Russell R. Taylor and L. William Samuelson.

Prior to starting their business, the owners had been close friends and had worked for the same furniture manufacturing company for many years, developing the technical skills that are so necessary to the success of a business. Now Taylor, the company president, has charge of production, while Samuelson is in charge of the office.

Roberts Upholstering, Inc., moved into its present location last August where they have approximately 6,000 sq. feet of floor-space. Since their business has doubled that of over a year ago, they now find that their present quarters are too small to accommodate the production necessary to keep pace with their sales.

About 60 per cent of their upholstering business comes to them from large firms; their domestic work runs about 40 per cent of sales.

The company received a big boost from the Small Business Administration about a year ago when an SBA loan was made to help them relocate and expand their business operation and provide for additional equipment. The company now has the best equipment available including one Cooper machine, the only one used by upholsterers other than manufacturers in the Twin City area.

William Phillips had a good job and security with the Minneapolis Post Office, but ever since graduating from high school and two years of business college in Birmingham, Ala., Phillips had his heart set on ultimately owning and managing a business of his own.

Five or six months ago Phillips saw an opportunity to purchase a vacant building on 38th and 3rd Ave. S., in Minneapolis, an ideal location for a small superette grocery store. But even though he had an educational background, he didn't know how to get the financial backing.

A friend suggested he visit the Small Business Administration where he learned he qualified for an SBA loan and made application. Shortly the loan was approved, and three months ago the doors of Phillips Groceries were opened.

Phillips has nine children to help him, and his 15 year old son is his righthand man in the operation. Phillips and his wife are active members of the Ascension Catholic Church in Minneapolis.

[From the Twin Cities Courier July 13, 1968]

PROFILE OF A BUSINESS: ROBERTS UPHOLSTERY

One of the fastest growing businesses in the Twin Cities is the Roberts Upholstering Company located at 2139 Lowry Ave. No. This business was started about 9 years ago by Russell R. Taylor and L. Williams Samuelson. Although these men are in their late thirties and early forties they have already developed a sizable business which employs

11 people other than themselves. Prior to starting their business the owners had been close friends and had worked for the same furniture manufacturing company for many years. During this time they developed the technical skills that are so necessary to the success of a business. By the time they started their company Taylor and Samuelson were real professionals in the art of making furniture.

Taylor, who is the company president, has charge of production, while Vice-President Samuelson is in charge of the office. The two owners are a smooth running team whose efforts complement each others to the fullest.

Roberts Upholstering, Inc. moved into its present location last August where they have approximately 6,000 square feet of floor space. Since their business has doubled that of over a year ago, they now find that their present quarters are too small to accommodate the production necessary to keep pace with their sales.

The firm has gained the reputation of being one of the top, if not the finest, upholstering shops catering to the medium to fine bracket in upholstering work. About 60% of their upholstering business comes to them from such large firms in the area as Donaldsons, Montgomery Ward, J. C. Penney stores, the Lintex Company, all of the hospitals of the Twin City area, motels and hotels. Their domestic work runs about 40% of sales. Their sales are not limited to north Minneapolis but come from all over the metropolitan area of the Twin Cities; in fact they had one customer not long ago who was located in New Richland, Minnesota, which is located about 100 miles from the Twin Cities.

Because of their expertise, Roberts Upholstering can provide some of the finest custom work upholstering that is available. Each piece of furniture that they re-do carries with it a five-year guarantee. According to Taylor, there has been a considerable increase in refurbishing antiques in recent years. The firm has 8,000 different patterns from which customers can make selection of materials and each pattern comes in an average of about four different colors. Taylor mentioned that the store will soon have its first original creation which will be something most unusual and entirely different from what is on the market today. This will be a one-piece lounge chair which will be made of simulated mink. Taylor indicated that one order has already been received based on the design drawings that have been made.

The company received a big boost from the Small Business Administration about a year ago when a SBA loan was made to help them relocate and expand their business operation, and provide for additional equipment. The company has the best equipment available and has one Cooper machine which is the only one being used by upholsterers other than manufacturers in the Twin City area.

Here is a business that is on the move and from which big things can be expected.

AIR FORCE ASSOCIATION STATEMENT OF VIETNAM POLICY—1968

Mr. MUNDT. Mr. President, the Air Force Association, under the direction of Robert W. Smart, president, has just concluded its fall meeting and aerospace development meeting in Washington, D.C.

At the time of this meeting, members were given a copy of National Defense Byline, the official publication of that organization. This carried the statement of policy of AFA.

I was impressed by the reasonable and logical approach to our Vietnam policy which was taken by this association.

The Air Force Association takes note of the involvement of the Soviet Union in the Vietnam war and points out that without this support North Vietnam could not stay in the war. I believe this statement of policy, written by experts in the area of foreign policy and military policy, deserves the attention of all our citizens. I therefore ask unanimous consent that the statement of policy be printed in the RECORD.

I call special attention to the portion of the statement printed under the subheading "Soviet Involvement." It points out once again that our own trade policies with Russia are prolonging the war in Vietnam and contributing to our seriously expanding casualty lists.

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

AIR FORCE ASSOCIATION STATEMENT OF POLICY, 1968

The Air Force Association, in this pivotal year of 1968, continues its support of United States commitment in Southeast Asia, and again declares:

We must stay.

We must prevail.

Nothing has happened in the past twelve months that would lead us to any other conclusions.

We are concerned, however, with the level and the tempo of the war effort. Time is not on the side of freedom. The level of effort must be raised. The tempo must be quickened.

And these things must be accomplished in the face of a growing body of American opinion which holds that we cannot prevail in Southeast Asia and that therefore we should not stay. The pressure to do less is rising at the very moment when the need to do more was never greater.

The struggle, then, is not so much for the hearts and minds of the Vietnamese, as has been said so often, but for the hearts and minds of the American people themselves. Not enough has been asked of them. Not enough has been confided to them. Their purpose has not been focused. Their patience is wearing thin.

We recognize both the desire and the responsibility of the President to seek peace by every honorable means. The bombing pause recently put into effect provides a case in point. Admittedly, it could involve grave military risks. It must produce a prompt and meaningful response from Hanoi or it will have failed. If it fails, there is no alternative, in our judgment, to a heavy increase in America's military effort.

THREEFOLD NEED

The need, then, becomes threefold.

First, the war must be won. A military victory will provide the only sound basis for a satisfactory political solution.

Second, the war must be won quickly. The war's burdens will not be borne indefinitely by Americans unless there is an end in sight.

Third, the American economy must be mobilized, both to provide the needed resources and to spread the burden of sacrifice and involvement among all Americans.

QUICKEN THE PACE

The war can be shortened only by a radical change in both the pace and direction of our military effort. Token increases will not suffice. The enemy must be hurt faster than he can recuperate. In our judgment, this will call for:

1. An end to sanctuaries in North Vietnam.

2. The denial of seaborne imports to North Vietnam by appropriate application of air and naval power.

3. Coordination of the above with a sustained air and ground offensive against the forces of North Vietnam and those of the Vietcong.

To support such an effort, business as usual on the home front must be put aside for the duration. Economic sacrifices at home must be required to support the personal sacrifices of our fighting men in Southeast Asia. The entire nation must get involved. Military solutions can be found in Southeast Asia. Political resolutions of the war can only be found here at home.

A MEANINGFUL CONFRONTATION

These are admittedly strong measures. We can justify them only if the war is placed in its proper context.

It is more than a matter of political self-determination for the people of South Vietnam.

It is more than a matter of honoring commitments made in the past to a government which no longer exists.

It is more than a matter of guaranteeing the territorial integrity of an ally.

Such aims, however noble, must be measured against our enormous national investment in this war to date and the increased effort called for from here on.

This investment can only be justified if the struggle in Southeast Asia is viewed as a meaningful confrontation with aggressive communism.

It can only be justified if success will lead to a dampening of further aggression, both in Southeast Asia and elsewhere in the world.

It can only be justified if a victory in Southeast Asia will lead us *away* from World War III, and not toward it.

Only in such a context can we justify the loss of blood and treasure being suffered by America and by the Vietnamese people, South and North. The result must be important enough to warrant such a fearful cost.

We believe sincerely that it is.

SOVIET INVOLVEMENT

A measure of proof can be found in the rising level of material support which the Soviet Union is providing to North Vietnam.

The Soviets are providing the sophisticated air defense system which has made North Vietnam the most heavily defended piece of real estate in the history of air warfare.

The Soviet Union provides the trucks which ply the Ho Chi Minh trail and the gasoline and oil which run them.

The Soviet Union provides the artillery, the ammunition, the rockets and launchers which are killing Americans daily.

The Soviet Union provides the aircraft and the ground-control system which challenges our pilots over North Vietnam targets.

Without Soviet support, North Vietnam simply could not stay in the war. Someone in Moscow must think that Southeast Asia is important.

Meanwhile, the Soviet Union takes advantage of U.S. involvement in Vietnam to make its presence felt in the Mediterranean, in the Middle East, in Korea, and in Western Europe, where the NATO Alliance is still a main Soviet target. Soviet Russia moves ahead on the technological front in a drive for strategic superiority over the United States. It looks with satisfaction on the prospect of an America divided at home and bogged down indefinitely in Southeast Asia.

NO NEUTRAL SOLUTION

An American loss in Vietnam would put enormous pressure on the other countries in Southeast Asia which already are experiencing Communist insurrections.

More important, an American retreat would affect the way that men in Moscow, and in Peking, and in many other places, shape their plans for the future.

This is why there can be no neutral solution in Vietnam. One side must win and the other must lose, and the impact will reverberate far beyond the boundaries of two tiny countries.

All this provides compelling reasons, not

only for winning in Vietnam, but for winning quickly and decisively.

THE VOICE OF RESPONSIBLE INDUSTRY

Mr. MAGNUSON. Mr. President, it has been my good fortune to be sent a copy of a speech by Baron Whitaker, president of Underwriters' Laboratories, Inc., delivered before the American Society of Heating, Refrigerating, and Air-Conditioning Engineers at their annual meeting at Lake Placid, N.Y., last June.

Although the speech was prepared for a group of engineers, it could just as well—and applicably—have been made before any group within our vast and complex industrial economy.

I cannot commend too highly its tone of reason and moderation, its accurate, although necessarily sketchy, history of the growth of consumerism in the United States, its concern for all consumers and particularly those from the lowest economic levels, and its challenge to industry to show what it can do on its own initiative to both satisfy and protect consumers. I ask unanimous consent that it be printed in the RECORD.

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

CONSUMERISM—THE NEW FACE OF PRODUCT SAFETY

(By Baron Whitaker, president, Underwriters' Laboratories, Inc., Chicago, Ill.)

We are quick to refer to complex and involved subjects by rather simple words or phrases, particularly when identification of an area of interest between government and a specific grouping of its citizens is desired. Typical are such words as "communism," "socialism," and "consumerism."

Lacking an official definition of "consumerism," I use the word to identify the consumer protection movement present in this country today. If there is any doubt in your mind as to whether such a movement exists, may I direct your attention to these signs:

Approximately 100 bills introduced in Congress within the past two years have been aimed at increased consumer protection in such diverse areas as installment buying, fair packaging, wholesale meat, cigarette labeling, electric power reliability, fire safety, and guarantees and warranties.

The President of the United States appointed a Consumer Advisory Council in 1962 and established the Office of Special Assistant to the President for Consumer Affairs, an office now held by Miss Betty Furness. A special section has been set up in the Justice Dept. to deal with cases involving consumer interest. Many state governments and some large city governments have also created bureaus and other agencies to deal with local consumer problems.

In the private sector, the United States of America Standards Institute (USASI) created a Consumer Council as one of its arms when it recently reorganized under New York State laws. The American Society for Testing and Materials set up a special task force to explore the need for developing consumer standards—and my own organization, Underwriters' Laboratories Inc., got on the band wagon by creating a Consumer Advisory Council.

Several columnists and feature writers who had for a long time received only scant notice for their consumer-oriented writings now find themselves widely quoted as authorities in the field. Some books on the subject have turned up on the best seller list—such as "Unsafe at Any Speed," "The Innocent Consumer vs the Exploiters," and "The Dark Side of the Market Place."

The organized consumer groups have increased in number and in membership; 44 of them have banded together recently as the Consumer Federation of America.

Another recent manifestation of the consumer movement has been the introduction in Congress of a bill to create a Department of Consumer Affairs, headed by a full cabinet-rank secretary.

It is quite apparent that many groups are seeking the favor of the consumer—some by way of affording him greater protection, others by making more information available to him, and others by offering to listen to his complaints.

To the degree that a person can be protected from practices of the market place that thrive on deceit, misrepresentation, and general lack of information, such a movement could mark the end of "caveat emptor" (let the purchaser beware). It might well mark the beginning of a new era enunciated by Vice President Humphrey in swearing in the members of the National Commission on Product Safety—"Let the Maker Be Careful."

I hope we can all agree that government at any and all levels has the power and responsibility to enact and enforce such laws as we, acting through our representatives, deem necessary or desirable for the preservation of life, health, and property.

HISTORY OF PRODUCT SAFETY

Historically, government concern about product safety has been manifest primarily at the state and local levels, but over the years a few items have come under federal regulations. In most cases, such legislation came about as the result of national publicity associated with an accident phenomenon.

Some might consider the earliest form of consumer protective legislation at the national level to be embodied in our Constitution which gave Congress the responsibility for weights and measures. Others might consider it to be the Pure Food and Drug Act, which was passed by Congress in 1906.

In 1907 Congress authorized the United States Dept. of Agriculture to establish grading and inspection procedures for meat and poultry. During the past few months this legislation has been further revised.

Lesser known to the average consumer is the Wool Products Labeling Act passed in 1939, and the Textile Fiber Products Identification Act of 1960. Both Acts sought to promote truth in labeling, and certainly had overtones of producer protection as well as consumer protection. Enforcement responsibility was given to the Federal Trade Commission.

Coming closer to the categories of mechanical and electrical products, which are the more obvious concerns of this group, we find that Congress passed the Motorboat Act of 1940, which prescribed regulations for life-saving equipment, backfire flame control, fire extinguishing equipment, sound producing devices, navigation lights, and ventilation systems for the bilges of engines and fuel tanks compartments. The law provides for involvement of the U.S. Coast Guard in vessel inspection pertaining to these items.

Obvious consumer protection is sought under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act passed by Congress in June 1947 and the Hazardous Substance Labeling Act, passed in 1960. Both Acts specified standardized markings to notify the public of the hazard to persons resulting from contact, breathing, ingestion, or burning of the products involved.

In 1953, Congress passed the Flammable Fabrics Act to outlaw a form of highly flammable clothing which had recently been introduced and which had been involved in several burnings involving loss of life. The law did not deal with the more conventional forms of fabrics used in the manufacture of clothing.

It seems unnecessary to remind you of "an act providing for safety devices on household refrigerators" enacted by Congress in August 1956. The Act required that all household refrigerator doors be equipped with provisions for opening from the inside to prevent suffocation of children who might become trapped inside.

More recently, a Refrigerator Safety Bill has been introduced that would require that refrigerators shipped in interstate commerce to be equipped with ventilating devices that operate when the appliance is not in use. This Bill has been referred to the Interstate and Foreign Commerce Committee.

In 1962, the Pure Food and Drug Act was amended to require that the effectiveness and *safety* of drugs be cleared prior to marketing. The present law is referred to as the Federal Food, Drug, and Cosmetic Act.

Considering the acts passed prior to 1963, it appears that Congress had not been overly concerned with the safety of most manufactured goods, but had acted where dramatic events had focused national attention on a situation that seemed to require immediate attention.

RECENT PRODUCT SAFETY LEGISLATION

By conrast, let us review what has happened to product safety legislation in Congress within the last two years.

In the vanguard of product safety legislation was the National Traffic and Motor Vehicle Safety Act of 1966 and associated legislation.

Also passed shortly thereafter was the Child Protection Act of 1966 which expanded the coverage of the Hazardous Substance Labeling Act to ban the sale of hazardous substances or products containing hazardous substances for which cautionary labeling is not an adequate safeguard.

In 1967 the Flammable Fabrics Act was amended to authorize the Secretary of Commerce to establish standards to reduce flammability of all textiles used in apparel and home furnishings.

The Medical Devices Safety Act of 1967 was introduced by Representative Staggers of West Virginia to require a pre-market demonstration of safety and efficacy for medical devices sold to the public. This and accompanying bills are still in committee.

The act establishing the National Commission on Product Safety, about which I will have more to say later, became official when signed by the President last November.

The Fire Research and Safety Act of 1967 was signed into law last March. It provides for a fire research activity under the direction of the Secretary of Commerce, and provides for establishment of a National Advisory Commission on Fire Prevention and Control.

The Radiation Control for Health and Safety Act of 1967 was introduced last June. Hearings on it and companion legislation are still underway in Congress. This bill would empower the Secretary of Health, Education, and Welfare to establish and enforce standards to cover all forms of potentially hazardous radiation from electronic products.

The National Gas Pipeline Safety Bill was introduced in March 1967. The Senate has acted to pass its version of the Bill but the House Committee has not yet reported its version to the floor.

Before committees of Congress at the present time is the Recreational Boat Safety Act of 1968 which empowers the Secretary of that department which includes the U.S. Coast Guard (currently the Dept. of Transportation) to establish standards pertaining to all aspects of recreational boating.

Still other bills that evidence concern about safety which have been introduced recently include the Manned Submersible Safety Act, Occupational Safety and Health

Act of 1968, a bill amending the Federal Aviation Act of 1958 to require additional precautionary measures aboard certain aircraft in the interest of safety to the traveling public, and the Electric Power Reliability Act of 1968.

On May 27, Senator Magnuson introduced the Safe Packaging Act to amend the Hazardous Substances Act to minimize the accidental poisoning of children by prevention through childproof packaging.

This listing does not purport to include all the bills which have been introduced in Congress relating to product safety—nor to convey the full impact of any of them. It is cited to indicate a rather sudden and pronounced concern of Congress in many areas about product safety. I believe that an obvious conclusion which can be drawn from this is that product safety is fast moving into the national political arena.

In 1961, the House Government Operations Committee listed 33 federal agencies assigned to consumer protection activities. They involved about 65,000 employees at an annual cost of about $1 billion. Estimates as to the current level of federal activity are not available, but recent additions, and the growth pattern of existing agencies, leave little doubt as to the firm direction in which the movement is headed. The President's Committee on Consumer Affairs, headed by Miss Furness, spent $164,000 in 1965, its first year of operation. Its 1969 budget request is $700,000.

One of the more recent federal government activities has been the appointment of a Presidential Task Force to upgrade quality of appliance repairs and servicing, and improve product warranties and guarantees. The Task Force includes the Secretary of Commerce, the Secretary of Labor, the Chairman of the Federal Trade Commission, and the Special Assistant to the President for Consumer Affairs. The announced purpose of the Task Force is to provide a cooperative effort by industry and government to encourage improvements in quality of service repairs, assure that guarantees and warranties are truthful, let the customer know the estimated life span of the product, and determine whether additional federal legislation is needed.

WHY THE PRODUCT SAFETY MOVEMENT

Some rather pertinent questions come to mind against this backdrop of expressed concern of the federal government: (1) why has this come about? (2) is it good or bad? (3) how should industry respond?

There probably is no single nor simple answer as to the cause of the consumer protection movement. It has been suggested that it is the outgrowth of an affluent society—one that is highly critical of its performance—and never satisfied with the results that it has produced. To the extent that we are no longer concerned with the bare essentials of survival and can afford to strive for a higher level of living, I suppose we could concede that such a thesis is sound. On the other hand, it should be noted that consumer movements appear to be rather common throughout the free world, not just peculiar to this country.

Some have described the movement as nothing more than a normal by-product of our modern technology and product sophistication. The argument runs that techniques of marketing, methods of manufacturing, and competition of products have changed so drastically in recent times that practices detrimental to the consumers' interest no longer correct themselves in the market place. Others have suggested that consumers are no longer able to make intelligent choices because advertising does not portray a product's capability in terms that make meaningful comparisons with competitive products possible.

Some have suggested that the federal government moves in only when an essential need of society is being neglected by local governments. Many have suggested that consumerism provides an attractive horse for politicians to ride, particularly when they can secure the services of an existing governmental agency to help develop the information needed to sell the program to Congress. Insofar as safety is concerned, there is a strong suggestion that industry self-policing efforts and local government controls have been inadequate.

I feel that each of the above reasons may have had some effect in producing and propelling the movement. Regardless of what we believe to be the real cause, it is more important to recognize that the movement is probably just getting started and that we are likely to encounter more, rather than less, as time goes on.

The General Counsel of the U.S. Senate Commerce Committee has warned that it would be a tragic mistake for business to dismiss the current wave of consumer legislation as political featherbedding. Constituents of elected officials have indicated their approval of such legislation, and politicians generally respond to the majority views of the voters in order to remain in office. Earl Lifshey, one of the more knowledgeable reporters of the consumer protction movement, has so aptly described the current situation: "Now it is no longer a question of whether there will be more standards for consumer goods and services; it's merely one of how far they are likely to go and how extensively they may be regulated and policed; for that one small cloud of consumer protection which appeared on the horizon five years ago has since grown to the point where its shadow and significance is cast across every corner of the market place."

NATIONAL COMMISSION ON PRODUCT SAFETY

Of the various acts which have been passed to date in the consumer protection field, I would surmise that none has greater potential impact on the heating, refrigeration, and air-conditioning industry than Public Law No. 90–146, which created the National Commission on Product Safety.

The principal functions of the Commission are to study and investigate: (1) the identity of categories of household products which may present an unreasonable hazard to the health and safety of the consuming public; (2) the extent to which voluntary self-regulation by industry affords such protection; (3) the protection against such categories of hazardous products afforded by 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 categories of such hazardous products, including analyses of the scope of coverage, the effectiveness of sanctions, the adequacy of investigatory powers, the uniformity of application, and the quality of enforcement.

The Commission is to recommend, as it deems appropriate, remedial action, by the President, Congress, the states, and private industry.

The Commission, appointed March 27, 1968, was officially sworn in on May 15. It is composed of three lawyers, three engineers associated with testing laboratories, and a writer. Its Executive Director is on loan from the Public Health Service. Considering that the law requires the Commission to report its findings within two years, its assignment is indeed tremendous.

Apparently, the first item in the Commission's study will be to identfy household products which may present an unreasonable hazard to the health and safety of the consuming public.

One of the early decision which the Commission must reach in making this determination is how to identify hazards that are unreasonable, as opposed to those that are reasonable. For example, does the sharp point of an ice pick, or the sharp edge of a butcher knife or a pocket knife constitute reasonable hazards because no one has yet developed a practical guard which would effectively reduce the possibility of personal injury except by effectively limiting the intended utility of these products? Or do these products involve reasonable hazards because their potential for injury is readily recognized and they are therefore generally used in a manner as to avoid the likelihood of injury? Or do they constitute unreasonable hazards because children invariably learn as a result of being injured? Or are they considered to constitute unreasonable hazards because they are sometimes used as weapons?

Another decision facing the Commission is whether product safety is to be judged on the basis of the frequency and extent of injuries associated with product use, or whether it is to be judged on the basis of what might conceivably happen.

When asked whether it had cases of accidents resulting from leakage currents of appliances which had been reported to the Senate Commerce Committee as hazards—and there were 376 cases—Consumers' Union reported that it had none and had not sought to determine whether there had been any. When asked if it was aware of actual cases of injury resulting from ionizing radiation of color television receivers, the National Center for Radiological Health reported that it had no specific evidence of injury, but the Center was quick to point out that this did not assure that none had occurred.

The loading platforms of the New York City subways would certainly appear to be potentially hazardous when one considers the crowds, and the speeds with which the trains enter and leave the stations. Yet the facts are that about the only people who lose their lives at these locations are those who choose this method to commit suicide. Thus, any attempt to delineate between a reasonable and unreasonable hazard must surely factor accident experience into the determination.

The broad language of the bill creating the National Commission on Product Safety indicates that the concern of the Commission should be directed to the study of *all* aspects of product safety. So far, proponents of the bill have given no indication of the fact that accidents frequently result from improper use, improper installation, or improper maintenance of properly designed and properly manufactured products. If products are to enjoy the continued wide usage which has contributed so materially to our standard of living they cannot reasonably carry the entire burden of responsibility for safety.

A product and its user constitute an elementary system, and when each component of the system carries its proportionate share of the load, maximum benefit is achieved at minimum costs. All portable lamps and portable tools could be made safe to use when the user and the product are immersed in water. But such protection would undoubtedly increase the cost of these products to provide a safeguard against a potential use not expected nor required by the overwhelming majority of users. No less an authority than Dr. William Haddon of the Dept. of Transportation has conceded that safety does cost money. Without question improvements in product safety can be achieved through improved designs, but it appears likely that even greater gains might be achieved through consumer education relating to proper use and maintenance.

Substantial improvements in product safety design will invariably require more detailed information of field failures than has heretofore been readily available. To secure reasonably authentic information as to the cause of an accident or fire is seldom easy. Frequently the product is made unavailable for examination and tests because of potential legal action. In other cases, it is impaired or disarranged to the extent that the point of initial failure is most difficult to de-

termine. When the point of origin has been determined, another judgment must be made as to whether failure resulted from improper assembly, failure of materials, or poor design. Yet this is the precise type of information that is needed if product design is to be improved so as to reduce the likelihood of product failure and accidents.

The end of useful life of a product is a point of concern for those involved with product safety, particularly in the case of electrical products. Because electrical insulation tends to become less effective with age and because conductive contaminants and dusts tend to collect with age, all other things being equal, the safety factor originally provided in the electrical system decreases with age. The safest electrical product is one that fails mechanically before it fails electrically, or that becomes obsolete and is replaced before it fails. I am sure you will recognize here, a conflict in merchandising philosophy: (1) make a relatively short life less costly product on the basis that it will be replaced after a short period of use; or (2) design for longer life with a higher initial cost and less servicing problems. How does the safety expert assure that products designed under either concept afford equivalent levels of protection for the user? Would safety requirements based on the manufacturer's estimated product life assure that the product would be replaced, or will most users continue to use the product until actual failure occurs or until the cost of repairs forces the replacement?

Many advances in product safety, as in product performance, arise out of patents granted in the best traditions of our free enterprise system. I was interested in the suggestion in one of the recent consumer best sellers that the washing machine industry should have been encouraged to use a patented device to improve safety of their machines. It might be that overall safety will be improved by requiring use of patented items, but there will certainly be a revolution in establishing safety requirements because it is difficult to imagine the pressures that will be placed on those establishing the requirements if such should come to pass. On the other hand, it is most doubtful that the abolition of patent rights for product safety concepts would result in safer products for the incentive to create and develop safety concepts would be substantially removed.

Safety features quite frequently have merchandising appeal—and manufacturers will continue to improve their products safety-wise as long as they are permitted to realize compensation for their efforts.

Yet the protection afforded by patent rights does not in itself always assure that the public has the opportunity to share in a new safety advancement. Unless the advance is of such a nature as to be financially self-supporting, it might never see the production line, for the manufacturer is unlikely to place himself at a cost and price disadvantage with respect to his competitors. Most often product safety upgrading comes about through simultaneously-applied timetables utilizing non-patentable items and concepts by the safety enforcement authority.

I have attempted to indicate some of the problems which must be faced by the Commission in attempting to determine whether any given class of products has reasonable or unreasonable hazards. An equally difficult problem is to determine the extent to which the public is protected against such hazardous products by industry self-regulation or by local, federal, or state laws.

Unfortunately, statistical data on how many accidents have been prevented by a single safeguard, or by an entire system of safeguards embodied in a product are not obtainable. It is necessary, therefore, that rather indirect means be employed in evaluating the effectiveness of safety measures. Sometimes a rather broad perspective can be secured by noting the major causes of accidental deaths.

In 1965, the U.S. Public Health Service reported 108,000 persons succumbed to accidental deaths. Of these, 49,482 were associated with motor vehicles, 19,023 resulted from falls, 7347 lives were lost in fires, 5485 persons were drowned, 3984 lost their lives in transport other than motor vehicles, while electricity claimed 1071 lives. Just under 50% of these electrical fatalities were due to causes other than contact with energized lines. The remaining losses were due to various other causes.

During the same year, 1355 persons lost their lives in non-military air transportation, an activity regulated by agencies of the U.S. Government.

An overall concept of the effectiveness of electrical safety may be gained by comparing the ratio of fatalities caused by use of electricity in the years 1900, 1940, and 1965. In 1900 the annual fatality rate from all electrical causes was 19 deaths per million; in 1940, it was 7.6 per million; and in 1965 it was 5.5 million. During this period the exposure to electrically-energized appliances and material has obviously increased several fold resulting from increase in population and in the number of new electrical products that have been introduced. In 1965, the total consumption of electrical energy was 5.4 times that of 1940.

In evaluating these statistics, one should recognize that there is sufficient energy to produce a lethal electrical shock each time contact is made with metal parts of an electrical product or a wiring system. In consideration of this fact and the downward trends portrayed in these statistics, there would seem to be little doubt that the industry has indeed been realistically concerned about electrical safety.

The backbone of electrial safety regulation, insofar as the consumer is concerned, is the National Electrical Code. This Code, despite minor deviations at the local level, undoubtedly provides at least 95% of the electrical safety regulations in use in this country. In adopting the National Electrical Code the local inspection authority is given responsibility to determine the suitability of equipment and materials installed in his area under the rules of the National Electrical Code. He normally satisfies himself in this regard by ascertaining that the equipment and materials have been manufactured to recognized safety standards.

It is of interest to note that at the present time five members of the National Electrical Code-Making Panels representing agencies of the federal government participate in development of the Code requirements. One would hope that this demonstrated cooperation between government and industry could serve to indicate a pattern that might well be utilized in looking toward increased levels of safety for the consumer.

The legal protection against hazardous products has been described as a patchwork of laws, and in the sense that there is no single federal law in this country which empowers specific agencies of the federal government to exercise broad regulatory control over the design, manufacture, and sale of all products which have been involved in known accidents, this is certainly true.

There is no doubt that where local laws specifically deal with electrical safety there will be differences in interpretation and degrees of enforcement. In the National Electrical Code, responsibility for both these items is given to the local authority on the basis that he is the person best able to weigh all the factors in a given situation, and determine the course of action that provides the most satisfactory answer.

Even if absolute uniformity of interpretation were desirable, there is serious doubt as to whether the federal government, because of political pressures, is in a position to assure such. Many of you will no doubt recall the difficulties encountered by the National Bureau of Standards not too many years ago when it rendered an unfavorable report on a battery additive which a vendor proposed to sell to the General Services Administration.

Concerning the effect of other sanctions, the position of the American Trial Lawyers Assn. is that substantial improvement in safety for the public can be achieved under the theory that manufacturers will pay more attention to product safety if they are made to pay heavily for each accident in which their product is involved.

Another form of sanction incorporated in recent federal product safety bills is to subject the manufacturer to severe fines for failure to meet each and every provision of the safety standard. Product safety is seldom composed of individual items that distinguish a product between being safe and being hazardous. Invariably produuct safety results from a combination of materials, assemblies, and design features that, taken as a whole, produce reasonable assurance of safety.

Today's appliances are sophisticated assemblies of components which the appliance manufacturer secures from various sources to obtain the most favorable costs and to insure as best he can the continuity of his production. When product failure is a result of a component failure, which in turn is the result of the change of material which neither the component supplier nor the product manufacturer can readily detect, I believe you will find that the end product manufacturer bears the entire burden of responsibility for a violation of the product safety standard. Under these conditions, the obvious response of the product manufacturer is to purchase more product liability insurance and to increase the severity and thoroughness of his material acceptance and quality control programs. There is a practical limit, however, to which such programs can assure 100% compliance. Each product cannot economically nor physically be 100% tested before it is shipped. Some tests require chemical analysis, burning, breakage, and other destructive techniques. I do not suggest that there is no need for increased attention to production controls that will assure a higher level of compliance with the product safety standard. As a matter of fact, I would feel that for most appliances there is greater need for attention to production controls than to the shortcomings of existing standards. I simply want to point out that zero defects in our modern manufacturing technology is probably not attainable—if we are to judge from our own government's (and others') space program, where safety to personnel, property, and national prestige must have the highest priority and where considerations of cost have correspondingly low priority.

Depending upon company marketing philosophy, competition, and in-house manufacturing advantages, the manufacturers will undoubtedly secure that mixture of product liability insurance and production control which will give the lowest combined costs.

If legislation should require additional safeguards, costs involved in providing them must, like all other costs, ultimately be passed on to the consumer. It follows, therefore, that legislation of a consumer protection nature should logically be concerned that these increased costs are warranted, and that the consumer receives a significant increase in safety, commensurate with the increased costs he must pay.

Before concluding that the present status of product safety is entirely satisfactory or that the pronounced involvement of the federal government in product safety portends a significant increase in product safety, one should review the *modus operandi* of our present system, examining it critically for its strong points as well as its weak ones.

For electrical products, the system basically involves the concept of the National Electrical Code, produced under the voluntary standards system, the exercise of the state and local police power to assure legal compliance with safety laws through duly-constituted local authorities, and the use of product safety standards generally developed by and certified to by independent testing laboratories.

One of the chief characteristics of the system is that it provides a high degree of voluntary participation by manufacturers and by local authorities. If the local ordinances go far beyond the National Electrical Code and appear to the manufacturer to be unduly restrictive, he finds other places to market his product. If he decides that the testing laboratories' requirements, or its prices are unreasonable, he does not submit his product for investigation, or if he decides that the costs of modification are greater than he can afford, he does not make the changes in the product that would qualify it for listing. Under this system there are literally thousands of jurisdictions that are involved in the marketing of electrical products on a nation-wide basis.

Such a system obviously cannot assure 100% uniformity of action. There are local codes which deviate from the National Electrical Code. There are inspectors who do not interpret the code in exactly the same way. Similarly, certification to nationally-recognized safety product standards is not always satisfactory to local authorities.

I would hope that any sincere attempt to evaluate the system would look objectively at the results of the system, rather than whether it was centrally organized and controlled. I would hope that all segments of the industry, including the consumer, be afforded the opportunity to express themselves about the present system and to propose means that would be likely to produce increased safety.

In considering what industry response should be to the activities of the Commission and of the posture which industry might take during the time that the Commission is making its study, there appear to be at least three possible courses of action: (1) the one which I would sincerely hope that industry would not choose would be to resist in all possible ways the efforts of the Commission to perform its legally assigned job; (2) the one of passive resistance, primarily one of doing nothing other than complying with the bare requests which the Commission might place before them; and (3) the one I recommend for your careful consideration would be that of constructive cooperation and assistance.

Dr. Francis Laque, as Chairman of the Task Force of the Dept. of Commerce's Technical Advisory Board on Engineering and Commodity Standards, set the tone for standardization activities by pointing out that the needs of society can best be met by marshaling competence wherever it exists to attack those problems which need to be solved. Competence insofar as the achievement of electrical safety is concerned does not reside wholly in any single segment of the electrical industry, nor in any single level of government. It would appear, therefore, that the best interest of all would be served if industry and the Commission recognized this fact and worked together in the public interest. One possible approach might be for industry to suggest voluntary upgrading (1) where the field record indicated that such was necessary and desirable, irrespective of costs; (2) where such upgrading offered some increase in safety with only slight increase in product costs; and (3) where known technology permitted upgrading with no increase in costs.

An analysis of the field of safety hazards and safety hazard improvement, when viewed from this approach, will require a high level of statesmanship, both from the industry and the government sides. It might require professional engineering organizations such as yours to stand up and be counted, and take an active and truly professional role in safety matters. This approach is not likely to produce a great deal of scare headlines nor progress reports that will parallel our feats in space. It will require an appreciation on the part of industry of the responsibility which has been assigned to the Commission and a recognition on the part of the Commission members of a like responsibility to become fully acquainted and knowledgeable in the area of industries' design, production, marketing, and servicing problems.

It is apparent from reviewing the testimony given at hearings preceding enactment of the laws that elected officials are quick to accept information which appears to support an objective which they are attempting to attain. Industry has failed by and large to provide to its elected representative any counter evidence that will raise questions regarding the authenticity or applicability of such information received, or to provide a background against which information could be viewed so as to place it in proper perspective. I believe it is being unrealistic to expect that most of our elected officials in Congress will be as deeply concerned about these developments as we are. I think, on the other hand, it is too late to make passionate appeals after proposed legislation has been cleared by the appropriate committee of Congress. Informational and educational efforts, realistically oriented, should be presented to the appropriate legislators early in the period in which proposals are being considered.

Many of you can remember the highly dramatic cries of Walter Winchell some years ago when it was discovered that beryllium phosphors used in fluorescent lamps were poisonous and had caused a few cases of personal injury. The industry very quickly held a series of meetings with interested government officials and, in a very short time, substitute phosphors which did not present such a problem became the industry standard, voluntarily administered.

It seems to me that there is a message here which industry might well consider in taking a hard look at its own practices to determine if industry is honestly providing the highest levels of safety of which it is capable, consistent with its manufacturing and marketing philosophies. I do not believe that joint industry action in improving its safety standards has ever been challenged under the anti-trust laws.

Within the last few years, the Injury Control Div. of the Public Health Service has uncovered, through its injury survey teams, a considerable amount of helpful information which has been utilized by manufacturers and testing organizations in improving product safety. The National Center for Radiological Health has, through its field surveys, made the television industry quite aware of problems which can arise in the servicing of television units. It would seem that both of these government agencies might well continue their efforts along these lines of developing unbiased field experience information which manufacturers can use in product improvement, which standards writing and testing organizations can use in improving product standards, which enforcement authorities can use in improving product installation rules, and which consumer groups can use in educating the public in using today's electrical equipment.

The National Bureau of Standards has historically contributed to electrical safety in the field of electrical measurements and methods of evaluation. It is hoped and expected that this agency of the federal government will continue to work cooperatively, as it has in the past, with industry groups in solving problems requiring a high level of technical competence.

The electrical industry has by and large supported the local electrical inspection authority in his enforcement of the National Electrical Code. So long as the Code continues to serve the public interest, I would expect that it, too, would receive the backing and support of all agencies of government.

I believe it was Miss Furness who said that one of the most difficult areas for consumers is distinguishing between their wants and their needs. Most of us would certainly agree, and might add, that the difficulty in distinguishing between one's wants and needs appears to be greatest at the lowest economic levels.

Our competitive society is based on the generation and satisfaction of wants, irrespective of the economic level of the consumer. Protective consumerism, therefore, has a tremendous challenge in helping consumers, and particularly those in the lowest economic levels, distinguish between their wants and their needs. Many of the abuses of the market place flow not just from the avarice and greed of the seller or maker, but also, it seems to me, from this inability of the consumer to make this fine distinction and his own desire to be identified with society through possession of goods and services which society can provide.

Whether or not your industry and the electrical industry, of which it is a part, is to continue under the present safety system, or whether it is to be subjected to severe regulation, or to moderate regulations, or whether it is willing to make adjustments and improvements within its own self-administered procedures, only the future will tell. I do suggest that in any case, the answer is not completely in the hands of the gods, but might well be dependent upon the actions which the industry makes on its own initiative within the next one to two years.

LIQUIDITY FOR SAVINGS AND LOAN ASSOCIATIONS

Mr. SPARKMAN. Mr. President, yesterday the Senate cleared for the President's signature S. 3133, extending for 1 additional year the authority to regulate the maximum rate of interest paid on time and savings deposits. An important amendment was included in this legislation concerning the liquidity requirements to be maintained by savings and loan associations.

Mr. John Horne, Chairman of the Home Loan Bank Board has assured me that the liquidity amendment would be administered in the following fashion:

First, I understand the Board has no intention of raising the liquidity requirement under present mortgage market conditions. The broadening of the range of liquidity is designed to be used over a period of time to help smooth out the peaks and valleys of mortgage money supply. It would be used to build up liquidity in periods when mortgage money is plentifully available, and to reduce liquidity to assist the mortgage market when mortgage money is tight. Indeed, the Board, recently reduced the liquidity requirement to assist the mortgage market.

Second, even though the Board could prescribe a mix of liquidity under the new authority, I understand the specification of a mix will not as a rule be used so that institutions would have to dispose of any of their present securities in order to comply with the law and the regulations issued pursuant to it. To re-

quire institutions to dispose of some long-term securities would, because of the passage of time and the increase in interest rates, expose them to a loss which would be unnecessary in terms of the purposes of this legislation.

I understand the Board has also considered how the liquidity requirement would be calculated. It is the Board's view that a period should be selected which is long enough to permit a cycle of activities to occur within an association, yet not so long as to make the requirement indefinite. It, therefore, would select a 1-month averaging period. Within a month an association experiences peaks in inflows and peaks in payments. The averaging process would, thus, permit the associations to use some of their liquidity during the periods of peak payments and to carry a slight excess during periods of peak inflow so that as a whole it would meet the liquidity requirement.

The classification of institutions under the new authority would be in accordance with the spirit of the language. The classification schemes would be general and based on characteristics that deal with groups of associations rather than individual associations.

A question has been raised about how the Board would regulate certificates of deposit. In the past, when certificates of deposit were authorized to be counted as liquidity, the Board provided that the total amount of certificates held by an association could not exceed one quarter of 1 percent of the total deposits in any one commercial bank. I understand this rule, or some variant of it, will be readopted by the Board.

RETIREMENT OF ROGER JONES, ASSISTANT TO DIRECTOR OF THE BUDGET

Mr. CARLSON. Mr. President, Roger Jones, one of our Nation's outstanding Federal civil servants, is retiring after 35 years of dedicated and devoted service to our Nation.

As Jerry Kluttz stated in his column in the Washington Post under date of September 16:

> He has been an adviser to the last four Presidents, but he also has counseled thousands of rank-and-file employees on careers in the Federal service.

Personally, I am indebted to Roger Jones for his sound advice and counsel on many legislative matters that I have presented to the Senate on behalf of our Federal employees.

Federal workers will benefit for years to come as a result of his active and untiring efforts in their behalf.

Our Government has adopted many of his recommendations for modernization that is so essential to the efficient operation of an ever-expanding Federal Government.

I wish for my good friend, Roger Jones, many years of well-earned and well-deserved rest and retirement.

I ask unanimous consent that the article by Jerry Kluttz, published in the Washington Post of September 16, be printed in the RECORD.

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

ROGER W. JONES RETIRES AFTER A COLORFUL CAREER

(By Jerry Kluttz)

He's a civil servant's civil servant.

He has reached heights in Government rarely touched by senior career officials.

He has been an adviser to the last four Presidents but he also has counseled thousands of rank-and-file employees on careers in the Federal service.

He has had a hand in every major piece of Federal employee legislation and every significant employee policy over the past score of years.

He has won such honors as the President's award, the Rockefeller public service award and the National Civil Service League award for standout civil servants.

He's one of the handful of persons who have an intimate knowledge of the career service, the Government power structure and how the bureaucracy functions.

He began his Federal career as a $1700-a-year senior clerk 35 years ago, and will retire Sept. 30 at 60 as assistant to the director of the Budget Bureau.

His name: Roger W. Jones.

But he won't completely sever his connections with Government. He couldn't. He will continue to devote his talents to the improvements of governments at all levels.

He will become the senior civil servant in residence at Princeton's Woodrow Wilson School for Public Administration where he will work to prepare students for public service.

He also will devote time to the new Federal Executive Center to open next month in Charlottesville, Va., and he will work on manpower programs for State and local governments.

He isn't likely to accept any of the numerous financially attractive positions he has been offered over the years for fear of becoming "bored stiff."

Modest and unflappable, Jones was referred to as "my conscience" by former President Truman. At the time he was director of the Budget Bureau's Legislative Service and he advised Mr. Truman on bills to sign or veto.

President Eisenhower appointed him Deputy Director of the Budget Bureau and later Chairman of the Civil Service Commission. He also encouraged Fortune Magazine in November, 1953, to use the article, "This Is a Bureaucrat," which told of Jones and his service to the Nation.

President Kennedy appointed Jones Deputy Undersecretary of State for Administration. It was during this period that career employes, for the first time, were called in for private chats with a President. Jones helped to arrange for career Foreign Service officers to talk with Mr. Kennedy.

Jones has been in his present post since Mr. Johnson has been in the White House, but it didn't take the President or his staff long to become aware of his extraordinary talents.

Mr. Johnson appointed him to the committee to study the Hatch Act, and as staff director of two panels to study executive salaries. He was the Budget Director's alternate on groups that studied reforms in the labor-management program and the Civil Service retirement system.

Looking back, the Budget official is convinced that Federal personnel have been very fortunate in having Presidents Truman, Eisenhower, Kennedy and Johnson.

"All of them," he declared, "were employee-oriented and each had a real feel for personnel policy." Often, he added, these Presidents were ahead of their advisors on personnel affairs.

Mr. Truman, he recalls, was "great institutionally; he knew how to use the machinery of Government."

Mr. Eisenhower advanced the Federal employe health and life insurance programs even before employes had thought of them. He also made the first start toward a system of comparable salaries for Federal employes, and launched what have become major programs of training employes.

Mr. Kennedy, he said, had a deep interest in Federal employes. He issued the first order setting up a labor-management program; he started implementation of the comparability salary principle; he improved fringe benefits, and unveiled the "total compensation" concept for employes.

Mr. Johnson, Jones finds, is basically management-minded. "He likes to particiapte in employe award programs, to lead campaigns to reduce costs and to increase productivity." But he also has made extensive use of career people whom he likes and trusts, and he has seen and talked with more of them than any President.

Jones' service in Government faced a crisis when he crossed from the career service to accept two jobs in the political area, jobs which were regarded as points of no return.

He didn't have to return to the Budget Bureau in a Grade 18 career job but he did. Why? "Because," he explained, "I felt I owed it to the career service to demonstrate that it was possible to take a political post and return and be of service in a career job." He proved his point.

ROBERT KENNEDY—CONSERVATIONIST

Mr. METCALF. Mr. President, the September issue of American Forests contains a fine article which adds to our insights into Robert Kennedy.

I commend James Craig, editor, for telling the highlights of a long and complex conservation issue and the role of Robert Kennedy in it with accuracy and objectivity.

"Access to the National Forests"—the subject of this story—was an issue needing resolution. I, too, played a part in this after Attorney General Kennedy issued his opinion in 1962.

Thus, I can vouch for the facts, and the personal observations Editor Craig includes faithfully meets my recollection, for example, of the discussions the Senator from Oregon [Mr. MORSE] held with Attorney General Kennedy.

This story is about Robert Kennedy, and he justly deserves it. Senator WAYNE MORSE, who has been the leader over the years on improving access policy for the national forests, receives proper mention. I recall well Senator MORSE discussing with other Senators and myself the reasons why he was persuaded that Attorney General Kennedy should be asked to resolve this matter.

Beyond the conservation meaning of this story, the way Attorney General Kennedy went about reaching his decision earned for him a great deal of respect for his thoroughness, his sensitivity to basic principles of law and procedure, and his objectivity.

Robert Kennedy, as this article suggests, understood the fabric of conservation. Its deeper and true meaning he fully grasped and thus he could and did approach this question of law for the forests as a man who respected equally the principles of justice and the meaning of conservation.

Senator EDWARD KENNEDY asked that his brother Robert not be made larger in death than he was in life. American Forests and its editor, Jim Craig, deserve commendation for respecting this wish.

Robert Kennedy was a great conservationist because he cared. I ask unanimous consent that the article be printed in the RECORD.

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

ROBERT KENNEDY'S BIG CASE

(By James B. Craig)

When President Kennedy named his brother Attorney General in 1961 there was quite a bit of criticism from the rival party. Some said he was too young, too inexperienced, and that no President should name his own kinfolk to top Cabinet positions. The President had a way of disarming his critics and he did so in this case. He said he didn't see why anyone should object to his giving Robert some practical experience before sending him out to practice law on his own. Actually the President wanted someone in the job he could trust. He trusted Robert.

This episode was still fresh in people's minds when the young Attorney General received a visit from one of the top constitutional lawyers in the U.S. Senate, the Hon. Wayne Morse, of Oregon, Scotch-taped to the rich oak panels in the Attorney General's imposing office were gaily-colored drawings by the Kennedy children. The bottom drawer of the Attorney General's desk had been yanked out to provide a footrest for the Attorney General's feet. A football was handy nearby. On occasion, the Attorney General had surprised visitors by chucking it at them.

But on this day all was very formal. Senator Morse addressed his host as "Mr. Attorney General." After the most perfunctory of greetings, the Senator began to speak and the Attorney General listened. As is his way, the Senator presented both sides of the case with brilliance and clarity—his own side and the other side. The subject on this day was a very important aspect of national forest use.

To tell the story requires a bit of background.

In the era following World War II, use of the national forests, for every purpose for which these great public properties were created, increased in dramatic ways. Timber harvesting leaped upwards; less than two million board feet of timber a year was sold before the War; afterwards, sales doubled and would soon double again.

Railroad logging had been replaced by truck logging. There was a big demand on the Forest Service by the timber industry to put more timber up for sale. Outside the Forest Service, any recognition of the need for advance planning and construction for the road network was hard to obtain. The decade of the 50's found the Service constantly short of needed funds for roads; it came to rely heavily on timber purchasers for access road construction.

Even in the West, the national forests are not all solid blocks—they are interspersed with private lands very often held by timber companies. Forest management goals required cooperation between the Forest Service and the intermingled private timber landowners in construction of road networks. Where cooperation was not forthcoming, the national forests timber and associated resources could not adequately be managed. An informal interpretation of a section of the Act of June 4, 1897, by the Department of Agriculture's General Counsel in 1950 prevented the Forest Service from obtaining ingress to the national forest land across intervening private lands. Where a private timber landowner requested a permit to cross national forest land to reach his private timber, the Service was obliged to grant such access and could not require reciprocal rights of access to similarly reach and manage the national forest resources.

This story is about the role of Robert Francis Kennedy, Attorney General of the United States, in reviewing this policy as the chief law officer for the Executive Branch of the Federal Government.

The legal issue required an interpretation of these words in the statute which created the national forests out of the public domain:

The Secretary of Agriculture . . . may make such rules and regulations and establish such service as will insure the objects of such reservations; namely, to regulate their occupancy and use, and to preserve the forest thereon from destruction. . . . .

Nothing herein shall be construed as prohibiting the egress or ingress of actual settlers residing within the boundaries of such reservations or from crossing the same to and from their property or homes; *and such wagon roads and other improvements to be constructed hereon as may be necessary to reach their homes and to utilize their property under such rules and regulations as may be prescribed by the Secretary of Agriculture. Nor shall anything herein prohibit any person from entering upon such forest reservations for all proper and lawful purposes including that of prospecting, locating, and developing the mineral resources thereof: provided, that such persons comply with the rules and regulations governing such forest reservations. (16 U.S.C. 478, 30 Stat. 36.)*

Agriculture's General Counsel thought that "actual settlers residing within the boundaries of the national forests" encompassed all landowners. Thus, it believed that when a timber landowner asked for a permit to build a road across the forest his request had to be granted. Thus the Forest Service did not believe it had authority to insist upon a reciprocal right to cross the private lands or to use the portion of the road on the private lands. The other point of view was that "actual settlers residing within the boundaries of the national forests" did not cover every natural person or corporation owning property within such boundaries, and thus a permit to cross national forest land to reach private timberlands could be conditioned. Agriculture agreed that this concept applied to the lands acquired under the Weeks Law and Bankhead-Jones Act.

In 1959, Secretary of Agriculture Ezra Taft Benson requested the 86th Congress to specifically authorize him to require reciprocal grants from private landowners for the 160 million acres of national forests created from public domain. When in 1960 hearings were held on the bill, S. 1797, timber industry spokesmen appeared in strong opposition. The landowning segment of the industry did not want any policy of reciprocity adopted. Several members of Congress, including Senator Morse, who had testified in favor of S. 1797, finally took the position that legislation really was not necessary because the 1897 law already provided the authority needed.

In 1961 after a series of meetings with Department of Agriculture officials, it became apparent that for the present they were willing to forego resolving this issue in order to see how far it actually could go in solving access needs without requiring reciprocity. Agriculture still believed that this authority would be useful.

This position meant, however, that the existing policy would persist: Road permits could continue to be issued without securing reciprocal rights. At this point a decision was reached to ask the Secretary of Agriculture to seek the advice of the Executive's chief legal officer, the Attorney General, in order to determine whether the legal authority already existed and, if so, how it might be applied.

In the spring of 1961, Senator Morse arranged to see Attorney General Kennedy, fully advising him, in advance, of the topic to be discussed. Having argued the merits of the case, the Senator went into the more subjective issues—especially the fact that the Attorney General in effect was being asked to rule on a matter the Secretary of Agriculture seemed reluctant to deal with.

At this juncture the Attorney General began to take an active hand in the conversation and what he had to say indicated he was thoroughly briefed on his subject. He indicated that in the Minnesota wilderness cases, which the Supreme Court had declined to review after the government won, the views of the Department of Justice were similar to Senator Morse's own position. (Perko vs. U.S., 204 F2nd 446.) He said he had already discussed this aspect of the matter with his staff.

Senator Morse then pointed out that were the Attorney General to undertake a review in order to give a formal opinion, he could expect concern from a substantial segment of the timber industry.

The Attorney General next revealed that he had a surprisingly broad background on the national forests and their importance—not only for timber production but for all their uses. In fact he spoke of various national forest programs with such ease and thorough familiarity that one could have been led to believe he might have once worked in the Forest Service.

In short, he had facts at his fingertips. He knew what the issues were, where the various parties stood and why. His expressions were tolerant of other views but even on this day in 1961 he used a characteristic word which he was to use again and again in his 1968 campaign.

That word was "unsatisfactory." And "unsatisfactory" was his view of a situation under which private landowners could require a permit to build a road across public forest with no reciprocity. He also used other expressions characteristic of his more recent campaign: "I want to help," and then the question: "How can I help you?"

The meeting closed with the Attorney General summing up the situation as he understood it. After each major point—pro and con—he asked if he was correct. Then Kennedy reached his initial decision: He would ask the Secretary of Agriculture to submit the question to him and his staff would then review the issues.

He ended on a note of caution and philosophy. He said where a practice long existed, one could make a good case that legislation might be needed. However, where the Executive already has the authority, it should not go back to the Congress to ask permission to do what it already could do. He made it clear that if there were material differences with the situation in the wilderness cases in Minnesota, a legislative enactment might be necessary. If there were not, then an executive agency should use its lawful powers in the public interest. The meeting closed with Kennedy commending the foresight of an earlier generation that had created the national forests and national parks from the public lands.

In April 1961, Senator Morse had submitted key questions to Secretary of Agriculture Freeman with the request that the Attorney General be asked to render a decision. In August 1961 the Secretary presented the questions to the Attorney General.

Before an opinion was handed down, another meeting was held at Justice at the request of Nicholas de B. Katzenbach, Assistant Attorney General, Office of Legal Counsel. He expressed the Attorney General's concern that some of the timber industry spokesmen had advised that should the Attorney General render an opinion to the effect that the Secretary of Agriculture had authority to require recriprocal rights, a suit would be filed to overturn it.

In that meeting another insight into Attorney General Kennedy's character emerged through his Assistant. Threats were not an effective way to persuade Robert Kennedy on the merits of a case.

On February 2, 1962, the Attorney General gave his opinion. The substance of the

issue, he said, is whether the Secretary of Agriculture had the authority to grant a permit to use an existing road or to build a new road across a national forest on condition that the applicant confer on the United States a reciprocal benefit with respect to a road crossing his own property. Acknowledging that landowners might not be inclined to permit the Forest Service to cross their property, he described the situation in the recent past.

The Attorney General pointed out that "ordinarily, in order to avoid conflict with judicial tribunals, my predecessors have refused to issue opinions in situations similar to that here presented, i.e., in which there is a substantial likelihood that the issue discussed and the opinion would become the subject of litigation. Nevertheless, special circumstances exist in this instance which seem to me to justify a departure from this general practice." He noted that if he refused to supply the requested opinion the Secretary would be placed in the position of either having to follow his General Counsel's view in the administration of the statute with the consequence that the scope of his authority could not be determined judicially or otherwise or of disregarding his Counsel's views without further legal advice.

He went on, "My failure to issue an opinion consequently would place you in an awkward position. Further, in the Minnesota wilderness area litigation, this Department had already taken a position contrary to that of your General Counsel on one of the issues raised by your inquiry. In those unusual circumstances, I believe I have the obligation to depart from the normally applicable rule of declining to render an opinion where the issues presented in it are likely to become the subject of litigation."

The Attorney General's opinion held that the term "actual settler" must be a person claiming under the Settlement or Homestead Law the benefits which have been traditionally limited to natural persons to the exclusion of corporations and further that the settler must be residing on the land.

On reciprocity he said the issue was not whether the Secretary had "a mandatory duty to impose a reciprocity requirement on applicants who seek to cross national forests . . . but whether you possess any discretionary authority to do so. My conclusion that you generally possess this discretionary authority, of course, does not preclude the possibility that in the circumstances of particular cases, which are not before me, the area of your authority may be significantly narrowed by such circumstances. In any event, the question of whether you should exercise whatever authority you possess is a matter for you to determine. Problems of both policy and law may affect your exercise of discretion."

Since 1962, regulations have been issued by the Forest Service implementing broad and cooperative forest access and exchanges of rights-of-way. Public Law 88-657 of 1964 rounded out the authority of the Secretary of Agriculture to construct and maintain an adequate system of roads and trails for the national forests. In the hearings, timber industry spokesmen made substantial efforts to have the Attorney General's opinion overturned; conservation leaders gave it their support. The Senate Public Works Committee, in reporting the bill, said that it was intended "neither to affirm nor to abrogate the Attorney General's interpretation of the Act of June 4, 1897." No court actions challenging the Attorney General's opinion have ever been filed.

In applying the Opinion, the Secretary of Agriculture concluded he would no longer issue automatic permits to people who wished to build roads across national forest land. He also concluded he would not automatically condition the grant of a right-of-way across the national forests upon receipt of reciprocal rights-of-way across the private land. The result has been to produce the policy goals sought while the larger authority is sheathed but right at hand. As a result, timber landowners who now seek to build roads across national forests willingly grant to the Forest Service the access it needs to manage them.

By May 1968 as a result of the combination of Attorney General Kennedy's 1962 Opinion and the 1964 Act, the Forest Service had made 323 'Share-Cost" agreements with private landowners. These agreements covered over 3,500 miles of road valued at more than $50 million and serviced forest lands containing 98 billion board feet, of which 71 billion board feet is public timber and 27 billion board feet is private timber. Efficient management of entire forest areas regardless of ownership has thus been materially advanced.

Many people were involved in proposing and opposing the development of this access policy. At various junctures the actions of one or another key governmental official was significant in propelling the issue toward resolution. Robert Kennedy made a unique contribution by acting positively when an easier choice would have been to stand back. He provided for timely action.

PROTOCOL AND U.N. CONVENTION ON STATUS OF REFUGEES MUST BE RATIFIED

Mr. PROXMIRE. Mr. President, this morning hearings are being held before the Committee on Foreign Relations on both the U.N. Refugee Convention and the recently submitted protocol to that convention. It is my hope that their deliberations will result in a unanimous recommendation for ratification of both instruments by the Senate.

The President submitted the protocol to the Senate on August 1 of this year and asked for immediate consideration. I am gratified that the committee has decided to hold hearings at this time so the Senate possibly will have the opportunity of ratifying at least one convention and one protocol relating to the protection of human rights. Surely this is the least the Senate can do during this year dedicated to internationalizing human rights.

The Convention, as modified by the protocol, provides for international protections for refugees without any time limit or date of eligibility for refugee status. It provides for the well-being of those who have had to flee their homes and countries because of persecution for their "race, religion, nationality, membership of a particular social group, or political opinion."

Mr. President, there is absolutely no reason that these instruments should not be ratified and loudly proclaimed. Ratification is called for by overwhelming humanitarian and foreign policy considerations.

Reservations included in the Letter of Submittal remove even the slightest possible conflict between Federal and State law and provisions of the Convention and protocol.

Mr. President, I invite the attention of Senators, and my friends in the press to these extremely important instruments for the protection of basic human rights of men everywhere. During this period when we are seeing a brutal civil war in Nigeria-Biafra and the reckless invasion of Czechoslovakia—both conflicts resulting in numerous refugees—it would be most fitting for the Senate to ratify the convention and the protocol and for the press to take notice of them. This is the kind of news that should be printed and printed again.

Mr. President, I ask unanimous consent that the letters of transmittal and submittal and the protocol, convention, and list of parties to both be printed in the RECORD.

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

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING THE PROTOCOL RELATING TO THE STATUS OF REFUGEES, DONE AT NEW YORK ON JANUARY 31, 1967

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *August 1, 1968.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to accession, I transmit herewith the Protocol Relating to the Status of Refugees, which was endorsed by the United Nations General Assembly in December 1966 and soon thereafter opened for accession by the Secretary General. Annexed is the text of the 1951 Convention Relating to the Status of Refugees, to which the Protocol relates.

I transmit also, for the information of the Senate, the report by the Secretary of State with respect to the Protocol.

The Protocol constitutes a comprehensive Bill of Rights for refugees fleeing their country because of persecution on account of their political views, race, religion, nationality, or social ties. The United Nations has designated 1968 as International Year for Human Rights, and on October 11, 1967, I proclaimed the year 1968 to be Human Rights Year in the United States. Foremost among the humanitarian rights which the Protocol provides is the prohibition against expulsion or return of refugees to any country in which they would face persecution. Through a number of other specific guarantees, refugees are to be accorded rights which—taken together—would enable them to cease being refugees, and instead to become self-supporting members of free societies, living under conditions of dignity and self-respect.

It is decidedly in the interest of the United States to promote this United Nations effort to broaden the extension of asylum and status for those fleeing persecution. Given the American heritage of concern for the homeless and persecuted, and our traditional role of leadership in promoting assistance for refugees, accession by the United States to the Protocol would lend conspicuous support to the effort of the United Nations toward attaining the Protocol's objectives everywhere. This impetus would be enhanced by the fact that most refugees in this country already enjoy the protection and rights which the Protocol seeks to secure for refugees in all countries. Thus, United States accession should help advance acceptance of the Protocol and observance of its humane standards by States in which, presently, guarantees and practices relating to protection and other rights for refugees are less liberal than in our own country.

Accession to the Protocol would not impinge adversely upon established practices under existing laws in the United States. State laws are not superseded by the Convention or Protocol. In two instances where divergences between the Convention and United States laws would cause difficulty, appropriate reservations are recommended.

Refugee problems—in their origin and in their resolution—cannot be divorced from the strife, tensions and oppression which are so detrimental to the well-being of nations

and peoples. Once refuges secure asylum, it is essential on humanitarian grounds alone that they be assisted. But emergency assistance—in the absence of rights such as those provided in the Protocol—can degenerate into permanent relief, fostering the refugees' human deterioration and permitting abandonment of responsibility by concerned governments. On the other hand, the provision of such rights can lead to just and lasting solutions to refugee problems. Such solutions in turn can help promote the reduction of tensions, the solution of broader issues and the stability of concerned nations.

United States accession to the Protocol would thus constitute a significant and symbolic element in our ceaseless effort to promote everywhere the freedom and dignity of the individual and of nations; and to secure and preserve peace in the world.

I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to accession, subject to two reservations, as recommended in the report of the Secretary of State.

LYNDON B. JOHNSON.

(Enclosures: (1) Report of the Secretary of State; (2) 1967 Protocol Relating to the Status of Refugees; (3) 1951 Convention Relating to the Status of Refugees; and (4) list of parties to the protocol and to the convention.)

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, July 25, 1968.

The PRESIDENT,
The White House:

I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to accession, a certified copy of the Protocol Relating to the Status of Refugees, done at New York on January 31, 1967. Also enclosed for the information of the Senate is a copy of the Convention Relating to the Status of Refugees of July 28, 1951, the substantive portions of which are incorporated into the Protocol.

In recommending that you submit the Protocol to the Senate, I particularly recall that the year 1968 has been designated by the United Nations as International Year for Human Rights and proclaimed by you as Human Rights Year in the United States.

The Convention and the Protocol are separate instruments. Both seek to promote effective protection for refugees, and to secure for them a number of specific rights designed to improve their legal, political, economic and social status within asylum or third countries. The Protocol incorporates the Convention's definition of refugees as persons who are outside of and are unwilling to return to their respective countries of nationality or habitual residence because of "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion."

The Convention, however, is applicable only to persons who have become refugees as a result of events occurring before January 1, 1951. The Protocol removes this dateline and also binds acceding States to apply substantive Articles 2 through 34 of the Convention. Thus, parties to the Protocol are bound to extend to refugees the benefits of the Convention without limitation as to eligibility imposed by the Convention's dateline. The Protocol, like the Convention, requires Contracting States to cooperate with the United Nations High Commissioner for Refugees (UNHCR) and to furnish certain information regarding refugees.

The Convention was adopted by a United Nations Conference of Plenipotentiaries in 1951, and has been adhered to by 53 states. It constituted the most comprehensive codification of the rights of refugees so far attempted on an international level. A fundamental provision of the Convention (Article 33) prohibits the expulsion or return of refugees to territories where their life or freedom would be threatened. Other important provisions deal with freedom of religion for refugees, the right of free access to courts of law, the right to hold gainful employment, to acquire property, to move freely, and to participate in the benefits of public education, relief, social security, unemployment compensation, and other programs. Given these rights, the opportunity exists for refugees to become self-supporting and to live in dignity and self-respect within asylum countries or third countries. Broader application of these rights could lead to the reduction or termination of international relief.

The Protocol was developed under the auspices of the UNHCR in 1965. The UNHCR Executive Committee submitted it in 1966 to the United Nations General Assembly through the Economic and Social Council. The General Assembly passed upon the Protocol in December 1966, and in March 1967—acting upon the request of the General Assembly—the Secretary General opened the Protocol for accession. It came into force for the parties to the Protocol in November 1967 with the accession of Sweden as the sixth party. (Annexed are lists of the 18 states which have acceded to the Protocol and the 53 states parties to the Convention.)

United States accession to the Protocol would be effected by the deposit of an instrument of accession with the Secretary General of the United Nations, and the Protocol would come into force for the United States on the date of such deposit. The United States would be able to withdraw its accession to the Protocol at any time by a notification addressed to the Secretary General. Withdrawal would take effect one year from the date of such notification.

As concerns refugees' rights within Contracting States, the general approach of the Protocol is to provide that refugees in each acceding country are to be accorded due process of law and, as specified, are to be treated without discrimination either as compared with other refugees, with other aliens or with nations. Among the most significant matters in which refugees would be guaranteed treatment comparable to that accorded other aliens are self-employment (Article 18 of the Convention); the practice of liberal professions (Article 19); housing, to the extent regulated by laws or regulations or controlled by public authorities (Article 21); public education above the elementary level (Article 22, paragraph 2); and freedom of movement (Article 26) within the territory of the Contracting State.

Refugees are to receive treatment equivalent to the most favorable treatment accorded to nationals of a foreign country (most favored nation treatment) as regards the right to participate in trade unions and other nonpolitical and non-profit-making associations (Article 15) and the right to engage in wage-earning employment (Article 17, paragraph 1).

The Protocol provides for refugees to receive treatment comparable to that given nationals in such matters as freedom in the practice of religion and in the religious education of their children (Article 4); free access to courts (Article 16); the protection of industrial property and of artistic, literary and scientific copyrights (Article 14); elementary education (Article 22, paragraph 1); public relief and assistance (Article 23); workmen's compensation and other benefits under labor and social security laws (Article 24); and the imposition of taxes, duties and other charges by Contracting States (Article 29). Most of these are rights and benefits comparable to those normally provided to non-refugee aliens in treaties of friendship, commerce and navigation and other treaties.

There is also provision (Article 28) for the issuance of a refugee travel document to facilitate travel abroad with the right of return within specified time limits.

United States accession to the Protocol would not impinge adversely upon the laws of this country. By virtue of Article VI of the Protocol, the United States would assume obligations only in respect of matters that come within the legislative jurisdiction of the Federal Government. State laws would not be superseded by any provision of the Convention. With respect to any articles of the Convention that may come within the legislative jurisdiction of the states under our constitutional system, the Federal Government is obligated to bring such articles to the notice of the appropriate state authorities with a favorable recommendation.

Further, only a few provisions of Federal law would be affected by the terms of the Convention. These matters, with two exceptions, present no serious difficulty for the United States. There is an apparent conflict, however, between Article 29(1) of the Convention and United States revenue laws pertinent to the taxation of nonresident aliens, which can be avoided by interposition of an appropriate reservation. Therefore it is proposed that the United States accession to the Protocol be accompanied by a reservation to Article 29(1) of the Convention in the following terms:

"The United States of America construes Article 29 of the Convention as applying only to refugees who are resident in the United States and reserves the right to tax refugees who are not residents of the United States in accordance with its general rules relating to nonresident aliens."

A second reservation is proposed to avoid a conflict between Article 24 of the Convention and certain provisions of the social security laws particularly in regard to residence requirements applicable to aliens but not to citizens. It is proposed that the reservation read as follows:

"The United States of America accepts the obligation of paragraph 1(b) of Article 24 of the Convention except insofar as that paragraph may conflict in certain instances with any provision of title II (old age, survivors' and disability insurance) or title XVIII (hospital and medical insurance for the aged) of the Social Security Act. As to any such provision, the United States will accord to refugees lawfully staying in its territory treatment no less favorable than is accorded aliens generally in the same circumstances."

Article 7(2) of the Convention provides that "after a period of three years residence all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States". The commentary on this article by the Committee on the Draft Convention Relating to the Status of Refugees notes that "since a refuggee is not protected by any State, the requirement of reciprocity loses its *raison d'etre* and its application to refugees would be a measure of severity. Refugees would be placed in an unjustifiable position of inferiority". In addition, Article 16(1) provides for free access to the courts of law on the territory of all Contracting States. These provisions would qualify, in regard to refugees, the reciprocity requirement of Title 28, United States Code, Section 2502 in relation to suits by aliens in the Court of Claims.

As stated earlier, foremost among the rights which the Protocol would guarantee to refugees is the prohibition (under Article 33 of the Convention) against their expulsion or return to any country in which their life or freedom would be threatened. This article is comparable to Section 243(h) of the Immigration and Nationality Act, 8 U.S.C. Section 1254, and it can be implemented within the administrative discretion provided by existing regulations. Article 32(1) of the Convention provides that, "The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order." Many if not most of the grounds for deportation set forth in Section 241 of the Immigration and Nationality Act, 8 U.S.C. 1251, are grounds of "national security or public order," including

particularly the several provisions relating to subversive activities and criminal conduct. As refugees by definition are without a homeland, deportation of a refugee is a particularly serious measure, and it would not be humanitarian to deport a refugee for reasons of health or economic dependence.

Accession to the Protocol would promote our foreign policy interests through reaffirming, in readily understandable terms, our traditional humanitarian concerns and leadership in this field. It would also convey to the world our sympathy and firm support in behalf of those fleeing persecution. Actually, most refugees in the United States already enjoy legal and political rights which are equivalent to those which states acceding to the Convention or the Protocol are committed to extend to refugees within their territories. Under United States laws and practices, refugees entering this country normally have either been admitted as permanent resident aliens or have been provided opportunity to obtain such status within a reasonable period following their entry. These refugees have been given the opportunity to acquire citizenship in due course and meanwhile to receive rights shared by all other legally admitted aliens. With the exception of voting, such aliens enjoy in the United States virtually the same rights as United States citizens. A succession of special refugee imigration measures enacted since 1945 has been the chief element in our country's bi-partisan program for accepting refugee immigrants and according them status promoting their assimilation in the United States as citizens.

The removal by the Protocol of the refugee eligibility dateline in the Convention has caused international interest. It has been felt by many that, with the passage of time, it may become progressively difficult to establish a causal link between some refugee problems emerging in the future and events which took place prior to 1951. It is considered that the Protocol—having no cut-off date for eligibility—is more clearly applicable to current and future refugee problems, and thus provides a more effective basis for accomplishment. In these terms, the Protocol strengthens the Convention as an instrument of the United Nations.

The Protocol—like the Convention—provides that disputes concerning its interpretation or application that cannot be settled by other means may be referred to the International Court of Justice. The provision is similar to that included in our bilateral treaties of friendship, commerce and navigation since 1946 and in numerous multilateral treaties to which the United States is a party.

United States accession to the Protocol is strongly supported by numerous American organizations having broad domestic support. Both the American Council of Voluntary Agencies and the American Immigration and Citizenship Conference have petitioned the Government, in behalf of a total of 86 organizations, urging that the United States accede to the Protocol during International Year for Human Rights. The forty-three member agencies of the American Council include all of the major religious, nationality and other American voluntary agencies engaged in conducting refugee and resettlement programs in countries throughout the world (including the United States) and in coordinating the support and contributions of the American public for such purposes. Thirteen of these agencies were also among the 56 organizations which requested the American Immigration and Citizenship Conference to transmit to the Government their support of accession. The other 43 organizations represented in the Conference petition include major labor unions, nationality, religious and ethnic groups and a cross section of citizen organizations concerned with extending social and other assistance in this country to immigrants and other persons of foreign origin.

Respectfully submitted.

DEAN RUSK.

(Enclosures: (1) 1967 Protocol Relating to the Status of Refugees; (2) 1951 Convention Relating to the Status of Refugees; and (3) list of parties to the protocol and to the convention.)

PROTOCOL RELATING TO THE STATUS OF REFUGEES

The States Parties to the present Protocol,

Considering that the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 (hereinafter referred to as the Convention) covers only those persons who have become refugees as a result of events occuring before 1 January 1951,

Considering that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention,

Considering that it desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline 1 January 1951,

Have agreed as follows:

Article I. General provisions

1. The States Parties to the present Protocol undertake to apply articles 2 to 34 inclusive of the Convention to refugees as hereinafter defined.

2. For the purpose of the present Protocol, the term "refugee" shall except as regards the application of paragraph 3 of this article, mean any person within the definition of article 1 of the Convention as if the words "As a result of events occurring before 1 January 1951 and * * * " and the words "* * * as a result of such events", in article 1A(2) were omitted.

3. The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with article 1B(1)(*a*) of the Convention, shall, unless extended under article 1B(2) thereof, apply also under the present Protocol.

Article II. Cooperation of the national authorities with the United Nations

1. The States Parties to the present Protocol undertake to cooperate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.

2. In order to enable the Office of the High Commissioner, or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them with the information and statistical data requested, in the appropriate form, concerning:

(*a*) The condition of refugees;

(*b*) The implementation of the present Protocol;

(*c*) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article III. Information on national legislation

The States Parties to the present Protocol shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of the present Protocol.

Article IV. Settlement of disputes

Any dispute between States Parties to the present Protocol which relates to its interpretation or application and which cannot be settled by other means shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article V. Accession

The present Protocol shall be open for accession on behalf of all States Parties to the Convention and of any other State Member of the United Nations or member of any of the specialized agencies or to which an invitation to accede may have been addressed by the General Assembly of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article VI. Federal clause

In the case of a Federal or non-unitary State, the following provisions shall apply:

(*a*) With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of States Parties which are not Federal States;

(*b*) With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;

(*c*) A Federal State Party to the present Protocol shall, at the request of any other State Party hereto transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol, showing the extent to which effect has been given to that provision by legislative or other action.

Article VII. Reservations and declarations

1. At the time of accession, any State may make reservations in respect of article IV of the present Protocol and in respect of the application in accordance with article I of the present Protocol of any provisions of the Convention other than those contained in articles 1, 3, 4, 16(1) and 33 thereof, provided that in the case of a State Party to the Convention reservations made under this article shall not extend to refugees in respect of whom the Convention applies.

2. Reservations made by States Parties to the Convention in accordance with article 42 thereof shall, unless withdrawn, be applicable in relation to their obligations under the present Protocol.

3. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw such reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

4. Declaration made under article 40, paragraphs 1 and 2, of the Convention by a State Party thereto which accedes to the present Protocol shall be deemed to apply in respect of the present Protocol, unless upon accession a notification to the contrary is addressed by the State Party concerned to the Secretary-General of the United Nations. The provisions of article 40, paragraphs 2 and 3, and of article 44, paragraph 3, of the Convention shall be deemed to apply *mutatis mutandis* to the present Protocol.

Article VIII. Entry into force

1. The present Protocol shall come into force on the day of deposit of the sixth instrument of accession.

2. For each State acceding to the Protocol after the deposit of the sixth instrument of

accession the Protocol shall come into force on the date of deposit by such State of its instrument of accession.

Article IX. Denunciation

1. Any State Party hereto may denounce this Protocol at anytime by a notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the State Party concerned one year from the date on which it is received by the Secretary-General of the United Nations.

Article X. Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform the States referred to in article V above of the date of entry into force, accessions, reservations and withdrawals of reservations to and denunciations of the present Protocol, and of declarations and notifications relating hereto.

Article XI. Deposit in the Archives of the Secretariat of the United Nations

A copy of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, signed by the President of the General Assembly and by the Secretary-General of the United Nations, shall be deposited in the archives of the Secretariat of the United Nations. The Secretary-General will transmit certified copies thereof to all States Members of the United Nations and to the other States referred to in article V above.

In accordance with article XI of the Protocol, we have appended our signatures this thirty-first day of January one thousand nine hundred and sixty-seven.

A. R. PAZHWAK,
President of the General Assembly of the United Nations.

U THANT,
Secretary-General of the United Nations.

UNITED NATIONS CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSON—CONVENTION RELATING TO THE STATUS OF REFUGEES

PREAMBLE

The HIGH CONTRACTING PARTIES,

CONSIDERING that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination.

CONSIDERING that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms.

CONSIDERING that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and the protection accorded by such instruments by means of a new agreement,

CONSIDERING that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation,

EXPRESSING the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

NOTING that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner,

HAVE AGREED as follows:

Chapter I. General provisions

Article 1. Definition of the Term "Refugee"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfill the conditions of paragraph 2 of this section;

(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. (1) For the purposes of this Convention, the words "events occurring before 1 January 1951" in article 1, section A, shall be understood to mean either

(*a*) "events occurring in Europe before 1 January 1951"; or

(*b*) "events occurring in Europe or elsewhere before 1 January 1951";

and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Conventon.

(2) Any Contracting State which has adopted alternative (*a*) may at any time extend its obligations by adopting alternative (*b*) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of section A if:

(1) He has voluntarily re-availed himself of the protection of the country of his nationality; or

(2) Having lost his nationality, he has voluntarily reacquired it; or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

(6) Being a person who has no nationality he is, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(*a*) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(*b*) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

(*c*) he has been guilty of acts contrary to the purposes and principles of the United Nations.

Article 2. General Obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3. Non-discrimination

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article 4. Religion

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practice their religion and freedom as regards the religious education of their children.

Article 5. Rights Granted Apart From This Convention

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

Article 6. The Term "in the Same Circumstances"

For the purpose of this Convention, the term "in the same circumstances" implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfill for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 7. Exemption From Reciprocity

1. Except where this Convention contains more favourable provisions, a Contracting state shall accord to refugees the same treatment as is accorded to aliens generally.

2. After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.

3. Each Contracting State shall continue

to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.

4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfill the conditions provided for in paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

Article 8. Exemption from Exceptional Measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favour of such refugees.

Article 9. Provisional Measures

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

Article 10. Continuity of Residence

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.

2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 11. Refugee Seamen

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

Chapter II. Juridical status

Article 12. Personal Status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

Article 13. Movable and Immovable Property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 14. Artistic Rights and Industrial Property

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

Article 15. Right of Association

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 16. Access to Courts

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.

2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the Courts, including legal assistance and exemption from *cautio judicatum solvi*.

3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

Chapter III. Gainful employment

Article 17. Wage-earning Employment

1. The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:

(*a*) He has completed three years' residence in the country.

(*b*) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefit of this provision if he has abandoned his spouse.

(*c*) He has one or more children possessing the nationality of the country of residence.

3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 18. Self-employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19. Liberal Professions

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

2. The Contracting States shall use their best endeavors consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.

Chapter IV. Welfare

Article 20. Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

Article 21. Housing

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 22. Public Education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarship.

Article 23. Public Relief

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 24. Labour Legislation and Social Security

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:

(*a*) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining;

(*b*) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfill the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not

be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and noncontracting States.

Chapter V. Administrative measures

Article 25. Administrative Assistance

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.

2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.

3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.

4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.

5. The provisions of this article shall be without prejudice to articles 27 and 28.

Article 26. Freedom of Movement

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.

Article 27. Identity Papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

Article 28. Travel Documents

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 29. Fiscal Charges

1. The Contracting State shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

Article 30. Transfer of Assets

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.

2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

Article 31. Refugees Unlawfully in the Country of Refuge

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

Article 32. Expulsion

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 33. Prohibition of Expulsion or Return ("Refoulement")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

Article 34. Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

Chapter VI. Executory transitory provisions

Article 35. Co-operation of the National Authorities with the United Nations

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:

(*a*) the condition of refugees.

(*b*) the implementation of this Convention, and

(*c*) laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article 36. Information on National Legislation

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure application of this Convention.

Article 37. Relation to Previous Conventions

Without prejudice to article 28, paragraph 2, of this Convention, this Convention replaces, as between parties to it, the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30 June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 and the Agreement of 15 October 1946.

Chapter VII. Final Clauses

Article 38. Settlement of Disputes

Any dispute between parties to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article 39. Signature, Ratification and Accession

1. This Convention shall be opened for signature at Geneva on 28 July 1951 and shall thereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office of the United Nations from 28 July to 31 August 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 17 September 1951 to 31 December 1952.

2. This convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open from 28 July 1951 for accession by the States referred to in paragraph 2 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 40. Territorial Application Clause

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extention shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of

entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

Article 41. Federal Clause

In the case of a Federal or non-unitary State, the following provisions shall apply:

(a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States;

(b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of states, provinces or cantons at the earliest possible moment.

(c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

Article 42. Reservations

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16 (1), 33, 36–46 inclusive.

2. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 43. Entry Into Force

1. This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

Article 44. Denunciation

1. Any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.

3. Any State which has made a declaration or notification under article 40 may, at any time thereafter, by a notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

Article 45. Revision

1. Any Contracting State may request revision of this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall recommend the steps, if any, to be taken in respect of such request.

Article 46. Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 39:

(a) Of declarations and notifications in accordance with section B of article 1;

(b) Of signatures, ratifications and accessions in accordance with article 39;

(c) Of declarations and notifications in accordance with article 40;

(d) Of reservations and withdrawals in accordance with article 42;

(e) Of the date on which this Convention will come into force in accordance with article 43;

(f) Of denunciations and notifications in accordance with article 44;

(g) Of requests for revision in accordance with article 45.

IN FAITH WHEREOF the undersigned, duly authorized, have signed this Convention on behalf of their respective governments,

DONE at Geneva, this twenty-eighth day of July, one thousand nine hundred and fifty-one, in a single copy of which the English and French texts are equally authentic and which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all Members of the United Nations and to the non-member States referred to in article 39.

Schedule

Paragraph 1

1. The travel document referred to in article 28 of this Convention shall be similar to the specimen annexed hereto.

2. The document shall be made out in at least two languages, one of which shall be English or French.

Paragraph 2

Subject to the regulations obtaining in the country of issue, children may be included in the travel document of a parent or, in exceptional circumstances, of another adult refugee.

Paragraph 3

The fees charged for issue of the document shall not exceed the lowest scale of charges for national passports.

Paragraph 4

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries.

Paragraph 5

The document shall have a validity of either one or two years, at the discretion of the issuing authority.

Paragraph 6

1. The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same conditions, a matter for the authority which issued the former document.

2. Diplomatic or consular authorities, specially authorized for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.

3. The Contracting States shall give sympathetic consideration to renewing or extending the validity of travel documents or issuing new documents to refugees no longer lawfully resident in their territory who are unable to obtain a travel document from the country of their lawful residence.

Paragraph 7

The Contracting States shall recognize the validity of the documents issued in accordance with the provisions of article 28 of this Convention.

Paragraph 8

The competent authorities of the country to which the refugee desires to proceed shall, if they are prepared to admit him and if a visa is required, affix a visa on the document of which he is the holder.

Paragraph 9

1. The Contracting States undertake to issue transit visas to refugees who have obtained visas for a territory of final destination.

2. The issue of such visas may be refused on grounds which would justify refusal of a visa to any alien.

Paragraph 10

The fees for the issue of exit, entry or transit visas shall not exceed the lowest scale of charges for visas on foreign passports.

Paragraph 11

When a refugee has lawfully taken up residence in the territory of another Contracting State, the responsibility for the issue of a new document, under the terms and conditions of article 28, shall be that of the competent authority of that territory, to which the refugee shall be entitled to apply.

Paragraph 12

The authority issuing a new document shall withdraw the old document and shall return it to the country of issue if it is stated in the document that it should be so returned; otherwise it shall withdraw and cancel the document.

Paragraph 13

1. Each Contracting State undertakes that the holder of a travel document issued by it in accordance with article 28 of this Convention shall be readmitted to its territory at any time during the period of its validity.

2. Subject to the provisions of the preceding sub-paragraph, a Contracting State may require the holder of the document to comply with such formalities as may be prescribed in regard to exit from or return to its territory.

3. The Contracting States reserve the right, in exceptional cases, or in cases where the refugee's stay is authorized for a specific period, when issuing the document, to limit the period during which the refugee may return to a period of not less than three months.

Paragraph 14

Subject only to the terms of paragraph 13, the provisions of this Schedule in no way affect the laws and regulations governing the conditions of admission to, transit through, residence and establishment in, and departure from, the territories of the Contracting States.

Paragraph 15

Neither the issue of the document nor the entries made thereon determine or affect the status of the holder, particularly as regards nationality.

Paragraph 16

The issue of the document does not in any way entitle the holder to the protection of the diplomatic or consular authorities of the country of issue, and does not confer on these authorities a right of protection.

ANNEX

Specimen travel document

The document will be in booklet form (approximately 15 × 10 centimetres).

It is recommended that it be so printed that any erasure or alteration by chemical or other means can be readily detected, and that the words "Convention of 28 July 1951" be printed in continuous repetition on each page, in the language of the issuing country.

(Cover of booklet)

TRAVEL DOCUMENT

(Convention of 28 July 1951)

No.____

(1)

TRAVEL DOCUMENT

(Convention of 28 July 1951)

This document expires on_____unless its validity is extended or renewed.

Name _____
Forename(s) _____
Accompanied by _____ child (children).

1. This document is issued solely with a view to providing the holder with a travel document which can serve in lieu of a national passport. It is without prejudice to and in no way affects the holder's nationality.

2. The holder is authorized to return to _____ [state here the country whose authorities are issuing the document] on or before _____ unless some later date is hereafter specified. [The period during which the holder is allowed to return must not be less than three months.]

3. Should the holder take up residence in a country other than that which issued the present document, he must, if he wishes to travel again, apply to the competent authorities of his country of residence for a new document. [The old travel document shall be withdrawn by the authority issuing the new document and returned to the authority which issued it.] [1]

(This document contains__pages, exclusive of cover.)

(2)

Place and date of birth_____
Occupation _____
Present residence_____
*Maiden name and forename(s) of wife _____
*Name and forename(s) of husband_____

Description

Height _____
Hair _____
Colour of eyes_____
Nose _____
Shape of face_____
Complexion _____
Special peculiarities_____
Children accompaning holder:
Name _____
Forename(s) _____
Place and date of birth_____
Sex _____
(This document contains — pages, exclusive of cover.)

(3)

Photograph of holder and stamp of issuing authority. Finger-prints of holder (if required).

Signature of holder_____
(This document contains — pages, exclusive of cover.)

(4)

1. This document is valid for the following countries:

_____
_____

2. Document or documents on the basis of which the present document is issued:

_____
_____

Issued at_____
Date _____
Signature and stamp of authority issuing the document:
Fee paid:
(This document contains — pages, exclusive of cover.)

[1] The sentence in brackets to be inserted by Governments which so desire.

*Strike out whichever does not apply.

(5)

EXTENSION OR RENEWAL OF VALIDITY

Fee paid:
From _____
To _____
Done at_____
Date _____
Signature and stamp of authority extending or renewing the validity of the document:

EXTENSION OR RENEWAL OF VALIDITY

Fee paid:
From _____
To _____
Done at_____
Date _____
Signature and stamp of authority extending or renewing the validity of the document:
(This document contains—pages, exclusive of cover.)

(6)

EXTENSION OR RENEWAL OF VALIDITY

Fee paid:
From _____
To _____
Done at_____
Date _____
Signature and stamp of authority extending or renewing the validity of the document:

EXTENSION OR RENEWAL OF VALIDITY

Fee paid:
From _____
To _____
Done at_____
Date _____
Signature and stamp of authority extending or renewing the validity of the document:
(This document contains—pages, exclusive of cover.)

(7–32)

VISAS

The name of the holder of the document must be repeated in each visa.
(This document contains—pages, exclusive of cover.)

PROTOCOL RELATING TO THE STATUS OF REFUGEES OF JANUARY 31, 1967

List of parties to the protocol

Algeria
Argentina
Cameroon
Central African Republic
Cyprus
Denmark
The Gambia
Guinea
Holy See
Iceland
Israel
Liechtenstein
Nigeria
Norway
Senegal
Sweden
Switzerland
Yugoslavia
Total, 18.

CONVENTION RELATING TO THE STATUS OF REFUGEES OF JULY 28, 1951

List of parties to the convention

Algeria
Argentina
Australia
Austria
Belgium
Brazil
Burundi
Cameroon
Central African Republic
Colombia
Congo (Brazzaville)
Congo (Kinshasa)
Cyprus
Dahomey
Denmark
Ecuador
Federal Republic of Germany
France
Gabon
The Gambia
Ghana
Greece
Guinea
Holy See
Iceland
Ireland
Israel
Italy
Ivory Coast
Jamaica
Kenya
Liberia
Liechtenstein
Luxembourg
Madagascar
Monaco
Morocco
Netherlands
New Zealand
Niger
Nigeria
Norway
Peru
Portugal
Senegal
Sweden
Switzerland
Togo
Tunisia
Turkey
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
Yugoslavia
Total, 53.

INTERNATIONAL ANTIDUMPING CODE

Mr. MONDALE. Mr. President, a week ago last Wednesday the Senate approved H.R. 17324, which would extend and amend the Renegotiation Act of 1951. I am opposed to the amendment which would repudiate the International Antidumping Code and would force the United States to withdraw from the Code.

This Code is an attempt to standardize the antidumping practices of the major trading countries. It sets out detailed substantive and procedural provisions to assure the fair and consistent administration of the various national antidumping laws.

Eighteen governments signed the Code in Geneva last year, including the EEC countries, Japan, Britain, and Canada, and it became effective July 1, 1968. Without U.S. participation, the Code will certainly collapse and a major attempt to harmonize antidumping procedures and liberalize world trading rules would fail.

The abondonment of the Code concerns me, since I believe it to be advantageous to American traders—exporters, importers, and domestic industry alike.

However, I am even more concerned about the international consequences. It would be bad enough for the United States to abrogate a multilateral agreement following its entry into force. This can only discredit us in the eyes of other countries and weaken confidence in our word. This would be particularly unfortunate at this present time, given our vital need to improve our trade balance as part of the overall effort of restoring our balance of payments to equilibrium.

There is an even more serious consequence, however. As we all know, so-called nontariff barriers are looming larger as tariffs are being steadily reduced, and especially as a result of the Kennedy round. By nontariff barriers I mean such devices as border taxes, buy-national requirements, arbitrary customs valuation, quantitative restrictions, and a host of others.

The International Antidumping Code was regarded—and rightfully so, I think—as a significant step in avoiding potential nontariff barriers; that is, the arbitrary imposition of dumping duties. If the United States is now forced to repudiate the Code, it can only lead other countries to conclude that negotiating agreements on nontariff barriers with the United States is a risky business. And this would be very serious, since the United States has an enormous stake—both economic and political—in a continuing liberalization of world trade.

In short, this amendment could severely hurt our chances of making substantial progress in future years in this critical area. I therefore hope that the conferees on this bill—both from the Senate and the House—will realize the full consequences of this amendment and

will allow time in which to see how specific dumping cases are decided—both in this country and abroad—in light of the provisions of the Code. This will give us an objective basis for determining the value of the Code and avoid a precipitate and premature action which could do great harm to our overall foreign trade policy.

MAJOR PROBLEMS FACING THE NATION

Mr. DOMINICK. Mr. President, San Luis, Colo., is one of the oldest and finest towns in our State. It has the dignity and courtesy so deeply associated with its fine Spanish heritage. Although far from wealthy in terms of per capita income, it has a fine newspaper and a wealth of honesty and imagination in its editorial content.

In the September 6 issue, the editorial deals bluntly and factually with one of the major problems which face the Nation: the multiplicity of Federal agencies and Federal programs. The enormous cost and complexity of these agencies and programs have been reflected in our ever-increasing budget, in ever-expanding deficits, and on ever-increasing taxes.

I ask unanimous consent that this editorial be printed in the RECORD.

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

[From the Costilla County Free Press]

THIS PROBLEM MUST BE SOLVED

Federal bureaucracy gives words a new meaning. For example, "temporary" is synonymous with "forever"; "emergency" becomes "a way of life"; "failure" becomes "an incentive for expansion."

While business will drop an ineffective project after a short trial run, government is more likely to expand it on the theory that a little more money will assure its success.

So, old federal programs continue to pile up. New ones are added. In 1955, the Hoover Commission deplored the fact that 25 federal agencies had water resource development programs; in 1967, 40 agencies were involved.

In 1964, there were 239 programs of grants-in-aid to state and local governments; now there are more than 500.

Ten cabinet departments and more than 15 other agencies are involved in education; 8 departments and 4 agencies operate major credit programs. There are between 15 and 30 separate manpower programs administered by public and private agencies, supported by public funds, in each major metropolitan area.

A privately published, 1,000-page encyclopedia of government programs, not limited to assistance, lists more than 5,000 services—from "aerial photographs" to "zoological parks" provided by the national government in its 1968 edition.

Congress should take a long hard look at the many overlapping and conflicting agencies and take the necessary action for consolidation and elimination. It's time that cities and states look for problem solution closer to home!

W. A. "TONY" BOYLE, PRESIDENT, UNITED MINE WORKERS OF AMERICA

Mr. METCALF. Mr. President, one of the men who came out of the mines of Montana to become a national leader is the president of the United Mine Workers of America, W. A. "Tony" Boyle. I have known and worked with Tony Boyle since my service in the Montana Legislature more than 30 years ago.

I can vouch for his well-known attributes. He is tenacious. He is tough. He is effective.

I can also vouch for his other characteristics that are now so well known. Tony Boyle is a man of compassion and warmth, who bridles at injustice and arouses the indifferent to action.

There are many workers in my State, and in other States, who can testify personally to the fact that Tony Boyle helps an individual who has been hurt, or is down on his luck, and will do all that he possibly can to help a deserving family.

Kathryn Wright, Sunday editor of the Billings Gazette, captured a portion of this side of Tony Boyle. I am especially pleased that such an article has appeared in a major newspaper in Tony's and my home State.

Mr. President, I ask unanimous consent that the article, entitled "Portrait of a President," published in the Billings Gazette of September 1, 1968, be printed in the RECORD.

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

PORTRAIT OF A PRESIDENT

(By Kathryn Wright)

He strode toward a drilling rig near the mouth of a disaster-struck mine. A murmur went through the crowd of grim-faced, worried-eyed people as he called:

"Can you hear me?"

Faintly there came: "We can hear you."

"Good. This is Tony Boyle. Don't give up. We'll get you out."

From the depths of the slide-choked mine tunnel, a tremulous response: "Thank God! But," the voice quavered, "Mr. Boyle, we're not union."

"That doesn't make a damn bit of difference. You're humans, aren't you?"

Humans—particularly the underdog humans toiling underground in the coal mines of the world—have been redhaired Boyle's crusade motivation since he, himself, scrabbled for coal as a lad in Montana's mines.

W. A. (Tony) Boyle has rushed to the scene of almost every mine disaster in the country in his years as United Mine Workers of America District No. 27 president, headquartered in Billings, and later as eleventh president of UMWA.

He throws his own experience and strength and that of his office into fights for mine workers' safety; he talks to Presidents of the United States; testifies before senate committees.

It was Tony Boyle who turned that August, 1963, Sheppton, Pa., mine cave-in from a body-recovery operation into a rescue.

He ordered air shafts drilled into the earth where three miners of a small, independent company were thought to be imprisoned by a coal slide. After almost two weeks of entrapment, two of the men were brought up alive through an 18-inch, 308-foot deep hole bored into the ground.

Mine disasters are nothing new to Tony Boyle. As president of District No. 27, he was on the scene at Bearcreek where an explosion in 1943 took the lives of 74 men. One other died during rescue.

Coal miners love Boyle and respect him. He's tough, as they are tough. "There's no chicken blood in your president," he thundered at his first international UMWA convention in 1964 at Miami. Montanans and others from over the United States, Canada and Europe knew he spoke the truth.

From his childhood—Boyle was born at Bald Butte, Mont., "in a sagging cabin at the mouth of a mine," he says—the president of UMWA has been a fighter. As a young miner, he led strikes for better working conditions, for better wages, for vacation pay. He's bloodied plenty of noses and blacked a lot of eyes and he's been blacked and bloodied in the process.

But blended with the toughness and sentimentality of this Irish-Scot whose father, grandfather and great-grandfathers mined coal in Scotland and Great Britain, is a streak of shrewdness and suaveness resulting from years of learning practically at the knee of UMWA's defied John L. Lewis.

Stocky, muscular Boyle was in his late thirties back in 1948 when Lewis asked him to come to Washington, D.C., to be his assistant. "It was a challenge," Boyle says, 20 years later. "But I like challenges. I thrive on 'em."

He had plenty of challenges and experience from '48 to 1960. As Lewis' hand-picked man, Boyle represented UMWA on numerous government and industry boards and committees, including the Joint Board of Review and Joint Industry Safety committees.

Boyle became international vice president of UMWA in 1960 and on the death of UMWA President Thomas Kennedy in 1963, the Montanan, who'd had most of his formal schooling in the rough and tumble field of experience, was head of the world's oldest, 78 years, most powerful and wealthiest union.

"It's a union," he says with pride, "that's done the most to secure safe working conditions for its members, to get its members wages representative of the fruits of their labors and the union that's done the most to bring about the war on poverty.

"The UMWA," he says with a jab of his finger at the listener and a glint in his blue eyes, "is more responsible than any other group in bringing about the war on poverty. I've seen those hungry people—the Appalachia people and their kids potbellied from malnutrition. It wasn't right and the United Mine Workers brought that condition to the attention of the government."

Bringing it to "the attention" was done in a large part by Boyle. The late John Kennedy was his personal friend and the UMWA president treasures an autographed photo of himself and JFK. Boyle and his petite titian-haired wife, Ethel, a former Montana schoolteacher, often were guests at the White House during the Kennedy administration and they now enjoy the same cordial relationship with President and Mrs. Johnson.

In this part of his work as UMWA president and in the world-wide trips he takes in the interest of hardrock miners, the streak of suave diplomacy comes to the fore. Boyle reads widely and converses easily on a vast range of subjects—including banking, as he is a member of the board of directors of the UMWA-owned National Bank of Washington whose assets are more than $500 million. Boyle also is chairman of the National Coal Policy Conference, Inc., and is chairman of the John L. Lewis Scholarship Committee, established to make awards to professional nursing students in coal mining areas.

The UMWA president is "Mr. Boyle" or "Mr. President" to a lot of people. But—to thousands more he's "Tony," and Tony's never too busy, too weary or too forgetful to stop in the middle of what he's doing and shake hands and talk with friends and acquaintances. It takes him a long time to get across the lobby of a hotel during a UMWA meeting or convention, such as opens Monday in Denver. It took his wife, Ethel, an hour and a half to get from one end to the other of the

Americana Hotel lobby during the UMWA international convention in 1964 in Miami. She, too, never forgets a name or face and has a word, a smile and handshake for everyone.

Despite the prestige with which his office cloaks him and its acknowledged effect in industry, business and politics, Boyle has retained a modesty, a humbleness and an ability to joke about himself. "Not bad for a sagebrush kid," he'll laugh, winding up a conversation of his encounter with a head of state, foreign diplomat or business tycoon.

"Sagebrush kid" was what John L. Lewis called him once a few years after he'd brought Boyle to Washington. "Well, you've come a long way for a sage brush kid," Lewis said. "Are you still mad at me for bringing you back here?"

"Never was mad," Boyle says, recalling Lewis' question. "But, I do miss those wide open spaces in Montana and the relaxation you feel the minute you hit the state. There's no chance to relax here." Even when Boyle was hospitalized for a dislocated disc, he worked on UMWA business and negotiated one of its biggest and best contracts for miners.

"There's competition here," he says of Washington, D.C., "for just plain survival. And intrigue?" He laughs dryly at that. "There's more intrigue back here per square inch than I don't know what."

For brief respite from competition, intrigue and long, long working days, Boyle and his wife come back to the wide open spaces of Montana—Billings where his brother, R. J., is headquartered as UMWA District No. 27 president, and where his lawyer daughter, Antoinette, and her son, Daryl, nicknamed "Tiger," live. Then it's bowling, Little League baseball, drive-in movies, hamburgers, playing with Tiger's dog and casual clothes for Boyle as he devotes his time to his only grandchild.

But—Boyle's drawn back to Washington's whirlpool like a moth to a flame. "If I could live my life over," he says, "I'd be in labor. I like people and I like to fight for the underdog. I believe a man should enjoy the fruits of his labors."

He puts that point home with a quote from Abraham Lincoln: "Labor came first; without labor there'd be no capital."

DEATH OF HARVEY LEE NEAL

Mr. BAKER. Mr. President, many of my colleagues have, I am sure, been privileged from time to time to hear the superbly talented piano duo known as Nelson and Neal.

I deeply regret that I must report to you today the death of my friend, Harry Lee Neal, who, with his wife, Allison Nelson, achieved worldwide acclaim unparalleled among duo pianists.

Mr. Neal's death has touched me and my staff in a very personal way, as I am sure it has others here in this Chamber, for we have come to know and enjoy his young son, John, who serves the Senate faithfully and well as a page.

The tremendous contributions Nelson and Neal have made to the cultural revolution in which we now find ourselves go far beyond the brilliance of their performances.

Their tireless research has produced a startling array of North American and 20th century premieres of lost or forgotten original works by such composers as Schubert, Mendelssohn, Liszt, and Brahms.

For a number of years their summers have been devoted to practice, recording, and teaching the students who have come from all over America to study with them at Manorhouse, their home in Paris, Tenn.

Both distinguished educators, they coauthored a remarkable series of instruction books for student pianists. In addition, Mr. Neal was the author of a bestselling autobiography entitled "Wave As You Pass," published by Lippincott.

Not very long ago, I received a letter from Harry Neal which spoke eloquently of the uncommon generosity of this truly uncommon man. He wrote:

> From time to time you may run across a situation in which it would be convenient for you to furnish some form of serious music as entertainment. As a gesture of friendship, we would be delighted to appear there in your behalf. If we may serve you by performing anywhere from Washington to Los Angeles, just pick up the telephone and call us.

The Rochester Times-Union once said of this immensely talented pair:

> Nelson and Neal were a joy to hear.

Indeed, Harry Lee Neal was a joy to know.

My most heartfelt sympathy to his family.

FAILURE TO APPROPRIATE FUNDS FOR ENFORCEMENT OF FAIR HOUSING LAW

Mr. MONDALE. Mr. President, it was exceedingly disappointing to note that the independent offices appropriation conference report did not include any funds for the enforcement of the recently adopted fair housing law. We see once again that Congress does not mean what it says when it passes substantive legislation, and that Congress can and does speak with two voices when it comes to appropriating the funds to carry out laws already on the books.

The failure of the Congress to appropriate any funds for the implementation of the fair housing provisions of the 1968 Civil Rights Act is a denial of the basic human rights of a large segment of the American people, and a repudiation of the will of the Congress which passed the law by a large majority.

The Civil Rights Act of 1968 was a hard-won, but overwhelming congressional mandate to make economics and not race the sole determinant of purchase in the housing market. It also contained a mandate to the Department of Housing and Urban Development to participate in its enforcement through conciliation, mediation, and broadly based educational activities.

A decision not to appropriate funds to fulfill this mandate, in effect repeals that part of the law. This is a breach of faith with those in the black community who preached moderation and reliance in the Congress. It is a breach of faith with all of them who pursued their remedies in Congress and were told by Congress that their cause was just and right.

This cannot be permitted to stand. We simply must appropriate the money required.

The Senate Appropriations Committee provided $9 million for roughly 900 new positions both in Washington and in Housing and Urban Development regional offices for the manpower needed to handle the considerable responsibilities entailed in mediation and education. This amount was a reasonable and responsible figure.

I know that Senator WARREN MAGNUSON, chairman of the Senate conferees, fought hard to keep this in the conference bill. I commend him and support him wholeheartedly.

If we are to make any progress at all toward a unified society—and prevent what the Kerner Commission predicts—we simply must live up to our commitments. We have made a commitment in passing that law, a commitment which says that every man has a right to buy the house he wants regardless of his race or color. Not to appropriate funds to enforce, means that we have ignored and nullified our earlier commitment. I simply do not believe that the Congress wishes to go on record as repealing the Civil Rights Act of 1968 less than a year after substantial majorities in both Houses voted for it.

I, therefore, urge every Member of Congress to work for a decent level of appropriations, and live up to our word.

NIXON CALLS ON BUSINESS IN A CRISIS

Mr. DOMINICK, Mr. President, one of the contributing factors leading to the discouragement and unhappiness across our land today has been the failure of the majority of Government programs aimed at solving the problems of the slums and urban America. In the past 5 years we have been inundated with unrealistic promises, massive spending sprees, and a proliferation of Government bureaus, all attempting to alleviate poverty, unemployment, and the inequities faced by the ghetto dweller. This approach has not only miserably failed to bridge the gap between black and white Americans, but has bred frustration and violence and has fostered the very conditions it sought to overcome.

In his presidential nomination acceptance speech, Richard Nixon outlined this American tragedy and expressed the feelings of the majority when he stated "it is time to take a new road." The former Vice President summed up the situation saying "black Americans do not want more governmental programs which perpetuate dependency. They do not want to be a colony in a nation."

Long before his selection as the Republican standard bearer, Richard Nixon approached this problem with keen insight and innovative alternatives. An example is contained in an article written for the New York Amsterdam News printed in the May 25 issue. I believe it summarizes a bold new approach to overcoming the tangled crisis in the slums. His call to apply American ingenuity and talent is a call we can and must respond to. I ask unanimous consent that the article be printed in the RECORD.

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

NIXON CALLS ON BUSINESS IN CRISIS

(By Clayton Willis)

Former Vice President Richard M. Nixon wants the nation's welfare setup overhauled from top to bottom.

In his first major statement on the crisis in America's slums since the wasteful slaying of Dr. Martin Luther King Jr., Nixon says "Bridges of understanding can be built by revising the welfare rules, so that instead of providing incentives for families to break apart, they provide incentives for families to stay together; so, they respect the privacy of the individual; so, they provide incentives rather than penalties for supplementing welfare checks with part-time earnings."

TO BUSINESSMEN

In a fire-side chat over the CBS Radio Network from Salem, Ore., geared to get him votes in the May 28 Presidential primary, the New York lawyer looked to the conscience of the private American citizen and businessman rather than to the government to supply the answer to this country's worse race crisis since the Civil War.

"Right now we face a short-term fiscal crisis, a crisis that William McChesney Martin Jr., the chairman of the Federal Reserve System, calls the worst in a generation. . . . At such a time . . . what we do need is imaginative enlistment of private funds, private energies, and private talents, in order to develop the opportunities that lie untapped in our own underdeveloped urban heartland," said the former vice president.

Nixon, who has a swanky apartment in the same building his chief rival, Gov. Rockefeller, occupies at 810 Fifth Ave., is saying what much of black America cries for from coast-to-coast: ". . . more black ownership, black pride, black jobs, black opportunity and, yes, black power, in the best, the constructive sense of that often misapplied term."

The Republican Presidential hopeful believes that more black capitalism must be developed.

LOAN GUARANTEES

"By providing technical assistance and loan guarantees, by opening new capital sources, we can help Negroes to start new businesses in the ghetto and to expand existing ones," he hopes.

The former U.S. Senator says "Educational bridges can be built, now, at little cost—bridges of tutorial help, of business training, of remedial assistance, using volunteers who in case after case have shown themselves both willing and effective."

Nixon explained that "we should listen to the militants—carefully, hearing not only the threats, but also the programs and the promises. They have identified what it is that makes America go, and quite rightly and quite understandably they want a share of it for the black man."

SENATOR LONG OF MISSOURI RAISES SERIOUS QUESTIONS REGARDING FDA IMPACT ON MEDICAL RESEARCH

Mr. PROXMIRE. Mr. President, the Senator from Missouri [Mr. LONG] has for some time guarded against excessive bureaucratic zeal as well as abuses of executive power, as chairman of the Administrative Practice and Procedure Subcommittee of the Committee on the Judiciary. His battle against "big brother" in the form of illegal wiretaps, one-way mirrors, and other police-state devices mistakenly used by such agencies as the Internal Revenue Service is great tribute to his concern over the rights of the individual.

Now the Senator from Missouri has come up with disturbing evidence that the Food and Drug Administration has had a hand in suppressing an extremely significant treatment for arteriosclerosis. Since Senator LONG cannot be here today, I ask unanimous consent that a statement he prepared for presentation to the Senate together with an analysis of the FDA's actions against the drug in question, Cothyrobal, and appropriate background documents, be printed in the RECORD.

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

STATEMENT BY SENATOR LONG OF MISSOURI

Mr. LONG of Missouri. Mr. President, I desire to alert the Senate and the public again to the dangers of undue government domination and control of medical research, which may impair free enterprise and deny important health benefits to the public.

Two years ago I submitted a rather detailed report of certain government activities in the field of cancer research. This report criticized loose and unproductive research by the National Cancer Institute, and also the arbitrary action of the Food and Drug Administration which blocked a promising line of cancer research using enzymes which had been developed by Dr. Frank L. Shively of Dayton, Ohio.

It is interesting and, I think significant, that the FDA blocked a small entrepreneur, Dr. Shively, who was a pioneer in the enzyme treatment of cancer; but since my report to the Senate on this two years ago, other large organizations have apparently taken up this line of research with the blessing of the FDA, and have announced favorable results with enzymes on a few cancer patients, and are going ahead full steam. However, Dr. Shively has never been cleared for further research.

I wish now to draw attention to another example where the Food and Drug Administration, by a series of short sighted and even scandalous maneuvers, has blocked a meritorious line of research and treatment in the field of hardening of the arteries.

It is scarcely necessary to point out the desperate need for more adequate prevention and treatment of the deadly diseases of arteriosclerosis, which result in many of our finest men and women being carried off before their time by coronary heart attacks, strokes, sclerosis and hemorrhages in many different organs, and even blindness as in diabetic retinopathy.

There must be better answers to these problems, highlighted by the fact that degeneration of arteries in general and coronary arteries in particular is far higher in the United States and some other Western Countries, whereas it is far lower, for example, in Korea and among the Masai tribe of Africa.

Also, I have come across a twelve year battle which Dr. Murray Israel of Long Island has been having with the FDA over his treatment of arteriosclerosis. His remedy is a unique and patented combination of thyroid hormone and Vitamin B_{12}, which is given intravenously.

His treatment has been favorably reviewed in the Journal of the American Medical Association and the American Journal of Digestive Diseases, and has been used by a sizeable number of reputable physicians who collaborate with Dr. Israel. An excellent lay account of the treatment was recently described by the Science Editor of United Press International and released on July 21, 1968.

The unreasonable and improper actions of the FDA in this case are almost incredible. They show just how dangerous it is for a government agency to have immense power which, operating in secret where its alleged scientific analyses are not open to public inspection, cannot be challenged except on the highest level; that is, only by Congressional investigation or Presidential action.

I ask unanimous consent that a report on Dr. Israel's struggle with the FDA and the UPI news release be printed at this point in the RECORD, along with the previously referred to Journal of the American Medical Association and the American Journal of Digestive Diseases articles.

FDA VERSUS COTHYROBAL

The following is the synopsis of the protracted difficulties, which Vascular Pharmaceutical Co. and Murray Israel, M.D., have had with the Food and Drug Administration for the last 12 years.

(a) Dr. Israel is an active practicing physician who the FDA admits is ethical and reputable.[1] Vascular Pharmaceutical Co. was organized by his patients to supply special combinations of hormones and vitamins at low cost, and he serves as its medical director without any financial compensation.

(b) He invented and holds a patent[2] on a drug combination, Cothyrobal,* composed of equal parts of thyroid hormone and vitamin B_{12}, which permits the safe administration of larger doses of thyroid than can be given alone. FDA admits his treatment may be of great significance in the treatment of arteriosclerosis.[3]

(c) The Journal of the AMA and the American Journal of Digestive Diseases have editorially favored his treatment, the latter stating, ". . . he has made one of the most important studies so far. . . ."[4]

(d) The evidence will show that the FDA, to the great detriment of private enterprise, unreasonably, unscientifically, and by improper if not corrupt methods refused to approve Cothyrobal and suppressed the dissemination and marketing of this invention, while simultaneously promoting and approving for marketing a competing** [7 8 5] drug, Choloxin, of a large drug company, Baxter Laboratories.

(e) In its discrimination against Dr. Israel in favor of a large and powerful drug company, the FDA made extensive and allegedly scientific analyses of the merits of Dr. Israel's invention, Cothyrobal, but has consistently withheld the details of these analysis from Dr. Israel so that he could not rebut them.[7]

(f) Dr. Israel submitted to the FDA a report of crucial animal experiments[8] performed by a large drug testing firm acceptable to the FDA, which showed the effect of doses of thyroid alone and of thyroid plus vitamin B_{12}. It was shown that a certain dose of thyroid alone killed 40 percent of the animals, and that same dose of thyroid given simultaneously with vitamin B_{12} (Cothyrobal) killed none. This experimental data further confirmed what was already thoroughly extablished in the scientific literature.[9]

The first thing an FDA pharmacologist, Dr. Grant, did was to ignore that Cothyrobal was used in the experiment, and claim that nothing but thyroid alone was tested, with the conclusion that the sponsor was guilty of misrepresentation.[10] The last two pages of the data specifically described the admin-

* Pronounced kō-thī'-rō-ball.

** FDA's Dr. Finkel, ostensibly in charge of approving both Cothyrobal and Choloxin applications now admits, as did FDA's Dr. Smith at the time, [7 8 5], that the two drugs are similar and compete with each other *ibid*, but a private FDA memo shows that inside the FDA councils when the issue was raised of conflict of interest of FDA's Cothyrobal consultants, Dr. Finkel argued that the drugs did not compete with each other.[5] Note that FDA's IBM printout on "chemically and pharmacologically related drugs" lists Choloxin and Cothyrobal side by side.[6]

Footnotes at end of article.

istration of Cothyrobal, and the FDA later privately noted that they demonstrated protective effect,[76 45] but Dr. Grant acted as if these two pages did not exist.[10]

Dr. Grant's palpable error was constantly cited in major reports downgrading Cothyrobal by FDA Assistant Commissioner Rankin to Speaker of the House McCormack, other Congressmen and members of the public,[37 38 39] who had inquired as to why the FDA did not approve Cothyrobal. Mr. Rankin wrote that he had personally reviewed the Cothyrobal application. Eventually, the same Dr. Grant at the same stage of the Choloxin application, approved Choloxin without question for clinical use.[11]

(g) The FDA in September 1964 revoked the investigational new drug exemption (IND) for Cothyrobal on the grounds that it was not clinically safe,[71] despite unequivocal private FDA admissions that over a period of more than ten years there had never been a report of injury, and that its own Bureau of Medicine considered Cothyrobal safe:

"We are not in a position to charge that this procedure is unsafe, especially when used by a physician. We are not prepared to establish that this method presents a serious health hazard." [32]

By revoking the IND, a very rare action, the FDA legally blocked all further clinical investigation of Cothyrobal.

(h) In preparation for an FHA hearing in November 1963 on the merits of the Cothyrobal application, the FDA hired outside consultants to back up its refusal of the Cothyrobal application, and supplied them only with a derogatory FDA critique and not with any of Dr. Israel's animal and clinical data on the drug in FDA files.[12] One of these consultants, Dr. Kritchevsky, was on an annual stipend from Baxter and owned Baxter stock,[13] and another, Dr. Nodine, was head of a sub-department under the chairman of the department of medicine at Hahnemann Medical College, Dr Moyer.[73] At this very time, Dr. Moyer was actively assisting Baxter to get FDA approval for Baxter's Choloxin *ibid.*

In addition, a total of five heads of subdepartments (Drs. Likoff,* Nodine, Mills, Brest, Reimann) and three other doctors (Drs. Novack, Segal, Bender) all under Moyer at Hahnemann were also actively assisting Baxter to get FDA approval for Baxter's Choloxin [73]: The FDA was fully aware that these men were consulting on Choloxin for Baxter.

(i) Just before the FDA finally approved Baxter's Choloxin, it wrote about a dozen letters to unprejudiced and unpaid outside consultants of high clinical reputation in other medical schools seeking advice about Chloxin [16]. Their replies almost uniformly disparaged Choloxin [17], but this cogent advice the FDA cavalierly ignored and promptly approved Choloxin regardless.

NATURE OF DR. ISRAEL'S INVENTION

For many years and throughout the world, medical scientists have known and acknowledged that thyroid hormone is intimately involved in the deadly scourge of premature hardening of the arteries, which causes the premature death of millions of people, most spectacularly by coronary artery heart attacks, but equally in importance by the deterioration of small arteries in the brain and other organs causing strokes, kidney disease, high blood pressure, diabetic blindness, and many other deadly diseases.

Since some of the most extensive and early hardening of the arteries takes place in the thyroid disease of myxedema, in which there is a severe lack of the thyroid hormone [19], many eminent medical researchers in recent years have frankly stated that if there were only some way to administer the chief thyroid hormone, laevo-thyroxine, or some close chemical relative of it, without getting the well known and dangerous side effect of palpitation and strain on the heart, then such administration of thyroid hormone would be the ideal drug for the prevention and treatment of hardening of the arteries [20].

On this basic rationale, the FDA approved Baxter's Choloxin, which is a synthetic analogue (the *dextro* isomer) of the chief natural thyroid hormone; but ignored Dr. Israel's invention and patent, Cothyrobal, which consists of equal parts of the natural thyroid hormone, *laevo* thyroxine and vitamin B_{12}, which thus has the unique and patented feature that the B_{12}, protects the patient from bad side effects of thyroid [2].

Choloxin was approved by using the narrow criterion of its alleged ability to lower cholesterol.[20] The FDA admits that regular thyroid hormone also lowers cholesterol,[24] but the FDA has insisted that interminable clinical studies be done on Cothyrobal, *meeting standards never required of Choloxin,* to prove that Cothyrobal can also lower cholesterol,[25] a capability of Cothyrobal which the FDA paradoxically admits [20] is inevitable because of its content of thyroid hormone.

It was about fifteen years ago that numerous animal experiments by eminent authorities firmly established*, with no subsequent evidence to the contrary, that when vitamin B_{12} is given *simultaneously* along with thyroid hormone in proper doses, the metabolic stimulation of thyroid is obtained without bad side effects on the heart.[9] In fact, this phenomenon was used as the first method of analysis for the presence of B_{12} when the vitamin was discovered in 1948.** A series of animals is given a known amount of thyroid hormone or thyroid-stimulating protein along with the unknown sample containing vitamin B_{12}. The degree of protection from cardiac death in the series of animals delineated the amount of B_{12} which must have been present in the sample tested.

Dr. Israel recognized the importance of these new facts, ignored by other clinicians. Since 1934 he had been using thyroid, B complex, and other vitamins for the treatment of hardening of the arteries on a theoretical and empirical basis [9] before vitamin B_{12} was discovered. As previously mentioned, in 1962, he patented a combination of equal parts of natural thyroid hormone (laevo-thyroxine)—and vitamin B_{12} for human use under the name of Cothyrobal.[2]

Just as Banting and Best patented insulin, Dr. Israel hoped to control the development of his treatment and use the funds from the marketing of Cothyrobal for improved and badly needed research in the field of arteriosclerosis. Like Banting and Best, he set up a non-profit foundation, The Vascular Research Foundation, of which he is the medical director. But, unlike Banting and Best who allied themselves with the University of Toronto, he was unable to enter into an alliance with a university (1956) nor would any of the large drug companies desire to take over the thyroid-vitamin method because of adverse medical opinion at that time.

Therefore, Vascular Pharmaceutical Co. was set up by Dr. Israel's patients to supply Cothyrobal (and other special mixtures of thyroid and vitamins used by Dr. Israel and his colleagues to which the FDA does not object [66]). Dr. Israel has never received any remuneration from the Vascular Pharmaceutical Co. or the Foundation.

Dr. Israel and his colleagues in New York, Massachusetts and a number of other states have given Cothyrobal to thousands of patients for about ten years on an investigative basis, and the FDA acknowledges that all these doctors are competent and reputable [1] and that there has never been a report of injury from the drug.[32] A great many clinical reports on Cothyrobal have been filed with FDA by these doctors in the last ten years, describing the safety and efficacy of the drug, and an impartial study of the competency of these reports in comparison with the average of such reports regularly given credence by the FDA in its approval of drugs including Choloxin, will establish that they meet FDA standards.

It is not necessary, although it would be highly instructive, to go into these and other details of how the FDA managed by shifting and circuitous means to block Dr. Israel's Cothyrobal at every turn, while giving the green light to other drugs, especially Choloxin and Mer-29 used for the treatment of hardening of the arteries and the lowering of cholesterol. It is only necessary in this report to point out certain double standards, the most serious of which established a priori that the FDA has been unfair in this case.

FDA DOUBLE STANDARDS

Safety of thyroid and vitamin B_{12} already known

One of the first double standards practiced by the FDA was its presistent ignoring of the fact that the only active ingredients in Cothyrobal, thyroid hormone and vitamin B_{12}, are two of the most extensively studied drugs in the world, long ago approved by the FDA. We all know that the FDA frequently approves new combinations of previously approved drugs with only minimum requirements for toxicity tests in animals,[33] so it was unreasonable of the FDA to insist [71] that the Vascular Pharmaceutical Co. perform the most elaborate animal toxicity tests, which can easily cost large sums beyond the financial resources of a small research foundation. At the very time when the FDA was insisting on elaborate toxicity tests for "Cothyrobal, the FDA specialist in charge of evaluating both Cothyrobal and Choloxin, Dr. Finkel, now admits that she already believed no further toxicity tests were needed on Cothyrobal because of already available knowledge about thyroid ingredients and because the other active ingredient, vitamin B_{12}, has no known toxic dose.[35] In fact, way back in 1959, the FDA in its private memoranda suggested that toxicity tests were unnecessary, and Cothyrobal consultants, Dr. Nodine, privately deprecated them.[36]

The pharmacological falsehood

As previously described, the FDA practically denied the very existence of crucial pages in a Cothyrobal report of experimental tests in animals, and thereby repeatedly suppressed public inquiry about the FDA's handling of the Cothyrobal application [37 38 39]. The powerful animal evidence of Cothyrobal's unique protective action against the undesirable and dangerous side effects of thyroid hormone thus lies buried deep in the secret archives of the FDA.

This issue never came to a head because the FDA does not detail its criticisms to applicants it does not like, announcing for the most part merely the various chapters and verses of the general regulations which the FDA believes have not been complied with. Since there is no theoretical limit to the animal and human tests which can be made on a drug, it is easy for the FDA to stand on its enormous prestige and secret information, like an iceberg in the sea, and reveal to outsiders only the tip which suits its purpose.

The FDA's pharmacological falsehood had

*FDA named Dr. Likoff a Cothyrobal consultant early in 1964 [40].

*One of them was Dr. Sure, co-discoverer of vitamin E.

**Vitamin B_{12} is nearly the most potent biological substance ever discovered; for example, it saves the lives of patients, who would otherwise uniformly die of pernicious anemia, in doses on the order of 5 millionths of a gram per day.[27] No human blood cell can grow or mature without its quota of about a dozen molecules of vitamin B_{12}.[28]

Footnotes at end of article.

the effect, at the very outset of Dr. Israel's submission of new animal data under the more restrictive 1962 drug law, of discouraging and blocking the prospect of all further animal testing. If first class work could be thus ignored,[10] not to mention the fact that its results merely reinforced what had long ago been thoroughly established in the scientific literature,[9] what object could there be in battering one's head against this stony resistance of the FDA?

To crown it all, the FDA proceeded to inform all inquirers, especially Congressmen, that Dr. Israel had submitted *no* animal evidence to show that Cothyrobal had any safety feature, citing the false statement in its own records as proof,[10 37] and that Vascular Pharmaceutical Co. and Dr. Israel were making money illegally from the distribution of Cothyrobal to doctors investigating the drug [37 39]. The charge of commercialization was untrue, and the FDA has carefully avoided ever landing in court with the Cothyrobal sponsors on this or any other charge.[40]

Rubber stamp consultants with conflicts of interest

The FDA admits that it never would have accepted a single Cothyrobal consultant if any of them had shown any interest in the possible benefits of Cothyrobal.[41] In fact, it backed off in great alarm when the most eminent man they approached, Dr. W. C. Hueper, then head of a department at the National Institutes of Health warned FDA emissaries that "Dr. Israel would be difficult to beat".[42] In their words, "We agreed this morning's conference with Dr. Hueper was a shocker . . . Onychuk and Levit agreed we don't want Hueper. . . ." (ibid).*

Perhaps the most effective action taken by the FDA to block Cothyrobal was the employment of certain outside consultants brought in to support the FDA's disapproval of the Cothyrobal application, and the majority of whom were in the pay of, or otherwise under heavy obligation to, the chief competitor of Vascular Pharmaceutical Co. and Dr. Israel, Baxter Laboratories [13 14 73]. This is a large drug company with several subsidiaries particularly active in the manufacture of intravenous solutions.

The first two Cothyrobal consultants were first paid to come down and give Guest Lectures at the FDA, at which times the FDA says they were enlisted as Cothyrobal consultants [44]. In retrospect, it is worthwhile to follow the chain of events to see what is known about how these consultants came to be selected and the role they played.

On November 27, 1962, when Dr. Israel and his attorney showed the FDA his new experimental evidence of Cothyrobal's unique ability to protect against the toxic effects of thyroid hormone, and expressed their dissatisfaction with the FDA's long delays since 1956, and they stated that they had decided to file the Cothyrobal application over FDA protest [45], thus making an administrative hearing on the matter mandatory.

The FDA immediately alerted its division in the New York area, where Dr. Israel has his office, to the fact that this experimental work had come in and that a hearing, rarely held by the FDA [46], was in prospect [45].

Within two months, massive inspections were made by the FDA of the firm supplying Cothyrobal and of Vascular Pharmaceutical Co., on the theory that the Cothyrobal sponsors were illegally making money out of the distribution of Cothyrobal to colleagues testing the drug under its investigation exemption (IND), and on March 12, 1963 the FDA declared the new drug application (NDA) incomplete.

But these were not the most immediate sequelae. On December 6, 1962, just nine days after Dr. Israel first gave the FDA the new animal data, FDA Acting Director of the Division of New Drugs, Dr. Ruskin, received the following memorandum from one of his subordinates:

"Subject: Guest Lectures in Pharmacology and Therapeutics.

"I wish to propose the organization of a series of Guest Lectures in Pharmacology and Therapeutics to be held primarily for the purpose of providing an intimate acquaintance between members of the Food and Drug Administration who are involved in the evaluation of New Drugs and prominent scientists who are leaders in various phases of drug research.

"These lectures would be of benefit for many reasons . . . and last, but not least, the necessity to widen the bureau's association with the objective and recognized medical scientists *on whom the Bureau may have to call on future occasions.*" [47] (Italic supplied.)

Curiously enough, Dr. Ruskin arranged [48] for the first such talks to be given (in June and September 1963) by the consultants chosen to advise on Cothyrobal, Dr. Kritchevsky who was on a yearly stipend paid by Baxter Laboratories [13], and Dr. Nodine who was a subordinate [14] of the chief of medicine at Hahnemann Medical College and Hospital, Dr. Moyer, who was also a paid consultant of Baxter Laboratories and at that time actively helping Baxter get their Choloxin approved [73]. Altogether, Moyer had five sub-department heads and three other departmental subordinates at Hahnemann consulting with him or directly with Baxter on Choloxin *ibid.**

Dr. Nodine at this time was in charge of a pharmacological research training program at Hahnemann, apparently supported in whole or in part by drug companies [50], and aimed at training pharmacologists how to develop drugs and other skills, including "special contact with pharmaceutical development, FDA procedures, clinical testing requirements, and marketing problems" *ibid.* Four Cothyrobal consultants participated in this training program, Drs. Nodine, Kritchevsky, Likoff, and Freyhan *ibid.* In another interesting development, Dr. Freyhan was invited by FDA's Dr. Smith on April 26, 1963 to conduct a clinical study at FDA expense at Saint Elizabeth's Hospital [51].

On May 15, 1963 [37], FDA's Assistant Commissioner Rankin wrote a long letter to Speaker of the House McCormack, who had been inquiring about the FDA's actions on Cothyrobal. Mr. Rankin repeated the pharmacological falsehood [10] that no animal toxicity data had been submitted, and concluded with the false and defamatory charge (never documented nor pursued) that the Cothyrobal sponsors, including Dr. Israel, were making money illegally from the distribution of Cothyrobal to doctors investigating the drug [37 38 39].

On May 20, 1963, Mr. Rankin filed a memorandum of an acrimonious session he had with the attorney for the Cothyrobal sponsors, in which Mr. Rankin in a very rare if not unique recording of irritation and intemperance in official FDA records told the attorney:

". . . we would just have to face the fact that he had submitted a lousy new drug application . . ." [52].

The next day the Cothyrobal attorney formally requested an FDA hearing [53]. Six days later, FDA's Dr. Ruskin wrote Dr. Nodine [48] and then or earlier began the arrangements to bring down from Hahnemann the bevy of Choloxin adherents as paid lecturers and consultants to advise the FDA whether Choloxin's competitor, Cothyrobal should go on the market. According to the FDA, this advice was adverse.

In October 1963, just before the hearing, legal and medical FDA officers made a number of extraordinary and unprecedented visits to the Cothyrobal consultants in Philadelphia to brief them on Cothyrobal, and also made unprecedented [56] tape recordings of these interviews. Later, in 1964, similar trips to Boston with tape recordings and to Atlantic City were made.[57] All these tapes which recorded FDA arguments against Cothyrobal and consultant's responses have mysteriously disappeared,[58] * despite the invariable FDA policy of preserving memoranda of all FDA contacts involving drug applications, especially conferences, and including even telephone calls.[59]

Contrary to the most elemental scientific procedure, these consultants prior to the FDA hearing were given none [12] of Dr. Israel's voluminous raw data or reports which he and his colleagues submitted to the FDA in support of Cothyrobal. Instead, the FDA gave them nothing but its own critique of the Cothyrobal data, including a great many speculations of Dr. Finkel as to what besides Cothyrobal might possibly have produced the observed benefits in the patients. Such speculations were equally applicable to Choloxin, but were almost never raised.

No Cothyrobal consultant has ever submitted a written report, which would enable Dr. Israel and his colleagues to challenge it, and yet the FDA has constantly broadcast the alleged adverse opinions of the Cothyrobal consultants.[38 39] With strange unconcern, the FDA insists in one breath that the adverse advice given by its Cothyrobal consultants had a great influence on the FDA rejection of the Cothyrobal application,[60] and in the next breath that it never did learn what they thought.[61]

The hearing began on November 4, 1963, but was promptly aborted by mutual consent,[54] before the experts for either side could testify or be cross-examined, a mutual *agreement* having been reached that *there were no real obstacles to approval of the application* and that the FDA would cooperate fully henceforth to expedite approval *ibid.*

Ever since this time, however, the FDA has proceeded to inform Congressmen and members of the public that the Cothyrobal sponsor *unilaterally* withdrew, insinuating that Dr. Israel was afraid to face the FDA on scientific grounds in an open hearing.[38 39] On the contrary, aborting the hearing was a tactical victory for the FDA because this blocked the Cothyrobal sponsor's next remedy, which was the civil courts of law to which administrative rulings can be appealed. The attitude of the FDA forces was well expressed by one of the Cothyrobal consultants shortly after the hearing in a letter to FDA's Dr. Levitt in which he stated, "I was pleased to hear of the *successful* culmination, *for the moment at least*, of this case . . ." [59] (emphasis supplied).

There were two groups of Cothyrobal consultants, five for the November 1963 hearing, and a mostly different group of five in 1964

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* FDA's Dr. Finkel, who was there and who also carried on most of the correspondence and arrangements with the Cothyrobal consultants, remembers that ". . . we might possibly have gone out there with the idea that he might be a witness".[43]

Footnotes at end of article.

*It is inconceivable that FDA did not know that Moyer and his group were committed to Baxter and its Choloxin. A constant flow of letters from the Hahnemann consultants to Baxter and filed by Baxter with FDA had been going on since at least as early as August 1962 [49].

*It is reasonable to presume that these tapes contained material showing that the FDA was not fair and scientific in urging the consultants to reject the Cothyrobal and/or that the consultants did not really agree on its rejection. This would explain the FDA failure ever to obtain a report from the consultants.

which never met. From January to August 1964, the FDA had been shaking up the second panel in an effort to get consultants who could survive its slightly more energetic enforcement of the conflict of interest regulations laid down by President Kennedy in May 1963 [60], and who would at long last provide some written advice as to whether or not Cothyrobal should be approved. Dr. Finkel, Dr. Ruskin's subordinate in charge of both the Cothyrobal and Baxter's Choloxin applications, says she wanted to have the Cothyrobal consultants' opinions in writing to support the FDA's position in case a Congressional investigating committee ever looked into the controversy [63]. In the end, despite an immense amount of contacts, tape recorded conferences, and correspondence with the consultants, *none of their opinions was ever put in writing.*

During this same period of time, the Cothyrobal sponsors were submitting much important clinical data for FDA consideration.* The FDA spend $2,000 to have the Cothyrobal application photostated for the second panel of consultants [67], but this was not done until *June* 1964. Only two consultants got copies [65 67]. The FDA had just suggested, and then shortly withdrawn the suggestion, that a prominent Boston physician sponsor the drug [66]. As late as May 1, 1964, the FDA coordinator for consultants, Dr. Miller, states that "the status of the whole situation is still not quite clear", and on June 14, the FDA was still trying to get the consultants to meet and render an unbiased written opinion [67 63].

Therefore, by any ordinary standards, from November 4, 1963 to August 1964, the whole question was very much *sub judice.* The FDA, however, was very busy behind all fronts. It solved the judicial vacuum, and refreshed its scientific reputation by widely disseminated statements such as the following to the Cothyrobal sponsors and to Congressmen:

". . . our consultants . . . feel that (the Cothyrobal new drug applications) fail to establish effectiveness of Cothyrobal" [68].

"In October and November 1963, four consultants, eminent in the fields of Clinical Pharmacology, Endocrinology, Cardiovascular Disease, and Biochemistry, reviewed the data submitted in the new drug application. They stated that the data were inadequate to establish safety and effectiveness of Cothyrobal for the uses proposed in these applications." [38 39].

The handy thing about these "feelings" and "statements" of the Cothyrobal consultants is that the Cothyrobal sponsors *could not possibly challenge what no one could lay hands on.* One FDA official, who should know since he is now head of FDA's Office of New Drugs, Dr. Hodges, had this to say:

"Dr. ROBINSON: The fact remains he (Dr. Israel) has never known what your consultants thought.

"Dr. HODGES: Neither have we." [69]

This was not all. In this same period of the first half of 1964, the FDA was also very busy planning to revoke the Cothyrobal investigational exemption (IND) as soon as possible [70 71].** Such revocation is quite rare,[64] and could be expected to bar anyone less determined than Dr. Israel and his colleagues from accumulating more evidence of Cothyrobal's merits.

FDA revoked the IND in September 1964 on grounds that Cothyrobal was not safe [71], despite unequivocal FDA admissions (a) that there had not been a report of injury [32]; (b) that Dr. Finkel was little worried about safety and deprocated the need for even animal safety tests [35]; and (c) most conclusive of all, FDA's Bureau of Medicine told its legal department:

"We are not in a position to charge that this procedure is unsafe, especially when used by a physician. We are not prepared to establish that this method presents a serious health hazard." [32]

By putting together these various conflicting FDA utterances, *ordinarily concealed from view in the secret catacombs of the FDA,* it thus becomes perfectly clear that the FDA used a false argument that Cothyrobal was unsafe to revoke the IND and block further accumulation of Cothyrobal efficacy.

And, of course, the ubiquitous Choloxin was hovering in the wings.

As early as September 19, 1962, FDA's Dr. Ruskin had an "informal discussion" with the medical director of Baxter about the "deficiencies in the Choloxin application" [73]. Three months later, Dr. Israel submitted his crucial animal data, and two days later Dr. Ruskin's subordinate submitted to him the plan for Guest Lecturers under which the Hahnemann doctors were paid to come down for talks and named as Cothyrobal consultants. On or about April 26, 1963 Cothyrobal consultant Dr. Freyhan was offered a research project to be paid for by FDA [51].

Cothyrobal consultants Drs. Nodine and Likoff, and their group of at least six more doctors at Hahnemann, were offered the prospect of conducting a postgraduate training course for FDA doctors and acting in the capacity of a permanent panel of outside consultants for the FDA [74 48]. As previously mentioned, all these Hahnemann men were at that time actively assisting Baxter's efforts to get Choloxin approved by the FDA. All this was going on in 1963 while the stage was being set for a very rare event an FDA administrative hearing on a new drug application; in this case, Cothyrobal.

After Cothyrobal was stymied in November 1963 by a hearing that was not a hearing, Dr. Finkel conferred with Baxter early in February about the Choloxin new drug application. She tried to hold as consultants on the second Cothyrobal panel those who were tied to Baxter, Drs. Nodine, Kritchevsky, and Likoff, but somehow the conflict of interest regulations caught up with the first two [75]. Three other Cothyrobal consultants who did not work at Hahnemann were dropped in 1964 for conflict of interest, Drs. Lardy, Ingbar, and Friend [77]. Yet as late as April 30, 1964, high officials of the FDA (Drs. Smith and Miller) were arguing that Dr. Kritchevsky's ownership of Baxter stock did not make him ineligible, because Baxter's new drug application for Choloxin was dormant [78], a very peculiar conclusion based on a most extraordinary untruth [73].

In 1966 Dr. Finkel or some one else in the FDA Bureau of Medicine again attempted to employ Dr. Nodine as a consultant on some matter other than Cothyrobal, but he was turned down for obscure reasons by the FDA Assistant Commissioner for Operations [79]. Cothyrobal had by this time been thoroughly knocked out of the running.

The FDA now makes a great pretense that members of the first group were *witnesses* for an FDA hearing and those of the second group were to be *true consultants,* thus explaining its negligence in failing to disqualify the first group for conflict of interest [80]. But the record shows that the FDA constantly used both terms for both groups * and planned to use all the men for both purposes [38 39 67].

The distinction is really academic, simply because the *function of the FDA,* so far as its drug approval function is concerned, *is to act as a judge. It is inexcusable for the FDA to perform its drug approval functions as a prosecutor rather than a judge in the exercise of its awful power over the very lives of millions of people, not to mention scientific reputations.* It is incumbent upon the FDA to call as neither witnesses nor consultants men who it knows are prejudiced or otherwise incompetent.

The incredible attitude of the old guard at FDA, which would rather play policeman than judge, and for whom the end seems to justify the means, is well expresed by Dr. Finkel's unsuccessful efforts to retain Drs. Nodine and Kritchevsky on the second Cothyrobal panel. FDA Coordinator of Scientific Committees, Dr. Miller, wrote the following in a memorandum May 1, 1964:

"I asked her whether these four scientists are to be unbiased experts or are they to be 'our witnesses'? She seemed a little uncertain about this . . . She regretted that she could not use Nodine and Kritchevsky . . . She had been in touch with Dr. Kritchevsky. He said that he would be willing to sell his Baxter Laboratories stock so that he could serve as a consultant." [67]

The FDA covers its malfeasance in this area with high-sounding praises, pseudo-generously bestowed upon its allies and its victims alike:

"Dr. ROBINSON: Dr. Miler of the FDA himself raised the point in a memo, which if we had time I would like to go over with you, in which he said he wasn't quite clear whether these people were witnesses or consultants. But my question is do you think it was really fair to Dr. Israel for a powerful Government agency like the FDA to have witnesses against him* who are not absolutely impartial?

"Dr. FINKEL: As I said to Mr. Ohlhausen yesterday, I would hope that men of this calibre are not accused of being biased just as I am sure you are not accusing Dr. Israel and Dr. Barnard of being biased, either." [82]

The FDA has been obsessed with the purity, objectivity and eminence of its Cothyrobal consultants:

"Dr. FINKEL: Well I was considering the calibre of the individual and these men are outstanding, are international, if you will, recognized authorities.

"Dr. ROBINSON: In the end you learned they had good reason to be prejudiced, didn't you, when you found out that Dr. Kritchevsky had stock in Baxter Company and had

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* Dates of documents in FDA Cothyrobal file referring to scientific evidence in prospect or under discussion during 1964: 1–10–64, 1–20–64, 1–22–64, (2), 2–10–64, 2–19—64, 3–9–64, 3–17–64, 3–20–64, 4–1–64, 4–9–64, 4–10–64, 4–18–64, 4–21–64, 4–23–64, 4–24–64 (2), 4–28–64, 4–29–64, 5–13–64, 5–19–64, 5–28–64, 6–2–64 (2), 6–8–64, 6–10–64, 6–11–64 (2), 6–19–64, 6–18–64, 6–26–64, 6–29–64, 6–30–64, 7–2–64, 7–30–64.

** In contrast to denial of a new drug application there is no appeal from an FDA revocation of an investigational new drug exemption (IND). The FDA alone decides if an IND may be reinstated [72].

Footnotes at end of article.

* The following designations were used by the FDA to describe its Cothyrobal consultants; "Ad Hoc Advisory Committee on Cothyrobal" (May 1964, 7–1–64, 6–30–64); "our witnesses—unbiased experts—appointees" (5–1–64); "outside experts" (8–30–64); "Consultants Cothyrobal" (8–25–64); "Prospective consultants" (8–18–64); "Group of consultants" (8–18–64); "Cothyrobal Committee" (8–7–64); "Conference of Consultants" (8–6–64); "Committee on Cothyrobal" (8–6–64); "Panel of experts" (6–30–64); "Expert witnesses and committee of consultants for Cothyrobal" (6–4–64); "Panel to consider New Drug Application No. 15–497 (Cothyrobal)" (6–21–64); "Advisory Committee and panel" (5–21–64); "group of experts" (5–1–64); "Our consultants" (3–5–64); "Our outside consultants" (3–4–64); "Our expert witnesses" (10–30–64).

* That is, witnesses to testify for or against approval of the New Drug Application for Cothyrobal. It was this subject, not any charges against Dr. Israel, which was the purpose of this actual hearing in 1963 and a projected one in 1964.

been a consultant for them, and so forth. Why would you want to hang on to a man like that for an imparial committee?

"Dr. FINKEL: Well, first of all, I am not saying that they were prejudiced. I don't sort of honestly feel that men of that calibre would be prejudiced, if somebody owned 10 or 100 shares or something."

"Dr. ROBINSON: Even if he is a paid consultant for a competing company, you think that his eminence would cause him to rise above the (that) condition?

"Dr. FINKEL: Well, I think so. That if a person is that well qualified to become so well known in his field that he would not think that if he owned some shares or something that he would have to give a certain opinion. But in addition to that, we did have other consultants on the committee.[83]

"Dr. HODGES: We are interested to make sure we have completely clean hands. But I would make the point that Dr. Finkel has, that the fact that an individual of the stature of some of these people owning stock, even if it is an appreciable amount of stock in a company, I think it is unlikely to affect their judgment, because most of them are of such stature that they would lose more by any favoritism, if it ever came out, than they would ever gain." [83] *

On the eve of FDA's approval of Baxter's Choloxin in 1965, after Dr. Israel's Cothyrobal application had been thoroughly eliminated by many unscientific and unfair FDA maneuvers, the FDA's Dr. Finkel solicited the advice of about a dozen eminent heads of medical school departments around the country as to whether they thought Baxter's Choloxin was safe and effective.[16] She asked them merely for their opinion, and sent them neither raw data nor FDA criticism of any kind *ibid.* Their answers were almost entirely adverse as to either safety or efficacy.[17]

The chief reason for their disapproval of Choloxin was the danger of side effects on the heart which, as an analogue of the thyroid hormone in Cothyrobal, it similarly produces. It is this very side effect which Cothyrobal, by virtue of its concomitant content of vitamin B_{12}, has been shown by critical and objective evidence in animals to eliminate.[8 9] Nevertheless, the FDA ignored the unprejudiced advice of its unpaid Choloxin consultants and approved Choloxin; whereas in the case of Dr. Israel's Cothyrobal, the FDA went to great lengths to line up paid prejudiced consultants who confirmed what the FDA asked them to confirm.

FDA schizophrenia and choloxin evidence

The FDA specialist in charge of both the Choloxin and the Cothyrobal applications, Dr. Finkel, who approved the former and disapproved the latter, condemned in no uncertain terms the honesty of the clinical reports of a certain Choloxin investigator.[84] Yet these very reports subsequently became major evidence in a statistical analysis participated in by FDA statisticians,[85] which analysis purported to prove that Choloxin was efficacious in lowering cholesterol, and on which analysis the FDA substantially based its subsequent approval of Choloxin.[86] These discredited reports were ultimately given star billing in Choloxin advertising.[87]

FDA partially in requirements for clinical tests

In the area of clinical tests of Cothyrobal, the FDA stipulated the most stringent conditions, but failed to specify or enforce the same stringent conditions for tests of Baxter's Choloxin, which has the same dangerous side effects on the heart as the thyroid component of Cothyrobal would have if it were not accompanied by vitamin B_{12}.

The FDA stipulations as to clinical testing which burdened and effectively blocked approval of Cothyrobal involve complicated questions of utility, great expense, and ethical considerations of fairness of the patient. For example, the FDA wanted Dr. Israel to perform a double blind experiment giving half the patients only the thyroid component without the protective presence of B_{12}, and the other half the complete Cothyrobal, so as to prove both the cholesterol lowering effect in man, and the protective effect of B_{12}.[88] Dr. Israel and his colleagues; properly rejected this experiment as dangerous for some patients who would get only the thyroid component.[89]

This FDA demand was all the more preposterous because, as mentioned earlier, the FDA already admitted that the thyroid ingredient of Cothyrobal lowered blood cholesterol [26]—the narrow technical basis on which the FDA approved Choloxin.[21] * Furthermore, everyone knows that thyroid is dangerous in any patients with damaged hearts, and yet tens of thousands of injections of Cothyrobal had been given in adequate doses to thousands of elderly heart patients without report of a single bad reaction much less death. The FDA acknowledges all this,[22] but FDA's Dr. Finkel incredibly grasps at a straw:

"For all we know, maybe there was one patient in the whole group that was treated by various investigators that did have a reaction." [90]

A partial list of the clinical requirements inflicted on Cothyrobal and almost totally neglected in the case of Choloxin will be given here only for background and general interest as follows: an original basal metabolic rate test followed by serial tests of the same; serial body weights; serial electrocardiographic tests; prohibition of testing the drug in patients with known heart disease (the very patients who stand to benefit the most); pretest estimation of the degree of heart failure; three determinations of baseline blood cholesterol; rigid protocols on every patient; minimum of one year testing on each patient; restriction of therapy to drug under test; and requirement that double blind studies be done (in which neither the doctor nor patient knows whether the drug or a placebo is being given).

The point at issue is not the utility, expense, or even ethical considerations, but the fact that these demands were neither made nor conformed to in the case of Baxter's Choloxin.* As previously mentioned, Cothyrobal consists only of drugs already approved by the FDA, whereas Choloxin is a new and never previously approved drug; and the requirements in question properly apply to any drug affecting the heart.

In addition, Choloxin is simply a rare isomer (same atoms but differently arranged as in mirror images) of the common thyroid hormone which is used in Dr. Israel's Cothyrobal, and the Choloxin insomer has the same kind of toxic effects as common thyroid hormone, as its action depends on its being converted to the latter after absorption. It is a basic biochemical axiom that dextroamino acids are inactive until they are optically rotated to laevo-amino acids. Thus dextro-thyroxin is converted to laevo-thyroxin in indeterminate amounts. After absorption and conversion, naturally it is able to lower cholesterol.

The FDA and Baxter Laboratories technically avoid the liability for Choloxin injury by specifying in the Choloxin label that it should not be used in the presence of heart disease. This is a farce because (a) Baxter dextrously fills its Choloxin advertisements with allusions to use in connection with heart disease; [92] (b) the FDA admits it is impossible to rule out heart disease in elderly people [93] for whom Choloxin is freely prescribed; (c) independent highly reliable clinical studies by the Veterans Administration on Choloxin show that heart patients treated with Choloxin are between two and four times more likely to die than if not treated with Choloxin.[94] As has been described, almost *all of the consultants to whom the FDA wrote for advice about Choloxin concurred that it was dangerous for the heart.*[17]

CONCLUSION

The evidence is that Dr. Israel has been ground down between the upper millstone of FDA malfeasance and the nether millstone of a giant competitor in the drug industry. Not only has a grave injustice been done, but here in miniature we have a perfect example of destruction of the creativity of the individual which has made America great.

No person and no agency could hope to call the FDA to account in this matter unless it has the power to make a public inquiry. Under the guise of protecting manufacturing trade secrets, the FDA keeps strictly secret all the pharmacological and clinical data and its scientific analyses of that data, *not only secret from the public whose health depends upon the validity of that data and the analyses thereof,* but also secret from the protagonists themselves who make application to the FDA for approval to market drugs. In the vast majority of cases, no trade secrets are involved, or these are easily separated from the pharmacological and clinical data, which latter data alone in practically every case determine whether or not a drug is approved. By making FDA scientific files off limits to anyone except a Congressional subcommittee,* the FDA effectively maintains an imperious power to protect whatever selfish interests FDA officials or their friends in the drug industry may have, and to practice neglect, incompetence, or favoritism on a grand scale.

The sins of omission and commission of the FDA in Dr. Israel's case extending over a period of 12 years, have been so serious that the FDA establishment now appears to consider that its only safe course *is to stand upon the doctrine of infallibility and to cover its tracks as best it can.* Time and power are on the side of the FDA. Key FDA personnel who injured him have died or left the agency, some of them just this past year [97] and after the investigation by the Senate Subcommittee on Administrative Practice and Procedure began to take hold.

With great courage, Dr. Israel fights on to serve the public. He dares the FDA to stop him, as it has threatened to do [98], from sending to his colleagues around the country some of the separate ingredients and directions for his treatment. All of the ingredients are FDA approved drugs, but the two most important—laevo-thyroxin and vitamin B_{12} which are the crux of his treatment—the

*Drs. Ruskin and Finkel were on intimate first name terms with many of the Cothyrobal consultants as shown by salutations in the letters: "Dear Art, Dear John, Dear Dave, Dear Marv, Dear Marion."

*Every doctor, drug company, and FDA official knows that treatment aimed at lowering cholesterol is really aimed at preventing or decreasing hardening of the arteries. In a careful development of the unessential, the FDA straddled this fiction and let Choloxin through on the former basis, while blocking Cothyrobal on the latter basis with the specious argument that the medical profession does not recognize the use of thyroid for the treatment of hardening of the arteries. As a matter of fact, if one examines the Choloxin clinical reports submitted to the FDA, he will find frequent references to these patients having been treated with thyroid for their arteriosclerosis prior to the trial of Choloxin. Dr. Israel, caring about the deep effect of thyroid which goes far beyond the fluctuations of blood cholesterol levels, was carefully boxed in this FDA bureaucratic pigeon-hole *little related to either the art or science of medicine.*

*Congressmen evidently do not have the right to examine these files.[95]

Footnotes at end of article.

FDA will not permit to be distributed in one bottle. There is no question of chemical conflict [62]. The FDA has simply ruled that the mass of accumulated evidence has not yet shown that the simultaneous administration of these two substances is safe and effective. The FDA even forbids the distribution of Cothyrobal for use in further investigation [71].

Doctors around the country now buy the vitamin B_{12} locally and mix it themselevs with thyroid hormone, which is awkward, inefficient, and considerably hampers the safety, ease, and surety of the treatment.

In effect, the FDA has condemned a whole new and promising principle of treatment, and done this without scruple. The prestigious FDA is on record, and misses no opportunity to remind all inquirers, whether laymen, doctors, or Congressmen, that it officially holds this treatment of Dr. Israel's to be without value [37 38 39]. To bolster this condemnation, FDA does not hesitate to state publicly its petty seizure actions of Cothyrobal and to spread innuendoes of commercialism about Dr. Israel [37 39], while private FDA memoranda state that no question of Dr. Israel's ethics exists [99].

What is the basic evil in all of this? It should be clear that it is secrecy, behind the ceurtain of which malfeasance can hide. No one rightfully questions the general importance of the FDA's work and of its mandate to protect the public from useless or harmful food and drugs. No one can sensibly dispute the necessity of a strong, centralized government agency, gathering in the flood of new knowledge and steering the nation safely through a biochemical world.

The evils described in this report could scarcely occur if the data on drugs (other than manufacturing secrets in FDA files) and the FDA's scientific analyses of that data were open to independent scientists. This information should be in the public domain, because the health of the public thoroughly depends on its valadity. *And no less, does the honesty and efficiency of the FDA or any other government agency depend upon the vigilant exercise of public scrutiny.* It is not necessary that the strictly administrative affairs of the FDA be seen by the public. What is at issue are scientific data and the scientific analyses of that data by FDA experts. If science is clean—and we revere science for its purity and objectivity—then it can stand inspection. Taxpayers have a right to inspect government work which they pay for, in any field not involving national security.

As has been shown, when a feudal secrecy is the rule, as now exists in the FDA, there is a great danger of monopoly, exploitation, injustice, and obstruction of both private enterprise and progress. The Freedom of Information bill has had no effect on the FDA, which merely circulates new pledges for its employees to sign binding them to more stringent secrecy.[103]

Let us not forget that Liberty and Justice perish in the dark—and survive only in the light.

FOOTNOTES

COTHYROBAL: INDEX TO REFERENCES

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* The capital letter, "F", in references refers to FDA's Dr. Finkel, and the page of the transcript of a pre-hearing conference.

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[11] 9/25/63, Memorandum from Dr. Grant to Dr. Kelsey.
[12] F–35.
[13] 10/25/67, Letter—Dr. Kritchevesky to Mr. Ohlhausen.
[14] 4/6/64, Letter—Dr. Nodina to Dr. Finkel.
[16] 7/28/65, 7/23/65, 7/23/65, 7/23/65, 7/28/65, 7/28/65, 7/29/65, 7/29/65, 7/29/65, 7/29/65, 7/29/65, 8/2/65, 8/2/65, 8/2/65, 8/2/65.
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[28] Bibliography—to be brought to hearing.
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[35] F–181, F–192.
[36] 10–8–59, 10–23–63, intra-administrative referral.
[37] 5/15/63, letter Mr. Rankin to Speaker McCormack.
[38] 3/3/64, 3/5/64, 3/2/64, 5/26/64, 6/15/64, 6/23/64, 7/8/64, 7/28/64, 12/14/64, letters—FDA to Congressmen, public, etc.
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[44] F–322.
[45] 11/27/62, memorandum of conference with Dr. Grant and Dr. Vos.
[46] F–67.
[47] 12/6/62, Memorandum Dr. Ellenhorn to Dr. Ruskin.
[48] F–329–330, 443, 8/3/62, 6/3/63, 6/19/63, 6/25/63, 7/18/63, 12/6/63, F–333, 9/17/63.
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[51] 4/26/63, with p. 1. of protocol; 7/16/63, letter Dr. R. Smith to Dr. Cameron.
[52] 5/20/63, memorandum of conversation—Parker Jones and Rankin.
[53] 6/6/63, letter from Bureau of Medicine.
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[55] 11/26/63, 3/5/64, letter—Dr. Ingbar to Dr. Levitt.
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[58] 8/27/67, 8/23–24/67, letters Mr. Onychuk to Dr. Brubakerk.
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[60] F–122.
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[64] F–53.
[65] F–376, 377, 378.
[66] 5/19/64, letter—Commissioner Larrick to Dr. Brusch.
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[69] F–463.
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[From the Chicago (Ill.) Sun-Times, July 21, 1968]

IS THYROXIN AN ANSWER TO HARDENING OF THE ARTERIES?

(By Delos Smith)

NEW YORK.—Of 45 diabetics in the throes of going blind, 40 regained some part of their lost vision while being heavily and regularly dosed with thyroxin—the principal hormone of the thyroid gland—and an assortment of vitamins.

This hopeful outcome of an experiment with diabetic retinopathy, a leading and all but unstoppable cause of blindness, is being reported to members of the Vascular Research Foundation by its medical director, Dr. Murray Israel.

The experiment was Israel's newest effort to show that thryoxin is a natural preventive of hardening of the arteries. It kills more people than any other disease process, mainly from heart attacks and strokes. He chose diabetics with retinopathy because in their diseased retinas the hardening process is clearly visible and checkable. In all other body sites it is hidden.

For over 20 years Israel has been a tireless advocate in medical science of thyroxin medication for almost everyone older than 30 on the ground it would improve arterial health and prolong average life span.

Relatively few doctors have gone along, probably because of profound medical respect for thyroxin. It is a key stimulator and regulator of the body's energizing chemistry. When a thyroid gland produces too much thyroxin as a regular thing there is a racing metabolism which is very bad, particularly when blood vessels are already impaired by hardening or other vascular disorders.

When a gland produces too little, metabolism is sluggish. Orthodox medicine makes up such deficit by supplying thyroxin from the outside but in tiny amounts and only when a standard test—protein bound iodine, PBI—indicates a deficit actually exists.

Israel's long-standing unorthodoxy is to prescribe thyroxin, and in large doses, to persons with normal thyroid gland function according to their PBIs, including those with impaired vascular systems.

But he accompanies it with vitamins of the B-complex group which like thyroxin itself are involved in metabolism. They neutralize excess thyroxin, if there is any, according to Israel, and there can be no "racing" or other untoward rebound on body chemistry.

He has so treated more than 1,600 patients. Some have been taking thyroxin-vitamins daily for 20 years. And the benefits for a large majority have been dramatic, Israel reports.

Even persons debilitated by vascular diseases have "returned to vigorous life" due to stopping of the hardening process, stepped-up collateral blood circulation around centers of hardened arteries and generally improved metabolism. Periodically other doctors have reported similar results. The latest confirmation is the current issue of the American Geriatric Society's journal.

PBI measures thyroxin in the circulation blood and is not a precise test. Israel contends it is meaningless because thyroxin turnover in the cells is the real test of thyroxin sufficiency. This turnover is not readily measurable.

His basic argument is that the thyroid glands of almost all if not all people usually begin declining as thyroxin producers around the age of 30. As a result less and less thyroxin centers into the metabolic processes which clear cholesterol and other artery-hardening fats.

They then begin accumulating in artery linings and untold multitudes die much sooner than they would have if their thyroid glands had retained full vigor—of heart attacks, strokes and other vascular disorders.

In all these contentions Israel has had support from experimental laboratory science although not enough to prove them beyond question. That is why he turned to diabetics. They have much more generalized artery-hardening. Their vascular complications are many. Retinopathy is one. It develops in 64 per cent of those who have had diabetes for 11 years and in 93 per cent who have had it for 20 years.

The 45 subjects for the experiment were selected by opthalmologists who first tested their visual acuity and charted the diseased states of the network of tiny arteries and veins of the retina. In retinopathy the vessels clog. Periodically they hemorrhage and exude metabolic debris. Scar tissue forms, visual acuity declines and the eventual result is blindness.

The subjects were treated with Thyroxin-vitamins for a little more than a year by Israel and his colleague of the foundation's medical board, Dr. V. M. Walcsak of Los Angeles. The opthalmologists repeated the vision tests and retina checks during and after treatment.

The appraisals of improved visual acuity and of a lessening of the disease states were contained in Israel's report which is now being prepared for formal publication in the medical literature. During the treatment period there was no further hemorrhaging in 39 of the 45 and the absorption of debris from past vessel breaks was accelerated.

Israel's report acknowledged the variable nature of diabetic retinopathy. But "in a group of 45 patients, 25 of whom were legally blind and almost all of whom were beyond the possibility of remission, one could not expect spontaneous recovery in more than a minute fraction," it said.

[From the Journal of the American Medical Association, Oct. 8, 1949]

PREVENTION AND TREATMENT OF ATHEROSCLEROSIS

Knowledge of the factors involved in atherosclerosis, i.e., the most common type of arteriosclerosis characterized anatomically by the deposition of lipoidal matter in the arterial intima, has made significant progress recently. The clinical and experimental evidence supplies added weight to the concept that an instability of the plasma lipids of transitory or persistent nature is related to the development of these lesions. Abnormalities of the fat and oxygen metabolism represent the primary cause of these colloidal plasmatic disturbances.[1]

After Moreton[2] pointed out that the postprandial episodes of macrochylomicronemia following the intake of fatty meals might be related to atherosclerosis. Pollak[3] showed that cholesterol dispersed in serum and intravenously injected into rabbits was taken up by the arterial endothelium within a few minutes after injection. Although the total amount of chylomicrons after a meal is always in direct proportion to the quantity of fat ingested, Setälä[4] observed that the metabolic rhythm of the visible lipoidal plasmatic aggregates, i.e., the chylomicron curve, is characteristic for the individual and remains comparatively constant under the same external conditions. While most persons showed a rapid increase of the chylomicrons after a fatty meal followed by an abrupt drop, some persons displayed one or more, generally lower "after-peaks." Boas, Parets and Adlersberg[5] observed the comparatively frequent appearance of atherosclerosis in persons with a hereditary disturbance of the cholesterol metabolism, associated with hypercholesteremia. The coarser dispersion of cholesterol in the plasma which often but not always accompanies hypercholesteremia predisposes to the formation of endothelial foam cells through phagocytosis of precipitated cholesterol micels and occasionally may lead to the production of cystalline cholesterol emboli in small arteries of internal organs, with the subsequent development of foreign body granulomas.[6]

The important role which the relative amounts of lecithin and albumin have in stabilizing the colloidally dispersed cholesterol in the plasma, even when present in excessive quantities, was demonstrated recently by Ladd, Kellner and Correll.[7] These investigators found that atheromatosis did not develop in rabbits that had received introvaenous injections of detergents (tween 80°), although there was a definite rise of the plasma cholesterol level, because there was a proportionally higher increase of the phospholipids. Probably the cholesterol-phospholipid ratio is important in modifying or preventing the development of atherosclerosis. Differences of this order may account for the fact that the diabetic hypercholesteremia in man is associated with a tendency to atherosclerosis, while alloxan diabetes in rabbits with dietary hypercholesteremia lacks this tendency.[8] Apart from a few exceptional conditions hypercholesteremia, such as that seen with lipid nephrosis, hypothryroidism, diabetes mellitus, essential xanthomatosis and pregnancy, favors the deposition of lipid in the arterial intima.

Ungerleider, Gubner and Rodstein[9] concluded from their analyses of 612 subjects that even so-called normal cholesterol concentrations (average cholesterol 211 mg. per hundred cubic centimeters) seem to predispose to the development of atherosclerosis, because the "normal cholesterol" level is in reality a high cholesterol level. If additional evidence should support this observation, Ungerleider and his co-workers proposed to make drastic changes in the American diet by restricting the fat intake. In connection with a study of the oxygen metabolism in old age, Chieffi and Kountz[10] found a decline in oxygen consumption during the early phase of degenerative arterial disease. While they expressed the opinion that the lowered oxygen consumption is unrelated to the thyroid activity, other investigators observed decreased activity of the thyroid with advancing age. Apart from the relationship existing between myxedema and atherosclerosis, these observations are important, because dietary atheromatosis in experimental animals (rabbits, chickens) can be prevented or delayed by the simultaneous administration of thyroid hormone, which seems to have value in the control of the human disease (Herrmann,[11] Chieffi and Kountz,[10] Israel[11b] and others). Another group of investigators attempted to attain this goal by influencing the fat metabolism through the administration of the lipotropic factors of the vitamin B complex, namely choline and inositol (Morrison, Herrmann,[11] Steiner and others). Although the preventive therapeutic results obtained in man and animals by this approach have not been consistent, they are sufficiently promising to merit further study, especially in connection with other factors influencing both the oxygen and fat metabolism. Since investigations of the prevention and therapy of atherosclerosis in experimental animals do not give results directly applicable to man, well controlled studies of patients are essential. From an evaluation and integration of the available data, measures suitable for the prevention and therapy of atherosclerosis must correct the fundamental metabolic disorders and the hematic colloidal disturbances. In a recently published discourse on this subject,[1] the following four approaches to atherosclerotic control were considered: (1) restriction of caloric and fat intake for all atherosclerotic patients who either are overweight or have a plasma cholesterol level above 220 mg. per hundred cubic centimeters and substitution of animal fat by vegetable fat, especially fats containing long chain fatty acids which form esters with cholesterol and which are poorly absorbed, as arachidic acid in peanut oil; stimulation of the oxidative processes by giving a diet rich in proteins, oxytropic members of the vitamin B complex (nicotinic acid, thiamine, riboflavin) and small amounts of thyroid hormone; (3) decholesterolization of tissue depots by the administration of the lipotropic factors of the vitamin B complex (cholinet, inositol, pyridoxine), and (4) stabilization of plasma cholesterol with adequate amounts of colloidal stabilizers, as lecithin and albumin.

Although effective prevention and therapy of atherosclerosis is still in the experimental stage, the general outlook has become brighter. With greatly intensified research in prospect for the near future, the chances of survival and recovery of patients with atherosclerosis will no doubt be improved greatly.

FOOTNOTES

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[From the American Journal of Digestive Diseases, June 1955]

ARTERIOSCLEROSIS

As all physicians know, hardening of the arteries represents bed rock in modern medicine, being a condition which causes directly many diseases of varying symptomatology, is essential to coronary disease and cerebral accidents, and which, finally, appears as the stumbling block to any effort to increase greatly not only the span of human existence but to make the present years of expectancy enjoyable.

Murray Israel, M.D., Instructor in medicine at New York Medical College, presents, in this issue of our journal, an article which it would be well for us all to study diligently. While his logic and his modesty force him to admit that he has not, as yet, come up with a complete answer to the tremendous problem of atherosclerosis, it is nevertheless obvious that he has made one of the most important studies thus far in that direction.

The "aging" process appears to be the process of atherosclerosis and the latter, in the light of his present research, seems to be the natural result of a metabolism in *decrescendo*. By stimulating metabolism with thyroxin in organic union with vitamin B_{12}, plus the use of lipotropic agents, vitamins and a high-protein, low-cholesterol diet, he has without doubt obtained a rejuvenation of a new kind.

His work deserves attention first because of its practical application to coronary disease, which it has been shown to benefit very greatly. Furthermore, his work is likely to cause speculation with respect to many other problems, because his bold use of powerful therapeutic agents is not only harmless, but provides at least a down-payment on that priceless desideratum—an old age of vigor and enjoyment.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The BILL CLERK. A bill (H.R. 2767) to amend the Internal Revenue Code of 1954 to allow a farmer an amortized deduction from gross income for assessments for depreciable property levied by soil or water conservation or drainage districts.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LONG of Louisiana. Mr. President, as far as I know, there is no opposition to any of the committee amendments except one, and an amendment is at the desk, offered by the distinguished Senator from New Mexico [Mr. ANDERSON], to strike the committee amendment he finds objectionable. In order to get on with the business of the Senate, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill as thus amended be regarded for purposes of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to the request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

The amendments, agreed to en bloc, are as follows:

On page 1, line 5, after the word "the" strike out "third sentence and by inserting in lieu thereof the following new sentence" and insert "the last sentence and inserting in lieu thereof the following:"; on page 2, line 13, after the word "assessment)." strike out "For purposes of this section, in the case of any property described in clause (ii) of the preceding sentence, any amount paid or incurred by the taxpayer during the taxable year and attributable to such property shall be treated as paid or incurred ratably over the taxable year and each of the nine succeeding taxable years.';" after line 19, insert:

"(b) Section 175 of such Code is amended by adding at the end thereof the following new subsection:

"'(f) RULES APPLICABLE TO ASSESSMENTS FOR DEPRECIABLE PROPERTY.—

"'(1) AMOUNTS TREATED AS PAID OR INCURRED OVER 9-YEAR PERIOD.—In the case of an assessment levied to defray expenditures for property described in clause (ii) of the last sentence of subsection (c)(1), if the amount of such assessment paid or incurred by the taxpayer during the taxable year (determined without the application of this paragraph) is in excess of an amount equal to 10 percent of the aggregate amounts which have been and will be assessed as the taxpayer's share of the expenditures by the district for such property, and if such excess is more than $500, the entire excess shall be treated as paid or incurred ratably over each of the 9 succeeding taxable years.

"'(2) DISPOSITION OF LAND DURING 9-YEAR PERIOD.—If paragraph (1) applies to an assessment and the land with respect to which such assessment was made is sold or otherwise disposed of by the taxpayer (other than by the reason of his death) during the 9 succeeding taxable years, any amounts of the excess described in paragraph (1) which has not been treated as paid or incurred for a taxable year ending on or before the sale or other disposition shall be added to the adjusted basis of such land immediately prior to its sale or other disposition and shall not thereafter be treated as paid or incurred ratably under paragraph (1).

"'(3) DISPOSITION BY REASON OF DEATH.—If paragraph (1) applies to an assessment and the taxpayer dies during the 9 succeeding taxable years, any amount of the excess described in paragraph (1) which has not been treated as paid or incurred for a taxable year ending before his death shall be treated as paid or incurred in the taxable year in which he dies.'

On page 4, at the beginning of line 6, strike out "(b)" and insert "(c)"; in the same line after the word "by" strike out "subsection (a)" and insert "subsections (a) and (b)"; after line 9, insert a new section, as follows:

"SEC. 2. The terms or conditions of a pension or retirement plan qualified under section 401 of the Internal Revenue Code of 1954, or of a retirement practice, which provide for reasonable differentiation in retirement ages between male and female employees, or which provide for or require retirement at reasonable ages, shall not be construed to violate title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, any Executive order, or any rules or regulations issued under any of the foregoing, except that such terms and conditions shall not excuse the failure or refusal to hire individuals, or the discharging of individuals prior to retirement age, on account of their sex or age. The preceding sentence shall not apply if such terms and conditions are merely a subterfuge to evade the basic purposes of title VII of the Civil Rights Act of 1964 or the Age Discrimination in Employment Act of 1967."

"SEC. 3. (a) Section 401(1) of the Internal Revenue Code of 1954 (relating to certain union-negotiated pension plans) is amended—

"(1) by striking out 'Multiemployer' in the heading, and

"(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"'(1) such trust was created pursuant to a collective bargaining agreement between employee representatives and one or more employers,'.

"(b) The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1953, and ending after August 16, 1954, but only with respect to contributions made after December 31, 1954."

After line 14, insert a new section, as follows:

"SEC. 4. (a) Section 504(a) of the Internal Revenue Code of 1954 (relating to denial of exemption) is amended by inserting after the second sentence thereof the following new sentence: 'Paragraph (1) shall not apply to income attributable to property transferred to a trust before January 1, 1951, by the creator of such trust, if such trust was irrevocable on such date and if such income is required to be accumulated pursuant to the mandatory terms (as in effect on such date and at all times thereafter) of the instrument creating such trust.'

"(b) Section 681(c) of such Code (relating to limitation on charitable deduction of trusts by reason of accumulated income) is amended by inserting after the second sentence thereof the following new sentence: 'Paragraph (1) shall not apply to income attributable to property transferred to a trust before January 1, 1951, by the creator of such trust, if such trust was irrevocable on such date and if such income is required to be accumulated pursuant to the mandatory terms (as in effect on such date and at all times thereafter) of the instrument creating such trust.'

"(c) The amendments made by subsection (a) and (b) shall apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954. For purposes of section 3814 and 162(g)(4) of the Internal Revenue Code of 1939, provisions having the same effect as such amendments shall be treated as included in such sections effective with respect to taxable years beginning after December 31, 1950."

On page 6, after line 17, insert a new section, as follows:

"SEC. 5. For purposes of applying part II of subchapter F of chapter 1 of the Internal Revenue Code of 1954 (relating to the taxation of business income of certain exempt organizations) with respect to activities of soliciting, selling, and publishing commercial advertising in a periodical which is published by an organization subject to the tax imposed by section 511 of such Code and which con-

tains editorial matter related to the exempt purposes of the organization—

"(1) sections 1.512(a)–1 and 1.513–1 of the Income Tax Regulations (as amended by Treasury Decision 6939) shall apply only with respect to taxable years beginning after December 12, 1968 (in lieu of the taxable years specified therein), and

"(2) sections 1.512(a)–2 and 1.513–2 of the Income Tax Regulations (as so amended) shall apply with respect to taxable years beginning before December 13, 1968 (in lieu of the taxable years specified therein)."

On page 7, after line 9, insert a new section, as follows:

"SEC. 6. (a) Section 815(f) of the Internal Revenue Code of 1954 (relating to definition of distribution) is amended—

"(1) by striking 'or' at the end of paragraph (3);

"(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof '; or';

"(3) by inserting after paragraph (4) the following new paragraph:

"'(5) any distribution after December 31, 1967, of the stock of a controlled corporation to which section 355 applies, if such distribution is made to a corporation which immediately after the distribution is the owner of all of the stock of all classes of both the distributing corporation and such controlled corporation and if, immediately before the distribution, the distributing corporation had been the owner of all of the stock of all classes of such controlled corporation at all times since December 31, 1957.';

"(4) by striking out 'Neither paragraph (3) nor paragraph (4) shall apply' in the next to the last sentence and inserting in lieu thereof 'Paragraphs (3), (4), and (5) shall not apply'; and

"(5) by striking out 'paragraphs (3) and (4)' in the last sentence and inserting in lieu thereof 'paragraphs (3), (4), and (5)'.

"(b) Section 815 of such Code (relating to distributions to shareholders) is amended by adding at the end thereof the following new subsection:

"'(g) CERTAIN DISTRIBUTIONS RELATED TO FORMER SUBSIDIARIES.—If subsection (f)(5) applied to the distribution by a life insurance company of the stock of a corporation which was a controlled corporation—

"'(1) any distribution by such corporation to its shareholders (after the date of the distribution of its stock by the life insurance company), and

"'(2) any disposition of the stock of such corporation by the distributee corporation, shall, for purposes of this section, be treated as a distribution to its shareholders by such life insurance company, until the amounts so treated equal the amount of the distribution of such stock which by reason of subsection (f)(5) was not included as a distribution for purposes of this section.'

"(c) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1967."

On page 9, after line 5, insert a new section, as follows:

"SEC. 7. (a) Part IV of subchapter L of chapter 1 of the Internal Revenue Code of 1954 (relating to provisions of general application to insurance companies) is amended by adding at the end thereof the following new section:

"'Sec. 844. Special loss carryover rules.

"'(a) GENERAL RULE.—If an insurance company—

"'(1) is subject to the tax imposed by part I, II, or III of this subchapter for the taxable year, and

"'(2) was subject to the tax imposed by a different part of this subchapter for a prior taxable year beginning after December 31, 1962,

then any operations loss carryover under section 812, unused loss carryover under section 825, or net operating loss carryover under section 172, as the case may be, arising in such prior taxable year shall be included in its operations loss deduction under section 812(a), unused loss deduction under section 825(a), or net operating loss deduction under section 832(c)(10), as the case may be.

"'(b) LIMITATION.—The amount included under section 812(a), 825(a), or 832(c)(10), as the case may be, by reason of the application of subsection (a) shall not exceed the amount that would have constituted the loss carryover under such section if for all relevant taxable years such company had been subject to the tax imposed by the part referred to in subsection (a)(1) rather than the part referred to in subsection (a)(2). For pursoses of applying the preceding sentence—

"'(1) in the case of a mutual insurance company which becomes a stock insurance company, the deduction under section 832(c)(11) (relating to dividends to policyholders) shall not be allowed, and

"'(2) section 812(b)(1)(A)(ii) (relating to additional years to which losses may be carried by new life insurance companies) shall not apply.

"'(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.'

"(b)(1) The table of sections for part IV of subchapter L of chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"'Sec. 844. Special loss carryover rules.'

"(2) Sections 809(e)(5) and 823(b)(1) of such Code are each amended by striking out 'The' and inserting in lieu thereof 'Except as provided by section 844, the'.

"(3) Section 825(g)(2) of such Code is amended by striking out 'to or from' and inserting in lieu thereof 'except as provided by section 844, to or from'.

"(4) Section 825(g)(3) of such Code is amended by striking out 'to any' and inserting in lieu thereof 'except as provided by section 844, to any'.

"(c) The amendments made by subsections (a) and (b) shall apply with respect to losses incurred in taxable years beginning after December 31, 1962, but shall not affect any tax liability for any taxable year beginning before January 1, 1967."

On page 11, after line 11, insert a new section, as follows:

"SEC. 8. (a) Section 851(e) of the Internal Revenue Code of 1954 relating to investment companies furnishing capital to development corporations) is amended—

"(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"'(2) LIMITATIONS—

"'(A) EXCESS INVESTMENTS AFTER 15 YEARS.—If—

"'(i) at the close of any taxable year (whether beginning before, on, or after the date of the enactment of this subparagraph), more than 25 percent of the value of the total assets of an investment company is represented by securities of issuers with respect to each of which the investment company holds more than 10 percent of the outstanding voting securities of such issuer and in respect of each of which or any predecessor thereof the investment company has continuously held any security for 10 or more years, and

"'(ii) at the close of the fifth taxable year following such taxable year (but only if such fifth taxable year begins after the date of the enactment of this subparagraph), the investment company has not reduced by at least 40 percent its holdings of each issue of securities described in clause (i) which represented the excess investment in such securities (as determined under paragraph (5)),

the provisions of this subsection shall not apply at the close of any quarter of such fifth taxable year to such investment company, unless at the close of such year the securities described in clause (i) represent 25 percent or less of the value of its total assets (or are reduced to 25 percent or less of such value within 30 days thereafter).

"'(B) EXCESS INVESTMENTS AFTER 20 YEARS.—The provisions of this subsection shall not apply at the close of any quarter of a taxable year to an investment company if at the close of such quarter more than 25 percent of the value of its total assets is represented by securities of issuers with respect to each of which the investment company holds more than 10 percent of the outstanding voting securities of such issuer and in respect of each of which or any predecessor thereof the investment company has continuously held any security for 20 or more years preceding such quarter unless the value of its total assets so represented is reduced to 25 percent or less within 30 days after the close of such quarter.'; and

"(2) by inserting after paragraph (4) thereof the following new paragraph:

"'(5) RULES FOR APPLICATION OF PARAGRAPH (2)(A).—

"'(A) EXCESS INVESTMENT.—For purposes of paragraph (2)(A), the excess investment with respect to any issue of securities described in clause (i) of such paragraph held by an investment company is an amount equal to an amount determined by multiplying—

"'(i) the aggregate value of the securities described in clause (i) of such paragraph, reduced by an amount equal to 25 percent of the value of the total assets of the investment company, by

"'(ii) a fraction the numerator of which is the value of such issue of securities and the denominator of which is the aggregate value of all securities described in such clause (i) held by the investment company.

"'(B) SUBSTITUTION FOR LESS-APPRECIATED SECURITIES.—If the percentage appreciation in value per share of any issue of securities described in clause (i) of paragraph (2)(A) is less than the average percentage appreciation in value per share of all issues of securities described in such clause, the reduction, or any part thereof, in the holdings of such issue required under clause (ii) of paragraph (2)(A) shall be treated as satisfied by a reduction (in addition to the reduction required under such clause) of a dollar amount of the holdings of any other issue of securities described in clause (i) of such paragraph, the average appreciation in value per share of which is higher than the average appreciation in value per share of all issues of securities described in such clause, equal to the dollar amount of such issue which would have to be disposed of to effectuate such reduction or such part. This subparagraph shall apply only if the investment company files a statement, at the time of making its return for the taxable year, identifying the transaction or transactions in which its holdings of such other issue were reduced in substitution for a reduction in the holdings of such issue.

"'(C) TIME FOR MAKING DETERMINATIONS.—For purposes of subparagraph (A) of this paragraph and clause (ii) of paragraph (2)(A), all determinations shall be made as of the close of the applicable taxable year referred to in clause (i) of paragraph (2)(A). For purposes of applying subparagraph (B) of this paragraph, all determinations shall be made at the time of the transaction identified by the investment company under such subparagraph.'

"(b) Section 851(d) of such Code (relating to determination of status of regulated investment companies) is amended by adding at the end thereof the following new sentence: 'If a corporation meets the requirements of subsection (b)(4)(A) at the

close of any quarter of any taxable year (whether beginning before, on, or after the date of the enactment of this sentence) by reason of the application of the provisions of subsection (e), this subsection shall not apply to such corporation for any subsequent quarter of any taxable year (beginning after the date of the enactment of this sentence) for which the Securities and Exchange Commission fails to make the determination provided for in paragraph (1) of subsection (e) or for which the corporation fails to satisfy the limitation set forth in paragraph (2)(A) of subsection (e) or the limitation set forth in paragraph (2)(B) of such subsection.'

"(c) The amendments made by subsection (a) shall apply to taxable years beginning on or after January 1, 1967. The amendment made by subsection (b) shall apply to taxable years beginning after the date of the enactment of this Act."

Mr. LONG of Louisiana. Mr. President, the Senator from Iowa [Mr. MILLER] explained his amendment on yesterday. I have not had an opportunity to study it.

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). Will the Senator from Louisiana suspend for a moment? The Chair wishes to announce that the pending question is the amendment (No. 940) offered by the Senator from Iowa [Mr. MILLER].

Mr. LONG of Louisiana. Mr. President, there are some points in favor of the Miller amendment and there are some good arguments to the contrary.

In view of this mixed situation I am willing to take the amendment to conference and let the conferees evaluate its merits there.

I have discussed this matter with the Senator from Delaware [Mr. WILLIAMS]. He seems to feel that would be the best procedure with regard to the amendment.

The PRESIDING OFFICER. Does the Senator make that request?

Mr. LONG of Louisiana. The amendment is pending, Mr. President. If there is no objection by Senators, I suggest we accept the amendment and take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 940) offered by the Senator from Iowa [Mr. MILLER].

The amendment was agreed to.

A GREATER SENSE OF PUBLIC RESPONSIBILITY NEEDED IN DRUG INDUSTRY

Mr. YOUNG of Ohio. Mr. President, the report issued last week by the task force on prescription drugs again stressed the need for implementing President Johnson's request to the Congress earlier this year to deal with the shocking cost of medical care and to make certain that American taxpayers do not pay exorbitant prices for prescription drugs used in federally supported programs.

The report pointed out again the tremendous waste in the drug industry on duplication of competitive products and the inability of many physicians to prescribe rationally largely because they rely heavily for their information on drug advertising and promotion. The report also rejects the notion that the high degree of risk in the manufacture of drugs justifies a profit rate that in 6 out of 10 years placed pharmaceutical firms first among the 41 leading industries.

The report revealed the shocking fact that the drug industry spends an estimated $3,000 per year per doctor on 20,000 salesmen, mailings, advertisements, and free samples in promoting their products. It reveals that the inability of physicians to prescribe drugs rationally amidst confusing claims is now a matter of serious concern to experts, and that the lack of knowledge and sophistication in the proper use of drugs is perhaps the greatest deficiency to the average physician today. There is a crying need for an unbiased publication giving doctors objective, up-to-date information on drugs, and to provide the public with truthful information on prescription prices.

Mr. President, immediately after the 91st Congress convenes—or during this session if possible—legislation should be enacted into law to correct these problems and other problems in the drug industry. Foremost should be legislation authorizing the Secretary of Health, Education, and Welfare to establish a reasonable cost range to govern reimbursement for drugs now provided under medicare and medicaid maternal and child health programs.

Mr. President, apart from the cost of drugs in federally sponsored programs, there is immediate need to end outrageous pricing practices in the pharmaceutical industry. Profiteering in the pharmaceutical industry is a national disgrace. In the past, congressional investigations of pricing practices in the drug industry have resulted in some remedial legislation. However, existing laws are still too weak and inadequate. The public is still being fleeced. For example, as the President pointed out in his health message, recent surveys revealed that 12 drugs of the same type range in retail price from $1.25 to $11 for 30 tablets.

The distinguished junior Senator from Wisconsin [Mr. NELSON] has been performing a great public service as chairman of the Monopoly Subcommittee of the Select Committee on Small Business which is investigating excessive pricing practices in the drug industry. Executives of pharmaceutical companies defend high prices of many drugs by maintaining that it takes a substantial investment to develop a new product, and that they are therefore entitled to a reasonable return on their investment. No one quarrels with that. Nobody objects to a company's need to recover investment costs as promptly as possible nor of its desire to turn a profit. However, maintaining absurdly high prices for an indefinite period of time after the original outlay has been retrieved cannot be justified and should not be condoned.

It is noteworthy that while the median profit as a percentage return on invested capital was 11.8 percent for all industries in 1965, the pharmaceutical industry had a return of 18 percent. Expressed as a percentage return on sales, the all-industry median was 5½ percent, while the pharmaceutical industry average was 10.3 percent.

Fortune magazine's 1966 directory of the 500 largest U.S. industrial corporations shows Smith, Kline & French Laboratories ranking 280th in total sales, but third in profits earned as a percentage of both sales and invested capital—and these are profits after all production, administrative, and research costs and after income taxes.

Testimony received before the Monopoly Subcommittee has indicated many other pricing shenanigans in the drug industry. For example, many drugs developed in European nations are sold in the United States at exorbitant prices. Research and development costs have already been made up by European consumers. When the American drug company acquires the manufacturing license to sell a drug in the United States, a reasonable percentage of sales is paid to the European company which developed the drug or owns the rights to its use. Nevertheless, in many cases the drugs are then sold in the United States at substantially higher prices than those charged the European consumer by the European manufacturer. The overcharge is only limited by what the traffic will bear.

A prominent example of this practice is the case of the well-known tranquilizer, thorazine. This miracle drug is to many people the difference between spending a lifetime in mental institutions or living a normal life. These pills cost the druggist in London 70 cents for 100 10-milligram tablets. The druggist in the United States pays $4.26 for the same quantity, or 608 percent more despite the fact that the American distributor is only a licensee, and did not make the investment to develop the drug. This is only one example of many heard by the Monopoly Subcommittee of the Select Committee on Small Business.

Another problem of major concern is the merchandising of drugs under protective trade names rather than by their generic names. It is true that many physicians feel more secure in prescribing drugs produced by well-known and professionally reputable pharmaceutical companies and distributed under trade names. However, the price differential is too often unwarranted and inexcusable.

For example, the drug Prednisone, an arthritic drug, is usually sold under its generic name for $2.20 per hundred and as cheaply as 59 cents per hundred. An identical drug distributed under the trade name of Meticorten was sold at the incredible price of $17.90 per hundred, and another identical drug marketed under the trade name of Paracort has sold for $17.88 per hundred. Other discrepancies in the prices of drugs differing only in name can be described by the dozens.

Mr. President, all Americans have greatly benefited from the hearings on pricing practices in the drug industry. On January 3, 1968, Parke, Davis & Co. cut the price of Paracort, by 80 percent to $3.45 a hundred. Officials of the Schering Corp. followed this example by cutting the price of Meticorten, its equivalent of Prednisone, by 40 percent to $10.80 per hundred which still allows for a very healthy profit margin. It is to be hoped that officials of other drug companies

will follow these examples by reducing the vast discrepancies in the prices of drugs differing only in name.

One of the most flagrant areas of overcharging in the drug industry is the pricing of antibiotics. Their price has remained high for many years although their use is now widespread. Research and development costs incurred certainly have been recovered by now. Moreover, most antibiotics do not require expensive raw material or unduly expensive machinery for mass production. The fact is that the popular antibiotics are mass produced from mold cultures or other micro-organisms which grow on common and inexpensive substances. The extraction and purification of these antibiotics does not require highly-paid personnel. Pharmaceutical companies have been hard pressed to justify the price of 30 cents to 75 cents per capsule, common prices for antibiotics presently on the market.

In fact, three drug companies, American Cyanamid, Bristol Myers, and Pfizer & Co. were recently convicted for conspiring to control the production and distribution of antibiotics worth an estimated $1,700,000,000. The jury specifically convicted them for restraint of trade, conspiracy to monopolize, and monopoly violations of the Sherman Antitrust Act. Two other companies, Olin Mathieson Chemical Corp. and Upjohn Co. were named as coconspirators but not as defendants. These five companies were charged with entering into agreements to produce and distribute a number of antibiotics including an agreement to limit the manufacture of tetracycline, a drug widely used against infectious diseases.

The Government introduced evidence showing that the companies manufactured the drug for $3.87 per hundred capsules which were then sold to druggists for $30.60 per hundred and eventually sold to consumers for $51 per hundred. On February 28, a Federal judge levied maximum fines totaling $450,000. Frankly, this penalty does not, in my opinion, begin to meet the enormity of the offense of this conspiracy to corner the market on drugs required by millions of Americans.

Mr. President, here is proof positive of the flagrant disregard of the public welfare by officials of some drug concerns. In this case they were caught and their firms penalized. However, it is obvious from the recent hearings that there are many similar cases in which the companies are going scot free. The patience of American consumers is wearing thin in regard to the prices they are forced to pay for drugs vital to their well-being. Either the drug companies immediately face up to their responsibilities or legislation to require them to do so must be enacted.

Another example of the fleecing of the public by the drug industry is in the sale of multivitamin capsules. Sales total several hundreds of millions of dollars annually, in great part due to expensive advertising and promotional activities of drug manufacturers. The propaganda of the pharmaceutical industry has been so convincing that the public actually demands prescription of multivitamins. The competence of doctors who refuse to fall in line and prescribe the often superfluous and useless vitamins is then doubted by their patients who have been brainwashed by the advertising campaigns of the vitamin manufacturers and distributors.

For most people, vitamins can be supplied by a fairly well balanced diet. There are, of course, cases where for one reason or another an individual is not receiving the necessary vitamins or requires more than the ordinary amount needed. People with specific vitamin deficiencies have symptoms which any competent physician can recognize and treat. Officials of the Food and Drug Administration have at long last recognized the significance of this situation and have proposed regulations that would require multivitamin manufacturers to clearly label their products as follows:

> Vitamins and minerals are supplied in abundant amounts by commonly available foods. Except for persons with special medical needs, there is no scientific basis for recommending routine use of dietary supplements.

Executives of pharmaceutical firms are firmly opposing these proposed regulations.

The high price of some drugs and medicines often restricts their use to the well-to-do and is a matter of social significance. Many physicians and surgeons hesitate to prescribe expensive medication to a patient because the financial burden is often too great. In many cases a less effective but more reasonably priced substitute is prescribed instead.

It is unconscionable that in the United States, the richest country in the world, a situation should be permitted to exist whereby some are denied the most advanced benefits of medical science solely because of their financial status. There is no reason whatever why any American should not receive proper medication when he requires it.

Mr. President, medicines and drugs should be available to all our citizens. There should be no discrimination due to fantastic and unrealistic prices. The drug industry certainly is entitled to a fair return on investment. However, we cannot allow the health of citizens to be victimized by greedy profitseekers. The drug industry must recognize its public responsibility. It is preferable that officials within the industry practice self-regulation and self-restraint in pricing procedures rather than continue practices which offer no alternative but Federal regulation.

The distinguished junior Senator from Wisconsin [Mr. NELSON] and his subcommittee are to be commended for the outstanding service they are performing in further bringing this problem under public and congressional scrutiny. I am hopeful that their work will result in legislation which will remedy inequities that exist in the sale and distribution of drugs and medicine. All Americans will benefit.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. YOUNG of Ohio. Mr. President, I yield to the Senator from Louisiana.

Mr. LONG of Louisiana. Mr. President, I am delighted that the junior Senator from Ohio [Mr. YOUNG] has raised this point about exorbitant drug pricing. He has labored in that vineyard for some time, as has the junior Senator from Louisiana.

It would seem to me that one of these days we should find an appropriate vehicle to accomplish our purpose. The Senator may recall that we did pass a measure somewhat along the lines the Senator is advocating in one of our social security bills some time back. The House of Representatives took a part of that measure but not nearly as much as we would like to see adopted.

Mr. President, the statement which the President made about this matter is entirely correct and what the Senator from Ohio has said about this matter is entirely correct. Something should be done about these exorbitant drug prices.

Mr. YOUNG of Ohio. Mr. President, I wish to thank the distinguished junior Senator from Louisiana. I am very happy to support the Senator in the fine work he has been doing in recent years to achieve fair pricing in the drug industry, especially for drugs purchased under federally assisted programs.

What the distinguished assistant majority leader, the junior Senator from Louisiana [Mr. LONG] said today, in addition to what he has said and done on this matter in the past, indicates that either later in the present session or very early in the 91st Congress, which convenes next January, something will be done in behalf of all the American people in connection with this important matter.

Mr. LONG of Louisiana. Mr. President, will the Senator yield further?

Mr. YOUNG of Ohio. I yield.

Mr. LONG of Louisiana. Mr. President, apropos the statement the junior Senator from Ohio has made on this subject, it will be remembered that a year or two ago the junior Senator from Louisiana rose in this Chamber to tell about an international drug conspiracy involving several of the major corporations, which robbed poor people all over the whole wide world by causing them to pay 40 times what they should pay for tetracycline, one of the wonder drugs.

When the Senator from Louisiana made a speech about this matter and demanded that a suit be prosecuted rather than to permit those people to file nolo contendere pleas and get off with a slap on the wrist, all of those people in the drug industry shouted that the Senator from Louisiana did not know what he was talking about.

Since that time the Department of Justice has proved that I did know what I was talking about because they prosecuted those drug companies in New York City. Three defendant drug companies were convicted of a conspiracy to in effect rob poor people by fixing prices.

Then, in preparing to appeal the criminal conviction they presented an interesting argument. They took a poll in New York City to prove that they could not get fair treatment in New York. The poll indicated that over 90 percent of all those polled and 100 percent of all adult males agreed that those drug companies were fleecing and robbing the public in one way or another. When somebody takes

a poll and finds that 100 men out of every 100 polled agree these drug companies are robbing the public, I would say that is just about the best informed public in the world.

What the poll did not show was that those people were under the impression they were being robbed by being charged three times too much. The fact was that in instances they were being charged 20 and 40 times too much. Obviously the public is very perceptive and intelligent in New York City when it comes to drug prices. If the truth be known, I suspect that not only could those drug companies not get an unprejudiced trial in New York, they probably could also not get one anywhere in the world because those people were in a conspiracy to rob every poor man, be he black, yellow, or white, throughout the world.

We are making a little headway in coping with this profiteering problem. As the Senator knows, we must have more cooperation from the House of Representatives. We made a fight last year in the Senate. The vote was close, but we did prevail, as the Senator knows. The distinguished Senator from New Mexico [Mr. ANDERSON] has labored long in this field as has his colleague [Mr. MONTOYA] who has also been a valiant battler to try to get people drugs at reasonable prices.

When the Long drugs bill is next before the Senate, I urge Senators to join us in renewing the battle. It is something that should be done not only on behalf of the 200 million people in America, but also the poor people throughout the world who are now being fleeced by some American drug corporations. It does not make me feel proud to have to say that some of our large corporations in America are fleecing and robbing people all over the world by making them pay 10 to 100 times more for drugs than they are worth.

I know that the Senator from Ohio feels the same way about that.

Mr. YOUNG of Ohio. Mr. President, we Senators certainly recall distinctly the great pioneering efforts in this field made by the distinguished Senator from Louisiana [Mr. LONG]. He had at that time the support of the majority of Senators. I am hopeful that when he renews his leadership in this matter, later in this session, and certainly early next year, he will find that he will have even greater support in the Senate. Let us hope that we will fare better in the other body next year in seeking to improve the well-being of and insure longer lives for all Americans, regardless of their financial status. It will be a splendid thing if the Senator from Louisiana succeeds in his efforts early in the new session of Congress next year.

AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954

The Senate resumed the consideration of the bill (H.R. 2767) to amend the Internal Revenue Code of 1954 to allow a farmer an amortized deduction from gross income for assessments for depreciable property levied by soil or water conservation or drainage districts.

Mr. HARTKE. Mr. President, I have an amendment to the bill at the desk, which I know call up and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Indiana [Mr. HARTKE] proposes an amendment, on page 4, beginning with line 10, strike out all through line 15.

Renumber sections 3 through 8 as sections 2 through 7, respectively.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I yield.

Mr. WILLIAMS of Delaware. I am not now rising to speak for or against the amendment. But the Senator's amendment, I believe, has an error in its drafting. "On page 4, beginning with line 10, strike out all through line 15." I believe that should be all through line 25.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARTKE. 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. HARTKE. Mr. President, in the preparation of this amendment I believe there has been a mistake either in drafting or the printing.

It should read as follows:

On page 4, beginning with line 10, strike out all through line 25.

I ask that the amendment be modified accordingly.

The PRESIDING OFFICER. The amendment is modified as requested.

Mr. HARTKE. Mr. President, this amendment was placed in the bill in the Finance Committee and basically what it would do would be to eliminate from the provisions of pension plans the question of whether women should be treated differently from men. Under the Civil Rights Act of 1964, title VII, there should be no discrimination on account of race, color, creed, or sex. This deals with the question of discrimination in regard to sex.

In effect, what the amendment would do, which was introduced by the minority leader, would be to provide for a loophole or an exemption in the Civil Rights Act of 1964 under title VII, and provide that there shall be a continuation of discrimination under certain pension plans.

This is not alone a question of voluntary retirement but also a question of mandatory retirement. What happened here basically is that the Equal Employment Opportunities Commission has been attempting to deal with the problem, and has been attempting to issue regulations at the present time. Under the law, the Equal Employment Opportunities Commission issued regulations only last Friday. The amendment now pending, as provided in section 2, would, in effect, nullify the recommendations and statement put forth by the Equal Employment Opportunities Commission. Its deletion restores it to the House-passed status with regard to this matter which will continue the authority of the Commission to accomplish no discrimination by sex in relation to retirement plans.

I have checked this with the Equal Employment Opportunities Commission and I ask unanimous consent that the entire statement of the opinion of the General Counsel under date of September 13, 1968, be printed in the RECORD.

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Washington, D.C., September 13, 1968.

OPINION OF THE GENERAL COUNSEL

Subsequent to issuance of the Commission's guideline prohibiting discrimination between men and women with respect to optional and mandatory retirement ages under pension and retirement plans, a number of interested parties have asked whether Title VII permits a gradual adjustment of existing plans that provide for earlier optional retirement of women.

In my opinion Title VII would permit such a gradual adjustment in this particular situation. Although the sex discrimination provisions in Title VII protect both men and women, discrimination against women led to their enactment. Since immediate removal of the earlier retirement option would be unfair to women close to retirement, it is in keeping with the purposes of Title VII to permit gradual adjustment when plans are brought into compliance with Title VII.

For example: A corporation has a retirement plan providing for the retirement of all employees at age 65, with women permitted to retire at age 62 if they so elect. This plan violates the Commission's guideline. However, the Commission would permit the corporation to retain earlier optional retirement for all presently employed female employees who were 55 years of age or older on October 1, 1968.

The precise cut-off point—whether it be women who are, for example, within 5, 7 or 10 years of being able to exercise their option—will depend upon the circumstances, such as number of people affected and refunding requirements, relating to the plan under consideration. The judgment of the parties, e.g., the employer and the union, as to what the cut-off point should be would carry considerable weight.

DANIEL STEINER.

Mr. HARTKE. They say, in effect, that the guidelines which prohibit discrimination between men and women with respect to optional and mandatory retirement plans refer to some people who thought they should be exempted by title VII, that they should have a gradual or some type of phasing out under the present plan to provide for earlier optional retirement or mandatory plans.

Let me give an example. A corporation has a retirement plan which provides for the retirement of all employees at the age of 65, with women permitted to retire at the age of 62, if they so elect. In effect, they say this plan would violate the Commission's guidelines, however, because it would permit a corporation to retain the earlier optional retirement plan for female employees 55 or older on October 1, 1968.

What they are saying is that they are willing to recognize the fact that the employee cutoff would have a serious effect on some people who are close to retiring, but ultimately the purpose of the Antidiscrimination Act of 1964—the so-called Civil Rights Act of 1964—was to eliminate this type of discrimination. It was

to provide for treatment of men and women as human beings and not as separate and distinct. The effect of this is to the contrary.

Now one of the people quite interested in this proposal is Esther Peterson. I have talked with her at great length and discussed this matter with her. She has been a long-time advocate of equal rights and equal employment opportunity for women. Also on the House side, one of the most distinguished of all women Representatives in Congress, Mrs. MARTHA GRIFFITHS of the 17th District in Michigan, has directed a letter to every Senator and has directed an analysis of what would be the effect of putting this type of amendment into the law and the effect it would have upon women, which would again restore discrimination when we have made so many steps forward in trying to provide for equal opportunity for women.

Here we see, 4 years later, that an attempt is being made to retain the situation and return it to the situation as it was before we went through that long civil rights debate, not alone on the question of color, but sex—including the great filibuster and other things.

I ask unanimous consent at this time to have the entire statement by the distinguished Representative from the 17th District of Michigan, Mrs. MARTHA GRIFFITHS, made a part of the RECORD.

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

ANALYSIS BY MARTHA W. GRIFFITHS, MEMBER OF CONGRESS

Section 2 of H.R. 2767, as reported by the Senate Finance Committee, to permit sex discrimination in pension and retirement plans, is based on misinformation and misunderstanding, and is unjustifiable. Section 2 should not be adopted.

H.R. 2767, as passed by the House of Representatives on March 14, 1967, would amend the Internal Revenue Code to permit tax deductions by farmers for assessments for depreciable property levied by soil or water conservation or drainage districts.

On August 1, 1968, the Senate Finance Committee reported out the bill with numerous amendments. One amendment added section 2, reading as follows (page 4, lines 10–25):

"SEC. 2. The terms or conditions of a pension or retirement plan qualified under section 401 of the Internal Revenue Code of 1954, or of a retirement practice, which provide for reasonable differentiation in retirement ages between male and female employees, or which provide for or require retirement at reasonable ages, shall not be construed to violate title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, any Executive Order, or any rules or regulations issued under any of the foregoing, except that such terms and conditions shall not excuse the failure or refusal to hire individuals, or the discharging of individuals prior to retirement age, on account of their sex or age. The preceding sentence shall not apply if such terms and conditions are merely a subterfuge to evade the basic purposes of title VII of the Civil Rights Act of 1964 or the Age Discrimination in Employment Act of 1967."

I. SCOPE AND PURPOSE OF PROPOSED AMENDMENT

Under this amendment, existing and future private retirement and pension plans, and retirement practices, may (a) provide different compulsory and optional retirement ages for men and for women, solely on the basis of their sex, and (b) permit or require retirement "at reasonable ages," regardless of the prohibitions in the following laws and executive orders:

(a) Title VII, Civil Rights Act of 1964 (Public Law 88–352; 78 Stat. 241, 253; 42 U.S.C. 2000e).

(b) Age Discrimination in Employment Act of 1967 (Act of Dec. 15, 1967, Public Law 90–202; 81 Stat. 602).

(c) Executive Order 11141, Feb. 13, 1964, prohibiting discrimination based on age by government contractors and subcontractors.

(d) Executive Order 11246, Sept. 24, 1965 (30 F.R. 12319), as amended by Executive Order 11375, Oct. 13, 1967 (32 F.R. 14303), prohibiting discrimination based on sex by government contractors and subcontractors and on federally-assisted construction projects.

The stated purpose of this sex-based amendment is to overturn the Guidelines issued in February 1968 (33 F.R. 3344; 29 C.F.R. 1604.31) by the Equal Employment Opportunity Commission which stated that a "difference in optional or compulsory retirement ages based on sex violates Title VII." The Commission has not ruled on whether other sex differences in pensions and retirement plans, such as differences in benefits to survivors, violate Title VII.

It should be noted that the amendment deals with two different subjects: One involves sex differentiation in retirement ages (affecting Title VII and E.O. 11246 and 11375). The second subject involves "retirement at reasonable ages" which does not necessarily involve sex discrimination (affecting the Age Discrimination Act and E.O. 11141).

II. SCOPE OF THIS ANALYSIS

This analysis deals only with the subject of sex discrimination.

III. REASONS STATED IN SENATE FINANCE COMMITTEE REPORT TO SUPPORT AMENDMENT

The full text of the Senate Finance Committee's reasons for adding section 2 is on pages 6 and 7 of S. Rept. 1497, 90th Cong., and is attached hereto as Appendix A. These reasons are as follows:

1. The report asserts that it is "not uncommon for a pension or retirement plan to differentiate between male and female employees with regard to optional or compulsory retirement ages. . . ." and that such differentiation is provided for in "the retirement practice of many employers."

2. The report points out that although Title VII of the Civil Rights Act of 1964 does not contain a specific exception for differentials in retirement age, there is a provision in the Age Discrimination in Employment Act of 1967 (sec. 4(f)(2)) which exempts a "bona fide . . . retirement, pension . . . plan" from the prohibition against age discrimination. The report then states: "Nevertheless when Congress originally enacted title VII, the committee believes it is clear that Congress did not intend to prohibit reasonable differences in treatment of male and female employees under retirement or pension plans generally, since differential treatment is accorded men and women under the social security program today. . . . In fact, the congressional view on this matter would appear to be specifically indicated by the retirement differentiation for sex it has provided in the social security program."

3. The report states that the primary purpose of Title VII and the Age Discrimination Act—namely, "the hiring of workers on a nondiscriminatory basis"—would not "be served" by prohibiting sex differentials in retirement age.

IV. THE FOREGOING ARGUMENTS ARE INACCURATE, MISLEADING, AND LARGELY IRRELEVANT

A. Over 95 percent of pension and retirement plans do not have sex differentials in retirement age.

It is misleading to state that it is "not uncommon" for a pension or retirement plan to contain differentials based on sex and that the retirement practice of "many employers" provides for differentials in retirement age. The fact is that over 95 percent of all retirement and pension plans under collective bargaining reported pursuant to the Welfare and Pension Plans Disclosure Act contain no distinction between men and women workers. Only 5 percent contain sex differentials concerning the age required for either (a) participation in the pension plan, (b) early voluntary retirement, (c) normal voluntary retirement, or (d) involuntary retirement. Of those 5 percent, only a few have sex differentials in all four age requirements. Furthermore, sex as such is almost never the basis for differences in the amount of benefits paid to the retired employee, or in the amount of credited service and earnings necessary to receive such benefits. Incidentally, of the 5 percent of the pension plans which differentiate in retirement age on the basis of sex, those of the Bell Telephone companies, the principal lobbyists for the amendment, affect the most employees.

B. The Social Security Act does not have different retirement ages based on sex.

The report's discussion of the Social Security Act is simply erroneous. The Social Security Act does not provide different retirement ages based on sex. The normal retirement age under that Act is 65 for both men and women. In 1956 the Act was amended to permit women to retire at age 62, with reduced benefits. In 1961, the Act was further amended to permit men also to retire at 62, with reduced benefits. So far as *retirement age* is concerned, the Social Security Act *does not differentiate* on the basis of the worker's sex.[1]

The report also fails to mention that there is no sex differentiation in retirement ages for men and women employees under the Federal Civil Service Retirement System.

C. Title VII prohibits sex discrimination in retirement age.

The clear language of Title VII prohibiting sex discrimination in the "compensation, terms, conditions, or privileges of employment" surely prohibits sex differentials with regard to retirement age. The requirement that an employee retire at a certain age is clearly a "condition" of employment; and the employee's option to retire voluntarily at a certain age is clearly a "privilege" of employment. Therefore, Title VII plainly prohibits sex discrimination with regard to retirement age under pension and retirement plans.

This conclusion is reinforced by the fact that while Title VII contains various exceptions[2] from the general nondiscrimination requirement, it has no exceptions with regard to retirement age and pension benefits. Furthermore, the fact that such an exception

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[1] However, in computing the *amount of reduced monthly benefits* for workers retiring before age 65, the Social Security Act averages the man's credits over the number of quarters of covered employment he had after 1950 to the year he would reach 65, whereas a woman's credits are averaged only over the quarters up to the year she reaches 62. Secs. 202(a) and 215(b)(2) and (3), Social Security Act (42 U.S. Code 402(a), 415(b)(2) and (3)). Thus, if a man and woman work under social security for the same number of years, receive the same earnings, and retire at the same age (62 or over) in the same year, the woman would receive a larger monthly check.

[2] Section 706(f) permits discrimination against members of the Communist Party or Communist-front organizations. Section 706(g) permits discrimination against persons who have not fulfilled the requirements of the national security program, where applicable. Section 706(i) permits discrimination in favor of Indians living on or near an Indian reservation. Section 712 permits discrimination in favor of veterans.

exists in the Age Discrimination in Employment Act of 1967, which relates solely to *age* discrimination, certainly has no bearing on the prohibitions in Title VII, which relate to discriminaton based on *race, color, religion, sex* or *national origin*. Surely no one could rationally contend that *race* discrimination is permissible with regard to retirement ages. The *same* language of Title VII applies to *sex* discrimination.

D. The legislative history of title VII concerning sex discrimination in pensions and retirement plans does not modify the statutory prohibition against sex discrimination, and does not show a congressional intention to permit sex discrimination beyond that of the Social Security Act, which section 2 of H.R. 2767 would do.

Opponents of sex equality in pensions and retirement plans have sometimes cited an ambiguous colloquy between Senator Randolph and then-Senator Humphrey to show that Congress intended to permit sex discrimination in pensions and retirement plans. However, that colloquy is quite inadequate, under clearly recognized canons of legislative construction, to rebut the plain statutory prohibition against sex discrimination.

The Randolph-Humphrey colloquy consisted of only six sentences.[3] It clearly shows that Senator Randolph was inquiring whether Title VII would permit private pension and retirement plans to be compatible with the Social Security system insofar as concerns sex differentials. Senator Humphrey's response plainly indicates that he misunderstood the question. He said: "Yes, that point was made unmistakably clear earlier today by the adoption of the Bennett amendment; so there can be no doubt about it." But the Bennett amendment (sec. 703 (h) of Title VII) did not deal with pension or retirement plans at all. It related only to payment of wages as prescribed by the Equal Pay Act of 1963 which prohibits sex discrimination in wages of employees covered by the Fair Labor Standards Act. The Bennett amendment was simply intended to prevent inconsistent application of Title VII and the Equal Pay Act, not to permit sex discrimination in pensions and retirement plans.

Furthermore, although the Civil Rights Act of 1964 contains several provisions requiring Title VII to be harmonized with other laws,[4] there is nothing in Title VII requiring that its provisions be subject to, or harmonized with, any sex discrimination features of the Social Security Act.

But even if the ambiguous Randolph-Humphrey colloquy were regarded as requiring Title VII to be interpreted in conformity with the sex discriminations permitted under the Social Security law, it would not justify the enactment of section 2 of H.R. 2767. The fact is that the Social Security law for the past seven years has *not contained sex differentiations with regard to retirement age*. Hence, to adopt section 2 would be squarely inconsistent with the purpose which Senator Randolph expressed in that colloquy.

It should further be noted that although the Senate Finance Committee's report relies on the alleged (but non-existent) sex differentials in retirement age of the Social Security system, the committee amendment to H.R. 2767 is not limited to such differentials as may be in the Social Security Act. It simply provides for "reasonable differentiation in retirement ages between male and female employees" with no reference to the Social Security Act. Since it does not define "reasonable" or what criteria will be used to judge what is "reasonable," that word does not really limit the scope of the amendment.

The amendment is obviously intended to permit a lower compulsory and optional retirement age for women. Yet actuarial mortality tables demonstrate that sex differentials in retirement ages are NOT "reasonable" since women as a class tend to live longer than men. When a man retires at 65, he will receive approximately 10 years of social security benefit payments, while a woman who retires at 62 will receive approximately 20 years of such payments. If any sex is entitled to an earlier optional retirement age privilege, it should be the male. Frankly, no sex differential is reasonable for retirement age. What the amendment would permit is simply unwararnted discrimination in retirement age based on sex.

E. The primary purpose of title VII would be affirmatively served, not hindered, by having no sex discrimination in retirement ages.

Title VII of the Civil Rights Act of 1964 was enacted to prevent discrimination based on race, sex, etc., through the entire gamut of the employment relationship. It covers more than the hiring referred to in the Finance Committee's report. It applies to job advertising, to hire, to discrimination "with respect to . . . compensation, terms, conditions, or privileges of employment," and to "discharge." It would be wholly anomalous to prohibit an employer from discriminating in hiring, but to permit discrimination against the employee with regard to insurance coverage, promotions, transfers, on-the-job training, retirement ages, etc. In fact, the statistics in the First and Second Annual Reports of the Equal Employment Opportunity Commission show that most charges of discrimination based on race and sex against employers filed under Title VII deal with discriminatory terms and conditions of employment rather than with hire.

When the E.E.O.C., after two years of consideration as well as public hearings held in May 1967, issued its Guidelines of February 1968 interpreting Title VII to preclude sex differentials in retirement age, the E.E.O.C. was furthering, not disregarding, the explicit purpose of the Congress to eliminate discrimination in employment based on sex.

In sum, none of the reasons presented in S. Rept. 1497 can justify the proposed amendment to permit and encourage sex discrimination concerning the retirement ages of men and women employees.

V. ADDITIONAL REASONS FOR REJECTING SECTION 2 OF H.R. 2767

There are, also, additional reasons for rejecting the proposed section 2 amendment to H.R. 2767:

1. The amendment would overrule not only the February 1968 E.E.O.C. Guidelines and the basic purpose and language of Title VII of the Civil Rights Act of 1964, but also the President's Executive Orders (E.O. 11246, as amended by E.O. 11375) which prohibit sex discrimination by federal government contractors and subcontractors and on Federally-assisted construction projects. In this respect, the Executive Orders match the Congressional intent expressed in the similar prohibition in Title VII.

2. As mentioned above, 95 percent of the retirement and pension plans under collective bargaining agreements in this country, as well as the Federal Civil Service Retirement system, do not contain differentials in retirement age based on sex. Obviously, therefore, the overwhelming majority of public and private employers have concluded that such differentials are unnecessary, and that male and female employees can efficiently be offered the same compulsory and optional retirement age privileges. That, plus the clear Congressional purpose in Title VII to prohibit sex discrimination in the "compensation, terms, conditions, or privileges of employment," plainly require prohibiting, not encouraging and permitting, differentials in retirement age based on sex in the remaining 5 percent of the pension and retirement plans in this country.

3. The elimination of sex differentials in retirement age may displease some women who wish to take advantage of an earlier optional retirement age than is available to their male colleagues. But their concern must be balanced against the fact that the disadvantages of sex differentials in retirement age far outweigh their benefits. The proposed sec. 2 in H.R. 2767 would foster the continuation of discrimination now practiced against women who are able and desire to work beyond the optional retirement age. Experience has also shown that where such earlier options exist, many employers deny promotion to qualified women on the ground that they may be retiring at an earlier age. Many employers also exert pressure on women to retire at the earlier age in order to replace them with younger women or men. The earlier optional retirement age privilege is not an unalloyed benefit to women.

4. We should also consider the source of the argument that sex differentials in optional retirement age favor women and therefore should not be abandoned. That argument is not supported by the 178,000-member National Federation of Business & Professional Women's Clubs, a traditional protector of the rights of the working woman, or by the Citizens' Advisory Council on the Status of Women, or by the National Organization for Women whose goal is "full equality for women in truly equal partnership with men," or by the National Woman's Party which has fought for women's rights since the early 1900's. Among the principal lobbyists for sec. 2 of H.R. 2767 (and its counterpart sec. 6(d) of S. 3465) are the Bell Telephone companies, who have long relegated women to the lesser paid jobs in the communications industry, and who fear that the elimination of sex differentials in retirement age may result in earlier retirement for men, or longer service and increased credits for women, and thereby increase the companies' costs.

5. Furthermore, I find it difficult to understand the reasoning that a system which discriminates in some ways against men rather than against women need not, therefore, be amended. We in the Congress are elected by all the people, men and women, and it ill behooves us to discriminate against either men or women solely on the basis of sex. Indeed, I resent the implication that women should be favored over men on the assumption that women are incapable of withstanding unprotected the rigors of economic life and hence must be especially protected and favored by the law. Whatever validity that concept had five or six decades ago, it has

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[3] The whole colloquy is as follows (110 Cong. Rec. 13663–64):

"Mr. RANDOLPH. Mr. President, I wish to ask of the Senator from Minnesota, Mr. HUMPHREY, who is the effective manager of the pending bill, a clarifying question on the provisions of Title VII.

"I have in mind that the social security system, in certain respects, treats men and women differently. For example, widows' benefits are paid automatically; but a widower qualifies only if he is disabled or if he was actually supported by his deceased wife. Also, the wife of a retired employee entitled to social security receives an additional old age benefit; but the husband of such an employee does not. These differences in treatment as I recall, are of long standing.

"Am I correct, I ask the Senator from Minnesota, in assuming that similar differences of treatment in industrial benefit plans, including earlier retirement options for women, may continue in operation under this bill, if it becomes law?

"Mr. HUMPHREY. Yes, that point was made unmistakably clear earlier today by the adoption of the Bennett amendment; so there can be no doubt about it."

[4] Section 703(h) (the Bennett Amendment) requires that Title VII be harmonized with the Equal Pay Act of 1963. Sections 708 and 1104 seek to harmonize both Title VII and the Civil Rights Act of 1964 with all state laws which are not inconsistent with the Act.

none today. The latest data available from the Labor Department shows that women head 10.6 percent of all families (March 1967), and comprise 36.4 percent of our total labor force 16 years of age and over (July 1968). Women are now certainly entitled to be rid of the "adult children" myth which brands them as incapable of equal participation in our present economy. They are willing to take their chances with equal privileges if society will but grant them equal opportunities.

Moreover, while the direct effect of an earlier retirement age for women primarily discriminates against men, its indirect effect also discriminates against women, namely, the wives and families of male employees who are denied retirement age privileges available to female employees. Discrimination is a seamless web. If we permit it to exist against the interests of one group, it will inevitably work against the interests of the other.

6. The people of this country are becoming increasingly sophisticated politically on the issue of equal rights for women. Congress recognized this in enacting the Equal Pay Act of June 10, 1963 (Public Law 88–38, 77 Stat. 56; 29 U.S.C. 206(d)), prohibiting sex discrimination in wage payments; Title VII of the Civil Rights Act of 1964; *supra*: the Social Security Amendments of 1967 (Act of January 2, 1968, Public Law 90–248, 81 Stat. 821, secs. 151 and 157), eliminating some of the sex differentials in that Act; and the Act of November 8, 1967 (Public Law 90–130, 81 Stat. 374), removing sex discrimination in the promotion and retirement of women in the armed services. The President also moved to eliminate sex descrimination when he signed Executive Order 11375 of October 13, 1967, prohibiting discrimination based on sex in the executive branch of the Federal government and by federal government contractors and subcontractors and on Federally-assisted construction projects. Twelve States and the District of Columbia have, since 1961, adopted laws prohibiting sex discrimination in employment, and many more States have been eliminating old laws which discriminated against women.

VI. CONCLUSION

The proposed section 2 of H.R. 2767 would squarely contravene this national policy of ending sex-based discrimination, and therefore should not be adopted.

APPENDIX A

(Excerpt from S. Rept. No. 1497, 90th Cong., 2d sess., report of Senate Committee on Finance on H.R. 2767 (Aug. 1, 1968), pp. 6 and 7)

III. DISCRIMINATION ON ACCOUNT OF SEX OR AGE IN RETIREMENT PLANS OR PRACTICES

Reasons for provision.—Under title VII of the Civil Rights Act of 1964 (the equal employment opportunity title) and the Age Discrimination in Employment Act of 1967, it is unlawful for certain employers to fail or refuse to hire, or to discharge, any individual, or to discriminate against any employee, with respect to a number of specified aspects of employment because of race, color, religion, sex, national origin, or age. In the case of the discrimination prohibited by the Age Discrimination in Employment Act of 1967, a specific exception is provided for the situations where the actions of the employer are necessary to comply with the terms of any bona fide employee benefit plan, such as retirement or pension plan. No similar specific exception, however, is provided in the case of title VII of the Civil Rights Act. Nevertheless when Congress originally enacted title VII, the committee believes it is clear that Congress did not intend to prohibit reasonable differences in treatment of male and female employees under retirement or pension plans generally, since differential treatment is accorded men and women under the social security program today.

On February 24, 1968, however, the Equal Employment Opportunity Commission issued a regulation regarding pension and retirement plans (29 C.F.R. 1604.31). This regulation provides that it is unlawful for an employer to differentiate between male and female employees with regard to either optional or compulsory retirement ages under pension and retirement plans. The Commission's interpretation on this matter is not consistent with the committee's view of the intent of Congress in enacting title VIII of the Civil Rights Act of 1964.

It is not uncommon for a pension or retirement plan to differentiate between male and female employees with regard to optional or compulsory retirement ages or to require retirement at specified ages, frequently before attaining age 65. Moreover, the retirement practice of many employers provide for a differentiation in optional or compulory retirement ages between male and female employees or provides for, or requires, retirement at certain ages. In fact, the congressional view on this matter would appear to be specifically indicated by the retirement differentiation for sex it has provided in the social security program.

Neither the intent of Congress in enacting title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, nor the primary purpose of those acts—the hiring of workers on a nondiscriminatory basis—would be served by making it unlawful for an employer's pension or retirement plan or retirement practice to differentiate between male and female employees with regard to optional or compulsory retirement ages or to provide for optional or compulsory retirement at specified ages. Accordingly, the committee's amendment provides that these types of differentiation or retirement requirements are not to be considered unlawful.

Explanation of provision.—The committee's amendment provides that the terms or conditions of a pension or retirement plan (which is a qualified plan under sec. 401 of the Internal Revenue Code of 1954), or of a retirement practice, are not to be considered as violating title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, any Executive order, or any rules or regulations issued under any of these because such terms or conditions (*a*) provide for reasonable differentiation in optional or compulsory retirement ages between male and female employees or (*b*) provide for or require retirement at reasonable ages. This rule is to apply to new and existing pension plans or retirement plans, and to both the establishment and maintenance of these plans. It is important to note that the differentiation in retirement ages and the retirement age requirements which are allowed under the committee's amendment are only those which are reasonable. Moreover, the rule provided in the committee's amendment is not to excuse the failure or the refusal to hire individuals or the discharging of individuals prior to retirement age on account of either their sex or their age. In addition, the rule provided in the amendment is not to apply if the terms and conditions of the pension or retirement plan or the retirement practice are merely a subterfuge to evade the basic purposes of title VII of the Civil Rights Act of 1964 or the Age Discrimination in Employment Act of 1967.

Mr. HARTKE. What Mrs. GRIFFITHS has asked us to do at this time is to do all we can to see that the efforts of the people who were instrumental in pushing this proposal are not mislaid. A statement has been made that most of the pension plans would be affected by the proposal. That is not so. About 95 percent of the retirement plans in this country would in no way whatsoever come into any kind of operation which would be in conflict with the Equal Employment Opportunity Commission's regulations. In other words, those regulations would not affect them. But about 5 percent, and probably the biggest employer of them all, the Bell Telephone System—and I have nothing against the system; it is a fine company and employs many women—should not be able to discriminate against women when 95 percent of the employers do not discriminate against them and could live within the framework of those provisions.

We ought not to take a step backward, but should continue forward to eliminate discrimination against people and treat people for what they are. They are human beings. The fact that they are men and women or different in any other way should not prevent their being treated on an equal basis.

It is important to eliminate the amendment which was offered by the Senator from Illinois. We should proceed to do that by the adoption of my amendment, which would eliminate that provision from the bill.

Mr. LONG of Louisiana. Mr. President, some private retirement plans permit ladies to retire at age 62 instead of age 65. There is nothing necessarily mischievous about that. We in the Senate passed a bill some years ago amending the social security laws to make it optional for for women to retire with benefit, at age 62 rather than 65, recognizing that there is a difference between the sexes and that a better argument could be made for the retirement of ladies at an earlier age than for men. Later we provided for optional retirement with benefits, for men at age 62, but our social security laws nevertheless continue to discriminate in favor of women, permitting them to drop 3 more low-earning years in computing their average earnings on which social security benefits are computed.

The amendment offered by the Senator from Illinois [Mr. DIRKSEN], which is a part of the bill, has to do with situations in which private plans make it possible for women to retire before men. In other words, they can retire at age 62, rather than having to wait until age 65.

Some persons may contend, strangely enough, that, because this is so, women are being discriminated against, these people argue that, where these plans exist, there might be some social pressure on a lady to retire early because she has that option. Other persons may argue, however, that we are discriminating in favor of women, because the bill permits private plans to allow ladies to retire with benefit, before men can.

The language of the amendment of the Senator from Illinois, which was adopted as part of the bill, makes clear what the intent is. It reads:

The terms or conditions of a pension or retirement plan qualified under section 401 of the Internal Revenue Code of 1954, or of a retirement practice, which provide for reasonable differentiation in retirement ages between male and female employees, or which provide for or require retirement at reasonable ages, shall not be construed to violate title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, any Executive order, or any rules or regulations issued under any of the foregoing, except that such terms and conditions shall not excuse the failure or refusal to

hire individuals, or the discharging of individuals prior to retirement age, on account of their sex or age. The preceding sentence shall not apply if such terms and conditions are merely a subterfuge to evade the basic purposes of title VII of the Civil Rights Act of 1964 or the Age Discrimination in Employment Act of 1967.

If I recall correctly, it was the Senator from Florida [Mr. SMATHERS] who sponsored the Age Discrimination in Employment Act of 1967 which provided that no one is to be discriminated against because of age or sex. A similar provision was added in the Civil Rights Act of 1964 although that was not the original intention of the Civil Rights Act. However, someone raised the point in the House, and it was agreed to.

The provision raises some transitional problems with respect to some retirement plans—precisely which retirement plans this Senator was not aware of when he voted on the provision. But the problem was known to the Senator from Illinois, which is why he offered the amendment that we are considering now.

I would say the amendment was offered by the Senator from Illinois because employers and labor leaders had found that the regulations issued under the existing provisions created problems for them with respect to retirement plans and that this provision should be added to the bill to solve those problems.

Mr. DIRKSEN. Mr. President, the distinguished Senator from Louisiana is exactly correct. Under title VII of the Civil Rights Act of 1964, I think it was our intention to preserve in the law a reasonable differentiation.

Frankly, if the amendment to strike offered by the distinguished Senator from Indiana should prevail, women would be compelled to work until age 65 and would not be able to retire before. So far as pension plans are concerned, there are a good many thousands, and there are many reasons why there should be some differentiation between men and women. That is the only purpose of having that provision in the law.

The Equal Employment Opportunities Commission undertakes to say it adversely affects employment. It has absolutely no effect on employment, and is designed, only in the case of retirement, to see that those changes can be made and to make certain that they are reasonable and do not go beyond due bounds.

Frankly, I did not know that there was any opposition to this amendment to begin with. I am all the more determined that it ought to stay in the measure that is before the Senate at the present time.

I could read from the committee report, because it states the whole case. It is hardly necessary for me to trespass on the time of the Senate.

I may add at this point to what I have said that, insofar as I know, there are some 17,000 pension plans in the country, and some of them are applicable to little groups as small as 25 people. I am further advised that 11,000 of the 17,000, in one way or another, favor this provision and that it is within the bounds of reason. But all would be affected if the Hartke proposal prevailed and this language were stricken from the bill.

Section 2 of the bill under consideration was adopted by the Committee on Finance in order to permit reasonable differentiation between male and female employees in retirement and pension plans and to make clear that such plans are not to be construed as violating laws which prohibit discirmination in employment practices because of sex or age.

By rejecting the Hartke amendment and approving section 2 we will once more make clear that we intend to exempt certain pension or retirement plans from the provisions of various laws prohibiting discrimination in employment practices because of sex or age. In section 2 I note that the words "reasonable differentation" are used to qualify these exempt plans. The word "reasonable" is not always capable of precise definition. Now as I understand the amendment, its purpose is to avoid disruption to the thousands of existing pension and retirement plans and practices which include some differentiation on the basis of sex. The words "reasonable differentiation" are intended to be broadly construed in order that such existing plans will not be disturbed.

Thousands of pension and retirement plans include different actuarial practices based on sex. Other similar plans will be adopted in the future. These differences are the result of earlier retirement ages for women as well as their greater life expectancy. Also many business enterprises, particularly in manufacturing, have come to use different retirement ages and benefits for men and women for a wide variety of valid reasons. When we were considering the Age Discrimination in Employment Act of 1967 we were told by the U.S. Chamber of Commerce that about 75 percent of the pension plans in the country would be unlawful under that act if no exemption were included. Our own Federal social security system treats men and women differently; for example, a widow's benefits are paid automatically but a widower qualifies only if he is disabled or supported by his wife. As a matter of practice women generally retire earlier than men.

These differentiations are of course most significant in determining the nature of the benefits to be derived from a plan, its funding, and the amount of contributions to it. The elimination of such differentiations would undoubtedly and unnecessarily disrupt the functioning of such plans.

From the outset, as we have considered antidiscrimination statutes, we have tried to make clear that reasonable pension and retirement plans are to be exempt from literal applications of antidiscrimination statutes. In the floor debates on the Civil Rights Act of 1964, Vice President HUMPHREY, then floor manager of the bill in the Senate, specifically told us in response to a question from Senator RANDOLPH that it was "unmistakably clear" that differences in treatment among men and women in industrial benefit plans could continue in operation under the bill, see CONGRESSIONAL RECORD, volume 110, part 10, pages 13663–13664. Moreover, when we passed the Age Discrimination in Employment Act of 1967, we specifically incorporated a provision—section 4(b)(2)—which exempted all such benefit plans from coverage under that act.

The words "reasonable differentiation" in section 2, we believe, are adequate to protect existing plans and future plans and practices of a similar nature from application of sex and age discrimination statutes. Certainly that is our intent and a narrow and restrictive interpretation of these words by a Federal agency or the courts would be improper.

Mr. LONG of Louisiana. Mr. President, if the Senator would yield, there are certain obvious situations in which the law will have to discriminate between men and women whether we want it to or not.

Mr. DIRKSEN. That is right.

Mr. LONG of Louisiana. For example, if the law permits employment practices to provide that a person bearing a child be given 2 weeks' leave immediately before or immediately after the child's birth, the law would tend to discriminate in favor of women, because men do not perform the child-bearing function. There are certain situations in which we just must recognize that a man is one thing and a women is slightly different. That is what the Senator from Illinois is trying to achieve here to recognize this difference. The whole purpose of the provision is to help women and to provide them with a little better retirement. It was not the intent of title VII to deny a lady the option of retiring at age 62. We want to help, not hurt, the ladies.

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

Mr. LONG of Louisiana. I yield.

Mr. HARTKE. Really, what is the purpose of this proposed retirement at an early age? In the first place, it is well recognized that women do live longer; why, then, try to force them out of employment?

I think the reason is very simple. The reason for forcing them out is that they are easier to replace. That is the whole point. That is why these women do not want to be put in the ridiculous position of being treated otherwise.

This has nothing to do with anything about a woman having a baby. What we are dealing with here is retirement plans. I do not know how many women have babies at the age of 62, but I am sure statistics will show not very many. There may be a rare case now and then; but that has nothing to do with this problem at all.

What we have here is the simple fact that this amendment leads to discrimination against women. That is all it is. And there is no question about it. It is admitted in the report of the Finance Committee that it does tend to descriminate against women.

What it would do is overrule the present law. It would overrule title VII of the civil rights law we passed in 1962, now Public Law 88–532. It would violate the provisions of the Employment Act of 1967, the act to end discrimination in employment, Public Law 90–202. It would overrule Executive Order No. 11141 of February 19, 1964, which prohibits discrimination based upon age by Government contractors and subcontractors, as well as Executive Order No. 11246 of September 1965, prohibiting discrimination

based on sex by Government contractors and subcontractors and on Federal construction projects.

It is recognized that this is a transitional period, but the amendment of the Senator from Illinois does not deal with the question of transition; it deals with the situation of creating discrimination. What the Senator from Illinois has done is put his stamp of approval on discrimination against women.

I would have thought maybe we had made some progress in the last hundred years in the field of discrimination, that based on color, at least; and to return to the situation that we face now, after making that progress, and start discriminating against women, seems to me to be sheer folly.

Mr. President, the women do not want this measure. The reason they do not want it is that they do not wish to be forced out of the marketplace. If they want to quit, that is one thing; but they are going to live longer than the men, anyway, so why force them into early retirement?

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. LONG of Louisiana. Mr. President, as I understand it, the retirement plan of the telephone company is the principal one affected by this amendment.

Mr. HARTKE. They are practically the only one of any significance.

Mr. LONG of Louisiana. Let us take a poll of the ladies who are working and see what they want. If they want optional early retirement, we can accept the Dirksen amendment, and if the ladies do not want the Dirksen amendment, we will accept the Hartke amendment.

Is that a fair proposition?

Mr. HARTKE. May I say to the distinguished Senator from Louisiana—he is such a lovable character, and so personable, that I can hardly refuse any proposition he suggests—that I am willing to consider his proposal, if the distinguished Senator from Illinois, the minority leader, is willing to withdraw his amendment from the bill at this time, until we can complete such polls and make a thorough study of the matter.

If the Senator from Illinois is willing to change his amendment and say that the matter should be studied further, I think I might agree to an amendment that the whole matter be deferred; that, instead of agreeing to this proposition which would actually discriminate against women, we both withdraw our amendments, and submit in lieu thereof an amendment saying we should complete a study of the matter and take a poll of the people affected.

I am willing to do that, if the Senator from Illinois will withdraw his amendment.

Mr. LONG of Louisiana. Mr. President, my impression is that when I go to the ladies in the State of Louisiana, who are working, and talk to those ladies, they are going to resent the fact that the Senator from Indiana [Mr. HARTKE] wants to take away their right to retire at age 62. That is what I imagine the result would be.

Mr. HARTKE. Does the Senator from Louisiana know that?

Mr. LONG of Louisiana. Is the Senator offering his amendment because the labor union is asking him to do it, or because the women of his home State want him to do that?

Mr. HARTKE. Because all the women want to be treated equally. They do not want discrimination against them.

There is no question that if they want to have an optional retirement plan, which is not discriminatory based on sex, I would not blame an employee for wanting an optional retirement plan.

What I am saying to the Senator from Louisiana is that we should not discriminate on any basis whatsoever—race, color, creed, age, or sex.

I submit that if Congress submitted a proposition to the people saying, "We are taking away your optional retirement," that would be another matter. But we are not talking about optional retirement plans; we are talking about discrimination.

I would say, if we show this thing in a fair light to the women, I think overwhelmingly the women would say, "We do not want to be in a position where we can have pressure put on us to retire at an early age. We do not want to be in that position. We would like to be in the position where, if we have an optional retirement plan, we will be treated just like men, both sexes alike."

Why not treat them that way? I do not see why, at this late date, we have to go back into this matter all over again.

This is nothing new. There have been hearings. Equal Employment Opportunities Commission hearings have been held on the matter; and as a result of their hearings, they have come up with regulations and guidelines, on last Friday, that recognize there is a transitional problem, with which this amendment of the Senator from Illinois does not deal; but as far as this so-called optional retirement is concerned, they think it is high time we start treating women as equal human beings, and not as something special.

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

Mr. HARTKE. I yield.

Mr. DIRKSEN. I say to my distinguished friend, if we are not talking about optional retirement, I do not know what we are talking about here. We are talking about voluntary, optional retirement, and there is no compulsion involved.

As far as the so-called Equal Employment Opportunities Commission is concerned, the problem there is that they are misinterpreting the act of 1964.

I remind my friend that when that bill was on the floor of the Senate, the then Senator HUMPHREY, now the distinguished Vice President of the United States, was the manager of the bill. Let me inform the Senator from Indiana as to what he said in response to a question that the Senator from West Virginia [Mr. RANDOLPH] asked.

He said:

> It is unmistakably clear that differences in treatment among men and women in industrial pension plans could continue in operation under the bill.

That was the bill we then had under consideration. So that was the interpretation then, and it should be the interpretation now. Inasmuch as it is on an optional basis, that is the reason for doing it.

With respect to the withdrawal of this amendment, I have a far more practical suggestion. In view of the fact that we are moving on toward the end of the session, I suggest that my friend withdraw his amendment; then we will let this bill go to conference and the Senator can call up women out there in Indiana and get the story.

Mr. HARTKE. If the Senator will yield, I have talked to those people. I do not know whether the Senator has talked to them or not.

Mr. DIRKSEN. I have talked to everybody.

Mr. HARTKE. Those women do not want this amendment. This is not sponsored by any women's group, or female employees' group, to my knowledge. Not one single labor union has endorsed the amendment of the Senator from Illinois.

Mr. DIRKSEN. We are not involved in labor unions here.

Mr. HARTKE. But what is involved here, and the Senator well knows it, is that they are not looking out for the benefit of women with retirement problems, as they call them. What they are looking for is a way to squeeze them out of the marketplace, to get them off the payrolls early, so they can go ahead and replace them. This is no altruistic scheme they have in mind.

Mr. DIRKSEN. They are not scheming to force anyone out of the marketplace. This is entirely optional. Nobody is squeezed from his job. Nobody leaves his job unless he wants to. They simply give them the benefit of the pension plans on a somewhat better basis than they would otherwise get.

Mr. President, I am willing to rest the case right there, and have a record vote on this issue. I think we should.

Mr. HARTKE. Mr. President, I should like to return to the colloquy between Senator RANDOLPH and the Vice President. I would be willing, if the Senator wants to delay this matter long enough, to ask what the position of the Vice President now is. I think I know what the position of the Vice President would be. He would be against the minority leader's position, because he is not in favor of discrimination against women. I am not, and I do not think anyone else is. The colloquy to which the distinguished minority leader referred dealt with whether or not a pension plan could retain the same provisions compatible with the Social Security Act. There is no question about that. There is no reason why pension plans should not be compatible with the Social Security Act. It dealt with the question of age at that time. That is the effect of the Senator's amendment, to which the Senator from West Virginia [Mr. RANDOLPH] directed the attention of the Vice President, at that time the senior Senator from Minnesota. That is an entirely spurious argument, as has been demonstrated quite clearly several times.

I think there is no question that this is simply a device whereby they can squeeze these women out of the market-

place and can put pressure on them. There is no altruistic intention whatever.

As the amendment itself states, this is a violation of section 7 of the Civil Rights Act of 1964.

What we see here is a remarkable step backward in time. I do not know for exactly how many years we have been trying to make women equal to men. However, if the Senate were composed equally of men and women, there would not be any question in my mind about the outcome of the vote. I think the men should be fair and charitable to the women in this instance.

Mr. LONG of Louisiana. Mr. President, in my judgment what the Senator from Illinois seeks to do is to discriminate in favor of the ladies. He proposes that they be able to retire with benefits at the age of 62 at their option.

It seems to me that we could call the amendment "the Dirksen chivalry for ladies is not dead" amendment.

Mr. DIRKSEN. The Senator is correct.

Mr. LONG of Louisiana. If I can find out from the ladies that they do not want this discrimination in their favor, I would be the first to ask the House to drop the provision. However, it seems to me that we would do the ladies a disservice.

If we follow the intent of the amendment of the Senator from Indiana generally, we would have to strike out all our Louisiana laws which protect the dowry for the women and which protect the interest of the women generally.

In any event there needs to be a transitional period to allow time for changes in existing retirement plans.

I hope the amendment of the Senator from Indiana is rejected.

Mr. HARTKE. Mr. President, that is not in the amendment. There is no question about it. It is not in the amendment. It is not a question of transition.

It is a question of stepping back to eliminate the national policy which is recognized by both Houses of Congress. It is recognized by the President. That national policy is that there shall be no discrimination against women. I know of no reason why the minority leader or any other Senator would want to put us in the position of taking whole pension plans and retirement plans away.

The national policy is that there shall be no discrimination against women. However, we are discriminating now. That is what the minority leader wants us to do.

I can guarantee that this measure will never become the law of the land. I know that the House of Representatives will never agree to this in conference. Why should we put our stamp of approval on discrimination when we know full well that the House of Representatives will not agree to do so?

I can assure the Senate that such a bill will never be signed by the President. No one wants to turn this country back for 200 or 250 years and treat women as chattels.

That day is gone forever, thank goodness. In some places in the world, women are still treated as chattels. But I do not want the United States to follow such a course of action.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, will the Senators agree to a time limitation on the pending amendment?

Mr. HARTKE. That is agreeable.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending amendment occur at 5 minutes after 1, and that the time be equally divided between the opponents and proponents.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, on the bill, I suggest the absence of a quorum, and ask unanimous consent that the time be divided equally between both sides. I do this for the purpose of merely ringing the two bells. I would ask the attachés of the Senate on both sides to call their respective Senators.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARTKE. 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. HARTKE. Mr. President, I want to make it perfectly clear so that everyone will know after reading the RECORD if he has not heard it, that he will be voting for discrimination if he votes for the amendment of the Senator from Illinois. The amendment of the Senator from Illinois would permit a continuation of the retirement plans and pension plans which deal not only with the question of voluntary retirement at their option, but also with pension plans which require women to retire at an earlier age than men.

This is pure discrimination. This is an absolute violation of the Civil Rights Act. It is a violation of the national policy as written by the law of the land. And this would be a great step backward.

I think that anyone who would take this step would have to say that this country is going to return to the barbarian times of old and that we will have to start treating women unequally and unfairly. We would have to treat women as unequal to men and regard them as pure and simple chattels.

Mr. DIRKSEN. Mr. President, let the RECORD also show that the statement made by the distinguished Senator from Indiana comes only as the unsupported opinion of one Senator. And there I am content to rest the case.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. LONG of Louisiana. There is one further argument that should be made clear for the RECORD. In most marriages, the woman is usually about 1 or 2 years younger than the man.

Married couples like to retire simultaneously. When a man reaches the age of 65, in some cases he cannot retire because his wife has not reached retirement age. So, he must postpone his retirement until his wife has reached retirement age. However, if his wife can retire 2 or 3 years earlier than he through an optional provision in her retirement plan, there is no problem.

Some of these people like to retire and move to Florida or California or somewhere else. If the Hartke amendment is adopted, it would result in discrimination against the man and his wife. Having earned his own retirement, the man must then wait until his wife reaches retirement age so the two can retire at the same time. If the law is made the way we originally intended it to be, under the Dirksen amendment, when a man reaches 65 and his wife is 62 or 63, they can retire simultaneously.

As I see it, the rejection of the Dirksen amendment and the adoption of the Hartke substitute would mean discrimination against the man and the woman and would take away from a couple the retirement rights they presently have.

Mr. HARTKE. I do not believe the Civil Rights Act or any national policy holds that there is such a thing as equal rights for married couples. The Senator proposes that we pass the bill and provide that there shall be no discrimination against married couples. This is the first time I have ever heard that proposed. It is a remarkable innovation, and perhaps we should give some thought to it. But that is not the law or the purpose. This is an intention to retrogress.

The Equal Employment Opportunities Commission, a dedicated Commission, says this is dead wrong. If I stand alone, as the Senator from Illinois has said, it will not be the first time. That does not bother me. I would rather be on the side of right, standing alone, than on the side of wrong, standing on the side of the majority.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement in support of the amendment, prepared by the distinguished senior Senator from Michigan [Mr. HART], who is unable to be present today.

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

STATEMENT BY SENATOR HART

Mr. HART. Mr. President, I am pleased to join the Senator from Indiana [Mr. HARTKE] in sponsoring an amendment to delete section 2, added by the Committee on Finance to H.R. 2767, a bill allowing farmers an amortized tax deduction for assessments levied by soil or water conservation districts.

Section 2, which is totally unrelated to the purpose of the bill, would permit a difference in retirement ages for men and women.

Mr. President, the full implications of the committee amendment are not known to any of us because the hearings on it have been totally inadequate, Representative GRIFFITHS placed in the RECORD of September 12, 1968, at page 26736, a masterly analysis which makes the following points:

(1) Over 95 percent of pension and retirement plans do not have sex differentials in retirement age. Therefore, it is misleading to say that it is "not uncommon" for a pension or retirement plan to contain differentials based on sex and that the retirement practice of "many employers" provides for differentials in retirement age.

(2) The Social Security Act does not have different retirement ages based on sex. So far as retirement is concerned, the Social Security Act does not differentiate on the basis of the worker's sex.

(3) There is no sex differentiation in retirement ages for men and women employees under the Federal Civil Service Retirement System.

(4) Title VII of the Civil Rights Act of 1964 prohibits sex discrimination in retirement age. The committee amendment would overturn the principle of equality between the sexes embodied in that Act.

(5) The legislative history of title VII concerning sex discrimination in pensions and retirement plans does not modify the statutory prohibition against sex discrimination, and does not show a congressional intention to permit sex discrimination beyond that of the Social Security Act, which section 2 of H.R. 2767 would do.

The deletion of this committee amendment, as the Senator from Indiana [Mr. HARTKE] and I propose, is favored by the Labor Department, by the Equal Employment Opportunity Commission, and by women's organizations ranging from the General Federation of Women's Clubs to the National Federation of Business and Professional Women's Clubs to the National Organization for Women. I urge Senators to support us in eliminating this backward step.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, the time to be charged equally to both sides.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina in the chair). Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LONG of Louisiana. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has no time remaining.

Pursuant to the previous order, the Senate will now proceed to vote.

The question is on agreeing to the amendment of the Senator from Indiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and Mr. AIKEN voted in the negative.

Mr. LAUSCHE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. It is not in order during a rollcall.

The assistant legislative clerk concluded the call of the roll.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Indiana [Mr. BAYH], the Senator from Maryland [Mr. BREWSTER], the Senator from North Dakota [Mr. BURDICK], the Senator from West Virginia [Mr. BYRD], the Senator from Nevada [Mr. CANNON], the Senator from Idaho [Mr. CHURCH], the Senator from Pennsylvania [Mr. CLARK], the Senator from Mississippi [Mr. EASTLAND], the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Oklahoma [Mr. MONRONEY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. MOSS], the Senator from Maine [Mr. MUSKIE], the Senator from Wisconsin [Mr. NELSON], the Senator from Connecticut [Mr. RIBICOFF], the Senator from New Jersey [Mr. WILLIAMS], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I also announce that the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. HART], the Senator from Hawaii [Mr. INOUYE], and the Senator from Georgia [Mr. TALMADGE], are absent on official business.

I further announce that, if present and voting, the Senator from Oregon [Mr. MORSE] would vote "yea."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from New Hampshire [Mr. COTTON], the Senators from Nebraska [Mr. HRUSKA and Mr. CURTIS], the Senator from New York [Mr. JAVITS], the Senator from Iowa [Mr. MILLER], the Senator from Kentucky [Mr. MORTON], the Senator from California [Mr. MURPHY], the Senator from Maine [Mrs. SMITH], the Senator from South Carolina [Mr. THURMOND], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from New York [Mr. GOODELL], the Senator from Michigan [Mr. GRIFFIN], and the Senator from Oregon [Mr. HATFIELD] are detained on official business.

If present and voting, the Senator from Utah [Mr. BENNETT], the Senators from Nebraska [Mr. HRUSKA and Mr. CURTIS], the Senator from Iowa [Mr. MILLER], and the Senator from Texas [Mr. TOWER] would each vote "nay."

Also, if present and voting, the Senator from Maine [Mrs. SMITH] would vote "yea."

The result was announced—yeas 12, nays 42, as follows:

[No. 288 Leg.]

YEAS—12

Bible	McGee	Pell
Brooke	Metcalf	Proxmire
Case	Mondale	Tydings
Hartke	Pastore	Young, Ohio

NAYS—42

Aiken	Hansen	Mundt
Allott	Harris	Pearson
Anderson	Hickenlooper	Percy
Baker	Hill	Prouty
Boggs	Holland	Randolph
Byrd, Va.	Hollings	Russell
Carlson	Jackson	Scott
Cooper	Jordan, N.C.	Smathers
Dirksen	Jordan, Idaho	Sparkman
Dodd	Kuchel	Spong
Dominick	Lausche	Stennis
Ellender	Long, La.	Symington
Fannin	Mansfield	Williams, Del.
Fong	McClellan	Young, N. Dak.

NOT VOTING—46

Bartlett	Griffin	Montoya
Bayh	Gruening	Morse
Bennett	Hart	Morton
Brewster	Hatfield	Moss
Burdick	Hayden	Murphy
Byrd, W. Va.	Hruska	Muskie
Cannon	Inouye	Nelson
Church	Javits	Ribicoff
Clark	Kennedy	Smith
Cotton	Long, Mo.	Talmadge
Curtis	Magnuson	Thurmond
Eastland	McCarthy	Tower
Ervin	McGovern	Williams, N.J.
Fulbright	McIntyre	Yarborough
Goodell	Miller	
Gore	Monroney	

So Mr. HARTKE's amendment was rejected.

Mr. DIRKSEN. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. LONG of Louisiana. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 955

Mr. ANDERSON. Mr. President, I call up my amendment, No. 955, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 6, beginning with line 18, strike out all through line 9 on page 7, and redesignate sections 6, 7, and 8 as sections 5, 6, and 7, respectively.

Mr. ANDERSON. Mr. President, I have discussed this amendment with the leadership and I hope that it will be accepted by the Senate.

Mr. LONG of Louisiana. Mr. President, I would hope that we could agree to a time limitation on the Anderson amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that there be a time limitation on the Anderson amendment of 20 minutes, to be divided equally and controlled by the Senator from New Mexico [Mr. ANDERSON] and the Senator from Illinois [Mr. DIRKSEN].

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

Mr. MUNDT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. ANDERSON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. ANDERSON. Mr. President, when the excise tax bill was before the Senate on March 27, an amendment nullifying the IRS regulation which would apply the unrelated business tax to advertising profits of tax-exempt organizations was introduced. IRS issued its regulation after lengthy study and exhaustive hearings. Without any hearings before either the Ways and Means Committee or the Senate Finance Committee, and without complete information, after very brief debate, the Senate passed this amendment. In the conference on the excise tax bill this provision was deleted, and I think wisely.

When the matter was before the Senate on March 27, I think we all must admit we knew very little about it. We did not know, for example, that we were opening up a loophole that could cost the general taxpayers $25,000,000 a year, and this at a time when we are raising taxes for everyone else.

Now, the committee's amendment is another attempt to nullify the IRS regulation, albeit if only for a year.

Mr. President, I hope that the Senate will agree to this action to strike out the

committee's amendment. I limit myself to these remarks at this time. I believe my amendment to be a most important one which should be adopted by the Senate.

Mr. LAUSCHE. Mr. President, will the Senator from New Mexico yield?

Mr. ANDERSON. I yield.

Mr. LAUSCHE. I shall support the amendment of the Senator from New Mexico. I think that the essence of the issue today goes far beyond merely what is involved in the bill. Charitable and tax-exempt foundations have been exploiting the general taxpayers of this Nation. The time has come when Congress must take a deep and incisive look into the operations of these charitable and tax-exempt foundations. They are given tax exemptions but they go far beyond being charitable institutions. Some of them are engaging in businesses yet are still exempt from paying taxes.

The Senator from Oregon—who is not here at the moment—when the tax bill was being considered seeking to impose the 10-percent surtax, argued against it and stated that we should take a look at tax-exempt foundations. These tax-exempt foundations are engaging in politics. They are spending their money in fields where they have no right to spend it.

Individuals are creating foundations solely to escape taxation. The whole subject should be looked into. I understand that the Finance Committee has already declared such a policy and one other agency has also so declared.

Let me ask the Senator from New Mexico: This means $25 million, is that correct?

Mr. ANDERSON. It surely does. I thank the Senator from Ohio for his statement. I am confident that the issues will be fully explored and considered in those hearings.

Mr. PASTORE. Mr. President, will the Senator from New Mexico yield?

Mr. ANDERSON. I yield.

Mr. PASTORE. First of all, I want to say that I am going to support the Senator's amendment. I think what Senators should bear in mind is that we have nothing against these groups who, in many instances, do a fine job and very good work. But we must understand that every time we alleviate, eliminate, or exempt any particular group from paying taxes, we add those taxes onto the rest of our taxpaying society. After all, a certain amount of money must be raised and all Americans should share the burden equally; otherwise, the heavier burden falls upon the remainder of American taxpayers. It is unfair to them to exempt others.

I hope that this amendment will carry, not because we have anything against these groups, not because they are not doing a good job, but I think that deep in their hearts they, too, should know that this is discriminatory.

Mr. ANDERSON. I thank the Senator from Rhode Island.

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

Mr. ANDERSON. I yield to the Senator from Connecticut.

Mr. DODD. Mr. President, I shall certainly support the amendment. I join the Senator from Ohio, the Senator from Rhode Island, and, of course, the Senator from New Mexico. I agree with all the sentiments they have expressed.

I am particularly disturbed about one organization. I know it is not included in the amendment. The National Rifle Association is tax exempt. I hope the Finance Committee will take a good look at all these problems. I am glad the Senator from New Mexico has raised this question, and I hope the amendment will be adopted. I shall vote for it.

Mr. ANDERSON. I am glad to hear the Senator say that. I am sure the Senator from Louisiana will look carefully into this situation and that we will have comprehensive hearings within a year.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. ANDERSON. I yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, I support the Anderson amendment. I think it is one that should be approved. It amounts to about $25 million a year in revenues. At this particular time I do not think the Government can afford to lose that amount of revenue. I shall support the amendment.

Mr. ANDERSON. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. DIRKSEN. Mr. President, I yield myself 3 minutes.

There are about 700 organizations in the country that are involved in this matter. By "involved," I mean because they have unrelated activities and they do advertising through periodicals. Some of them are tax-exempt organizations already. So when the Internal Revenue Service, on December 11 of last year, modified its regulations to put a tax on those advertising revenues, we countered by inserting an amendment in the Senate version of the Expenditure Control Act, and in that form it went to conference.

The conference committee deleted that amendment; and so, if we were going to give them protection, it was necessary to reinstate the amendment, and that is done in this bill.

One factor that I think argues against the Anderson amendment is that the chairman of the Ways and Means Committee of the House, in connection with the deletion of the amendment, said that he was agreeable to holding hearings on this subject; but so many people asked to testify that it could not be accomplished in this session. As a result, we believe the status quo prior to December 11, 1967, ought to be maintained and let the House explore the whole matter.

This matter does not go to the question of foundations. This is a matter of organizations, and it involves organizations like the Boy Scouts, Girl Scouts, National Geographic Society, American Medical Association, and a great many others.

I think, before we move into that picture, we ought to continue the regulations that had been in effect, and then let the House explore and see what must be done. That is all that is involved insofar as the bill itself is concerned.

The amendment offered by the Senator from New Mexico proposes to strike this provision from the bill. To be sure, there may be some loss of revenue, but, on the other hand, if these organizations lose their revenues, they will have to tax their members a little more. Their dues will have to be increased to cover the gap. So finally, then, it is about as broad as it is long, as I see the picture. For that reason, I do not think there would be much to gain.

Therefore, I think, on equity, the Anderson amendment ought to be defeated.

Mr. PASTORE. Mr. President, will the Senator yield to me?

Mr. ANDERSON. I yield such time to the Senator from Rhode Island as he may desire.

Mr. PASTORE. Mr. President, it is the understanding of the Senator from Rhode Island that the Boy Scouts of America do not want this discrimination. They do not care to have it perpetuated.

Mr. ANDERSON. That is correct. They do not want this amendment considered in light of their situation.

Mr. PASTORE. And I think that should be the spirit of every taxpayer in America. Any time anyone asks for special tax treatment, we hurt somebody else. The time is fast coming when we must remove all tax loopholes. They should be eliminated, because, as I said before, the burden of paying taxes should be shared by every American.

Mr. LONG of Louisiana. Mr. President, will the Senator yield to me?

Mr. ANDERSON. I yield to the Senator from Louisiana.

Mr. LONG of Louisiana. Mr. President, I have mixed feelings about this amendment. Senators will recall that we debated this issue some time ago. I believe at that time it was the Senator from California [Mr. MURPHY] who offered an amendment to continue the favorable treatment that certain organizations received with respect to advertising income from their publications. I personally was opposed to it and supported the Senator from New Mexico in his effort to defeat it. No one was more surprised than the Senator from Louisiana when the roll was called and the Senate agreed to the amendment by a very decisive vote.

From the point of view of this Senator, inasmuch as the Senate accepted that amendment by a decisive vote, I saw no point in objecting to the instant amendment when it was offered in the committee, because that appeared to be the will of the Senate.

So far as this Senator is concerned, it is up to the Senate to decide this matter. If the Senate wishes to reverse itself on the previous position it took on this matter, we will be guided accordingly. What this Senator would like to know is what the Senate wants to do. If the Senate, by a very decisive vote, agreed to the Murphy amendment, and that is still the opinion of the Senate, I would think it would not want to agree to the Anderson amendment. If the opinion of the Senate is otherwise, it could wait until the House studied and acted on this matter.

Mr. CARLSON. Mr. President, will the Senator yield to me?

Mr. ANDERSON. I yield to the Senator from Kansas.

Mr. CARLSON. With reference to the

situation in the Finance Committee as we discussed this amendment, I believe the Senator from Louisiana suggested a moment ago what the Senate should do. As one who supported the amendment, at the present time I think this is a problem that ought to have more study. I would hope we could accept the amendment without a rollcall. In that way it would not prejudice us in any way until we could take another look at it.

Mr. ANDERSON. I know it will be well studied. I know the committee plans to do it.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. ANDERSON. I yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, I would like to concur in what the Senator from Kansas has said. I also would like to go further. I have talked with some sponsors of the measure. If we could delete this provision from the bill, with the understanding that it will be introduced next year as a bill, we could have hearings. Then, whatever was decided upon could be made effective for the taxable years to which the new Treasury regulations apply, which generally are the calendar year 1968 and later years. I would support that effective date without regarding it as retroactive, and I would support the date even though I might not be supporting the proposal itself. I think that is a fair solution which would give the committee a chance to study the proposal.

If this is not agreeable I will support the Anderson amendment today.

Mr. ANDERSON. I just do not think we should waste $25 million in revenues.

I yield to the Senator from Wyoming [Mr. HANSEN].

Mr. HANSEN. Mr. President, I want to take only a moment to say that I find much merit in the statement made by the distinguished senior Senator from Kansas. I shall support the amendment if we have a rollcall vote on it. I do that with considerable reluctance, because I appreciate the tremendous amount of good that a number of organizations receive from their tax-exempt status. At the same time, I am not unaware that there are a number of abuses. If it would make it easier for the Senate to act, I would hope the suggestion made by the Senator from Kansas [Mr. CARLSON] might be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. DIRKSEN. Mr. President, I yield myself 1 minute.

The trouble with all these suggestions is that we get very deep into 1969. Who knows when the Senate will ever get around to it? Meanwhile the tax under the new rules will attach.

That is just as sure as it can be. So it is faulty in that respect. We ought to leave the bill alone as it came out of the committee, and send it to the House of Representatives, and then, of course, let the House Ways and Means Committee go ahead with it, because if it is a tax matter, it has to be initiated over on the other side.

Meanwhile, here are some 700 organizations that are involved and would be affected.

With respect to the Boy Scouts, I think I know what happened. They were called in. They were told they would get the same treatment as the Sierra Club unless they separated their case from that of the other exempt organizations. With separate consideration they probably were told something could be worked out for them. A person would have to be blind not to know what is going on around here.

But that does not affect all these other organizations. So this matter ought to be let alone as it came from the committee. It passed the Senate by a vote of 57 to 35, and that ought to make it stand as the will of the Senate.

That is about all I have to say.

Mr. ANDERSON. Mr. President, I may have misunderstood the Senator from Delaware. Would he repeat his statement?

Mr. WILLIAMS of Delaware. What I said was that I am going to support the Senator from New Mexico. I said I supported the proposal of the Senator from Kansas that, if it could be done agreeably, this matter be postponed and studied in committee next year; but since that cannot be done, apparently, we have no alternative except to vote.

Therefore, I support the amendment of the Senator from New Mexico, because I do not think we can afford to lose this $25 million without having more knowledge than I have at the present time as to the various factors involved in this matter.

Mr. ANDERSON. Mr. President, I do not want to be in the position of promising what the Senator from Louisiana will do, but I am sure he will have a hearing. He is sitting here, and I am sure he will follow through.

Mr. WILLIAMS of Delaware. I am sure that is correct.

Mr. METCALF. Mr. President, I object, both on grounds of procedure and substance, to the committee amendment dealing with the income derived from commercial advertising appearing in exempt organization periodicals.

On grounds of procedure, it is wholly inappropriate to act upon legislation as important and controversial as this at the very end of a session, with no hearing, and with no consideration by either the Finance Committee or the House Ways and Means Committee.

While action of this sort is, as a general rule, undesirable, the study done and attention devoted to this issue by the Treasury Department—as well as the extraordinary public interest demonstrated on both sides of the question—make the precipitous action embodied in this floor amendment even more objectionable than usual.

On December 12 of last year, the Treasury Department issued regulations interpreting certain existing provisions of the Internal Revenue Code. Among other things, those regulations made clear that under existing law, commercial advertising profits of exempt organization periodicals were taxable. Before those regulations were published, the Treasury Department conducted a comprehensive study, called for written comments and oral testimony on proposed regulations—3 full days of hearings were held—and, in general, made an exhaustive inquiry into the appropriate tax treatment of exempt organization advertising income under existing law.

The adoption of this floor amendment would simply amount to a repudiation of existing law as interpreted by the Treasury Department, after careful consideration and hearings, with no real consideration of the merits on our part. The Ways and Means Committee has received 135 requests to be heard, on this subject. Those hearings will, no doubt, supply what we do not have today—information upon which to make an intelligent decision. In the absence of such information, I urge the Senate to defeat this attempt to overrule the carefully considered conclusions of the Treasury Department as to the state of existing law.

As a matter of substance as well, I urge the defeat of the proposed legislation. Existing law subjects certain tax-exempt organizations to tax on their unrelated business activities. The primary purpose of this tax is to remove the unfair competitive advantage which tax exemption would otherwise confer upon commercial activities of tax-exempt organizations. The need for application of this sound policy to the business activities of exempt organizations is nowhere clearer than it is in the area of commercial advertising appearing in exempt organization periodicals. The evidence gathered by the Treasury study and hearings graphically demonstrates that tax-exempt organizations compete against taxpaying periodicals for the sale of advertising space with all the tools available to their competitors, plus one—their exemptions. These tax-exempt organizations first, carry advertisements in their magazines identical to those carried by their commercial competitors; second, maintain fully staffed offices to promote the sale of advertising in their magazines; third, promote the sale of their advertising space through the medium of commercial periodicals addressed to potential advertisers and, in some cases, through aggressive direct mail advertising campaigns, complete with comparative price lists indicating the lower rates offered by them. They even offer prizes to their advertising salesmen who bring in the largest amount of advertising revenue; fourth, in their efforts to attract more advertising business, these organizations have, on occasion, hired professional advisers and consultants to make their magazines more attractive and appealing; and fifth, the size and number of these tax-exempt periodicals has reached a level where gross receipts from advertising exceed $100 million annually and tax-exempt periodicals represent nearly 30 percent of all business publications containing advertising material.

No matter how laudable the activities justifying tax exemption are, it is difficult to see why that tax exemption should be spread beyond its necessary limits to give a tax-exempt organization an unwarranted and unnecessary competitive advantage over its taxable business competitors. On the contrary—in all fairness to our taxpaying businesses—when a tax-exempt organization chooses to enter the commercial world for profit,

it should be subject to all the rules and requirements of the game, including the burden of taxation borne equally by its competitors. Our concern for fairness to those whose incomes generate the tax revenues upon which essential governmental services rely, should require no less.

A great deal has been said about the Boy Scouts. The Boys Scouts' income from magazines is only 14 percent of the net income. This includes income from subscriptions. The argument about the Boy Scouts is de minimis. We are talking about three-tenths of one percent of the total tax.

This matter should be heard by the appropriate committees and the whole question thoroughly examined. In the event we cannot suspend action pending a hearing, we should vote for the Anderson amendment.

The PRESIDING OFFICER. All of the time of the Senator from New Mexico has been consumed. The Senator from Illinois has 4 minutes remaining. Does the Senator from Illinois yield further time?

Mr. DIRKSEN. No, Mr. President. Have the yeas and nays been ordered?

The PRESIDING OFFICER. Yes. Is all remaining time yielded back?

Mr. DIRKSEN. I yield back the remainder of my time, and call for the vote.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New Mexico. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CARLSON (after having voted in the affirmative). Mr. President, on this vote I have a pair with the distinguished Senator from South Carolina [Mr. THURMOND]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. HICKENLOOPER (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Texas [Mr. TOWER]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. HOLLAND. Mr. President, I voted "nay," but on the calling of the tally, I understood the clerk to say that I am recorded as having voted "yea."

The PRESIDING OFFICER. The Senator from Florida is recorded as having voted in the negative.

Mr. HOLLAND. I thank the Presiding Officer.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. HART], the Senator from Hawaii [Mr. INOUYE], and the Senator from Georgia [Mr. TALMADGE] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Indiana [Mr. BAYH], the Senator from Maryland [Mr. BREWSTER], the Senator from North Dakota [Mr. BURDICK], the Senator from West Virginia [Mr. BYRD], the Senator from Nevada [Mr. CANNON], the Senator from Idaho [Mr. CHURCH], the Senator from Pennsylvania [Mr. CLARK], the Senator from Mississippi [Mr. EASTLAND], the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Oklahoma [Mr. MONRONEY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. MOSS], the Senator from Maine [Mr. MUSKIE], the Senator from Wisconsin [Mr. NELSON], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Maryland [Mr. TYDINGS], and the Senator from New Jersey [Mr. WILLIAMS] are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota [Mr. BURDICK], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. MOSS], the Senator from New Jersey [Mr. WILLIAMS], and the Senator from Connecticut [Mr. RIBICOFF] would each vote "yea."

On this vote, the Senator from Michigan [Mr. HART] is paired with the Senator from North Carolina [Mr. ERVIN]. If present and voting, the Senator from Michigan would vote "yea," and the Senator from North Carolina would vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from New Hampshire [Mr. COTTON], the Senators from Nebraska [Mr. HRUSKA and Mr. CURTIS], the Senator from New York [Mr. JAVITS], the Senator from Iowa [Mr. MILLER], the Senator from Kentucky [Mr. MORTON], the Senator from California [Mr. MURPHY], the Senator from Maine [Mrs. SMITH], the Senator from South Carolina [Mr. THURMOND], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from New York [Mr. GOODELL] is detained on official business.

If present and voting, the Senator from Nebraska [Mr. HRUSKA], the Senator from California [Mr. MURPHY], and the Senator from Nebraska [Mr. CURTIS] would each vote "nay."

Also, if present and voting, the Senator from Maine [Mrs. SMITH] would vote "yea."

The respective pair of the Senator from South Carolina [Mr. THURMOND] and that of the Senator from Texas [Mr. TOWER] has been previously announced.

On this vote, the Senator from New York [Mr. GOODELL] is paired with the Senator from Utah [Mr. BENNETT]. If present and voting, the Senator from New York would vote "yea," and the Senator from Utah would vote "nay."

On this vote, the Senator from New York [Mr. JAVITS] is paired with the Senator from Iowa [Mr. MILLER]. If present and voting, the Senator from New York would vote "yea' and the Senator from Iowa would vote "nay."

The result was announced—yeas 32, nays 22, as follows:

[No. 289 Leg.]

YEAS—32

Aiken	Jackson	Prouty
Anderson	Lausche	Proxmire
Bible	Long, La.	Randolph
Boggs	Mansfield	Russell
Case	McClellan	Scott
Cooper	McGee	Spong
Dodd	Metcalf	Symington
Hansen	Mondale	Williams, Del.
Harris	Pastore	Yarborough
Hatfield	Pearson	Young, Ohio
Hollings	Pell	

NAYS—22

Allott	Fong	Mundt
Baker	Griffin	Percy
Brooke	Hartke	Smathers
Byrd, Va.	Hill	Sparkman
Dirksen	Holland	Stennis
Dominick	Jordan, N.C.	Young, N. Dak.
Ellender	Jordan, Idaho	
Fannin	Kuchel	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Carlson, for.
Hickenlooper, for.

NOT VOTING—44

Bartlett	Gore	Montoya
Bayh	Gruening	Morse
Bennett	Hart	Morton
Brewster	Hayden	Moss
Burdick	Hruska	Murphy
Byrd, W. Va.	Inouye	Muskie
Cannon	Javits	Nelson
Church	Kennedy	Ribicoff
Clark	Long, Mo.	Smith
Cotton	Magnuson	Talmadge
Curtis	McCarthy	Thurmond
Eastland	McGovern	Tower
Ervin	McIntyre	Tydings
Fulbright	Miller	Williams, N.J.
Goodell	Monroney	

So Mr. ANDERSON's amendment was agreed to.

Mr. ANDERSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG of Louisiana. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG of Louisiana. Mr. President, on behalf of the Senator from Alabama [Mr. HILL] and myself, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. SPONG in the chair). The amendment will be stated.

The LEGISLATIVE CLERK. At the end of the bill, add the following new section:

SEC. —. The limitations in section 201 of the Revenue and Expenditure Control Act of 1968 on the number of civilian employees in the executive branch shall not apply to the Social Security Administration, and employees in such Administration shall not be counted in applying such limitations to the rest of the executive branch.

Mr. LONG of Louisiana. Mr. President, the amendment seeks to make it possible for the Social Security Administration to hire the necessary people to process the medicare claims and the various other additional benefits that Congress has voted during the past couple of years.

Mr. President, the money is not the problem in so far as social security is concerned.

The Senator from Delaware [Mr. WILLIAMS], when he offered his proposal to impose a surtax and set a limit on spending wisely exempted the social security trust funds. So money is not the problem.

But the same bill which sets a spending limitation also sets a limit on Federal employment related to the number of employees on duty June 30, 1966. Medicare went into effect on July 1, 1966, the following day. With this employee ceiling, it will be impossible for the Social Security Administration to process the various medicare claims and various other benefits that Congress has voted on a timely basis.

Senators will recall that we had this kind of problem before. As Medicare was getting under way, the Social Security Administration found it difficult to process retirement claims in time. At that time we adopted an amendment in the Finance Committee; I believe it was known as the Scott amendment.

That amendment was designed to insure that the Social Security Administration process the claims of these individuals on a timely basis. Social Security Commissioner Ball of the Department of Health, Education, and Welfare, tells me that we are going to have a repetition of that same problem unless something is done about the personnel ceiling.

I stress again that money is not the problem. Our great problem is that we need a certain number of people to process claims for medicare and retirement benefits.

I have figures here on the number of employees and the workload of the Social Security Administration.

On June 30, 1966, the day before the medicare program went into effect, the Social Security Administration had 43,693 employees.

As we were informed at the time we passed the medicare bill, the number of employees had to be increased. They were increased. On June 30, 1967, the number of employees was 47,186.

On June 30, 1968, the number of people employed was increased to 53,142. Senators will note that this represents 9,449 more people employed in the Social Security Administration than that agency had 2 years before, on June 30, 1966.

If the department is able to fill only 3 out of 4 vacancies, this would reduce employment by about 1,600 people by June 30, 1969; that is, by next year the number of employees will be reduced to 51,500.

Between fiscal year 1966, the year before medicare went into effect, and 1969, the current fiscal year, the overall workload of the Social Security Administration rose 36 percent. Manpower increased by only 14 percent. Thus, productivity increased by 19 percent.

One cannot fault the Department of Health, Education, and Welfare for failing to do an efficient job. Their productivity is good, but the difficulty is that with the additional heavy workload, they simply must have additional employees.

Examples of the workload increase can be summarized in this fashion:

In the medicare area, 19,600,000 people are covered by hospital insurance, of whom 4,600,000 expect to receive services this year.

There are 18,600,000 persons covered by supplementary medical insurance, and of that number, 7,600,000 expect to receive services this year.

The cash benefits, of course, also have increased. Just this year they were increased for 25 million beneficiaries.

Furthermore, we have just provided benefits for disabled widows, and more than 200,000 claims will be filed in 1968 and 1969 under the new law providing benefits for disabled widows.

If the Social Security Administration is not permitted to hire additional employees, they will have to have employees work overtime, which will be much more expensive. Even if they do work long hours of overtime, they still will not be able to do the job they should in getting out the medicare checks and the cash benefits to families who have paid for the insurance. If they are not permitted this exemption, they will not be able to carry out the instructions of Congress, even though they will of course do the best they can in a difficult situation.

Mr. President, I doubt that the distinguished author of the employee limitation amendment really had in mind to make it impossible for the Department to do this job. It would hardly seem that he had this in mind, since he did exempt the social security trust funds from the expenditure limitation when he offered his amendment. That being the case, we have no problem about the money. The problem is with respect to the number of employees.

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

Mr. LONG of Louisiana. I yield.

Mr. HARTKE. The fact is that the trust fund itself pays for these employees, and therefore it is not subject to the limitation provision of the tax law. Is that correct?

Mr. LONG of Louisiana. That is correct.

Mr. HARTKE. However, when it came to the question of how many people could be employed, and the so-called employment coverage and the limitation, they put in the limitation, even though the money itself was not coming out of the general fund.

Mr. LONG of Louisiana. Yes.

We are taking in more money in social security taxes than we are paying out. The Senator knows that.

Mr. HARTKE. We will take in approximately $2½ billion this year in addition to what will be paid out, even after all expenses of operation of the fund and the payments to which the people are entitled. We will then have a surplus.

We really are charging too much, and on top of that there would now be a cutback on the service, which in the long run would make it more expensive for the trust fund than it would be if the matter were handled in the usual business operation, as any sensible insurance company would operate—that is, if they have more claims and more checks, they will have to have the employees to handle it.

This amendment makes good sense, so I compliment the Senator from Louisiana for bringing it up. I shall support the position which exempts these people from the limitation which is presently extended under the law.

Mr. LONG of Louisiana. Mr. President, Senators will recall that approximately a year ago people were having trouble getting their checks. They wrote angrily to their Congressmen, as they had a right to do, and said, "What is the matter with you people in Congress that you do not get the job done?"

We adopted an amendment in the Committee on Finance to instruct the Social Security Administration to hire more personnel if necessary and to get the job done.

They are just now catching up with the backlog. But if we do not provide this relief for the personnel, Senators can expect that before Congress convenes next year, they will hear people complaining, as they did a year ago, that they are not getting the benefits for which they paid.

As the Senator from Indiana has pointed out, the money being paid into the fund exceeds the benefits being paid out.

The Senator from Delaware [Mr. WILLIAMS] wisely left the social security trust funds out of his expenditure limitation. The problem is not the money; it is the number of employees who are required to do the job. This amendment would take care of the problem of hiring additional people to get the checks out to these retired people and sick people.

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

Mr. LONG of Louisiana. I yield.

Mr. PROUTY. Is it not true that by 1972, the surplus in the social security trust fund will be in the vicinity of $56 billion?

Mr. LONG of Louisiana. The Senator might be correct about that. I believe that by 1972 we will have some more Prouty amendments to pay additional benefits, and some Hartke amendments and perhaps some Long amendments to pay some of the surplus to deserving people.

Mr. PROUTY. As the Senator is aware, that has been my approach for a great many years.

I offer a bill during this session of Congress, which was referred to the Committee on Finance, providing for a guaranteed annual income for persons 65 years of age or older. The figures I suggested were too small. They are almost inhumane because they were so small. But I assure the Senator that as long as I am a Member of the Senate, I shall press for legislation in that respect, because I believe this country has neglected—more than any other country—its elderly retired people.

Approximately 20 percent of these people are actually living in poverty today. Their lives are behind them. They have been productive, upstanding citizens, such as teachers and Government employees. With the inflationary pressures we are encountering, their plight in many instances is desperate.

I had thought of offering that amendment to this bill, but I felt it would be unwise to do so without having had hearings and an opportunity for Senators to know exactly what I propose. Certainly next year, and as long as I am a Member of the Senate, I shall work for that and other measures which I believe are fully justified, particularly because of the as-

tronomical surpluses we have, which we do not need.

I understand that recently Mr. Wilbur Cohen, Secretary of the Department of Health, Education, and Welfare has apparently advocated substantially what I have recommended in my proposal for a guaranteed annual income for the aged.

I am happy to report but 40 out of the 41 State public welfare administrators who have expressed an opinion on the subject have also approved my proposal in principle.

Mr. LONG of Louisiana. All I am seeking to do at this time is to see that these people get these benefits, meager though they may be, which are on the statute books. If this amendment is not agreed to, we will have been derelict in providing the wherewithal—not money, but the employees needed to get the job done.

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

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that I may yield to the Senator from Texas, without losing my right to the floor.

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

RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968

Mr. YARBOROUGH. Mr. President, last week the Senator from Alabama [Mr. HILL] asked me to assume the responsibility of managing H.R. 10790 on behalf of the Labor and Public Welfare Committee. The bill had been referred to our committee with instructions to report back to the Senate by September 20, 1968. At that time, I believed that there would be no problem in obtaining a quorum of the committee to consider the bill.

Unfortunately, however, during the intervening period the members of the committee have been engaged in conferences with the other body on several vital pieces of legislation in both the education and health areas. One of the conferences even lasted until 1 a.m. in the morning. Because of this onerous schedule, yesterday was the first day Chairman HILL was able to call a meeting of the committee. Unfortunately, due to previous out-of-town commitments, only eight members of the committee were able to attend yesterday's meeting. Since this is not a quorum of the committee, we were not able to report the bill. And like yesterday, a sufficient number of Senators will not be available to meet on the bill today.

In order to honor the instructions of the Senate, it is necessary for me, on behalf of the committee, either to ask for an extension within which to report the bill or to ask that the committee be discharged from further consideration of the bill. While the members of the committee with whom I have talked all feel that the committee could make a definite contribution to this legislation, they agreed that if the bill is not reported to the Senate today, it might be jeopardized for this session. Accordingly, although I shall propose an amendment to H.R. 10790 later today, which will be cosponsored by a great many members of the committee on Labor and Public Welfare, at this time I ask unanimous consent that the Committee on Labor and Public Welfare be discharged by the Senate from further consideration of H.R. 10790 as reported by the Committee on Commerce and that the bill be placed on the calendar.

The PRESIDING OFFICER (Mr. MCGEE in the chair). Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 984

Mr. YARBOROUGH. Mr. President, a few moments ago I moved, on behalf of the Committee on Labor and Public Welfare, to discharge that committee from the further consideration of H.R. 10790, the Radiation Control for Health and Safety Act of 1968. At that time, I stated that the members of the committee considered that one amendment would greatly improve the bill. At this time I should like to offer that amendment on behalf of Senators JAVITS, MORSE, CLARK, RANDOLPH, WILLIAMS of New Jersey, PELL, KENNEDY, NELSON, MONDALE, and myself.

Mr. President, the general purpose of H.R. 10790 is to reduce the exposure of the public to all unnecessary hazardous radiation from electronic products and at the same time further the medical use of radiation as a benefit to mankind.

The legislation directs the Secretary of Health, Education, and Welfare to establish an electronic product radiation control program which would include the development and administration of performance standards to control the emission of radiation from electronic products and the undertaking by public and private organizations of research and investigation into the effects and control of such radiation emissions. The legislation covers all electronic products which purposely or incidentally emit radiation, and which are a source of human exposure at work, in the home, or during medical treatment. In carrying out this program, the Secretary is directed to maintain liaison and consult with industry, professional organizations, and appropriate Federal and State agencies.

One omission from the coverage of the legislation are workers who are engaged in the production and repair of these products. The amendment that I am proposing will protect these workers from the same dangers and to the same extent that the ultimate consumer will be protected by this act.

Mr. President, I ask unanimous consent that the text of the report from the Department of Health, Education, and Welfare, which indicates that the Department is "fully in accord with the objectives of this amendment," be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. YARBOROUGH. Mr. President, according to the Bureau of Labor Statistics, more than 1 million workers were employed as of January 1968, in the manufacture of radio and television receiving equipment; communications equipment—which includes telephone and telegraph apparatus, and radio and television communications equipment—and electronic components and accessories—including manufacture of electron tubes, and other electronic components.

In addition, there is a large but unknown number of workers who install, maintain and repair such equipment, and use it in other industrial processes, including toy manufacturing, industrial X-ray radiography, and so forth.

All of these individuals are faced with potential or actual exposure to non-ionizing radiation on the job and should be protected against the harmful effects from such radiation at their work environments.

The 1964 report "Protecting the Health of 80 Million Americans"—the so-called Frye Report to the Surgeon General of the U.S. Public Health Service, Department of Health, Education, and Welfare—had this to say in defining the most urgent occupational health problems faced by workers:

> Virtually nothing is known about the genetic effects of complex chemicals and other materials in the work environment, although certain chemicals and viruses, *as well as radiation,* (emphasis ours) are suspected of teratogenic (malformations) as well as mutagentic action. The very real danger of far-reaching effects of industrial exposures on generations yet unborn deserves intensive study. Criteria for employment of pregnant women are especially urgently needed.
>
> . . . Information is needed to determine tne effects upon the body by exposures to vibration, microwaves, ultrasonics, infrared, ultraviolet, lasers, masers, and other electromagnetic phenomena as these are developed.
>
> . . . New techniques should be developed to prevent eye damage from exposures to lasers and masers, infrared and ultraviolet light; and problems associated with glaucoma, induced hemorrhage, and vibration require study.

The 1967 report of the Task Force on Environmental Health and Related Problems recommended to the Secretary of Health, Education, and Welfare:

> Standards for safe tolerance levels must be developed for all who are exposed to radiation-generating materials and equipment . . . For maximum effectiveness within the federal government, there must be a coordinated effort to see that research conducted in the future will give us adequate knowledge for the establishment of human tolerance levels for radiation exposure. The Department must continue to lead a national program to prevent undue radiation to the occupationally exposed as well as the general population.

In the hearings before the Committee on Commerce, it is evident that there are biological hazards associated with human exposure to various forms of nonionizing radiation. The bill as reported by the Commerce Committee would protect consumers—that is, purchasers of products which could emit such radiation. The bill does not contain protection for one type of consumer—that is, the worker whose employer is engaged in the manufacture or repair of such products. During the course of his work and usually for a greater period of time than the normal consumer, he may be observing, testing, or working with a product which could emit radiation above the standards to be set by the Secretary. However, because of his technical situation, he is not a consumer within the terms of the bill. My amendment would remedy this omission.

EXHIBIT 1

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, September 17, 1968.

Hon. RALPH YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: This is in response to your request of September 16, 1968, for a report on possible amendments to H.R. 10790, which are being considered to authorize the promulgation and enforcement of standards for protection of individuals from injury from electronic product radiation incident to the manufacture, installation, operation, use, repair, or maintenance of such products. As we interpret these amendments, they would not modify the requirement that standards for the electronic product itself shall be performance standards as distinguished from design standards.

This Administration has recommended to the Congress the enactment of broad legislation which would authorize the development, promulgation, and enforcement of occupational health and safety standards designed to provide the protection of workers from all kinds of hazards to safety and health in the work places. The standard-setting provisions of the Administration bill are, of course, designed to eliminate the kinds of hazards at which your amendments are aimed. Thus we are fully in accord with the objectives of these amendments.

We believe that it would be preferable to afford such broad protection to workers through the more comprehensive approach included in the occupational health and safety legislation previously recommended to the Congress. However, if your committee finds it preferable to amend H.R. 10790 as you suggest, the amendments are certainly unobjectionable to this Department. (Our staff has communicated to the committee staff a technical drafting suggestion with respect to these amendments.)

The Bureau of the Budget has advised us that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

WILBUR J. COHEN,
Secretary.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

Mr. MANSFIELD. Mr. President, reserving the right to object—I shall not object—to make the RECORD clear, on the basis of this request, this proposal, having to do with hazardous radiation, will go on the calendar. Is that correct?

The PRESIDING OFFICER. The Senator from Montana is correct.

Mr. YARBOROUGH. I do not intend to seek any action on the bill today, Mr. President.

Mr. MANSFIELD. I do not object.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

AMENDMENT NO. 984

On page 9, line 10, after "prescribe" insert "(A)", and in line 12, after "products", insert the following: ", and (B) standards for the manufacture, installation, operation, use, repair, or maintenance of such products to protect individuals from injury (including genetic injury) from electronic product radiation,".

On page 30, line 14, strike out the word "manufactured" and insert in lieu thereof: "manufactured, operated, used, repaired, maintained,".

On page 35, line 10, strike out "or" and insert thereafter the following new subsection:

"(7) for any person engaged in commerce or an industry affecting commerce to violate any standard promulgated by the Secretary pursuant to section 358(a)(1)(B); or"

On page 35, line 11, strike out "(7)" and insert in lieu thereof "(8)".

On page 40, line 25, strike out "law." and insert in lieu thereof: "law: *Provided*, That nothing in this Act shall be construed or held to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, occupational or other diseases, or death of employees arising out of, or in the course of, employment."

On page 4, line 19, between "industry" and "associations" insert "and labor".

On page 5, after line 4, insert "the Secretary of Labor,".

On page 8, line 21, after "professional" insert ", labor,".

On page 10, line 4, strike out "industries" and insert in lieu thereof "industry and labor".

On page 42, line 10, after "scientific", insert ", commercial, and labor".

On page 16, line 21, strike out the period and insert in lieu thereof a comma and add "of which at least one shall be a representative of organized labor."

AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954

The Senate resumed the consideration of the bill (H.R. 2767) to amend the Internal Revenue Code of 1954 to allow a farmer an amortized deduction from gross income for assessments for depreciable property levied by soil or water conservation or drainage districts.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. WILLIAMS of Delaware. Mr. President, could we have the clerk read the amendment again? There is no printed copy of the amendment.

The PRESIDING OFFICER. The clerk will read the amendment.

The bill clerk read as follows:

At the end of the bill, add the following:

"SEC. —. The limitations in section 201 of the Revenue and Expenditures Control Act of 1968 on the number of civilian employees in the executive branch shall not apply to the Social Security Administration, and employees in such Administration shall not be counted in applying such limitations to the rest of the executive branch."

Mr. WILLIAMS of Delaware. Mr. President, I thought that is what the amendment provided. I notice that the chairman of the committee said that a representative of the Social Security Administration of the Department of Health, Education, and Welfare, has been down to see him to explain the need for this amendment, which would exempt that agency from the restrictions of the expenditure controls, and to explain the dire results that will develop if this amendment is not agreed to.

What puzzles me is that I was the author of the original bill which was passed by the Senate 3 months ago which provided for the mandatory reduction of $6 billion in expenditures and provided for this rollback in civilian employment and I have not heard one word of complaint with the original law.

The Department of Health, Education, and Welfare was before the conference and along with the Budget Director, agreed on the expenditure controls and the President also agreed. The administration agreed they would support the controls over employees and expenditures as a part of a bill which would raise income taxes by 10 percent.

From that date until now not one representative of the executive branch, not one representative of any one of these agencies has ever called on me or been to my office to say they need to be exempted from the provisions of that bill. Yet every agency has been lobbying with other Senators asking for support of the amendments that would exempt their particular agency.

The Johnson administration is determined to repeal that $6 billion expenditure control and is doing this by asking for exemptions for these agencies one at a time.

They have not kept their promise to the taxpayers.

Mr. President, I grant that I am only one Member of the Senate, but I am the ranking minority member of the Committee on Finance, which deals with the work of this particular agency. I am sure, with a 2-to-1 majority, the Johnson administration feels that it does not have to pay attention to anyone on the minority side. These officials may be correct, but on the other hand they could be in error.

However, they should remember they would not have gotten their tax increase bill if someone in the minority had not introduced and pushed for enactment of that bill. The majority had failed to take the initiative either to raise taxes or to urge a little fiscal restraint.

When Congress passed that bill which raised taxes by 10 percent and cut expenditures by $6 billion the administration accepted the bill and publicly promised to help carry out that reduction. Since then they have reneged on that promise.

Mr. President, I resent this doubletalk, and particularly from an agency which comes under the jurisdiction of our committee. They did not have the courtesy to come to me, the author of the original bill, and show any need for their request.

It is true that Mr. Ball has been seen during the last 3 days around the Capitol canvassing, and I suppose lobbying other Senators for this amendment. Since the Senate convened today he sent word into the Chamber that he would like to see me, but I was then occupied on the floor of the Senate. They know where my office is had they seen fit to come see me. I do not think this amendment is going to pass today.

AUTHORITY FOR FILING REPORTS AND RECEIVING MESSAGES FROM THE PRESIDENT AND HOUSE OF REPRESENTATIVES DURING ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, following the adjournment of the Senate today until

Monday next, all committees be authorized to file reports, together with any minority, individual, or supplemental views, if desired; and that the Secretary of the Senate be authorized to receive messages from the President of the United States and the House of Representatives.

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

ADDRESS BY SENATOR HATFIELD BEFORE UNION LEAGUE CLUB OF NEW YORK CITY

Mr. GOODELL. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by the distinguished junior Senator from Oregon [Mr. HATFIELD] before the Union League Club of New York City on September 4, 1968.

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

ADDRESS BY SENATOR MARK O. HATFIELD BEFORE THE UNION LEAGUE CLUB, NEW YORK CITY, SEPTEMBER 4, 1968

For the past few years our city streets have echoed with shouts of "burn, baby, burn" and "hell no, we won't go." These cries have often been accompanied by violence and destruction. And now, out of the ashes of smoldering city ghettoes and burned draft cards, have risen both the sincerely concerned citizens *and* the demagogues who cry for "law and order"—an appeal as sacred as love of mother and flag. For how can any reasonable man be *against* "law and order?"

He can't. But he can stand back and ask what is meant by "law and order." Is "law and order" the stationing of a heavily armed policeman on every corner and then the labeling of gun control measures as a subversive plot. Is it instructing our police departments to shoot down looters to protect the rights of property owners and then being totally indifferent to the rights of suspected criminals and how they are treated by interrogating policemen in the local precinct house.

Is "law and order" to be defined by geography rather than justice? In the South this slogan has been used to justify the use of force to maintain policies of segregation.

A presidential candidate rants about the need for "law and order" in one breath and in the next boasts that if he is elected to the highest office in our country and a demonstrator lays down in front of *his* car, it will be "the last car he ever lays down in front of." This man would commit murder in the name of "law and order" and his followers cheer and applaud his viciousness.

More and more people concerned with the rising crime rate have begun to use it as a club with which to attack the institution of the court. There is little objective evidence, however, to support their contention that judicial rulings protecting the rights of accused criminals are *responsible* for the rising crime rate. These frustrated people would over-ride judicial protection of individual rights in the name of "law and order."

In the name of "law and order" many people cheered Mayor Daley and the police state tactics he designed and directed during the Democratic Convention in Chicago. Many of us were deeply repelled by this sadistic orgy of violence. But according to one poll, we were outnumbered four to one by people who felt that the Chicago police and security personnel did not use "unreasonable force" in their indiscriminant clubbing of youths, members of the press, and innocent bystanders. Eighty percent of the country evidently thought it was entirely appropriate for the police and national guard to enter hotel rooms, drag people out of their beds, and beat them all the way to the elevator. Only one person in five apparently questioned whether this was not excessive force and wondered if order could not have been maintained with a little less violence and a little more respect for the rights of these citizens. There is no question that many of the demonstrators in the parks and on the streets deserved to be arrested for their conduct but judgment and punishment should be handed out by our courts, not by a policeman's night stick.

Other rights guaranteed the American people are also denied behind the facade of maintaining "law and order." The freedom of speech and assembly are increasingly being refused our citizens under this convenient and compelling slogan. More and more frequently, officials would deny public facilities and permission to those who wish to peacefully assemble to protest policies supported by these officials.

But even more insidious are the less public efforts to silence dissentors under the guise of enforcing the law and preserving order. General Hershey has very effectively used the draft as a weapon to stop young men from protesting the Vietnam war. The General has indicated to his selective service boards that a suitable punishment for young dissentors—who admittedly sometimes go beyond the reasonable tactics of dissent—is to draft them to serve in the war they are protesting. The General evidently does not see the hypocracy, the contradiction of purpose, in his use of extra-legal means to enforce his own definition of "law and order."

(The use of "extra-legal" means to enforce the views of government is a tactic you in business are becoming increasingly familiar with. Although the federal government has not been given authority for price control, several weeks ago the Administration forced U.S. steel companies to rescind across-the-board price increases by threatening to stop Defense Department purchases from companies who raised their prices. You no doubt recall another instance several years ago when steel companies were threatened by a different administration into backing down from price increases they felt were necessary.)

The U.S. House of Representatives would also suppress dissent and insure that our college campuses are docile by cancelling the National Defense scholarships of students that participate in "disruptive" actions.

Finally, "law and order" has become a respectable and sophisticated appeal to the racist instincts deeply rooted in many people. Black Americans are slowly being integrated into the mainstream of our social, economic and political life. This movement is met with prevasive fear and resistance among those white economic and social groups who perceive their positions and status to be threatened. Among these people we find some of the most vocal advocates of "law and order." In their hands this slogan becomes a means of suppression, a club with which to keep the Negro in his place. As the *Saturday Review* points out, "law and order" can easily become a commitment to the status quo, a weapon to use against any demand for change."

Is all this what we mean by "law and order"? I suggest that the problem is largely one of semantics. Of course we are all in favor of judicious enforcement of the law. Of course we all favor social and political tranquillity. But we must not allow the terms "law and order" to become an all-encompassing phrase with one meaning to the extremists and another to those who are as concerned with justice as they are with order. We must go beyond superficial slogans and demand that those who cry for "law and order" define what they mean and how they would arrive at this state. I think it is very important that we take great pains to draw these distinctions. To many people—particularly our already alienated groups, the young and the black—the slogan "law and order" means suppression. In using the language of the demagogues we blur the distinctions between the views of reasonable men concerned with justice and the views and venom of the extremists. By allowing ourselves to be cast in the same category as those who use appeals to "law and order" as an instrument of their fears and hatred, we only help polarize our society into two hostile camps and make continued conflict and disorder inevitable.

I believe there are three inter-related fronts from which we must launch our campaign to return the nation to social and political stability and to reduce the rising crime rate.

First, we must end the war in Vietnam. I don't believe we can overestimate the relationship between the violence in Vietnam and the violence in our city streets. The war in Vietnam has created a mystique of violence that pervades our entire society and erodes our national soul.

Every American who owns a television set is a participant in this violence. Every night as he watches the news before sitting down to dinner he is treated to battle scenes of action earlier in the day. Every morning while eating his breakfast the radio gives him the latest death count or kill ratio. He is gradually numbed to violence and death and habituate to the efficacy of force in resolving problems. An article published by the Prestigious Center for the Study of Democratic Institutions stated very clearly that "we can't have it both ways. As long as the American nation is officially engaged day by day, hour by hour, in violence abroad, which—because of television—is visible to all, we cannot hope to be free of violence at home.

Second, as we make a commitment to extricate ourselves from Vietnam we must also make a commitment to improving our police forces and legal processes. We must be willing to appropriate enough money so that our police departments can be adequately manned. We must be willing to foot the bill for better equipment, better salaries, and better training of our law enforcement officers. We must be willing to expand our court systems to relieve the backlog of cases and free judges, parole officers, and juvenile officials so that they can give more attention to the re-habilitation of offenders. Equally as important as upgrading police departments and court systems is assuring that all men have equal access to justice. Legal aid clinics offering free legal help to the poor need to be expanded and bail reforms should continue.

Third, as essential as it is that we improve our legal processes and police forces, such efforts will be largely ineffective in *eliminating* the problem of crime and lawlessness. These efforts may control the problem but they cannot resolve it because they leave untouched the conditions that cause disorder. No amount of sloganeering for "law and order" can alter this basic fact: our primary commitment must be to restoring in men a genuine sense of their brotherhood and their responsibility to one another if we are to return our society to stability and respect for the law.

The problem we are dealing with has two facets. One is the rising crime rate and the other is growing number of incidents of civil disorder and violence. Both of these aspects can only be fundamentally dealt with through the personal commitment of millions of Americans. "I am my brother's keeper" is not just an archaic religious dictum. This philosophy is the cement that binds individual men into a society—much as mortar holds bricks together to form a building. We must restore to our society a greater sense of *personal* responsibility for the well-being of others.

We will have law and order only when people *respect* the rules of society because they believe they were designed for *all* men and equally apply to *all* men. Violence and disorder and the consequent repressive measures adopted by authorities are largely due to a very serious breakdown in human relations. Instead of "love thy neighbor" people often fear and hate their neighbors. The bonds of compassion, understanding and communication are severed. We must mend the broken ties that bind all men together by emphasizing the fact that we are all human beings and brothers. We must be willing to tolerate our differences and underscore our similarities. We must be willing to grant to every other man the rights, the sympathy, the open-mindedness we would expect for ourselves if we were in his circumstances.

If we are to resolve the problem of city riots we must not only change the hearts of men, but also their environment. Out of the deplorable conditions of the ghetto have grown the frustration and bitterness that have led to disorder and if we want to end the rioting we must be willing to eliminate some of the *causes* of this violence. It means that vast amounts of our tax dollars will have to be spent improving living conditions in the ghettoes; in seeing that the poor have access to health facilities; in seeing that unemployed are trained and offered decent jobs; and—most important of all—in seeing that the children of poverty receive educations relevant to their background and needs. If we are going to ease the bitterness and frustration that leads to disorder, private enterprise will have to become involved in the problems of poverty and provide channels through which the poor can move into the economic mainstream.

Let me repeat again. Peace and safety will not return to our cities until we make an honest commitment to resolving the *causes* of disorder. How can we expect the poor to respect our property rights, our right to safe streets and neighborhoods when we make only token gestures at assuring *their* right to equal economic and educational opportunities. We will not be able to maintain police forces large enough to keep order and enforce the law unless we dedicate the personal, private and governmental resources necessary to the resolution rather than the repression of these problems.

I am not sure that the country is yet willing to make the needed commitment and I fear that disorder shall continue. The *Los Angeles Times* shares my concern. In an editorial earlier this year the *Times* stated "instead of a commitment to changing the basic conditions that lead to disorder, the national emphasis increasingly seems to be upon quelling riots rather than preventing them. Mass violence of course cannot be tolerated. The cities must be protected, peace must be preserved. . . . Urban disorder, therefore, presents the double challenge of prevention and repression. And to concentrate upon the rioting itself at the expense of its causes is to assure that unrest and violence will continue to grow worse."

It must become the task of everyone who is sincerely interested in resolving the problems of disorder to confront the *real* issue and to encourage the American people to face up to the basic nature of the problem. If we politicians and you, as citizen leaders, are to guide the nation in the right direction, we are going to have to forego the temptation of the simplistic solution, the appeal to only the slogan of "law and order." The fuse of revolution is too short to allow us to enjoy the demagoguery of the sloganeers or to allow us to delude ourselves that there *is* an easy answer that will require no sacrifices from the affluent and privileged in our society.

We must commit ourselves and guide our fellow Americans into a period of revolutionary social-political-economic change equal to the challenges we face. And as we transform our society to better conform with our historical dedication to equality and justice, we must make sure that the system remains open. We must assure that neither the sacredness of tradition nor the indifference of habit block equal access by all citizens to the political process that make laws and determine policy.

This, in large part, is what the unrest on college campuses is all about. Too many young people have lost faith in the democratic guarantee of equal voice in our political decision-making process. I have received a considerable amount of mail from young people who are extremely bitter about our system for nominating presidential candidates. They are angry at our party conventions where the delegates often don't reflect the interests of the people of their states and districts but represent the views of party bosses or the dictates of political expediency.

I believe that, to a large degree, the frustration of these young people is justified. In order to help assure that the peoples' views are fully represented in the presidential nominating processes, I support the concept of a national primary. I do not believe that procedural modifications of the party conventions can go far enough in providing for the open and representative selection of presidential candidates. Our nation must be willing to remold institutions that no longer serve the principles of our democratic system or the basic interests of our people.

Mr. WILLIAMS of Delaware. Mr. President, I suggest the absence of a quorum.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. No. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested.

Mr. LONG of Louisiana. Mr. President, will the Senator withhold his request for a moment?

Mr. WILLIAMS of Delaware. No. I have suggested the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll; and the following Senators answered to their names:

[No. 290 Leg.]

Byrd, Va.	Holland	McGee
Case	Jackson	Mundt
Cooper	Jordan, N.C.	Prouty
Dodd	Jordan, Idaho	Randolph
Dominick	Kuchel	Spong
Griffin	Long, La.	Williams, Del.
Harris	Mansfield	

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. 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 Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken	Fong	Proxmire
Anderson	Hatfield	Sparkman
Baker	Metcalf	Stennis
Brooke	Pastore	Yarborough
Dirksen	Pell	Young, N. Dak.
Ellender	Percy	Young, Ohio

ADJOURNMENT UNTIL MONDAY, SEPTEMBER 23, 1968, AT 10 A.M.

Mr. MANSFIELD. Mr. President, a quorum still not having responded, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock Monday morning.

The motion was agreed to; and (at 2 o'clock and 41 minutes p.m.) the Senate adjourned until Monday, September 23, 1968, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 20, 1968:

ATOMIC ENERGY COMMISSION

Francesco Costagliola, of Rhode Island, to be a member of the Atomic Energy Commission for the remainder of the term expiring June 30, 1969.

EXTENSIONS OF REMARKS

CHAIRMAN GEORGE P. MILLER'S CONTRIBUTION TO SCIENTIFIC RESEARCH

HON. JEFFERY COHELAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 20, 1968

Mr. COHELAN. Mr. Speaker, it is my privilege to share representation for the city of Oakland, Calif., with my distinguished colleague and friend Congressman GEORGE P. MILLER. But in his role as chairman of the House Science and Astronautics Committee GEORGE MILLER has a wider constituency and the stewardship of the scientific problems of the entire Nation.

Congressman MILLER's devotion to the cause of scientific research and development is well known to the Members of this House. On August 19, 1968, the periodical Chemical and Engineering News paid a tribute to GEORGE MILLER's contribution, and to those of Congressman EMILIO DADDARIO and Senator HENRY JACKSON, in the area of science and technology. Special commendation was given for the joint House-Senate conference on a review of Federal environmental policy.

Mr. Speaker, with your permission, I insert in the RECORD at this time a significant portion of this well-deserved tribute:

TRIBUTE TO GEORGE MILLER'S CONTRIBUTION

The need for an overhaul of the present creaky legislative machinery for science and technology also has been clearly documented. What Congress needs most in this regard is some sort of mechanism to provide its members with an adequate overview of the en-