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Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, FIRST SESSION

SENATE—*Tuesday, May 27, 1969*

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

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, Maker and Ruler of men, we commend this Nation to Thy continued guidance. Save us from violence, discord, and confusion; from pride and arrogancy, and from every evil way. Rekindle in all the people a new reverence for Thy precepts, a true love of liberty, and an elevated patriotism. Enter our hearts, our homes, and all our institutions with Thy cleansing and purifying power. Be sovereign Lord of our inner life and thought, and of our words and deeds, that we may manifest the glory of Thine eternal kingdom.

Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, May 26, 1969, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Vice President laid before the Senate two messages from the President of the United States, submitting two nominations, which were referred to the Committee on Foreign Relations.

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

THE POSTAL SERVICE ACT OF 1969—MESSAGE FROM THE PRESIDENT

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

Total reform of the Nation's postal system is absolutely essential.

The American people want dependable, reasonably priced mail service, and postal employees want the kind of advantages enjoyed by workers in other major industries. Neither goal can be achieved within the postal system we have today.

The Post Office is not keeping pace with the needs of our expanding population or the rightful aspirations of our postal workers.

Encumbered by obsolete facilities, inadequate capital, and outdated operation practices, the Post Office Department is failing the mail user in terms of service, failing the taxpayer in terms of cost, and failing the postal worker in terms of truly rewarding employment. It is time for a change.

Two years ago, Lawrence F. O'Brien, then Postmaster General, recognized that the Post Office was in "a race with catastrophe," and made the bold proposal that the postal system be converted into a Government-owned corporation. As a result of Mr. O'Brien's recommendations, a Presidential Commission was established to make a searching study of our postal system. After considering all the alternatives, the Commission likewise recommended a Government corporation. Last January, President Johnson endorsed that recommendation in his State of the Union message.

One of my first actions as President was to direct Postmaster General Winton M. Blount to review that proposal and others. He has made his own firsthand study of the problems besetting the postal service, and after a careful analysis has reported to me that only a complete reorganization of the postal system can avert the steady deterioration of this vital public service.

I am convinced that such a reorganization is essential. The arguments are overwhelming and the support is bipartisan. Postal Reform is not a partisan political issue, it is an urgent national requirement.

CAREER OPPORTUNITIES AND WORKING CONDITIONS

For many years the postal worker walked a dead-end street. Promotions all too often were earned by the right political connections rather than by merit. This Administration has taken steps to eliminate political patronage in the selection of postal employees; but there is more—much more—that must be done.

Postal employees must be given a work environment comparable to that found in the finest American enterprises. Today, particularly in our larger cities, postal workers labor in crowded, dismal, old fashioned buildings that are little short of disgraceful. Health services, employee facilities, training programs and other benefits enjoyed by the worker in private industry and in other Federal agencies are, all too often, unavailable to the postal worker. In an age when machines do the heavy work for private companies, the postal worker still shoulders, literally, the burden of the Nation's mail. That mail fills more than a billion sacks a year; and the men and women who move those sacks need help.

Postal employees must have a voice in determining their conditions of employment. They must be given a stake in the quality of the service the Department provides the public; they must be given a reason for pride in themselves and in the job they do. The time for action is now.

HIGHER DEFICITS AND INCREASING RATES

During all but seventeen years since 1838, when deficit financing became a way of life for the Post Office, the postal system has cost more than it has earned.

In this fiscal year, the Department will drain over a billion dollars from the national treasury to cover the deficit incurred in operating the Post Office. Over the last decade, the tax money used to shore up the postal system has amounted to more than eight billion dollars. Almost twice that amount will be diverted from the Treasury in the next ten years if the practices of the past are continued. We must not let that happen.

The money to meet these huge postal deficits comes directly out of the taxpayer's pocket—regardless of how much he uses the mails. It is bad business, bad government, and bad politics to pour this kind of tax money into an inefficient postal service. Every taxpayer in the United States—as well as every user of the mails—has an important stake in seeing that the Federal Government institutes the kind of reform that is needed to give the nation a modern and well managed postal system. Without such a system Congress will either have to raise postage rates far above any level presently contemplated, or the taxpayers will have to shoulder the burden of paying postal deficits the like of which they have never seen before.

Neither alternative is acceptable. The nation simply cannot afford the cost of maintaining an inefficient postal system. The will of the Congress and the will of the people is clear. They want fast, dependable and low-cost mail service. They want an end to the continuing cycle of higher deficits and increasing rates.

QUALITY POSTAL SERVICE

The Post Office is a business that provides a vital service which its customers, like the customers of a private business,

purchase directly. A well managed business provides dependable service; but complaints about the quality of postal service under existing procedures are widespread. While most mail ultimately arrives at its destination, there is no assurance that important mail will arrive on time; and late mail—whether a birthday card or a proxy statement—is often no better than lost mail.

Delays and breakdowns constantly threaten the mails. A complete breakdown in service did in fact occur in 1966 in one of our largest cities, causing severe economic damage and personal hardship. Similar breakdowns could occur at any time in many of our major post offices. A major modernization program is essential to insure against catastrophe in the Post Office.

A modern postal service will not mean fewer postal workers. Mail volume—tied as it is to economic activity—is growing at such a rate that there will be no cutback in postal jobs even with the most dramatic gains in postal efficiency. Without a modernized postal system, however, more than a quarter of a million new postal workers will be needed in the next decade simply to move the growing mountain of mail. The savings that can be realized by holding employment near present levels can and should mean more pay and increased benefits for the three quarters of a million men and women who will continue to work in the postal service.

OPPORTUNITY THROUGH REFORM

While the work of the Post Office is that of a business enterprise, its organization is that of a political department. Traditionally it has been run as a Cabinet agency of the United States Government—one in which politics has been as important as efficient mail delivery. Under the present system, those responsible for managing the postal service do not have the authority that the managers of any enterprise must have over prices, wages, location of facilities, transportation and procurement activities and personnel policy.

Changes in our society have resulted in changes in the function of the Post Office Department. The postal system must be given a non-political management structure consistent with the job the postal system has to perform as a supplier of vital services to the public. Times change, and now is the time for change in the postal system.

I am, therefore, sending to the Congress reform legislation entitled the Postal Service Act of 1969.

POSTAL SERVICE ACT OF 1969

The reform that I propose represents a basic and sweeping change in direction; the ills of the postal service cannot be cured by partial reform.

The Postal Service Act of 1969 provides for:

—Removal of the Post Office from the Cabinet;

—Creation of an independent Postal Service wholly owned by the Federal Government;

—New and extensive collective bargaining rights for postal employees;

—Bond financing for major improvements;

—A fair and orderly procedure for changing postal rates, subject to Congressional review;

—Regular reports to Congress to facilitate Congressional oversight of the postal system;

—A self-supporting postal system.

The new government-owned corporation will be known as the United States Postal Service. It will be administered by a nine-member board of directors selected without regard to political affiliation. Seven members of the board, including the chairman, will be appointed by the President with the advice and consent of the Senate. These seven members will select a full-time chief executive officer, who will join with the seven others to select a second full-time executive who will also serve on the board.

Employees will retain their Civil Service annuity rights, veterans preference, and other benefits.

The Postal Service is unique in character. Therefore, there will be, for the first time in history, true collective bargaining in the postal system. Postal employees in every part of the United States will be given a statutory right to negotiate directly with management over wages and working conditions. A fair and impartial mechanism—with provision for binding arbitration—will be established to resolve negotiating impasses and disputes arising under labor agreements.

For the first time, local management will have the authority to work with employees to improve local conditions. A modernization fund adequate to the needs of the service will be available. The postal worker will finally take his rightful place beside the worker in private industry.

The Postal Service will become entirely self-supporting, except for such subsidies as Congress may wish to provide for specific public service groups. The Postal Service, like the Tennessee Valley Authority and similar public authorities, will be able to issue bonds as a means of raising funds needed for expansion and modernization of postal facilities and other purposes.

Proposals for changes in classes of mail or postage rates will be heard by expert rate commissioners, who will be completely independent of operating management. The Board of the Postal Service will review determinations made by the Rate Commissioners on rate and classification questions, and the Presidentially appointed members of the board will be empowered to modify such determinations if they consider it in the public interest to do so.

Congress will have express authority to veto decisions on rate and classification questions.

The activities of the Postal Service will be subject to Congressional oversight, and the Act provides for regular reports to Congress. The Postal Service and the rules by which it operates can, of course, be changed by law at any time.

TOWARD POSTAL EXCELLENCE

Removing the postal system from politics and the Post Office Department from the Cabinet is a sweeping reform.

Traditions die hard and traditional institutions are difficult to abandon. But tradition is no substitute for performance, and if our postal system is to meet the expanding needs of the 1970s, we must act now.

Legislation, by itself, will not move the mail. This must be done by the three-quarters of a million dedicated men and women who today wear the uniform of the postal service. They must be given the right tools—financial, managerial, technological—to do the job. The legislation I proposed today will provide those tools.

There is no Democratic or Republican way of delivering the mail. There is only the right way.

This legislation will let the postal service do its job the right way, and I strongly recommend that it be promptly considered and promptly enacted.

RICHARD NIXON.

THE WHITE HOUSE, *May 27, 1969.*

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

The VICE PRESIDENT. Without objection, it is so ordered.

NEW HAMPSHIRE-VERMONT INTERSTATE SCHOOL COMPACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 278.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 278) to consent to the New Hampshire-Vermont Interstate School Compact, which was, strike out all after the enacting clause, and insert:

That the Congress consent to the New Hampshire-Vermont Interstate School Compact which is substantially as follows:

"NEW HAMPSHIRE-VERMONT INTERSTATE SCHOOL COMPACT

"ARTICLE I

"GENERAL PROVISIONS

"A. STATEMENT OF POLICY.—It is the purpose of this compact to increase the educational opportunity within the states of New Hampshire and Vermont by encouraging the formation of interstate school districts which will each be a natural social and economic region with adequate financial resources and a number of pupils sufficient to permit the efficient use of school facilities within the interstate district and to provide improved instruction. The state boards of education of New Hampshire and Vermont may formulate and adopt additional standards consistent with this purpose and with these standards; and the formation of any interstate school district and the adoption of its articles of agreement shall be subject to the approval of both state boards as hereinafter set forth.

"B. REQUIREMENT OF CONGRESSIONAL APPROVAL.—This compact shall not become effective until approved by the United States Congress.

"C. DEFINITIONS.—The terms used in this compact shall be construed as follows, un-

less a different meaning is clearly apparent from the language or context:

"a. 'Interstate school district' and 'interstate district' shall mean a school district composed of one or more school districts located in the state of New Hampshire associated under this compact with one or more school districts located in the state of Vermont, and may include either the elementary schools, the secondary schools, or both.

"b. 'Member school district' and 'member district' shall mean a school district located either in New Hampshire or Vermont which is included within the boundaries of a proposed or established interstate school district. In the case of districts located in Vermont, it shall include city school districts, town school districts, union school districts and incorporated school districts. Where appropriate, the term 'member district clerk' shall refer to the clerk of the city in which a Vermont school district is located, the clerk of the town in which a Vermont town school district is located, or the clerk of an incorporated school district.

"c. 'Elementary school' shall mean a school which includes all grades from kindergarten or grade one through not less than grade six nor more than grade eight.

"d. 'Secondary school' shall mean a school which includes all grades beginning no lower than grade seven and no higher than grade twelve.

"e. 'Interstate board' shall refer to the board serving an interstate school district.

"f. 'New Hampshire board' shall refer to the New Hampshire state board of education.

"g. 'Vermont board' shall refer to the Vermont state board of education.

"h. 'Commissioner' shall refer to commissioner of education.

"i. Where joint action by both state boards is required, each state board shall deliberate and vote by its own majority, but shall separately reach the same result or take the same action as the other state board.

"j. The terms 'professional staff personnel' and 'instructional staff personnel' shall include superintendents, assistant superintendents, administrative assistants, principals, guidance counsellors, special education personnel, school nurses, therapists, teachers, and other certified personnel.

"k. The term 'warrant' or 'warning' to mean the same for both states.

"ARTICLE II

"PROCEDURE FOR FORMATION OF AN INTERSTATE SCHOOL DISTRICT

"A. CREATION OF PLANNING COMMITTEE.—The New Hampshire and Vermont commissioners of education shall have the power, acting jointly to constitute and discharge one or more interstate school district planning committees. Each such planning committee shall consist of at least two voters from each of a group of two or more neighboring member districts. One of the representatives from each member district shall be a member of its school board, whose term on the planning committee shall be concurrent with his term as a school board member. The term of each member of a planning committee who is not also a school board member shall expire on June thirtieth of the third year following his appointment. The existence of any planning committee may be terminated either by vote of a majority of its members or by joint action of the commissioners. In forming and appointing members to an interstate school district planning board, the commissioners shall consider and take into account recommendations and nominations made by school boards of member districts. No member of a planning committee shall be disqualified because he is at the same time a member of another planning board or committee created under the provisions of this compact or under any other provisions of law. Any existing informal interstate school planning committee may be reconstituted as a formal planning committee in accordance with the provisions hereof, and its previous deliberations adopted and ratified by the reorganized formal planning committee. Vacancies on a planning committee shall be filled by the commissioners acting jointly.

"B. OPERATING PROCEDURES OF PLANNING COMMITTEE.—Each interstate school district planning committee shall meet in the first instance at the call of any member, and shall organize by the election of a chairman and clerk-treasurer, each of whom shall be a resident of a different state. Subsequent meetings may be called by either officer of the committee. The members of the committee shall serve without pay. The member districts shall appropriate money on an equal basis at each annual meeting to meet the expenses of the committee, including the cost of publication and distribution of reports and advertising. From time to time the commissioners may add additional members and additional member districts to the committee, and may remove members and member districts from the committee. An interstate school district planning committee shall act by majority vote of its membership present and voting.

"C. DUTIES OF INTERSTATE SCHOOL DISTRICT PLANNING COMMITTEE.—It shall be the duty of an interstate school district planning committee, in consultation with the commissioners and the state departments of education: to study the advisability of establishing an interstate school district in accordance with the standards set forth in paragraph A of Article I of this compact, its organization, operation and control, and the advisability of constructing, maintaining and operating a school or schools to serve the needs of such interstate district; to estimate the construction and operating costs thereof; to investigate the methods of financing such school or schools, and any other matters pertaining to the organization and operation of an interstate school district; and to submit a report or reports of its findings and recommendations to the several member districts.

"D. RECOMMENDATIONS AND PREPARATION OF ARTICLES OF AGREEMENT.—An interstate school district planning committee may recommend that an interstate school district composed of all the member districts represented by its membership, or any specified combination of such member districts, be established. If the planning committee does recommend the establishment of an interstate school district, it shall include in its report such recommendation, and shall also prepare and include in its report proposed articles of agreement for the proposed interstate school district, which shall be signed by at least a majority of the membership of the planning committee, which set forth the following:

"a. The name of the interstate school district.

"b. The member districts which shall be combined to form the proposed interstate school district.

"c. The number, composition, method of selection and terms of office of the interstate school board, provided that:

"(1) The interstate school board shall consist of an odd number of members, not less than five nor more than fifteen;

"(2) The terms of office shall not exceed three years;

"(3) Each member district shall be entitled to elect at least one member of the interstate school board. Each member district shall either vote separately at the interstate school district meeting by the use of a distinctive ballot, or shall choose its member or members at any other election at which school officials may be chosen;

"(4) The method of election shall provide for the filing of candidates in advance of election and for the use of a printed nonpartisan ballot;

"(5) Subject to the foregoing, provision may be made for the election of one or more members at large.

"d. The grades for which the interstate school district shall be responsible.

"e. The specific properties of member districts to be acquired initially by the interstate school district and the general location of any proposed new schools to be initially established or constructed by the interstate school district.

"f. The method of apportioning the operating expenses of the interstate school district among the several member districts, and the time and manner of payments of such shares.

"g. The indebtedness of any member district which the interstate district is to assume.

"h. The method of apportioning the capital expenses of the interstate school district among the several member districts, which need not be the same as the method of apportioning operating expenses, and the time and manner of payment of such shares. Capital expenses shall include the cost of acquiring land and buildings for school purposes; the construction, furnishing and equipping of school buildings and facilities; and the payment of the principal and interest of any indebtedness which is incurred to pay for the same.

"i. The manner in which state aid, available under the laws of either New Hampshire or Vermont, shall be allocated, unless otherwise expressly provided in this compact or by the laws making such aid available.

"j. The method by which the articles of agreement may be amended, which amendments may include the annexation of territory, or an increase or decrease in the number of grades for which the interstate district shall be responsible, provided that no amendment shall be effective until approved by both state boards in the same manner as required for approval of the original articles of agreement.

"k. The date of operating responsibility of the proposed interstate school district and a proposed program for the assumption of operating responsibility for education by the proposed interstate school district, and any school construction; which the interstate school district shall have the power to vary by vote as circumstances may require.

"l. Any other matters, not incompatible with law, which the interstate school district planning committee may consider appropriate to include in the articles of agreement, including, without limitation:

"(1) The method of allocating the cost of transportation between the interstate district and member districts;

"(2) The nomination of individual school directors to serve until the first annual meeting of the interstate school district.

"E. HEARINGS.—If the planning committee recommends the formation of an interstate school district, it shall hold at least one public hearing on its report and the proposed articles of agreement within the proposed interstate school district in New Hampshire, and at least one public hearing thereon within the proposed interstate school district in Vermont. The planning committee shall give such notice thereof as it may determine to be reasonable, provided that such notice shall include at least one publication in a newspaper of general circulation within the proposed interstate school district not less than fifteen days (not counting the date of publication and not counting the date of the hearing) before the date of the first hearing. Such hearings may be adjourned from time to time and from place to place. The planning committee may revise the proposed articles of agreement after the date of the

hearings. It shall not be required to hold further hearings on the revised articles of agreement but may hold one or more further hearings after notice similar to that required for the first hearings if the planning committee in its sole discretion determines that the revisions are so substantial in nature as to require further presentation to the public before submission to the State boards of education.

"F. APPROVAL BY STATES BOARDS.—After the hearings a copy of the proposed articles of agreement, as revised, signed by a majority of the planning committee, shall be submitted by it to each state board. The state boards may (a) if they find that the articles of agreement are in accord with the standards set forth in this compact and in accordance with sound educational policy, approve the same as submitted, or (b) refer them back to the planning committee for further study. The planning committee may make additional revisions to the proposed articles of agreement to conform to the recommendations of the state boards. Further hearings on the proposed articles of agreement shall not be required unless ordered by the state boards in their discretion. In exercising such discretion, the state boards shall take into account whether or not the additional revisions are so substantial in nature as to require further presentation to the public. If both state boards find that the articles of agreement as further revised are in accord with the standards set forth in this compact and in accordance with sound educational policy, they shall approve the same. After approval by both state boards, each state board shall cause the articles of agreement to be submitted to the school boards of the several member districts in each state for acceptance by the member districts as provided in the following paragraph. At the same time, each state board shall designate the form of warrant, date, time, place, and period of voting for the special meeting of the member district to be held in accordance with the following paragraph.

"G. ADOPTION BY MEMBER DISTRICTS.—Upon receipt of written notice from the state board in its state of the approval of the articles of agreement by both state boards, the school board of each member district shall cause the articles of agreement to be filed with the member district clerk. Within ten days after receipt of such notice, the school board shall issue its warrant for a special meeting of the member district, the warrant to be in the form, and the meeting be held at the time and place and in the manner prescribed by the state board. No approval of the superior court shall be required for such special school district meeting in New Hampshire. Voting shall be with the use of the check list by a ballot substantially in the following form:

" 'Shall the school district accept the provisions of the New Hampshire-Vermont Interstate School Compact providing for the establishment of an interstate school district, together with the school districts of ---------- and ----------, etc., in accordance with the provisions of the proposed articles of agreement filed with the school district (town, city or incorporated school district) clerk?

" 'Yes (☐) No (☐)'

"If the articles of agreement included the nomination of individual school directors, those nominated from each member district shall be included in the ballot and voted upon, such election to become effective upon the formation of an interstate school district.

"If a majority of the voters present and voting in a member district vote in the affirmative, the clerk for such member district shall forthwith send to the state board in its state a certified copy of the warrant, certificate of posting, and minutes of the meeting of the district. If the state boards of both states find that a majority of the voters present and voting in each member district have voted in favor of the establishment of the interstate school district, they shall issue a joint certificate to that effect; and such certificate shall be conclusive evidence of the lawful organization and formation of the interstate school district as of its date of issuance.

"H. RESUBMISSION.—If the proposed articles of agreement are adopted by one or more of the member districts but rejected by one or more of the member districts, the state boards may resubmit them, in the same form as previously submitted, to the rejecting member districts, in which case the school boards thereof shall resubmit them to the voters in accordance with paragraph G of this article. An affirmative vote in accordance therewith shall have the same effect as though the articles of agreement had been adopted in the first instance. In the alternative, the state boards may either (a) discharge the planning committee, or (b) refer the articles of agreement back for further consideration to the same or a reconstituted planning committee, which shall have all of the powers and duties as the planning committee as originally constituted.

"ARTICLE III

"POWERS OF INTERSTATE SCHOOL DISTRICTS

"A. POWERS.—Each interstate school district shall be a body corporate and politic, with power to:

"a. To acquire, construct, extend, improve, staff, operate, manage and govern public schools within its boundaries;

"b. To sue and be sued, subject to the limitations of liability hereinafter set forth;

"c. To have a seal and alter the same at pleasure;

"d. To adopt, maintain and amend bylaws not inconsistent with this compact, and the laws of the two states;

"e. To acquire by purchase, condemnation, lease or otherwise, real and personal property for the use of its schools;

"f. To enter into contracts and incur debts;

"g. To borrow money for the purposes hereinafter set forth, and to issue its bonds or notes therefor;

"h. To make contracts with and accept grants and aid from the United States, the state of New Hampshire, the state of Vermont, any agency or municipality thereof, and private corporations and individuals for the construction, maintenance, reconstruction, operation and financing of its schools; and to do any and all things necessary in order to avail itself of such aid and cooperation;

"i. To employ such assistants, agents, servants, and independent contractors as it shall deem necessary or desirable for its purposes; and

"j. To take any other action which is necessary or appropriate in order to exercise any of the foregoing powers.

"ARTICLE IV

"DISTRICT MEETINGS

"A. GENERAL.—Votes of the district shall be taken at a duly warned meeting held at any place in the district, at which all of the eligible legal voters of the member districts shall be entitled to vote, except as otherwise provided with respect to the election of directors.

"B. ELIGIBILITY OF VOTERS.—Any resident who would be eligible to vote at a meeting of a member district being held at the same time, shall be eligible to vote at a meeting of the interstate district. The board of civil authority in each Vermont member district and the supervisors of the check list of each New Hampshire district shall respectively prepare a check list of eligible voters for each meeting of the interstate district in the same manner, and they shall have all the same powers and duties with respect to eligibility of voters in their districts as for a meeting of a member district.

"C. WARNING OF MEETING.—A meeting shall be warned by a warrant addressed to the residents of the interstate school district qualified to vote in district affairs, stating the time and place of the meeting and the subject matter of the business to be acted upon. The warrant shall be signed by the clerk and by a majority of the directors. Upon written application of ten or more voters in the district, presented to the directors or to one of them, at least twenty-five days before the day prescribed for an annual meeting, the directors shall insert in their warrant for such meeting any subject matter specified in such application.

"D. POSTING AND PUBLICATION OF WARRANT.—The directors shall cause an attested copy of the warrant to be posted at the place of meeting, and a like copy at a public place in each member district at least twenty days (not counting the date of posting and the date of meeting) before the date of the meeting. In addition, the directors shall cause the warrant to be advertised in a newspaper of general circulation on at least one occasion, such publication to occur at least ten days (not counting the date of publication and not counting the date of the meeting) before the date of the meeting. Although no further notice shall be required, the directors may give such further notice of the meeting as they in their discretion deem appropriate under the circumstances.

"E. RETURN OF WARRANT.—The warrant with a certificate thereon, verified by oath, stating the time and place when and where copies of the warrant were posted and published, shall be given to the clerk of the interstate school district at or before the time of the meeting, and shall be recorded by him in the records of the interstate school district.

"F. ORGANIZATION MEETING.—The commissioners, acting jointly, shall fix a time and place for a special meeting of the qualified voters within the interstate school district for the purpose of organization, and shall prepare and issue the warrant for the meeting after consultation with the interstate school district planning board and the members-elect, if any, of the interstate school board of directors. Such meeting shall be held within sixty days after the date of issuance of the certificate of formation, unless the time is further extended by the joint action of the state boards. At the organization meeting the commissioner of education of the state where the meeting is held, or his designate, shall preside in the first instance, and the following business shall be transacted:

"a. A temporary moderator and temporary clerk shall be elected from among the qualified voters who shall serve until a moderator and clerk respectively have been elected and qualified.

"b. A moderator, a clerk, a treasurer, and three auditors shall be elected to serve until the next annual meeting and thereafter until their successors are elected and qualified. Unless previously elected, a board of school directors shall be elected to serve until their successors are elected and qualified.

"c. The date ror the annual meeting shall be established.

"d. Provision shall be made for the payment of any organizational or other expense incurred on behalf of the district before the organization meeting, including the cost of architects, surveyors, contractors, attorneys, and educational or other consultants or experts.

"e. Any other business, the subject matter of which has been included in the warrant, and which the voters would have had power to transact at an annual meeting.

"G. ANNUAL MEETINGS.—An annual meeting of the district shall be held between

January fifteenth and June first of each year at such time as the interstate district may by vote determine. Once determined, the date of the annual meeting shall remain fixed until changed by vote of the interstate district at a subsequent annual or special meeting. At each annual meeting the following business shall be transacted:

"a. Necessary officers shall be elected.

"b. Money shall be appropriated for the support of the interstate district schools for the fiscal year beginning the following July first.

"c. Such other business as may properly come before the meeting.

"H. SPECIAL MEETINGS.—A special meeting of the district shall be held whenever, in the opinion of the directors, there is occasion therefor, or whenever written application shall have been made by five per centum or more of the voters (based on the check lists as prepared for the last preceding meeting) setting forth the subject matter upon which such action is desired. A special meeting may appropriate money without compliance with RSA 33:8 or RSA 197:3 which would otherwise require the approval of the New Hampshire superior court.

"I. CERTIFICATION OF RECORDS.—The clerk of an interstate school district shall have the power to certify the record of the votes adopted at an interstate school district meeting to the respective commissioners and state boards and (where required) for filing with a secretary of state.

"J. METHOD OF VOTING AT SCHOOL DISTRICT MEETINGS.—Voting at meetings of interstate school districts shall take place as follows:

"a. SCHOOL DIRECTORS.—A separate ballot shall be prepared for each member district, listing the candidates for interstate school director to represent such member district; and any candidates for interstate school director at large; and the voters of each member district shall register on a separate ballot their choice for the office of school director or directors. In the alternative, the articles of agreement may provide for the election of school directors by one or more of the member districts at an election otherwise held for the choice of school or other municipal officers.

"b. OTHER VOTES.—Except as otherwise provided in the articles of agreement or this compact, with respect to all other votes (1) the votes of the interstate school district shall vote as one body irrespective of the member districts in which they are resident, and (2) a simple majority of those present and voting at any duly warned meeting shall carry the vote. Voting for officers to be elected at any meeting, other than school directors, shall be by ballot or voice, as the interstate district may determine, either in its articles of agreement or by a vote of the meeting.

"ARTICLE V

"OFFICERS

"A. OFFICERS: GENERAL.—The officers of an interstate school district shall be a board of school directors, a chairman of the board, a vice chairman of the board, a secretary of the board, a moderator, a clerk, a treasurer and three auditors. Except as otherwise specifically provided, they shall be eligible to take office immediately following their election; they shall serve until the next annual meeting of the interstate district and until their successors are elected and qualified. Each shall take oath for the faithful performance of his duties before the moderator, or a notary public or a justice of the peace of the state in which the oath is administered. Their compensation shall be fixed by vote of the district. No person shall be eligible to any district office unless he is a voter in the district. A custodian, school teacher, principal, superintendent or other employee of an interstate district acting as such shall not be eligible to hold office as a school director.

"B. BOARD OF DIRECTORS.—

"a. HOW CHOSEN.—Each member district shall be represented by at least one resident on the board of school directors of an interstate school district. A member district shall be entitled to such further representation on the interstate board of school directors as provided in the articles of agreement as amended from time to time. The articles of agreement as amended from time to time may provide for school directors at large, as above set forth. No person shall be disqualified to serve as a member of an interstate board because he is at the same time a member of the school board of a member district.

"b. TERM.—Interstate school directors shall be elected for terms in accordance with the articles of agreement.

"c. DUTIES OF BOARD OF DIRECTORS.—The board of school directors of an interstate school district shall have and exercise all of the powers of the district not reserved herein to the voters of the district.

"d. ORGANIZATION.—The clerk of the district shall warn a meeting of the board of school directors to be held within ten days following the date of the annual meeting, for the purpose of organizing the board, including the election of its officers.

"C. CHAIRMAN OF THE BOARD.—The chairman of the board of interstate school directors shall be elected by the interstate board from among its members at its first meeting following the annual meeting. The chairman shall preside at the meetings of the board and shall perform such other duties as the board may assign to him.

"D. VICE-CHAIRMAN OF THE BOARD OF DIRECTORS.—The vice-chairman of the interstate board shall be elected in the same manner as the chairman. He shall represent a member district in a state other than that represented by the chairman. He shall preside in the absence of the chairman and shall perform such other duties as may be assigned to him by the interstate board.

"E. SECRETARY OF THE BOARD.—The Secretary of the interstate board shall be elected in the same manner as the chairman. Instead of electing one of its members, the interstate board may appoint the interstate district clerk to serve as secretary of the board in addition to his other duties. The secretary of the interstate board (or the interstate district clerk, if so appointed) shall keep the minutes of its meetings, shall certify its records, and perform such other duties as may be assigned to him by the board.

"F. MODERATOR.—The moderator shall preside at the district meetings, regulate the business thereof, decide questions of order, and make a public declaration of every vote passed. He may prescribe rules of procedure; but such rules may be altered by the district. He may administer oaths to district officers in either state.

"G. CLERK.—The clerk shall keep a true record of all proceedings at each district meeting, shall certify its records, shall make an attested copy of any records of the district for any person upon request and tender of reasonable fees therefor, if so appointed, shall serve as secretary of the board of school directors, and shall perform such other duties as may be required by custom or law.

"H. TREASURER.—The treasurer shall have custody of all of the monies belonging to the district and shall pay out the same only upon the order of the interstate board. He shall keep a fair and accurate account of all sums received into and paid from the interstate district treasury, and at the close of each fiscal year he shall make a report to the interstate district, giving a particular account of all receipts and payments during the year. He shall furnish to the interstate directors, statements from his books and submit his books and vouchers to them and to the district auditors for examination whenever so requested. He shall make all returns called for by laws relating to school districts. Before entering on his duties, the treasurer shall give a bond with sufficient sureties and in such sum as the directors may require. The treasurer's term of office is from July 1 to the following June 30.

"I. AUDITORS.—At the organization meeting of the district, three auditors shall be chosen, one to serve for a term of one year, one to serve for a term of two years, and one to serve for a term of three years. After the expiration of each original term, the successor shall be chosen for a three year term. At least one auditor shall be a resident of New Hampshire, and one auditor shall be a resident of Vermont. An interstate district may vote to employ a certified public accountant to assist the auditors in the performance of their duties. The auditors shall carefully examine the accounts of the treasurer and the directors at the close of each fiscal year, and at such other times whenever necessary, and report to the district whether the same are correctly cast and properly vouched.

"J. SUPERINTENDENT.—The superintendent of schools shall be selected by a majority vote of the board of school directors of the interstate district with the approval of both commissioners.

"K. VACANCIES.—Any vacancy among the elected officers of the district shall be filled by the interstate board until the next annual meeting of the district or other election, when a successor shall be elected to serve out the remainder of the unexpired term, if any. Until all vacancies on the interstate board are filled, the remaining members shall have full power to act.

"ARTICLE VI

"APPROPRIATION AND APPORTIONMENT OF FUNDS

"A. BUDGET.—Before each annual meeting, the interstate board shall prepare a report of expenditures for the preceding fiscal year, an estimate of expenditures for the current fiscal year, and a budget for the succeeding fiscal year.

"B. APPROPRIATION.—The interstate board of directors shall present the budget report of the annual meeting. The interstate district shall appropriate a sum of money for the support of its schools and for the discharge of its obligations for the ensuing fiscal year.

"C. APPORTIONMENT OF APPROPRIATION.—Subject to the provisions of article VII hereof, the interstate board shall first apply against such appropriation any income to which the interstate district is entitled, and shall then apportion the balance among the member districts in accordance with one of the following formulas as determined by the articles of agreement as amended from time to time:

"a. All of such balance to be apportioned on the basis of the ratio that the fair market value of the taxable property in each member district bears to that of the entire interstate district; or

"b. All of such balance to be apportioned on the basis that the average daily resident membership for the preceding fiscal year of each member district bears to that of the average daily resident membership of the entire interstate school district; or

"c. A formula based on any combination of the foregoing factors. The term 'fair market value of taxable property' shall mean the last locally assessed valuation of a member district in New Hampshire, as last equalized by the New Hampshire state tax commission.

"The term 'fair market value of taxable property' shall mean the equalized grand list of a Vermont member district, as determined by the Vermont department of taxes.

"Such assessed valuation and grand list may be further adjusted (by elimination of certain types of taxable property from one or the other or otherwise) in accordance with the articles of agreement, in order that the fair market value of taxable property in each state shall be comparable.

"'Average daily resident membership' of

the interstate district in the first instance shall be the sum of the average daily resident membership of the member districts in the grades involved for the preceding fiscal year where no students were enrolled in the interstate district schools for such preceding fiscal year.

"D. SHARE OF NEW HAMPSHIRE MEMBER DISTRICT.—The interstate board shall certify the share of a New Hampshire member district of the total appropriation to the school board of each member district which shall add such sum to the amount appropriated by the member district itself for the ensuing year and raise such sum in the same manner as though the appropriation had been voted at a school district meeting of the member district. The interstate district shall not set up its own capital reserve funds; but a New Hampshire member district may set up a capital reserve fund in accordance with RSA 35, to be turned over to the interstate district in payment of the New Hampshire member district's share of any anticipated obligations.

"E. SHARE OF VERMONT MEMBER DISTRICT.—The interstate board shall certify the share of a Vermont member district of the total appropriation to the school board of each member district which shall add sum to the amount appropriated by the member district itself for the ensuing year and raise such sum in the same manner as though the appropriation had been voted at a school district meeting of the member district.

"ARTICLE VII

"BORROWING

"A. INTERSTATE DISTRICT INDEBTEDNESS.—Indebtedness of an interstate district shall be a general obligation of the district and shall also be a joint and several general obligation of each member district, except that such obligations of the district and its member districts shall not be deemed indebtedness of any member district for the purposes of determining its borrowing capacity under New Hampshire or Vermont law. A member district which withdraws from an interstate district shall remain liable for indebtedness of the interstate district which is outstanding at the time of withdrawal and shall be responsible for paying its share of such indebtedness to the same extent as though it had not been withdrawn.

"B. TEMPORARY BORROWING.—The interstate board may authorize the borrowing of money by the interstate district (1) in anticipation of payments of operating and capital expenses by the member districts to the interstate districts and (2) in anticipation of the issue of bonds or notes of the interstate district which have been authorized for the purpose of financing capital projects. Such temporary borrowing shall be evidenced by interest bearing or discounted notes of the interstate district. The amount of notes issued in any fiscal year in anticipation of expense payments shall not exceed the amount of such payments received by the interstate district in the preceding fiscal year. Notes issued under this paragraph shall be payable within one year in the case of notes under clause (1) and three years in the case of notes under clause (2) from their respective dates, but the principal of and interest on notes issued for a shorter period may be renewed or paid from time to time by the issue of other notes, provided that the period from the date of an original note to the maturity of any note issued to renew or pay the same debt shall not exceed the maximum period permitted for the original loan.

"C. BORROWING FOR CAPITAL PROJECTS.—An interstate district may incur debt and issue its bonds or notes to finance capital projects. Such projects may consist of the acquisition or improvement of land and buildings for school purposes, the construction, reconstruction, alteration, or enlargement of school buildings and related school facilities, the acquisition of equipment of a lasting character and the payment of judgments. No interstate district may authorize indebtedness in excess of ten percent of the total fair market value of taxable property in its member districts as defined in article VI of this compact. The primary obligation of the interstate district to pay indebtedness of member districts shall not be considered indebtedness of the interstate district for the purpose of determining its borrowing capacity under this paragraph. Bonds or notes issued under this paragraph shall mature in equal or diminishing installments of principal payable at least annually commencing no later than two years and ending not later than thirty years after their dates.

"D. AUTHORIZATION PROCEEDINGS.—An interstate district shall authorize the incurring of debts to finance capital projects by a majority vote of the district passed at an annual or special district meeting. Such vote shall be taken by secret ballot after full opportunity for debate, and any such vote shall be subject to reconsideration and further action by the district at the same meeting or at an adjourned session thereof.

"E. SALE OF BONDS AND NOTES.—Bonds and notes which have been authorized under this article may be issued from time to time and shall be sold at not less than par and accrued interest at public or private sale by the chairman of the school board and by the treasurer. Interstate district bonds and notes shall be signed by the said officers, except that either one of the two required signatures may be a facsimile. Subject to this compact and the authorizing vote, they shall be in such form, bear such rates of interest and mature at such times as the said officers may determine. Bonds shall, but notes need not, bear the seal of the interstate district, or a facsimile of such seal. Any bonds or notes of the interstate district which are properly executed by the said officers shall be valid and binding according to their terms notwithstanding that before the delivery thereof such officers may have ceased to be officers of the interstate district.

"F. PROCEEDS OF BONDS.—Any accrued interest received upon delivery of bonds or notes of an interstate district shall be applied to the payment of the first interest which becomes due thereon. The other proceeds of the sale of such bonds or notes, other than temporary notes, including any premiums, may be temporarily invested by the interstate district pending their expenditure; and such proceeds, including any income derived from the temporary investment of such proceeds, shall be used to pay the costs of issuing and marketing the bonds or notes and to meet the operating expenses or capital expenses in accordance with the purposes for which the bonds or notes were issued or, by proceedings taken in the manner required for the authorization of such debt, for other purposes for which such debt could be incurred. No purchaser of any bonds or notes of an interstate district shall be responsible in any way to see to the application of the proceeds thereof.

"G. STATE AID PROGRAMS.—As used in this paragraph the term 'initial aid' shall include New Hampshire and Vermont financial assistance with respect to a capital project, or the means of financing a capital project, which is available in connection with construction costs of a capital project or which is available at the time indebtedness is incurred to finance the project. Without limiting the generality of the foregoing definition, initial aid shall specifically include a New Hampshire state guarantee under RSA 195–B with respect to bonds or notes and Vermont construction aid under chapter 123 of 16 V.S.A. As used in this paragraph the term 'long-term aid' shall include New Hampshire and Vermont financial assistance which is payable periodically in relation to capital costs incurred by an interstate district. Without limiting the generality of the foregoing definition, long-term aid shall specifically include New Hampshire school building aid under RSA 198 and Vermont school building aid under chapter 123 of Title 16 V.S.A. For the purpose of applying for, receiving and expending initial aid and long-term aid an interstate district shall be deemed a native school district by each state, subject to the following provision. When an interstate district has appropriated money for a capital project, the amount appropriated shall be divided into a New Hampshire share and a Vermont share in accordance with the capital expense apportionment formula in the articles of agreement as though the total amount appropriated for the project was a capital expense requiring apportionment in the year the appropriation is made. New Hampshire initial aid shall be available with respect to the amount of the New Hampshire share as though it were authorized indebtedness of a New Hampshire cooperative school district. In the case of a state guarantee of interstate districts bonds or notes under RSA 195–B, the interstate district shall be eligible to apply for and receive an unconditional state guarantee with respect to an amount of its bonds or notes which does not exceed fifty per cent of the amount of the New Hampshire share as determined above. Vermont initial aid shall be available with respect to the amount of the Vermont share as though it were funds voted by a Vermont school district. Payments of Vermont initial aid shall be made to the interstate district, and the amount of any borrowing authorized to meet the appropriation for the capital project shall be reduced accordingly. New Hampshire and Vermont long-term aid shall be payable to the interstate district. The amounts of long-term aid in each year shall be based on the New Hampshire and Vermont shares of the amount of indebtedness of the interstate district which is payable in that year and which has been apportioned in accordance with the capital expense apportionment formula in the articles of agreement. The New Hampshire aid shall be payable at the rate of forty-five percent, if there are three or less New Hampshire members in the interstate district, and otherwise it shall be payable as though the New Hampshire members were a New Hampshire cooperative school district. New Hampshire and Vermont long-term aid shall be deducted from the total capital expenses for the fiscal year in which the long-term aid is payable, and the balance of such expenses shall be apportioned among the member districts. Notwithstanding the foregoing provisions, New Hampshire and Vermont may at any time change their state school aid programs that are in existence when this compact takes effect and may establish new programs, and any legislation for these purposes may specify how such programs shall be applied with respect to interstate districts.

"H. TAX EXEMPTION.—Bonds and notes of an interstate school district shall be exempt from local property taxes in both states, and the interest or discount thereon and any profit derived from the disposition thereof shall be exempt from personal income taxes in both states.

"ARTICLE VIII

"TAKING OVER OF EXISTING PROPERTY

"A. POWER TO ACQUIRE PROPERTY OF MEMBER DISTRICT.—The articles of agreement, or an amendment thereof, may provide for the acquisition by an interstate district from a member district of all or a part of its existing plant and equipment.

"B. VALUATION.—The articles of agreement, or the amendment, shall provide for the determination of the value of the property to be acquired in one or more of the following ways:

"a. A valuation set forth in the articles of agreement or the amendment.

"b. By appraisal, in which case, one appraiser shall be appointed by each commissioner, and a third appraiser appointed by the first two appraisers.

"C. REIMBURSEMENT TO MEMBER DISTRICT.—The articles of agreement shall specify the method by which the member district shall be reimbursed by the interstate district for the property taken over, in one or more of the following ways:

"a. By one lump sum, appropriated, allocated, and raised by the interstate district in the same manner as an appropriation for operating expenses.

"b. In installments over a period of not more than twenty years, each of which is appropriated, allocated, and raised by the interstate district in the same manner as an appropriation for operating expenses.

"c. By an agreement to assume or reimburse the member district for all principal and interest on any outstanding indebtedness originally incurred by the member district to finance the acquisition and improvement of the property, each such installment to be appropriated, allocated, and raised by the interstate district in the same manner as an appropriation for operating expenses.

"The member district transferring the property shall have the same obligation to pay to the interstate district its share of the cost of such acquisition, but may offset its right to reimbursement.

"ARTICLE IX

"AMENDMENTS TO ARTICLES OF AGREEMENT

"A. Amendments to the articles of agreement may be adopted in the same manner provided for the adoption of the original articles of agreement, except that:

"a. Unless the amendment calls for the addition of a new member district, the functions of the planning committee shall be carried out by the interstate district board of directors.

"b. If the amendment proposes the addition of a new member district, the planning committee shall consist of all of the members of the interstate board and all of the members of the school board of the proposed new member district or districts. In such case the amendment shall be submitted to the voters at an interstate district meeting, at which an affirmative vote of two-thirds of those present and voting shall be required. The articles of agreement together with the proposed amendment shall be submitted to the voters of the proposed new member district at a meeting thereof, at which a simple majority of those present and voting shall be required.

"c. In all cases an amendment may be adopted on the part of an interstate district upon the affirmative vote of voters thereof at a meeting voting as one body. Except where the amendment proposes the admission of a new member district, a simple majority of those present and voting shall be required for adoption.

"d. No amendment to the articles of agreement may impair the rights of bond or note holders or the power of the interstate district to procure the means for their payment.

"ARTICLE X

"APPLICABILITY OF NEW HAMPSHIRE LAWS

"A. GENERAL SCHOOL LAWS.—With respect to the operation and maintenance of any school of the district located in New Hampshire, the provisions of New Hampshire law shall apply except as otherwise provided in this compact and except that the powers and duties of the school board shall be exercised and discharged by the interstate board and the powers and duties of the union superintendent shall be exercised and discharged by the interstate district superintendent.

"B. NEW HAMPSHIRE STATE AID.—A New Hampshire school district shall be entitled to receive an amount of state aid for operating expenditures as though its share of the interstate district's expenses were the expenses of the New Hampshire member district, and as though the New Hampshire member district pupils attending the interstate school were attending a New Hampshire cooperative school district's school. The state aid shall be paid to the New Hampshire member school district to reduce the sums which would otherwise be required to be raised by taxation within the member district.

"C. CONTINUED EXISTENCE OF THE NEW HAMPSHIRE MEMBER SCHOOL DISTRICT.—A New Hampshire member school district shall continue in existence, and shall have all of the powers and be subject to all of the obligations imposed by law and not herein delegated to the interstate district. If the interstate district incorporates only a part of the schools in the member school district, then the school board of the member school district shall continue in existence and it shall have all of the powers and be subject to all of the obligations imposed by law on it and not herein delegated to the district. However, if all of the schools in the member school district are incorporated into the interstate school district, then the member or members of the interstate board representing the member district shall have all of the powers and be subject to all of the obligations imposed by law on the members of a school board for the member district and not herein delegated to the interstate district. The New Hampshire member school district shall remain liable on its existing indebtedness; and the interstate school district shall not become liable therefor, unless the indebtedness is specifically assumed in accordance with the articles of agreement. Any trust funds or capital reserve funds and any property not taken over by the interstate district shall be retained by the New Hampshire member district and held or disposed of according to law. If all of the schools in a member district are incorporated into an interstate district, then no annual meeting of the member district shall be required unless the members of the interstate board from the member district shall determine that there is occasion for such an annual meeting.

"D. SUIT AND SERVICE OF PROCESS IN NEW HAMPSHIRE.—The courts of New Hampshire shall have the same jurisdiction over the district as though a New Hampshire member district were a party instead of the interstate district. The service necessary to institute suit in New Hampshire shall be made on the district by leaving a copy of the writ or other proceedings in hand or at the last and usual place of abode of one of the directors who reside in New Hampshire, and by mailing a like copy to the clerk and to one other director by certified mail with return receipt requested.

"E. EMPLOYMENT.—Each employee of an interstate district assigned to a school located in New Hampshire shall be considered an employee of a New Hampshire school district for the purpose of the New Hampshire teachers' retirement system, the New Hampshire state employees' retirement system, the New Hampshire workmen's compensation law and any other law relating to the regulation of employment or the provision of benefits for employees of New Hampshire school districts except as follows:

"1. A teacher in a New Hampshire member district may elect to remain a member of the New Hampshire teachers' retirement system, even though assigned to teach in an interstate school in Vermont.

"2. Employees of interstate districts designated as professional or instructional staff members, as defined in article I hereof, may elect to participate in the teachers' retirement system of either the state of New Hampshire or the state of Vermont but in no case will they participate in both retirement systems simultaneously.

"3. It shall be the duty of the superintendent in an interstate district to: (a) advise teachers and other professional staff employees contracted for the district about the terms of the contract and the policies and procedure of the retirement systems; (b) see that each teacher or professional staff employee selects the retirement system of his choice at the time his contract is signed; (c) provide the commissioners of education in New Hampshire and in Vermont with the names and other pertinent information regarding each staff member under his jurisdiction so that each may be enrolled in the retirement system of his preference.

"ARTICLE XI

"APPLICABILITY OF VERMONT LAWS

"A. GENERAL SCHOOL LAWS.—With respect to the operation and maintenance of any school of the district located in Vermont, the provisions of Vermont law shall apply except as otherwise provided in this compact and except that the powers and duties of the school board shall be exercised and discharged by the interstate board and the powers and duties of the union superintendent shall be exercised and discharged by the interstate district superintendent.

"B. VERMONT STATE AID.—A Vermont school district shall be entitled to receive such amount of state aid for operating expenditures as though its share of the interstate district's expenses were the expenses of the Vermont member district, and as though the Vermont member district pupils attending the interstate schools were attending a Vermont union school district's schools. Such state aid shall be paid to the Vermont member school district to reduce the sums which would otherwise be required to be raised by taxation within the member district.

"C. CONTINUED EXISTENCE OF VERMONT MEMBER SCHOOL DISTRICT.—A Vermont member school district shall continue in existence, and shall have all of the powers and be subject to all of the obligations imposed by law and not herein delegated to the interstate district. If the interstate district incorporates only a part of the schools in the member school district, then the school board of the member school district shall continue in existence and it shall have all of the powers and be subject to all of the obligations imposed by law on it and not herein delegated to the district. However, if all of the schools in the member school district are incorporated into the interstate school district, then the member or members of the interstate board representing the member district shall have all of the powers and be subject to all of the obligations imposed by law on the members of a school board for the member district and not herein delegated to the interstate district. The Vermont member school district shall remain liable on its existing indebtedness; and the interstate school district shall not become liable therefor. Any trust funds and any property not taken over shall be retained by the Vermont member school district and held or disposed of according to law.

"D. SUIT AND SERVICE OF PROCESS IN VERMONT.—The courts of Vermont shall have the same jurisdiction over the districts as though a Vermont member district were a party instead of the interstate district. The service necessary to institute suit in Vermont shall be made on the district by leaving a copy of the writ or other proceedings in hand or at the last and usual place of abode of one of the directors who resides in Vermont, and by mailing a like copy to the clerk and to one other director by certified mail with return receipt requested.

"E. EMPLOYMENT.—Each employee of an interstate district assigned to a school located in Vermont shall be considered an employee of a Vermont school district for the purpose of the state teachers' retirement system of Vermont, the state employees' retirement system, the Vermont

workmen's compensation law, and any other law relating to the regulation of employment or the provision of benefits for employees of Vermont school districts except as follows:

"1. A teacher in a Vermont member district may elect to remain a member of the state teachers' retirement system of Vermont, even though assigned to teach in an interstate school in New Hampshire.

"2. Employees of interstate districts designated as professional or instructional staff members, as defined in article I hereof, may elect to participate in the teachers' retirement system of either the state of Vermont or the state of New Hampshire but in no case will they participate in both retirement systems simultaneously.

"3. It shall be the duty of the superintendent in an interstate district to: (a) advise teachers and other professional staff employees contracted for the district about the terms of the contract and the policies and procedures of the retirement system; (b) see that each teacher or professional staff employee selects the retirement system of his choice at the time his contract is signed; (c) provide the commissioners of education in New Hampshire and in Vermont with the names and other pertinent information regarding each staff member under his jurisdiction so that each may be enrolled in the retirement system of his preference.

"ARTICLE XII

"ADOPTION OF COMPACT BY DRESDEN SCHOOL DISTRICT

"The Dresden School District, otherwise known as the Hanover-Norwich Interstate School District, authorized by New Hampshire laws of 1961, chapter 116, and by the laws of Vermont, is hereby authorized to adopt the provisions of this compact and to become an interstate school district within the meaning hereof, upon the following conditions and subject to the following limitations:

"a. Articles of agreement shall be prepared and signed by a majority of the directors of the interstate school district.

"b. The articles of agreement shall be submitted to an annual or special meeting of the Dresden district for adoption.

"c. An affirmative vote of two-thirds of those present and voting shall be required for adoption.

"d. Nothing contained therein, or in this compact, as it affects the Dresden School District shall affect adversely the rights of the holders of any bonds or other evidences of indebtedness then outstanding, or the rights of the district to procure the means for payment thereof previously authorized.

"e. The corporate existence of the Dresden School District shall not be terminated by such adoption of articles of amendment, but shall be deemed to be so amended that it shall thereafter be governed by the terms of this compact.

"ARTICLE XIII

"MISCELLANEOUS PROVISIONS

"A. STUDIES.—Insofar as practicable, the studies required by the laws of both states shall be offered in an interstate school district.

"B. TEXTBOOKS.—Textbooks and scholar's supplies shall be provided at the expense of the interstate district for pupils attending its schools.

"C. TRANSPORTATION.—The allocation of the cost of transportation in an interstate school district, as between the interstate district and the member districts, shall be determined by the articles of agreement.

"D. LOCATION OF SCHOOLHOUSES.—In any case where a new schoolhouse or other school facility is to be constructed or acquired, the interstate board shall first determine whether it shall be located in New Hampshire or in Vermont. If it is to be located in New Hampshire, RSA 199, relating to schoolhouses, shall apply. If it is to be located in Vermont, the Vermont law relating to schoolhouses shall apply.

"E. FISCAL YEAR.—The fiscal year of each interstate district shall begin on July first of each year and end on June thirtieth of the following year.

"F. IMMUNITY FROM TORT LIABILITY.—Notwithstanding the fact that an interstate district may derive income from operating profit, fees, rentals, and other services, it shall be immune from suit and from liability for injury to persons or property and for other torts caused by it or its agents, servants, or independent contractors, except insofar as it may have undertaken such liability under RSA 281:7 relating to workmen's compensation, or RSA 412:3 relating to the procurement of liability insurance by a governmental agency and except insofar as it may have undertaken such liability under 21 V.S.A. Section 621 relating to workmen's compensation or 29 V.S.A. Section 1403 relating to the procurement of liability insurance by a governmental agency.

"G. ADMINISTRATIVE AGREEMENT BETWEEN COMMISSIONERS OF EDUCATION.—The commissioners of education of New Hampshire and Vermont may enter into one or more administrative agreements prescribing the relationship between the interstate districts, member districts, and each of the two state departments of education, in which any conflicts between the two states in procedure, regulations, and administrative practices may be resolved.

"H. AMENDMENT.—Neither state shall amend its legislation or any agreement authorized thereby without the consent of the other in such manner as to substantially adversely affect the rights of the other state or its people hereunder, or as to substantially impair the rights of the holders of any bonds or notes or other evidences of indebtedness then outstanding or the rights of an interstate school district to procure the means for payment thereof. Subject to the foregoing, any reference herein to other statutes of either state shall refer to such statute as it may be amended or revised from time to time.

"I. SEPARABILITY.—If any of the provisions of this compact, or legislation enabling the same, shall be held invalid or unconstitutional in relation to any of the applications thereof, such invalidity or unconstitutionality shall not affect other applications thereof or other provisions thereof; and to this end the provisions of this compact are declared to be severable.

"J. INCONSISTENCY OF LANGUAGE.—The validity of this compact shall not be affected by any insubstantial differences in its form or language as adopted by the two states.

"ARTICLE XIV

"EFFECTIVE DATE

"This compact shall become effective when agreed to by the States of New Hampshire and Vermont and approved by the United States Congress."

"SEC. 2. The right is hereby reserved by the Congress or any of its standing committees to require the disclosure and the furnishing of such information and data by or concerning any school district created under the New Hampshire-Vermont Interstate School Compact as is deemed appropriate by the Congress or such committee."

SEC. 3. The right to alter, amend, or repeal this Act is expressly reserved.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

ORDER FOR ADJOURNMENT UNTIL THURSDAY, MAY 29, 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon on Thursday next.

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

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

The VICE PRESIDENT. Without objection, it is so ordered.

COMMISSION ON BALANCED ECONOMIC DEVELOPMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of one unobjected to measure on the calendar, Calendar No. 191, Senate Joint Resolution 60.

The VICE PRESIDENT. The joint resolution will be stated by title.

The LEGISLATIVE CLERK. The joint resolution (S.J. Res. 60) to establish a Commission on Balanced Economic Development.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

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

S.J. RES. 60

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

DECLARATION OF PURPOSE

SECTION 1. The Congress finds and declares that there is a need for more information and understanding concerning the means for achieving a better geographic and population balance in the economic development of the Nation. With a view to providing such information and understanding, it is the purpose of this joint resolution to establish a bipartisan commission to undertake a thorough study and analysis of current geographic trends in the economic development of the Nation, the causative factors influencing the same, the implications thereof in terms of the distribution of population the effect of governmental actions in shaping such trends, and the factors, private and public influencing the geographic location of industry and commerce and the movement of population as an aid to the formulation of policy at all levels of government.

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is hereby established a commission to be known as the Commission on Balanced Economic Development (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members to be appointed by the President as follows:

(1) Four members to be appointed from among residents of cities in the United States with a population of at least one million persons.

(2) Four members to be appointed from among residents of cities in the United States

with a population of less than one million persons, but not less than one hundred thousand persons.

(3) Four members to be appointed from among residents of cities in the United States with a population of less than one hundred thousand persons, but not less than ten thousand persons.

(4) Four members to be appointed from among residents of towns, villages, and communities in the United States with a population of less than ten thousand persons.

(5) Four members to be appointed without regard to residence or political affiliation from among citizens of the United States who are specially qualified by training, experience, or knowledge in any field pertinent to the subject matter to be studied by the Commission.

(c) In the case of each class of four members described in clauses (1), (2), (3), and (4) of subsection (b), not more than half shall be members of the same political party.

(d) For the purposes of clauses (1), (2), (3), and (4) of subsection (b), the population of any city, town, village, or community in the United States shall be determined upon the basis of data contained in the current decennial census of population taken in the United States.

(e) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(f) Eleven members of the Commission shall constitute a quorum.

(g) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

DUTIES OF THE COMMISSION

SEC. 3. The Commission shall undertake a thorough and objective study and investigation in furtherance of the purposes set forth in section 1. Such study and investigation shall include, without being limited to—

(1) an analysis and evaluation of the economic physical environmental, social, and political factors which affect the geographic location of industry and the movement of population;

(2) an analysis and evaluation of the economic, social, and political factors which are necessary in order for industries to operate efficiently outside the large urban centers or to operate and expand within the large urban centers without the creation of new economic and social problems;

(3) a consideration of the ways and means whereby the Federal Government might effectively encourage a more balanced industrial and economic growth throughout the Nation;

(4) an analysis and evaluation of the limits imposed upon population density in order for municipalities, or other political subdivisions, to provide necessary public services in the most efficient and effective manner;

(5) an analysis and evaluation of the effect on governmental efficiency generally of differing patterns and intensities of population concentration;

(6) an analysis and evaluation of the extent to which a better geographic balance in the economic development of the Nation serves the public interest;

(7) an analysis and evaluation of the role which State and local governments can and should play in promoting geographic balance in the economic development of a State or region; and

(8) an analysis and evaluation of practicable ways in which Federal expenditures can and should be managed so as to encourage a greater geographic balance in the economic development of the Nation.

(b) The Commission shall submit to the President and to the Congress a report with respect to its findings and recommendations not later than two years after the effective date of this joint resolution.

POWERS AND ADMINISTRATION PROVISIONS

SEC. 4. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this joint resolution, hold such hearings, take such testimony, and sit and act at such times and places as the Commission, subcommittee, or member deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission, or any subcommittee or member thereof.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this joint resolution.

(c) The Commission may appoint such staff personnel as it deems necessary in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and shall fix the compensation of such personnel in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) The Commission may procure such temporary and intermittent services as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSATION OF MEMBERS

SEC. 5. (a) Any member of the Commission who is appointed from the executive or legislative branch of the Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of duties vested in the Commission.

(b) Members of the Commission, other than those referred to in subsection (a), shall receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

EXPENSES OF THE COMMISSION

SEC. 6. There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out this joint resolution.

EXPIRATION OF THE COMMISSION

SEC. 7. The Commission shall cease to exist ninety days after the submission of its report.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-201), explaining the purposes of the joint resolution.

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

PURPOSE

Senate Joint Resolution 60 would establish a bipartisan Commission to undertake a thorough study and analysis of current geographic trends in the economic development of the Nation. This Commission would study the causative factors influencing these trends, the implications thereof in terms of the distribution of population, the movement of population, the physical environmental, social and political factors which affect the geographic location of industry and what action the government may take in shaping such trends, as well as the private and public factors influencing the geographic location of industry and commerce as an aid to the formation of policy at all levels of government.

MAKEUP OF COMMISSION

The Commission shall be bipartisan and be composed of 20 members to be appointed by the President as follows:

(1) Four members to be appointed from among residents of cities in the United States with a population of at least 1 million persons.

(2) Four members to be appointed from among residents of cities in the United States with a population of less than 1 million persons, but not less than 100,000 persons.

(3) Four members to be appointed from among residents of cities in the United States with a population of less than 100,000 persons, but not less than 10,000 persons.

(4) Four members to be appointed from among residents of towns, villages, and communities in the United States with a population of less than 10,000 persons.

(5) In addition, four members are to be appointed without regard to residence or political affiliation from among citizens of the United States who are specially qualified by training, experience, or knowledge in any field pertinent to the subject matter to be studied by the Commission.

Members appointed from the executive or legislative branch of the Federal Government shall receive no compensation.

Members appointed from outside the Federal Government shall each receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties. All members will receive travel, subsistence, and other necessary expenses.

The Commission shall report its findings not later than 2 years after the effective date of the joint resolution and shall cease to exist 90 days after the submission of its report.

BACKGROUND INFORMATION

In 1967, the committee held hearings on a similar bill, Senate Joint Resolution 64, which was favorably reported, with amendments, and passed by the Senate. These amendments have been incorporated in the present bill. At that time it was pointed out that the intense concentration of population in a relatively few areas of the Nation, caused by heavy development of industries in limited sections of the country, has created critical problems of transportation, pollution, crime, housing shortages, water shortages, and an acute lack of recreation facilities.

On the other hand, many areas, many of them rural, are not participating in the industrial expansion and the general economic advancements experienced by the Nation as a whole. Many of these areas are losing population and are not keeping pace with our overall national growth.

The proposed Commission would study all the problems related to the disproportionate population trends and economic growth patterns and potentials and make recommendation for government policies and private industry practices designed to achieve a more coordinated and better balanced national growth.

Unless present trends are reversed, the problems of metropolitan areas will become more acute and the lagging economies of depressed areas of the country will be further aggravated.

A Commission on Balanced Economic Development will be charged with the responsibility of studying and reporting on the maldistribution of population and industry and to suggest methods for developing rural areas and for reshaping geographic trends. Such a concentrated study on the whole of the problem has never been undertaken.

TASK FORCE REPORT ON ANTITRUST POLICY

Mr. DODD. Mr. President, because I know there is wide interest in the subject, and because it was printed in very limited quantity, I ask unanimous consent to have the President's Task Force Report on Antitrust Policy printed at this point in the RECORD.

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

TASK FORCE REPORT ON ANTITRUST POLICY

THE UNIVERSITY OF CHICAGO,
THE LAW SCHOOL,
Chicago, Ill., July 5, 1968.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of the Task Force on Antitrust Policy, I have the honor to submit our Report, together with additional statements representing the separate views of several members on portions of the Report.

The Task Force was appointed in December 1967, and was asked to report by approximately June 30th of this year. In accordance with the broad terms of reference given us, we have undertaken to identify the most important areas in which antitrust policy might be strengthened by new legislative or administrative measures.

We have made a number of recommendations that we believe would, if adopted, improve the effectiveness of the antitrust laws. In the time and with the resources available to us it has not been possible to examine all antitrust problems that merit attention or to conduct any significant new research. Our recommendations are based upon available studies, a substantial body of informed economic opinion, and our own background of study or experience in the antitrust field.

Our principal recommendations deal with concentrated industries, conglomerate mergers, the Robinson-Patman Act, certain aspects of patent licensing, and the improvement of economic data relevant to antitrust matters. We have not dealt specially with the drug industry, an item mentioned in the letter of appointment of the Task Force, but we believe that the changes recommended by us in the patent field would have significant beneficial effects in that industry.

Although we were not asked to propose specific legislation, we concluded that our recommendations would be most useful if subjected to the discipline of framing concrete legal principles and if submitted in that form. Accordingly our report is accompanied by a number of drafts of proposed statutory provisions giving effect to our recommendations.

I should like to take this opportunity to express my personal appreciation for the privilege of taking part in the deliberations of this group. The Task Force consisted of three practicing lawyers, three economists, and five professors of law, in addition to the chairman. Each member contributed substantially to the form and substance of our recommendations and the resulting Report is very much a joint product of the Task Force. Special commendation is due our Staff Director, Mr. S. Paul Posner, whose exceptionally able help contributed greatly to the work of the Task Force.

We hope the recommendations made in this Report will be useful to you and that our proposals for new laws may find their way into legislative proposals under this or a succeeding Administration.

Respectfully yours,

PHIL C. NEAL.

REPORT OF THE WHITE HOUSE TASK FORCE ON ANTITRUST POLICY, JULY 5, 1968

White House Task Force on Antitrust Policy: Phil C. Neal, Chairman; William F. Baxter; Robert H. Bork; Carl H. Fulda; William K. Jones; Dennis G. Lyons; Paul W. MacAvoy; James W. McKie; Lee E. Preston; James A. Rahl; George D. Reycraft; Richard E. Sherwood; and S. Paul Posner, Staff Director.

SUMMARY

1. *We recommend specific legislation on the subject of oligopolies, or highly concentrated industries.*

The purpose of such legislation would be to give enforcement authorities and courts a clear mandate to use established techniques of divestiture to reduce concentration in industries where monopoly power is shared by a few very large firms. Up to now such measures have been employed only in the rare instances where the monopolistic structure of an industry takes the form of a single firm with an overwhelming share of the market. Specific legislation dealing with entrenched oligopolies would rectify the most important deficiency in the present antitrust laws.

Effective antitrust laws must bring about both competitive behavior and competitive industry structure. In the long run, competitive structure is the more important since it creates conditions conducive to competitive behavior. Competitive structure and behavior are both essential to the basic concern of the antitrust laws—preservation of the self-regulating mechanism of the market, free from the restraints of private monopoly power on the one hand and government intervention or regulation on the other. In one important respect, the antitrust laws recognize the necessity for competitive market structures: the 1950 amendment to section 7 of the Clayton Act has effectively prevented many kinds of mergers which would bring about less competitive market structures. Our proposed remedy, which would deal with existing noncompetitive market structures, is a necessary complement to section 7.

Highly concentrated industries represent a significant segment of the American economy. Industries in which four or fewer firms account for more than 70% of output produce nearly 10% of the total value of manufactured products; industries in which four or fewer firms account for more than 50% of output produce nearly 24%. An impressive body of economic opinion and analysis supports the judgment that this degree of concentration precludes effective market competition and interferes with the optimum use of economic resources. Past experience strongly suggests that, in the absence of direct action, concentration is not likely to decline significantly.

While new legal approaches might be developed to reduce concentration under existing law—a result which should be encouraged—the history of antitrust enforcement and judicial interpretation do not justify primary reliance on this possibility. For this reason, we recommend a specific legislative remedy directed to the reduction of concentration. Our proposed Concentrated Industries Act, which appears in Appendix A to the Report, establishes criteria and procedures for the effective reduction of industrial concentration.

2. *We recommend additional legislation prohibiting mergers in which a very large firm acquires one of the leading firms in a concentrated industry.*

This legislation would supplement section 7 of the Clayton Act, which prohibits mergers which may tend substantially to lessen competition. The primary impact of the new legislation would be on diversification or "conglomerate" mergers. Under section 7 of the Clayton Act, such mergers may be prevented if adverse effects on competition can be anticipated. But the detection of such effects frequently depends on factual and theoretical judgments that are highly speculative. As a result, some mergers with potentially adverse effects on competition may escape attack and mergers which will not harm competition will be prohibited because the effects cannot readily be predicted. Because of the inherent limitations of the competitive standard of section 7, the recently published Merger Guidelines do little to resolve these difficulties.

Our proposed legislation would prevent some possibly anticompetitive mergers which might have gone unchallenged because of the difficulty of applying section 7 standards, and thus would act as an effective supplement to existing policy. In addition, the proposed legislation would have affirmative aspects in channeling merger activity into directions likely to increase competition. If large firms are prevented from acquiring leading firms in concentrated industries, they will seek other outlets for expansion which may be more likely to increase competition and decrease concentration.

This policy of deflecting conglomerate mergers into desirable channels is preferable to any rule that would limit mergers without regard to considerations of market structure. Although the number of conglomerate mergers has increased sharply in recent years, there is only a moderate tendency toward increase in the overall concentration of manufacturing assets in American industry. Nor does the present merger movement threaten to reduce the aggregate number and proportion of smaller firms. Remedial measures based on size alone would constitute a radical innovation in our antitrust policy and no rationale is available for determining the appropriate upper limit on the size to which a single firm may grow.

We therefore believe that restrictions on mergers should continue to be based on considerations related to competitive market structure. The policy we recommend would permit the continued growth of firms by diversification as well as by internal expansion but would, we believe, promote the development of more competitive market structures.

A draft of the Merger Act, implementing our recommendation, appears in Appendix B to the Report.

3. *We recommend a thorough revision of the Robinson-Patman Act to remove features that unduly restrict the free play of competitive forces.*

It has long been recognized that many aspects of the Robinson-Patman Act in its present form have serious anticompetitive effects. The course of enforcement and interpretation of the Act have in many instances aggravated those effects. In addition, the ambiguities and complexities of the statute as written have posed unusual difficulties of compliance. Experience with the Act and the extensive criticism to which it has been subjected provide the basis for a general revision that will make it consistent with the major aims of antitrust policy. In our view such a revision is long overdue.

The central purpose of the Robinson-Patman Act is to eliminate price discrimination that unduly favors national over local sellers or confers unjustified advantages on large purchasers merely because of their size. But not all price differentials represent discrimination and not all discrimination is undesirable. Some price discrimination does have anticompetitive effects. But in other cases price discrimination improves the functioning of the competitive system. A statute designed to restrict price discrimination should therefore be narrowly drawn, so that the important benefits of competition as evidenced in price differentials will not be lost in an excessive effort to curb limited instances of harm. Our proposed revision is intended to leave room for price behavior which is related to the improved functioning of the competitive system.

The Robinson-Patman Act contains several prohibitions supplementing the price-discrimination prohibition. These prohibitions should be repealed. They accomplish little that could not be accomplished by a properly drawn price-discrimination prohibition. In their present form, they often im-

pair competition; they discourage legitimate transactions; and they promote irrational distinctions.

A proposed revision of the price-discrimination provisions of the Robinson-Patman Act appears in Appendix C to the Report.

4. *We recommend legislation to establish the principle that a patent which has been licensed to one person shall be made available to all other qualified applicants on equivalent terms.*

Patents are one of the principal sources of monopoly power, since they confer upon the patentee the right to exclude others from the field covered by the patent. An important goal of antitrust policy is to prevent the use of a patent by the patentee in collaboration with others to create a monopoly broader than the patent itself. That goal will be served by denying the patentee the right to confine use of the patent to a preferred group and requiring that if the patent is licensed it shall be open to competition in its application. Such a principle does not prevent the owner of a valid patent from fully exploiting the monopoly conferred by the patent. Our proposal does not fix or limit the royalty to be charged by the patentee, nor does it involve compulsory licensing. It merely requires that if the patentee chooses to license others rather than exploiting the patent himself he shall make such licenses available on nondiscriminatory terms to as many competitors as may desire it.

Supplementary provisions in our proposal would require the public filing of all patent license agreements and would bar enforcement of a patent against particular infringers if the patent owner has not taken reasonable steps to enforce the patent against others.

We believe that each of these measures has some independent value in deterring misuse of patents and that they could be adopted independently of the requirement of nonexclusive licensing.

5. *We recommend that steps be taken to improve the quality and availability of economic and financial data relevant to the formulation of antitrust policy, the enforcement of the antitrust laws, and the operation of competitive markets.*

Specifically, we recommend formation of a standing committee of representatives of the Census Bureau and other Government agencies which gather or use economic information to consider (1) improving the gathering and presentation of economic information within the statutory limits on disclosure of information on individual firms; (2) new interpretations of existing law or, eventually, new legislation to minimize restrictions on disclosure of types of information which are not highly sensitive from the point of view of individual firms but are of great value in the formulation of policy and the application of law; and (3) machinery for developing information on the competitive structure of relevant economic markets, because such markets do not necessarily coincide with census industry and product classifications. These recommendations could be implemented immediately, without new legislation or appropriations.

In addition, the role of financial information in the operation of competitive markets should be reflected in the formulation of financial reporting requirements by the Securities and Exchange Commission. These requirements are now imposed pursuant to the Securities Exchange Act of 1934, which is oriented to investor protection. We recommend that the Act be amended to recognize the role of financial information in the operation of a competitive economy, and to require that the SEC consult with antitrust enforcement agencies in formulating reporting requirements.

Pending adoption of this recommendation, the antitrust enforcement agencies should be requested to consider submitting recommendations to the SEC in connection with the current divisional reporting inquiry.

6. *We have a number of additional recommendations for further action or further study.*

These include advance notification of mergers and a reasonable statute of limitations on lawsuits attacking mergers; a limit on the duration of antitrust decrees; an examination of the effects of the income tax laws on merger activity and market concentration; a review of the extent to which competition may be substituted for regulation in the regulated industries; and the abolition of resale price maintenance.

I. INTRODUCTION

The antitrust laws reflect our Nation's strong commitment to economic freedom and the material benefits that flow from this freedom. The antitrust laws are based on the recognition that optimum use of economic resources and maximum choice and utility for consumers can best be obtained under competition. Moreover, they assume that the preservation of a large number and variety of decision-making units in the economy is important to ensure innovation, experimentation and continuous adaptation to new conditions. While consumer welfare is thus in the forefront of antitrust policy, important corollary values support the policy. Not only consumers, but those who control the factors of production—labor, capital and entrepreneurial ability—benefit when resources are permitted to move into the fields of greatest economic return; competition induces such movement and monopoly inhibits it. Antitrust policy also reflects a preference for private decision-making; a major value of competition is that it minimizes the necessity for direct Government intervention in the operation of business, whether by comprehensive regulation of the public utility type or by informal and sporadic interference such as price guidelines and other ad hoc measures.

The function of the antitrust laws in the pursuit of these goals is twofold: they are concerned both with preventing anticompetitive behavior and with preserving and promoting competitive market structures. Our Task Force has understood its assignment to be to examine the antitrust laws in broad perspective and consider ways in which they might be made more effective in this dual role.

In relation to the principal kinds of anticompetitive behavior, such as price-fixing, market division and other forms of collusive action among independent firms, we believe the present laws are generally adequate. Their effectiveness depends principally upon vigilance to provide sufficient enforcement resources and the vigorous use of enforcement power. We have identified three areas, however, in which modification of present laws would assist the effort to maximize competitive behavior. *First*, it is important to ensure that laws aimed at preserving competition do not themselves unduly restrict the free play of market forces. The Robinson-Patman Act in its present form has such effects and we recommend its revision to eliminate its anticompetitive tendencies. *Second*, patents are susceptible of being used to facilitate collusive arrangements in ways difficult to disentangle from legitimate exploitation of the patent monopoly. We recommend certain restrictions on patent licensing that are designed to discourage such use. *Third*, we share the view that the provisions of law permitting resale price maintenance encourage anticompetitive practices and we favor the repeal of these provisions.

Our consideration of the present state of the antitrust laws focuses to a considerable extent on problems of market structure. The principal laws presently concerned with competitive market structure are section 7 of the Clayton Act, dealing with mergers, and section 2 of the Sherman Act, which is addressed to cases of monopoly. We believe these laws can be made more effective by certain additional legislation on mergers and on oligopoly industries.

Market structure is an important concern of antitrust laws for two reasons. *First*, the more competitive a market structure (the larger the number of competitors and the smaller their market shares) the greater the difficulty of maintaining collusive behavior and the more easily such behavior can be detected. *Second*, in markets with a very few firms effects equivalent to those of collusion may occur even in the absence of collusion. In a market with numerous firms, each having a small share, no single firm by its action alone can exert a significant influence over price and thus output will be carried to the point where each seller's marginal cost equals the market price. This level of output is optimal from the point of view of the economy as a whole.

Under conditions of monopoly—with only a single seller in a market—the monopolist can increase his profits by restricting output and thus raising his price; accordingly, prices will tend to be above, and output correspondingly below, the optimum point. In an oligopoly market—one in which there is a small number of dominant sellers, each with a large market share—each must consider the effect of his output on the total market and the probable reactions of the other sellers to his decisions; the results of their combined decisions may approximate the profit-maximizing decisions of a monopolist. Not only does the small number of sellers facilitate agreement, but agreement in the ordinary sense may be unnecessary. Thus, phrases such as "price leadership" or "administered pricing" often do no more than describe behavior which is the inevitable result of structure. Under such conditions, it does not suffice for antitrust law to attempt to reach anticompetitive behavior; it cannot order the several firms to ignore each other's existence. The alternatives, other than accepting the undesirable economic consequences, are either regulation of price (and other decisions) or improving the competitive structure of the market.

We believe that the goals of antitrust policy require a choice wherever possible in favor of attempting to perfect the self-regulating mechanism of the market before turning to public control. It is for this reason that we favor steps that will increase the effectiveness of the antitrust laws in promoting competitive market structure. Such steps are desirable, not only because the problem of concentrated industries is significant in economic terms, but because the existence of such concentration is a continuing (and perhaps increasing) temptation for political intervention. In a special sense, therefore, our recommendations have preventive as well as corrective purposes.

In devising antitrust measures for such purposes, alternative techniques or approaches may be considered. Under one approach, general standards expressed in terms of broad policy goals require the trier of fact to make ad hoc judgments as to the relevant scope of inquiry in any case. The general effect of such an approach is to require consideration of a wide range of complex and difficult issues, some of them of marginal significance. Such issues may include economic issues which are beyond our present capacity to gather and evaluate economic information; they may include issues such as motive and and intent, which are both elusive and of marginal relevance to the central issue of market structure; and they may include an indirect measurement of competitive behavior or structure through an evaluation of performance, an approach requiring judgments more appropriate to regulation than to antitrust policy. Such an approach generally expands the scope and complexity of lawsuits and makes decisions less useful as precedents.

The other approach uses rules which are based on easily ascertainable criteria and avoids individualized consideration of complex factors which would be unlikely to

affect the outcome. This approach simplifies litigation. More importantly, it provides businessmen and law enforcement officials with a better idea of what will be lawful and what will be unlawful.

The judgment of members of the Task Force is that it is virtually impossible to gather all the data relevant to any particular case, and even the best of judges could not properly take account of all such data. Therefore, we believe that carefully drawn rules yield results superior to highly general admonitions to weigh all relevant factors. Accordingly, our proposals generally rely on fairly closely articulated rules. They are drafted to reflect general economic experience and theory, and they make allowance for factors which may be significant in individual cases. But they do not call for proof of an exactness beyond the present limits of economic knowledge. Of necessity, they are predicated, not on rigorously proven theorems, but on a consensus of informed economic judgment which admittedly fragmentary economic knowledge tends to confirm.

II. OLIGOPOLY, OR CONCENTRATION IN PARTICULAR MARKETS

The evils of monopoly are well known and the antitrust policy of the United States has sought from its beginning to provide safeguards against them. But those evils are not confined to situations conforming to the literal meaning of monopoly, *i.e.*, an industry with but a single firm. In the years since the Sherman Act was adopted there has been growing recognition that monopoly is a matter of degree. A firm with less than 100% of the output of an industry may nevertheless have significant control over supply, and thus be in a position to impose on the economy the losses associated with monopoly: lower output, higher prices, artificial restraints on the movement of resources in the economy, and reduced pressure toward cost reduction and innovation. Likewise, a small number of firms dominating an industry may take a similar toll, either because the small number makes it easier to arrive at and police an agreement or because, without agreement, each will adopt patterns of behavior recognizing the common interest.

In general it may be said that the smaller the number of firms in an industry—at least where that number is very small or where a very small number is responsible for the overwhelming share of the industry's output—the greater the likelihood that the behavior of the industry will depart from the competitive norm.

These propositions have found general acceptance in economic literature in the past 25 or 30 years. They have also found recognition in the policy of the antitrust laws: a major aim of section 7 of the Clayton Act, as amended in 1950 and as interpreted by judicial decisions and the new Merger Guidelines, is not merely to prevent monopolies but also to prevent all combinations of business firms that significantly increase market concentration or reduce the number of firms in an industry.

Interpretation of the Sherman Act itself, however, has lagged behind these developments. Early cases involving giant firms emphasized the purposes and methods by which a firm was created as the basis of illegality, and looked for evidence of predatory or abusive exercise of power rather than the power of a firm or group of firms to control prices and output. Decisions affecting market concentration were confined to instances, such as the old *Standard Oil* and *American Tobacco* cases, where a single firm commanding nearly the entire market had been assembled by mergers of many previous competitors. Even such major combinations as United States Steel Corporation, United Shoe Machinery Company, and the International Harvester Company escaped condemnation by the Supreme Court. An important advance was registered when Judge Learned Hand announced in the *Alcoa* case that a single firm, not resulting from merger, might be guilty of "monopolizing" merely by acquiring a sufficiently large market share and retaining its market share over a substantial period of time, if that market share was not the inevitable result of economic forces. That holding adopted and extended Judge Hand's early insight, in the *Corn Products* case of 1916, that "it is the mere possession of an economic power, acquired by some form of combination, and capable, by its own variation in production, of changing and controlling price, that is illegal." The *United Shoe Machinery* decision of 1953 applied and reinforced the new doctrine represented by the *Alcoa* case. In both of those cases, however, the monopoly section of the Sherman Act was invoked against a single firm with a predominant share of the market. While Judge Hand had intimated that a share as low as 65% might suffice, no subsequent case has tested that proposition or explored the limits of the *Alcoa* doctrine. Nor has any case yet provided a basis for treating as illegal the shared monopoly power of several firms that together possess a predominant share of the market, absent proof of conspiracy among them.

Thus a gap in the law remains.[1] While section 7 of the Clayton Act provides strong protection against the growth of new concentrations of market power in most instances, existing law is inadequate to cope with old ones.

This gap is of major significance. Highly concentrated industries account for a large share of manufacturing activity in the United States. The following table shows the percentage of manufacturing shipments and of value added by manufacturing accounted for by four-digit industry groups and five-digit product classes in which the aggregate market share of the four firms with the largest market shares (the "four-firm concentration ratio") equalled or exceeded selected levels. These figures are based on 1963 Census figures, and on Census industry and product classifications. Census classifications do not necessarily reflect relevant markets; in general, the four-digit classifications are probably broader and the five-digit classifications are probably narrower than relevant product markets, so that, if only national markets are considered, figures for concentration with which we are concerned probably fall somewhere in between the two sets of figures shown in the table. If regional instead of national markets were considered, concentration figures would probably be considerably higher in many industries.

PERCENT OF MANUFACTURING SHIPMENTS AND VALUE ADDED BY MANUFACTURING IN 1963

4-firm concentration ratio equal to or greater than—	4-digit industries		5-digit product classes (percent of total manufacturing shipments)
	Percent of total manufacturing shipments	Percent of total value added by manufacturing	
90 percent	1.56	2.33	5.69
80 percent	2.95	3.59	10.53
70 percent	9.35	14.53	15.85
60 percent	13.47	19.98	22.55
50 percent	23.88	33.41	31.37

Source: Computed from "Concentration Ratios in Manufacturing Industry," 1963, tables 2, 3, and 4.

The highly concentrated industries reflected in this table include such major and basic industries as motor vehicles, flat glass, synthetic fibers, aircraft, organic chemicals, soap and detergents, and many others, as well as a host of smaller but nevertheless significant industries.

If competitive pressures could be relied on to erode concentration in the reasonably foreseeable future, the direct reduction of concentration would be less urgent. But concentration does not appear to erode over time; rather, the evidence indicates that it is remarkably stable. In those industries with value of shipments greater than $100 million and four-firm concentration ratios by value of shipments greater than 65% in 1963, average concentration ratios were stable or declined insignificantly—by less than half a percentage point. Even though section 7 of the Clayton Act has generally been effective in forestalling increases in concentration through mergers and by other means, the antitrust laws and economic forces have not brought about significant erosion of existing concentration. The problem is not one which will disappear with time.

The adverse effects of persistent concentration on output and price find some confirmation in various studies that have been made of return on capital in major industries. These studies have found a close association between high levels of concentration and persistently high rates of return on capital, particularly in those industries in which the largest four firms account for more than 60% of sales. High profit rates in individual firms or even in particular industries are of course consistent with competition. They may reflect innovation, exceptional efficiency, or growth in demand outrunning the expansion of supply. Above-average profits in a particular industry signal the need and provide the incentive for additional resources and expanded output in the industry, which in due time should return profits to a normal level. It is the persistence of high profits over extended time periods and over whole industries rather than in individual firms that suggests artificial restraints on output and the absence of fully effective competition. The correlation of evidence of this kind with the existence of very high levels of concentration appears to be significant.

We recognize the need for further refinement of economic evidence of this type and for additional knowledge, theoretical and empirical, about the behavior of oligopolistic industries. It would be less than candid to pretend that economic science has provided a complete or wholly satisfactory basis for public policy in this field. But public policy must often be made on the basis of imperfect knowledge, and the failure to adopt remedial measures is in itself the acceptance of a policy. The judgment of most of the members of the Task Force is that enough is known about the probable consequences of high concentration to warrant affirmative government action in the extreme instances of concentration. Moreover, as we have noted, such action does not require acceptance of a new premise for public policy. A conviction that concentration is undesirable underlies the present stringent policy toward horizontal mergers. The same premise supports a policy of attempting, within conservative limits, to improve the competitive structure of industries in which concentration is already high and apparently entrenched.

Endorsement of such a policy implies a judgment that the potential gains from reducing market shares and increasing the number of competitors in an industry will not be offset by losses in efficiency. We think there is little basis for believing that significant efficiencies of production are dependent on generally maintaining existing high levels of concentration.

There is little evidence that economies of scale require firms the size of the dominant firms in most industries that are highly concentrated. Evidence to the contrary is the fact that in most such industries very much

[1] This gap has been recognized by noted authorities. See, *e.g.*, Kaysen & Turner, Antitrust Policy: An Economic and Legal Analysis, at 44 (1959); Stigler, *The Case Against Big Business*, Fortune (May 1952), reprinted in Mansfield, ed., Monopoly Power and Economic Performance, at 3 (1964); *cf.* Galbraith, The New Industrial State (1967).

smaller firms have survived in competition with the large firms. On the basis of studies covering a large number of industries Professor Stigler concluded that "In the manufacturing sector there are few industries in which the minimum efficient size of firm is as much as 5 per cent of the industry's output and concentration must be explained on other grounds." Stigler, The Theory of Price, p. 223 (3rd edition, 1966). Similarly, there is no evidence of any correlation between size or market concentration and research and development activities.

The success of very large firms may, of course, be explained on the basis of efficiencies other than economies of scale, such as superior management talent or other unique resources. To the extent that such efficiencies exist, however, they may ordinarily be transferred and thus would not necessarily be lost by reorganization of the industry into a larger number of smaller units. The same is true of advantages that inhere in legal monopolies, such as an accumulation of patents. It must also be borne in mind that efficiencies belonging to or achieved by a firm with some degree of monopoly power may be reflected only in higher profits rather than lower prices. Reduction of concentration would increase the chance that such efficiencies would be passed on to consumers through competition; indeed, a net gain from the consumer standpoint might result even though some efficiencies were lost in the process of reducing concentration.

The statute we propose would, however, take account of possible adverse effects on efficiency resulting from divestiture by forbidding relief that a firm establishes would result in substantial loss of economies of scale. It would be expected that a court would consider, among other factors relevant on this issue, the minimum size that experience has indicated is necessary for survival in the industry.

For the foregoing reasons we conclude that remedies to reduce concentration should be made available as part of a comprehensive antitrust policy. To assist in translating that conclusion into workable legislation we have drafted in some detail a proposed statute embodying our views.[2] That statute, entitled the Concentrated Industries Act, is attached to this report as Appendix A. While we believe, as hereafter noted, that some relief against concentration might be obtained through new interpretations of the Sherman Act, we also think that a statute such as the one we propose has several distinct advantages over reliance on existing law: (1) it would provide a clear determination of legislative policy and establish clear criteria for the application of that policy; (2) it would establish appropriate special procedures; and (3) it would limit the policy to remedial ends.

The Act establishes clear criteria for its application. It applies only to those industries in which four or fewer firms have accounted for 70% or more of industries sales, and it provides for steps to reduce the mark shares of firms with 15% market shares in such industries. The Act contains other provisions to limit its application to industries which are of importance in the economy as a whole and in which concentration has been high and stable over considerable periods of time. The criteria laid down in the Act are designed to minimize the likelihood that output levels over a short period of time will affect the applicability of the Act. Moreover, even if the Act does apply, there are no penalties but only prospective relief. Thus, the possibility is minimized that corporations will resort to output-restricting strategies in order to avoid application of the Act.

The Act also lays the basis for defining relevant markets in terms that are more closely related to economic realities than are the definitions developed under existing antitrust laws. By and large, the Act limits the scope of inquiry to facts which are of relevance to its primary concern, the reduction of concentration, and which may be determined with reasonable precision. For these reasons, litigation under the Act should be relatively simple.

The Act establishes special procedures appropriate to the reduction of concentration. Under existing law, complex antitrust actions may be conducted by judges who have had little opportunity to become familiar with the kinds of questions involved, and who must rely on expert testimony offered by the parties. Expanding on the recently enacted provisions of 28 U.S.C. section 1407, the Act would establish a special panel of district judges and circuit judges to conduct deconcentration proceedings. In addition, it would enable the court to draw on the specialized knowledge and experience of its own economic experts. This feature of the Act should be of importance in arriving at appropriate market definitions. In addition, court appointed experts would assist in evaluating the probable effect of proposed decrees.

Finally, the Act is limited to prospective relief designed to reduce concentration. Unlike existing law, it makes no provision for criminal penalties or for private actions seeking treble damages. The absence of these collateral effects makes the Act a more appropriate tool for reducing concentration.

Those who support the proposed Concentrated Industries Act believe, in varying degrees, that more can be done about concentration than has been done under existing law. We recommend that the Attorney General be encouraged to develop appropriate approaches under existing law and to bring carefully selected cases to test those theories.

Under existing law, three statutory provisions might be brought to bear. Section 2 of the Sherman Act prohibits monopolization or attempts to monopolize any part of interstate or foreign commerce. Section 1 of the Sherman Act prohibits any contract, combination, or conspiracy in restraint of interstate or foreign commerce. Section 7 of the Clayton Act prohibits acquisitions which may tend substantially to lessen competition. While existing precedents and the history of antitrust enforcement do not justify widespread use of these statutes against concentrated industries, we believe that appropriate precedents might be developed which would be useful in some cases.

Courts may be reluctant to expand the scope of these statutes, because their application would expose defendants to criminal penalties and treble damage liability. Moreover, existing law does not readily lend itself to the establishment of sufficiently clear and workable criteria. While expanded enforcement efforts might make some inroads in reducing concentration, they would not preclude the need for new legislation.

III. CONGLOMERATES, OR LARGE DIVERSIFIED FIRMS

The initial mandate establishing the Task Force reflected concern with the current rate of merger activity, particularly diversification or "conglomerate" mergers. Current data confirm that the number and scale of mergers, and particularly of conglomerate mergers, have been accelerating rapidly and continue to accelerate. Individual firms have achieved spectacular growth in this way. There is no comparable trend toward reduction in corporate size through spinoffs of assets. The current rate and pattern of mergers is causing significant and apparently permanent changes in the structure of the economy, and the long-run impact of these changes cannot be readily foreseen.

A variety of legal and economic factors have contributed to the conglomerate merger movement. Relatively clear legal prohibitions on horizontal and vertical mergers, set forth in section 7 of the Clayton Act and recently articulated in the Antitrust Division's Merger Guidelines, have channeled merger activity away from these more traditional forms while leaving conglomerate mergers relatively free from antitrust restraints. Although the Merger Guidelines identify some types of conglomerate mergers as likely candidates for antitrust attack and some conglomerate mergers have been successfully attacked on antitrust grounds, the antitrust laws leave relatively wide latitude for conglomerate mergers. This latitude reflects the fact that existing knowledge provides little basis for forecasting adverse effects on competition that support application of the merger prohibition of section 7.

The economic forces encouraging conglomerate mergers are numerous and complex, and are not easy to identify in particular cases. These appear to include desire of owners of smaller firms to convert their holdings into more readily marketable securities; the desire of management of large firms for growth for its own sake, apart from or in addition to growth in profits; the opportunity to bring more efficient management personnel or techniques to smaller or less successful firms; the possibility of reducing costs or increasing sales by meshing product lines or processes or methods of distribution; the desire to diversify business activities and reduce risks; the possibility of using one firm's cash flows or credit in another firm with limited access to capital; the tax advantages of direct reinvestment of earnings by corporations instead of distribution to stockholders for reinvestment through the general capital market; and the opportunity for speculative gains through mergers that immediately increase the per-share earnings of the surviving firm.

Whatever the causes, it is clear that many conglomerate mergers are not explainable in terms of obvious efficiencies in intergrating the production or marketing facilities of the firms involved. The merger movement has contributed to and is furthered by a specialized "merger market" in business firms as such; merger candidates and independent experts actively seek out favorable opportunities to acquire or dispose of businesses through conglomerate mergers. The existence of such a market is not a sinister sympton; it merely emphasizes the volume and complexity of merger activity and its underlying causes. Indeed, an active merger market suggests a healthy fluidity in the movement of resources and management in the economy toward their more effective utilization. The existence of such a market may serve as a significant incentive for the establishment of smaller firms. It may partially overcome imperfections in the capital market which are not readily susceptible to other effective remedies. In many cases, merger activity may replace proxy fights as an effective means for changes in corporate control.

There are two types of possible antitrust objections to the current increase in merger activity: (1) mergers may have adverse effects on competitive structure and behavior in particular markets; (2) the volume and scope of merger activity may result in concentration of overall economic activity in a few large organizations and may substantially reduce the number of significant decision-making units within the economy.

As to the second point, the possibility that economic activity might become unduly concentrated in a few large firms would

[2] The idea of such legislation is not new, and our proposal was influenced by Kaysen & Turner, Antitrust Policy: An Economic and Legal Analysis, at 266–272 (1959). However, it differs from the Kaysen-Turner proposal in important respects.

raise difficult and far-reaching questions of social policy. Fortunately, such a development is not now imminent. In spite of the high and increasing rate of merger activity, concentration of aggregate economic activity (which should not be confused with concentration in particular markets, referred to in part II of this Report) has changed only slowly over time. Preliminary FTC data show that the share of total corporate manufacturing assets held by the 100 largest manufacturing firms has grown from 45.8% in 1957 to 47.7% in 1967; the share of the 200 largest has increased from 55.0% to 58.7% in the same period. Mergers have contributed somewhat to this trend; indeed, if no mergers had occurred, the shares of the largest firms would have declined somewhat during parts of the period. Nevertheless, it is clear that mergers are not solely responsible for the continued growth of the largest units in the economy, and have accounted for only a minor portion of such growth. Indeed, among the largest firms, the net effect of mergers has been to expand the size of smaller large firms relative to the top few. Further, the merger movement does not seem likely to cause the disappearance of smaller firms. The numbers of manufacturing firms with assets of $5 million to $10 million, $10 million to $25 million, and $25 million to $50 million have remained steady or increased somewhat during the period of greatest merger activity. Indeed, the numbers of nonmanufacturing firms have increased significantly.

In any event, the level of economy-wide concentration and numbers of firms that would be incompatible with the maintenance of a competitive market system is not known. Even very large firms may continue to grow as a result of desirable response to changing economic circumstances, and mergers—including conglomerate mergers—may result in important economic benefits. We are therefore not persuaded of the need to establish specific limits to the growth of large firms, either by merger or otherwise. Thus, we do not endorse the suggestion put forward at one time by Donald F. Turner, former Assistant Attorney General in charge of the Antitrust Division, that further expansion of larger firms by merger be prohibited.

Conglomerate mergers may affect competition in particular markets. Three possible types of anticompetitive effects of conglomerate mergers have been identified and are reflected in the new Merger Guidelines: (1) elimination of "potential competition" by a firm which, but for its acquisition of another firm, might have entered the latter firm's market in a way that would have increased competition in that market; (2) the creation of opportunities for "reciprocal dealing" relationships between the merged firm and other firms that may foreclose competitors of the conglomerate firm; and (3) the addition of large resources to a firm already dominant in a market, possibly insulating its position from erosion through competition.

The detection of these effects rests, in general, on factual and theoretical judgments that are more speculative than the findings usually relied upon in section 7 cases; but to the extent that specific effects can be clearly identified in individual merger cases, present law and enforcement policies appear adequate. There are, however, two dangers in basing conglomerate merger policy entirely on the case-by-case substantiation of specific anticompetitive effects:

1. These or similar objections to conglomerate mergers may be pressed beyond the point where they are well founded, perhaps because of quite different objections, such as fear of the growth of individual large firms or of concentration of assets in very large firms, which are not explicitly recognized in the merger prohibition. The existence of these different objections may also lead to other distortions; for example, market definitions may be distorted to treat a conglomerate merger as horizontal and therefore subject to a more easily established prohibition. Such distortions would result in uncertainties in enforcement and unfairness to those affected.

2. Potentially anticompetitive mergers may be allowed to proceed because economic theory and analytical foresight are inadequate to predict anticompetitive effects in specific cases, even though there may be good reason for believing that some classes of mergers, considered in the aggregate, are harmful to competition.

Because of these difficulties, and because the incentives that have produced the current conglomerate merger movement can and should be directed to increase competition, we propose a statutory prohibition to supplement the merger prohibition of section 7 of the Clayton Act. Such a prohibition should be clear and not rely on conjectural judgments of likely competitive effect in particular cases; it should prohibit or discourage mergers most likely to have anticompetitive consequences, and in doing so lessen reliance on extended and contrived interpretations of section 7; and it should seek to direct the force of conglomerate merger activity into channels that will improve competitive structure to the maximum extent possible.

We propose that this be accomplished by forbidding mergers between very large firms and other firms that are already leading firms in concentrated markets significant in the national economy. A draft of a proposed statute embodying this recommendation, together with explanatory notes, is attached to this Report as Appendix B.

Such a rule satisfies our criteria for a supplementary prohibition. Unlike the Merger Guidelines applicable to conglomerate mergers, which rely on the difficult and conjectural questions referred to above, the proposed rule would provide clear criteria based solely on data as to market shares and sales or assets. It would apply to a large number of conglomerate mergers which might be attacked under existing law or under the law which might be developed in suits brought in accordance with the Guidelines.[3] The existence of this simpler prohibition will lessen the pressure on enforcement agencies and courts to engage in the distorted extensions to which section 7 lends itself. At the same time, the simpler prohibition will make enforcement simpler, and will present some mergers which would have gone unchallenged under section 7 even though careful analysis or subsequent developments might have indicated a violation of section 7.

In addition to these negative aspects of discouraging anticompetitive mergers, the proposed rule would have affirmative aspects in that it would channel merger activity into directions likely to improve competition. The proposed rule rests on the assumption that if large firms are prevented from acquiring leading firms in concentrated industries, they will seek other outlets for expansion. If the rule is adopted, a large firm wishing to expand into a particular concentrated industry may acquire a small firm with a view to enlarging its capacity and market share, or it may construct wholly new facilities in the industry. Either of these alternative courses of action is more likely to increase competition and to decrease concentration in a concentrated industry than if the large firm simply acquired a leading firm in the industry and settled for maintaining or modestly increasing the market share of that firm.

As large firms become more diversified and more interested in further diversification, they become "potential entrants" into more and more industries. Although the probability that any one firm will enter any particular industry is extremely small, the probability that a substantial number of large diversified firms will enter a substantial number of concentrated industries is undoubtedly higher. The Guidelines and present enforcement based on the potential competition doctrine focus on the first probability alone, and must, therefore, be ineffectual or dependent on fictitious premises contrary to fact in many instances. If the potential competition doctrine under section 7 is expanded to the extent indicated by the Guidelines and current enforcement policy, such firms may well be disqualified from expanding by merger into many markets, including some in which they might make contributions of general benefit to the economy. These contributions might take the form of new technology and competitive innovation, reduced costs, or simply the introduction of new and forceful competitive pressures. Our proposal focuses on the second probability, that a substantial number of large diversified firms will enter a substantial number of concentrated industries, and is intended to channel the potential competition of large firms along lines that are conducive to reducing levels of concentration in the American economy.

Thus, the rule has both negative and affirmative aspects that tend to strengthen competition. Members of the Task Force who support this proposal assess somewhat differently the relative values of the negative and affirmative effects of the rule, depending on their differing judgments about the likelihood that mere size and superior financial resources will confer unwarranted advantages on an acquired firm. They are agreed, however, as to the net beneficial effect of such a rule. Since the rule would leave even a very large firm free to enter a new market by acquiring a going concern in the new market, it would preserve wide opportunity for diversification and for exploitation of efficiencies that may be inherent in conglomerate mergers.

IV. THE ROBINSON-PATMAN ACT

The Robinson-Patman Act has been the subject of extensive and well-earned criticism. Enacted in 1936 to tighten and supplement the price-discrimination prohibition in section 2 of the Clayton Act, the Robinson-Patman Act was intended to curb price discrimination that unduly favors national over local sellers and to protect independent merchants from unfair competition from large buyers obtaining the benefits of price discrimination.

Over the years, the Robinson-Patman Act has come to have unintended anticompetitive effects. The price-discrimination prohibition has discouraged types of price differentials which might have improved competition by lessening the rigidity of oligopoly pricing or by encouraging new entry:

1. In highly concentrated markets, prices may be rigid and a seller may hesitate to announce price reductions which would be met immediately by competitors, thus minimizing the seller's increase in sales. But he may be prepared to make concessions to make sales to particular buyers. Where such price reductions are sporadic and not part of a systematic pattern favoring large purchasers, they may be the first step toward more general price reductions.

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[3] In the interests of certainty, the proposed rule would apply whether or not a merger could be characterized as purely conglomerate. We have not given detailed consideration to vertical or horizontal mergers or to the Guidelines as applied to such mergers. However, our proposed rule appears unlikely to add significantly to existing prohibitions on horizontal mergers or vertical mergers, except in the case of a vertical merger involving a leading firm in an industry which is concentrated but which has not been extensively vertically integrated. We conclude that the benefits of certainty override any conjectural losses in efficiency.

2. A new or potential entrant to a market may find it necessary to reduce prices below those of his competitors in particular cases in order to overcome the inertia of established trade relationships. But the prospective seller may be reluctant to do so if he must make corresponding reductions to all other purchasers, and he may decide not to enter.

The Robinson-Patman Act has impaired competition and the development of new methods of distribution in numerous other respects: by discouraging sellers from passing on cost savings to buyers, it has impaired experimentation with possibly more efficient methods of distribution integrating wholesale and retail functions; by requiring proportionally equal treatment in certain promotional practices, it has discouraged experimentation with price-cutting methods which are equivalent to desirable types of price differentials; by prohibiting sellers from paying brokerage to customers or their agents, it has erected an artificial protective barrier around independent brokers and inhibited integration of brokerage functions.

We conclude that the Robinson-Patman Act requires a major overhaul to make it consistent with the purposes of the antitrust laws. A suggested revision of the price discrimination provisions is set forth, together with explanatory comments, in Appendix C to this Report. We recommend that the other provisions of the Robinson-Patman Act be repealed.

In its present form, the Robinson-Patman Act contains three major prohibitions. Sections 2(a), (b) and (f) impose broad prohibitions on price discrimination in the sale of commodities. Sections 2(c), (d) and (e) establish prohibitions dealing with the payment of brokerage, payment to customers for services rendered by them, and the furnishing of services to customers. Section 3 imposes criminal prohibitions which partly overlap the civil prohibitions of section 2.

Many of the reasons for price discrimination are related to the improved functioning of the competitive system. Price discrimination has an adverse effect on competition only in exceptional cases. Therefore, a statute restricting price discrimination should be narrowly drawn, to avoid losing the important benefits of price discrimination in an excessive effort to curb limited harm.

Our proposed revision of the Act would make numerous changes in substance and in detail, and would eliminate many features of the present Act which forfeit the benefits of price discrimination in a competitive system. Two major changes are as follows:

1. Section 2(a) of the present law makes unlawful a discrimination which may "injure, destroy, or prevent competition with any person . . .," as well as a discrimination the effect of which "may be substantially to lessen competition or tend to create a monopoly. . . ." The reference to injury to competition with specific persons has focussed the attention of courts and enforcement authorities on the plight of individual competitors, and enforcement designed to preserve competitors is generally at odds with the working of a competitive system. The proper focus is the effect on competition in the market as a whole. Our proposed revision specifies in some detail the kinds of competitive effects which make a discrimination unlawful; in doing so, it narrows and clarifies the law and avoids misconceived protection of competitors as distinguished from competition. Among other changes, the proposed language requires in general that a discrimination be substantial in amount and persistent in duration. The language of the proposed Act is carefully tailored to avoid prohibiting those differentials which are manifestations of more effective competition.

2. Under present law, a price differential is not unlawful if it makes only due allowance for cost differences. Enforcement authorities and courts have required these cost differences to be shown with extreme exactitude. The proposed revision permits price differentials approximating actual cost differences or based on reasonable estimates of cost differences or based on a reasonable system of classification.

The proposed Act contains numerous other changes which are explained in detail in the comments to the Act.

The prohibitions of section 2(c), (d) and (e), unlike the basic price discrimination prohibition, do not depend on any showng of injury to competition and are not subject to the defense of cost-justification. We recommend that these sections be repealed, and that only such practices continue to be unlawful as are unlawful under the revised price discrimination provisions of section 2(a).

Section 2(a) has been interpreted to prohibit any payment of brokerage by a seller to a customer or to any agent of the customer, even though the customer has performed the services of a broker. Thus, the performance of brokerage services by customers has been penalized, even though it may be more efficient than the use of independent brokers. Section 2(c) has also been held to prohibit an independent broker from reducing the commission to be paid to him by the seller in order to enable the seller to offer a lower price to the buyer, thereby directly interfering with price competition at both the seller and the broker level.

Section 2(d) makes it unlawful for a seller to pay a customer for services or facilities furnished by the customer in connection with the processing or sale of any product manufactured or sold by the seller unless the payment is available on proportionally equal terms to all customers competing in the distribution of such product. Section 2(e) makes it unlawful for any seller to discriminate in favor of one customer against another customer by furnishing any services or facilities in connection with the processing or sale of commodity on terms not accorded to all customers on proportionally equal terms. These sections have been interpreted to require that some form of service or allowance be made available to every customer, even in cases where customers can be separated into distinct groups which are only marginally in competition with each other, and even if factors peculiar to a particular market make it difficult to furnish equivalent services to all customers.

The prohibitions in section 2(c), (d) and (e) were designed to prevent conduct which, in its more blatant forms, might be viewed as equivalent to price discrimination. Under our proposal, such conduct could still be challenged as price discrimination, subject to the same defenses as any other price discrimination. Because violations of these subsections are relatively easy to establish, they have attracted a disproportionate amount of enforcement activity and have had substantial anticompetitive effects, suppressing many legitimate transactions.

Section 3 of the Robinson-Patman Act establishes criminal penalties, but no private right of action, for three distinct offenses:

1. Knowingly entering into a sale transaction which discriminates against competitors of the purchaser;

2. Selling or contracting to sell goods in any part of the United States at prices lower than those exacted elsewhere in the United States, for the purpose of destroying competition or eliminating a competitor.

3. Selling or contracting to sell goods at unreasonably low prices for the purposes of destroying competition or eliminating a competitor.

The first prohibition very largely overlaps the basic price discrimination prohibition in sections 2(a) and (f) of the Robinson-Patman Act, but it differs in several important respects. Section 3 applies only to like quantities, has no requirement of competitive injury and is not subject to a cost justification defense. Even if a criminal penalty is justified for violation of the price discrimination prohibition, there is no justification for a criminal prohibition broader than the civil prohibition. We recommend that the criminal prohibition be dropped altogether.

The other two prohibitions of section 3 are designed to reach particular instances of predatory price cutting with adverse effects on competition in the seller's market. We have taken account of the purposes of these prohibitions, to the extent they are justified, and have reflected them in the basic price discrimination prohibition in the body of section 2 of the Robinson-Patman Act. We recommend that they be dropped from section 3, since there is no justification for a criminal prohibition inconsistent with or broader or less specific than the civil prohibition of section 2.[4]

V. THE PATENT LAWS

We recommend new legislation to curtail certain practices which, under color of the patent laws, undermine the purposes of the antitrust laws. Such legislation would not prevent the owner of a valid patent from fully exploiting the monopoly conferred by his patent, and it would not involve any changes in the structure of the patent law. A draft of such legislation and of comments is attached to this Report as Appendix D.

We recommend that, in general, a patent owner who has granted a license with respect to his patent must license all qualified applicants on equivalent terms. This proposal does not involve compulsory patent licensing. A patentee may decline to issue any licenses at all, or he may issue licenses in some fields of use and reserve to himself the practice of the patent in other fields.

Ordinarily, it is unnecessary for a patent owner to grant an exclusive license to obtain the full reward for his patent. A rational patent owner can exact the full monopoly reward of the invention by setting appropriate royalties, and that reward will be greatest if the patented invention is exploited under competitive conditions. The grant of an exclusive license to a single licensee or a small group of licensees generally puts the licensee or licensees in a position to exact a monopoly profit. In effect, the patent owner is sharing his monopoly profit with the licensees. This will generally be to the patent owner's advantage only if the patent is vulnerable or if the arrangement creates a monopoly broader than the patent.[5] That is, a patent licensing arrangement with limited membership may be nothing more than a device by which prices are fixed or markets shared.

These effects can be avoided by a requirement that, if a license has been granted, a license on the same terms must be made available to all qualified applicants. Then, a licensee will be unable to obtain more than a reasonable profit for his role in exploiting the patent. Our proposed remedy will not require that courts or administrative agencies determine what are reasonable royalties; royalties would continue to be bargained between patent owners and initial licensees. To the extent this proposal increases the number of licensees during the life of a patent, it may also result in more effective competition in the practice of the patent after expirations.

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[4] Dennis G. Lyons and George D. Reycraft believe that the latter two prohibitions of section 3 should not be repealed.

[5] In some few cases, the grant of an exclusive license may be a necessary inducement to the licensee to undertake the commercial risk of exploiting an innovation to an extent beyond the patent owner's financial capabilities. This possibility is reflected in the statute. See page D–13. Many members doubt that such cases will arise.

We also recommend that copies of license agreements be filed with the Commissioner of Patents and be freely available to all, including antitrust enforcement officials. This provision is essential to effective operation of the nondiscriminatory licensing requirement, and it is similar to the requirement of existing law that interference settlements be filed. Even if the nondiscriminatory licensing requirement is not enacted, we recommend enactment of the filing requirement. Such a requirement would materially aid the enforcement of the antitrust laws to the extent they now apply to license agreements or might be interpreted to apply to license agreements in the future. No legitimate interest would be sacrificed by exposing such agreements to the light of day.

Finally, we recommend that a patent be unenforceable if the patent owner has not consistently taken reasonable steps to enforce his patent. This provision is necessary to avoid tacit or covert agreements not to enforce patents; such agreements would undermine the purposes of the nondiscriminatory licensing requirement and the filing requirement. The provision also has independent value, since it would recognize the obsolescence of patents which are of little commercial value or questionable validity and are not worth litigation, but which nevertheless serve to discourage entry into the field covered by the patent.[6]

VI. PROBLEMS OF INFORMATION

In the course of preparing this Report, we have been struck by the need for improved collection, organization and availability of financial and economic data. Such information plays several roles in antitrust law. *First*, it is essential in the formulation of antitrust policy. *Second*, it may be essential in the application of the antitrust laws, in facilitating observance of the law by businessmen and enforcement of the law by the government. *Third*, it may have an effect on the operation of competitive markets and thus have direct antitrust implications.

The formulation of economic policy requires a variety of financial and economic information. Such information may, for example, cast light on the competitive structure of industries, on the relation between prices and costs, on industry performance, on merger activity and plant construction, and on numerous other facts of obvious relevance in the formulation of economic and antitrust policy. Much of this information is already in the files of the Census Bureau. The Census Bureau operates under a statutory mandate not to disclose information with respect to individual firms, even if such information is not particularly sensitive or has already been made public in another form. The only way an individual researcher can have access to this information is by being sworn in as a Census employee and accepting the Census Bureau restrictions on disclosure of information; even government agencies attempting to obtain such information, such as the Federal Trade Commission, are subject to similar restrictions.

Current Census Bureau practice also requires that computer programming be done by Census Bureau personnel and that Census Bureau computers be used. Yet in contrast with its practice on population information, the Census Bureau has not established efficient procedures for furnishing specialized economic information to other government agencies. The result is that researchers and government agencies very often choose to forgo the benefits of Census Bureau information and to gather less detailed information by dissemination of questionnaires or to use public sources.

We recommend establishment of an interagency group consisting of representatives of the Census Bureau, Securities and Exchange Commission, Internal Revenue Service and other agencies which gather information; the Council of Economic Advisers, Federal Trade Commission, Justice Department and other agencies which use information; and the Office of Statistical Standards in the Bureau of the Budget. This group could also include experts from outside the government. The group would consider how, within the framework of existing restrictions on disclosure, information for policy-making and research may be made more readily accessible to policymakers and researchers. In addition, the group would assist the Census Bureau and other information-gathering agencies in setting up procedures and facilities, along the lines of those presently set up for population census information, for responding to requests for economic information.

The group would also consider the extent to which new interpretations of existing legislation and, eventually, new legislation are feasible and desirable to modify the effect of restrictions on disclosure. We recognize that the Census Bureau depends in large part on voluntary compliance with its reporting requirements, and that the assurance of confidentiality is an important ingredient in obtaining that compliance. Therefore, any modification of disclosure restrictions would be limited to those types of information which are highly significant for antitrust policy and either are not highly sensitive or are similar to other information which has been publicly disclosed.

The application of our legislative proposals as well as existing antitrust law, requires economic information such as market shares and sales in specific markets. Information prepared by the Census Bureau is based on industry and product classifications which do not necessarily coincide with relevant national and regional markets. We recommend that the interagency group recommended above establish procedures for developing and publishing information of antitrust significance, such as studies of important markets, including those in which deconcentration proceedings might be appropriate and those in which merger activity has been high. In many cases such information could be made available without disclosing information on industrial firms. The group also could coordinate and evaluate requests for information to the Census Bureau and other information-gathering agencies.

We recommend that the provisions of the Securities Exchange Act of 1934 authorizing the SEC to specify the details of financial reports "for the protection of investors and to ensure fair dealing" in the securities markets be expanded to recognize the impact of profit and loss information on the operation of competitive markets, and to require that the SEC issue regulations implementing these provisions after consulting with the Justice Department and the Federal Trade Commission. Pending adoption of this recommendation, the Justice Department and the Federal Trade Commission should be requested to consider submitting recommendations to the SEC, within the existing statutory framework, for regulations providing for disclosure of profit and loss information desirable from an antitrust viewpoint. Such recommendations should be submitted as soon as possible, since the SEC is currently considering divisional reporting requirements.

Information as to the profitability of operations in particular economic markets should be widely available to facilitate the operation of a competitive economy. Above-normal profits in an industry should attract investment by new entrants or additional investment by existing suppliers. Thus, in the long run, output will be brought up to the level optimum from the point of view of the economy as a whole. In addition, new entry into a market in response to profit opportunities may reduce concentration in that market. The availability to stockholders of information as to the profitability of particular operations of transactions might encourage closer scrutiny of the advisability of such operations and transactions. The availability of profit information may lessen any temptation for large or diversified firms to use their superior financial resources and staying power to drive smaller rivals out of business.

VII. ADDITIONAL RECOMMENDATIONS

1. Premerger notification and related matters

The Department of Justice and the Federal Trade Commission must presently rely primarily upon public sources of information in the enforcement of statutory prohibitions on mergers. We endorse proposals for mandatory premerger notification and have set forth a proposed statute in Appendix E. Under the proposed statute, the Attorney General would be empowered to make regulations, subject to certain restrictions designed to keep reporting from becoming too onerous. At the same time, we recommend a reasonable statute of limitations, such as ten years, on government actions against mergers. We oppose a requirement that actions be brought prior to consummation of mergers, since this might prove too much of a strain on enforcement resources. Such a requirement might also hamper legitimate mergers by encouraging enforcement authorities to bring actions which, upon more complete investigation, might not have been brought.

Our proposal, coupled with the clear standards of our proposed legislation to deal with mergers, would make it possible to resolve many merger actions prior to consummation of mergers. Under those standards, it would be possible to obtain preliminary injunctions in cases where mergers appeared to be unlawful.

2. Duration of decrees

Many decrees under the antitrust laws, including consent decrees, are of long or indifinite duration. The effects of these decrees may change with the passage of time. Such decrees may turn out to be ineffective or anticompetitive. We recommend a genearl provision limiting the duration of antitrust decrees, including consent decrees, to a relatively short period, such as ten years, but permitting the court to extend decrees in original or modified form for additional ten-year periods. Provisions along these lines are built into our proposed legislation to deal with concentrated markets and our proposed revision of the Robinson-Patman Act. A draft of suggested language is set forth in Appendix E to this Report.

3. Income tax laws

Some features of the income tax laws may have effects on market concentration or merger activity. We recommend that the income tax laws be reexamined to see whether these effects exist and whether they can be neutralized without significant harm to the purposes of the income tax laws.

The reorganization provisions of the Internal Revenue Code provide that, in certain kinds of acquisitions, the selling stockholders recognize no gain. The reorganization provisions, alone or in conjunction with other provisions of the tax laws, may provide significant incentives to stockholders to make their companies available for acquisition. On the other hand, there are offsetting disadvantages to the acquiring corporation, and the reorganization provisions may affect primarily the form rather than the number of acquisitions. The justification for and effect of these provisions deserve reconsideration in preparing a tax reform program.

Corporations and their stockholders are generally taxed separately, and stockholders are not taxed on earnings which are retained rather than distributed as dividends. The effect of this provision may be to channel investment funds through existing corpora-

[6] We have not given detailed consideration to the desirability of permitting license restrictions on pricing, field of use or territories. Members of the Task Force have expressed varying views on different types of restrictions.

tions rather than independent or new enterprises. Thus, corporations may grow larger than they otherwise would, and some of this expansion may serve to maintain or increase their market shares in industries in which they already have large market shares. In addition, this aspect of the law may encourage acquisitions for cash or acquisitions of corporations which will require the investment of additional capital.

We recommend that the competitive effects of this feature of the tax laws be examined in preparing a tax reform program.

4. The antitrust laws and regulated industries

In the regulated sector of the economy, the bias of policy and its enforcement is overwhelmingly against competition. This bias manifests itself in more permissive policies toward mergers and exemption of mergers from antitrust standards; in restrictions on entry; and in regulation of minimum rates for the protection of competitors and competing industries, in addition to more traditional regulation of maximum rates for the protection of consumers. We believe that this bias is contrary to the public interest in many cases. We recommend further study of regulated industries to determine the extent to which competition and the competitive standards of the antitrust laws can be substituted for at least some aspects of regulation.

5. Resale price maintenance

The Miller-Tydings Act and the McGuire amendment to section 5(a) of the Federal Trade Commission exempt certain resale price maintenance arrangements from the antitrust laws where States have enacted so-called "fair trade" laws. The case against resale price maintenance has been made so often and persuasively that we think no further elaboration is necessary. We recommend repeal of antitrust exemptions for resale price maintenance.

APPENDIX A.—CONCENTRATED INDUSTRIES ACT

Section 1.—Reduction of Industrial Concentration.

(a) It shall be the duty of the Attorney General and the Federal Trade Commission to investigate the structure of markets which appear to be oligopoly industries.

(b) When, as a result of such investigation, the Attorney General determines that a market appears to be an oligopoly industry and that effective relief is likely to be available under this Act, he shall institute a proceeding in equity for the reduction of concentration, to which all firms which appear to be oligopoly firms in such oligopoly industry shall be made parties.

(c) The court shall enter a judgment determining whether one or more markets are oligopoly industries and, if so, which of the parties are oligopoly firms in such oligopoly industries. Any party to the proceeding may appeal such judgment directly to the Supreme Court.

(d) In order to provide an opportunity for voluntary steps looking toward reduction of concentration, no affirmative relief shall be ordered against such oligopoly firms for a period of one year following entry or affirmance of such judgment.

(e) After such one-year period, further proceedings shall be conducted and a decree entered providing such further relief as may be appropriate, in light of steps taken or initiated during the one-year period, to achieve, within a reasonable period of time not in excess of four years, a reduction of concentration such that the market share of each oligopoly firm in such oligopoly industry does not exceed 12%. Such decree may include provisions requiring a party (i) to modify its contractual relationships and/or methods of distribution; (ii) to grant licenses (which may, in the discretion of the court, provide for payment of royalties) under and/or dispose of any patents, technical information, copyrights and/or trademarks; and (iii) to divest itself of assets, whether or not such assets are used in an oligopoly industry, including tangible assets, cash, stock or securities (including securities in existing firms or firms to be informed), accounts receivable and such other obligations as are appropriate for the conduct of business. The decree may also make such other provisions and requires such other actions, not inconsistent with the purposes of this Act and the antitrust laws, as the court shall deem appropriate, including any provisions which would be appropriate in a decree pursuant to the antitrust laws. Such decree shall not require that a firm take any steps which such firm establishes would result in substantial loss of economies of scale.

(f) Any decree entered pursuant to subsection (e) may be appealed directly to the Supreme Court.

(g) Between four and five years after entry or affirmance of a decree pursuant to subsection (e) or a further decree pursuant to this subsection (g), proceedings shall be conducted to determine whether the decree has achieved the reduction of concentration referred to in subsection (e). If the court determines that it has not attained such end, it shall enter a further decree ordering additional steps to be taken. Such decree may be appealed directly to the Supreme Court.

(h) Any decree entered pursuant to this section 1 shall be subject to modification on the motion of any party according to the usual principles governing decrees in equity.

Section 2. Regulated Industries.

No action may be brought pursuant to section 1 of this Act with respect to any market which is subject to regulation under [specify federal regulatory statutes], unless, prior to the commencement of such action, a copy of the proposed complaint in such action shall have been furnished to the agency, commission, board or body vested with regulatory power pursuant to any of the Acts enumerated, and such agency, commission, board or body shall not have disapproved the commencement of such action within 90 days after receipt of such proposed complaint or shall have waived disapproval. No decree in any action pursuant to section 1 of this Act may require disvestiture of any assets used in any such regulated market, unless such agency, commission, board or body shall have been served with a copy of the proposed decree and shall not have objected thereto within 90 days after such service or shall have waived objection. No such disapproval or objection or the withholding or waiver thereof shall be considered to be either an adjudication or a rule-making proceeding for the purposes of the Administrative Procedure Act or any Act of Congress establishing procedural requirements for determinations by any agency, commission, board or body.

(b) No action may be brought pursuant to section 1 of this Act with respect to a market (i) in which maximum prices or rates are subject to direct public utility regulation by any state, municipal, District of Columbia or territorial agency, commission, board or other body, and (ii) which consists of the furnishing of electricity, gas, water or telephone services, without the consent of each such agency, commission, board or body.

Section 3. Procedure.

(a) All proceedings under this Act shall be conducted by the Special Antitrust Court established pursuant to subsection (b) of this section 3. Such proceedings shall be conducted in a judicial district or districts determined by the court or pursuant to rules established by the court.

(b) The Chief Justice shall designate not more than _____ circuit judges and district judges to serve on the Special Antitrust Court for purposes of a specified proceeding or proceedings or for such period or periods of time as may be specified by the Chief Justice. The Chief Justice shall designate one such judge as Chief Judge of the Special Antitrust Court. Proceedings under this Act shall be conducted by panels consisting of one or more judges of the Special Antitrust Court designated by the Chief Judge of the Special Antitrust Court or by a judge or judges designated by the Chief Justice for the purpose. Such proceedings shall be conducted pursuant to the Federal Rules of Civil Procedure in effect at the time, subject to such additional rules (which may supersede or supplement the Federal Rules of Civil Procedure) as shall be adopted by the Special Antitrust Court for the purposes of proceedings under this Act.

(c) In any proceeding under this Act, the Special Antitrust Court may designate one or more economists or other persons to serve as expert witnesses to be called by the court. Such witness or witnesses

(i) shall be furnished with all evidence introduced by any party;

(ii) may offer additional evidence subject to objection by any party;

(iii) shall offer analyses of the issues, with particular reference to relevant markets;

(iv) shall recommend appropriate provisions for decrees;

(v) shall be subject to cross-examination and rebuttal.

Section 4. Definitions.

As used in this Act

(a) The term "oligopoly industry" shall mean a market in which

(i) any four or fewer firms had an aggregate market share of 70% or more during at least seven of the ten and four of the most recent five base years; and

(ii) the average aggregate market share during the five most recent base years of the four firms with the largest average market shares during those base years amounted to at least 80% of the average aggregate market share of those same four firms during the five preceding base years, but shall not include any market in which the average aggregate sales of all firms during the five most recent base years declined by 20% or more from such average sales during the preceding five base years.

(b) The term "oligopoly firm" shall mean a firm engaged in commerce whose market share in an oligopoly industry during at least two of the three most recent base years exceeded 15%.

(c) The term "firm" shall include corporations and associations existing under or authorized by the laws of the United States, any of the Territories, any State, or any foreign country, and shall include any firm controlling, controlled by, or under common control with a firm.

(d) The term "market" shall mean a relevant economic market, appropriately defined with reference to geographic area (which may be the United States or another geographic area) and product or service, including sales within such market by firms located outside the geographic area, *provided* that aggregate sales in the market amounted to more than $500 million during each of at least four out of the five most recent base years.

(e) The term "market share" shall mean the proportion of a firm's sales in a relevant market to all sales in such market.

(f) The term "sales" shall mean annual gross sales, gross income, gross receipts, or, if no such amount is applicable, the corresponding amount, whichever is largest, as set forth in reports filed by a firm with the Securities and Exchange Commission pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934, or the largest such amount which would have been reported if section 13 or section 15(d) of the Securities Exchange Act of 1934 were applicable to require reporting by such firm for a base year of its gross sales, gross income, gross receipts, or a corresponding amount, in a market, and sales in a market shall include amounts which would have been reported but for the fact that goods or services

were both produced and consumed by the same firm.

(g) The term "base year" shall mean one of the ten calendar years, the most recent of which ended more than six months and not more than eighteen months prior to the date on which any proceeding is instituted pursuant to subsection (b) of section 1 of this Act.

(h) The term "antitrust laws" shall mean the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, as amended, and section 7 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, as amended.

(i) The term "commerce" shall mean trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or places and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States.

Comments to Accompany Concentrated Industries Act

Section 1. Reduction of Industrial Concentration.

(a) The Attorney General and the Federal Trade Commission are under a duty to investigate market structures of lines of commerce which appear to be oligopoly industries. Since the Attorney General and the FTC do not have unlimited resources at their disposal, they would necessarily have discretion in establishing priorities. In exercising this discretion, it is assumed that they would first investigate those industries which are of most fundamental importance in the economy and in which concentrated market structure, not dictated by economies of scale, has had the most pronounced effect in producing market behavior at variance with competitive norms.

(b) Enforcement authority is vested solely in the Attorney General, but he would often proceed on the basis of an FTC investigation. This would require improved cooperation between the FTC and the Department of Justice.

(c) The first step in a proceeding under the Act is a determination of oligopoly firms and oligopoly industries. The sole questions for determination would be relevant markets and market shares.

(d) There is a mandatory one-year waiting period after a determination that an industry is an oligopoly industry and parties are oligopoly firms. The purpose of this waiting period is to permit an oligopoly firm to take or initiate steps to reduce its market share in a manner most advantageous to its stockholders. The Act imposes no penalties and, until entry of a decree pursuant to subsection (e), provides for no relief against oligopoly firms. Therefore, it is not expected to influence firms to reduce their market shares by simply restricting their output without disposing of assets. Artificial restriction of output would be undesirable from an economic point of view.

(e) After the waiting period, the court is to determine what steps are to be taken to reduce the four-firm concentration ratio below 50% and the market shares of individual firms below 12%. The statutory language recognizes that this objective will not always be feasible. In entering its decree, the court is to take account of steps taken or initiated during the waiting period. The decree may use a variety of techniques short of divestiture if they promise to bring about the desired reduction in market share. These steps would include the removal of such barriers to entry as contractual arrangements and patents. The Act does not specifically authorize the court simply to restrict output or advertising expenditures, since restrictions of this nature would come very close to direct regulation of business and would seldom produce desirable economic results. Such restrictions might, however, be used in unusual situations and would be justified by the general reference to provisions appropriate in an antitrust decree.

A decree cannot require a firm to take steps which would result in substantial loss of economies of scale. This provision would, for example, preclude divestiture reducing a firm below minimum efficient size or creating new entities below minimum efficient size. The burden of proof is on the firm, and the possible loss of economies is not a defense to the issuance of a judgment under subsection (c). Division of a single plan would ordinarily result in substantial loss of economies of scale, and the Act permits a firm to establish that a decree would result in a net loss of economies of scale beyond the plant level. Net loss of economies of scale beyond the plant level might be established directly or by considering the minimum size of viable competitors in an industry. Thus, the court would not ordinarily divide an oligopoly firm into firms smaller than that indicated by experience to be necessary to survival in the industry. We are not unaware of efficiencies other than economies of scale; other efficiencies will generally reflect scarce resources such as unique management talent. These resources may be transferred pursuant to a deconcentration decree without significant loss.

(f) This subsection provides for immediate Supreme Court review of a decree.

(g) This subsection provides for a mandatory "second look" every four to five years after the entry or affirmance of the original decree until concentration is reduced to the extent described in subsection (e). If relief granted in a decree has not had the desired effect, more drastic relief would generally be in order. This procedure is not unlike the procedure in a monopolization case under section 2 of the Sherman Act. See *United States* v. *United Shoe Machinery Corp.*, Supreme Court, May 20, 1968.

(h) A decree is subject to modification pursuant to usual equity principles. Thus, the "second look" provision of subsection (g) does not exclude additional modification of a decree.

Tariffs and import quotas often serve as an important barrier to entry and may serve to restrict the relevant market. If such barriers were dropped, competition would, in many cases, immediately improve. The Act contains no provisions for reducing or eliminating such barriers in oligopoly industries. Such a procedure might harm small firms as much as or more than oligopoly firms. The participation of courts in an area so closely linked to foreign affairs might be regarded as an inappropriate incursion on the powers of the executive and might upset delicate and sensitive trade and treaty relationships. But in establishing and negotiating tariffs and import quotas, it would clearly be appropriate for the President and Congress to take account of concentration in domestic industries.

Section 2. Regulated Industries.

In general, this section provides that an action may not be brought with respect to markets regulated under specified federal statutes. The decision as to which statutes to specify would reflect the fact that remedies under the Act are not limited to divestiture and might interfere with statutory regulatory patterns. The Act also excludes divestiture of part of the assets used by a public utility whose maximum rates are regulated by a State commission. A State could not exempt its industries from the Act by unusual expansion of the scope of public utility regulation. Our recommendation of this provision does not mean that we approve existing statutory provisions for exemption, but simply that we do not believe that the Act should be at cross-purposes with other statutes.

Section 3. Procedure.

Proceedings under the Act will require judges with special expertise, and this expertise is not likely to be acquired unless all litigation is directed to a small number of judges with special qualifications. There is ample precedent in 28 U.S.C. section 1407 for the use of specially selected judges to handle litigation no matter where it arises. The Act should be supplemented by amendments to title 28 to provide nation-wide service of process and to ensure that venue in the Special Antitrust Court will be proper.

Subsection (c) allows the use of court-appointed economic experts. In many cases, the Attorney General and the defendants may confine their arguments to those best supporting their position in particular cases. Impartial economic experts could present additional arguments, as well as helping the court to sift and evaluate arguments made by the parties.

Section 4. Definitions.

(a) The definition of "oligopoly industry" is limited to markets in which the four-firm concentration ratio has been both high and stable. The first clause of the definition requires that the concentration ratio have been at least 70% during four out of the five most recent base years and seven out of the ten base years. In the judgment of the members, this is a conservative figure, at the upper end of the range in which direct action to reduce concentration would be justified. The second clause excludes industries in which there have been substantial changes in the identity of the four largest firms. If the situation stabilizes, a proceeding may be brought at a later date. The language after the second clause excludes industries with declining sales. This reflects our views of the appropriate limits on the use of the remedies of the Act and of appropriate priorities in the use of enforcement resources. An industry which is presently not an oligopoly industry because of a sales decline may become an oligopoly industry later on if the decline in sales is arrested.

(b) An "oligopoly firm" is a firm with a market share in excess of 15% during at least two of the three most recent base years. Unless the top four firms have exactly 70% and there are only two other firms with exactly 15% each, there will not be more than five oligopoly firms in an oligopoly industry, and there will generally be four or fewer, depending on how market shares are distributed among the largest firms.

(c) The definition of "firm" is very similar to the definition of "person" in the Clayton Act. Unlike the Clayton Act term, it does not include individuals. It includes firms controlling, controlled by, or under common control with a firm. Thus, in determining whether a firm is an oligopoly firm, the market shares of its subsidiaries would be considered.

(d) The term "market" has been substituted for the Clayton Act term "line of commerce" in order to permit the court to make sound determinations free of the distortions which have arisen in some Clayton Act cases. In order to exclude extremely narrow market definitions and to restrict the operation of the Act to industries of substantial importance in the economy as a whole, the Act is limited to markets with annual sales of at least $500 million.

(e) A firm's "market share" is defined as its proportion of sales in a market.

(f) "Sales" are defined by reference to amounts which would be reported, pursuant to the Securities Exchange Act of 1934. Some elaboration is necessary, since the Securities Exchange Act does not, and even with addi-

tional divisional reporting requirements would not, require reporting of sales in every conceivable market. Language is added at the end to indicate that the definition of sales is not limited to goods or services sold outside an enterprise. Thus, differences in the degree of vertical integration would not affect sales or market shares.

(g) There are ten "base years," determined by reference to the date a proceeding is instituted. The most recent base year will have ended at least six months prior to the date as of which figures must be known for the base year. This takes account of necessary delays in gathering and reporting figures.

(h) The term "antitrust laws" is used only in section 1(e), which permits the court to include in its decree any provisions which would be appropriate in a decree pursuant to the antitrust laws. For this purpose, the antitrust laws include the Sherman Act and section 7 of the Clayton Act, but do not include section 2 of the Robinson-Patman Act and various miscellaneous antitrust laws referred to in the Clayton Act definition of the same term.

(i) "Commerce" is defined substantially in the same terms as in the Clayton Act, and is designed to exhaust congressional power under the Commerce Clause.

APPENDIX B.—MERGER ACT

Section 1. Prohibited Acquisitions.

(a) No large firm shall directly or indirectly merge with, combine with, or acquire any equity security in any leading firm or directly or indirectly acquire all or substantially all the assets used by a leading firm in any market in which it is a leading firm.

(b) No leading firm shall directly or indirectly merge with, combine with, or acquire any equity security in any large firm or directly or indirectly acquire all the assets of a large firm or a part thereof sufficient to constitute a large firm.

(c) This section shall not apply to firms acquiring any equity security solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, control of firms in which any equity security is acquired. Nor shall anything contained in this section prevent firms from causing the formation of subsidiary firms for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary firms.

(d) If any acquisition is approved by any federal agency, commission, board or other body, such approval shall result in total or qualified exemption of such acquisition from this Act to the same extent such approval results in exemption from section 7 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, as amended.

Section 2. Definitions

As used in this Act

(a) The term "large firm" shall mean a firm engaged in commerce which, giving effect to any acquisition or other transaction referred to in section 1 of this Act and all acquisitions or other such transactions completed at or prior to the effective date of such acquisition or other transaction,

(i) had or would have had sales which exceeded $500 million during the most recent base year, or

(ii) had or would have had assets which exceeded $250 million at the end of the most recent base year.

(b) The term "leading firm" shall mean a firm engaged in any market in which its market share was more than 10% during the least two base years, and in which the aggregate market share of any four or fewer firms during the same two base years was more than 50% *provided* that the term "leading firm" shall not include a firm whose market share during the same two base years was not among the four largest in such market.

(c) The term "firm" shall include corporations and associations existing under or authorized by the laws of the United States, any of the Territories, any State, or any foreign country, and shall include any firm controlling, controlled by, or under common control with a firm.

(d) The term "market" shall mean a relevant economic market, appropriately defined with reference to geographical area (which may be the United States or another geographic area) and product or service, including sales within such market by firms located outside the geographic area, *provided* that aggregate sales in the market amounted to more than $100 million during each of at least two base years.

(e) The term "market share" shall mean the proportion of a firm's sales in a relevant market to all sales in such market.

(f) The term "sales" shall mean annual gross sales, gross income, gross receipts, or, if no such amount is applicable, the corresponding amount, whichever is largest, as set forth in reports filed by a firm with the Securities and Exchange Commission pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934, or the largest such amount which would have been reported if section 13 or section 15(d) of the Securities Exchange Act were applicable to require reporting by such firm for a base year of its gross sales, gross income, gross receipts, or a corresponding amount in a market, and sales in a market shall include amounts which would have been so reported but for the fact that goods or services were both produced and consumed by the same firm.

(g) The term "assets" shall mean assets or a corresponding amount as set forth in reports filed by a firm with the Securities and Exchange Commission pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934, or assets or a corresponding amount which would have been reported if section 13 or section 15(d) of the Securities Exchange Act were applicable to require reporting by such firm.

(h) The term "base year" shall mean one of the three calendar years, the most recent of which ended more than six months and not more than eighteen months prior to the date of an acquisition or other transaction referred to in section 1 of this Act.

(i) The term "commerce" shall mean trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States.

Section 3. Injunctive Relief in Private Actions.

Any person or firm shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a threatened violation of section 1 of this Act, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings; and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

Section 4. Enforcement.

Authority to enforce compliance with section 1 of this Act is vested in the Attorney General.

Comments to accompany Merger Act

Section 1. Prohibited Acquisitions.

(a) The first prohibition applies to acquisitions by large firms, as defined in section 2(a), of leading firms, as defined in section 2(b). An acquisition by a large firm of any equity security in a leading firm is prohibited unless it comes within the investment exception in section 1(c). Equity securities include, for example, common stock and convertible securities. An acquisition by a large firm of assets of a leading firm is prohibited only if it involves all or substantially all the assets used by the leading firm in any market in which it is a leading firm. An acquisition of a lesser amount of assets used by a leading firm in such a market would reduce the leading firm's market share. Since the purpose of the Act is to prevent increases in concentration or to reduce concentration in the markets in which leading firms operate, such acquisitions are not prohibited.

(b) The second prohibition applies to acquisitions by leading firms of large firms. The asset acquisition prohibition differs from the corresponding language in subsection (a) to reflect the fact that acquisition of assets by a leading firm will not reduce its market share. However, the Act does not prohibit a leading firm from acquiring a part of the assets of a large firm not sufficient to constitute a large firm. This kind of acquisition would be substantially equivalent, in economic terms, to a merger of a leading firm with a subsidiary, not itself a large firm, spun off from a large firm. Such a merger does not fall within the purposes of the Act.

The Act supplements and does not replace section 7 of the Clayton Act and sections 1 and 2 of the Sherman Act as applied to mergers. Although the Act is intended to apply primarily to conglomerate mergers, as distinguished from horizontal or vertical mergers, it is not limited to conglomerate mergers. The Act would add very little to existing law governing horizontal mergers, since section 7 has been interpreted to prohibit any horizontal mergers which would significantly increase the market share of a firm which already has a significant market share. The rules governing vertical acquisitions under section 7 are not clearly defined. Their import is probably that a merger is unlawful if one firm involves in the acquisition has a significant market share in a relatively concentrated market and the acquisition, together with other vertical integration in the same industry, would result in substantial foreclosure of competing firms from a market supplying or purchasing from the concentrated industry. In many cases, vertical acquisitions which might be attacked under section 7 would in any case be unlawful under section 1(a) or 1(b) of this Act, so that the need for particularly contrived applications of vertical acquisition doctrines would be minimized. As noted in the Report, the Act may in some cases prevent vertical acquisitions which are not unlawful under section 7. See page III–11.

The Act would apply primarily to conglomerate mergers. Under existing law, a conglomerate merger may be attacked if the effect may be substantially to lessen competition. As more fully discussed in the text of the Report, such attacks have been predicated primarily on the likelihood of reciprocal dealings and on the loss of potential competition. While the members of the Task Force differ in their appraisal of these doctrines, they agree that, in their more extended applications, they introduced many elements of uncertainty and unpredictability relatively concentrated market and the acquisition, together with other vertical integration in the same industry, would result in substantial foreclosure of competing firms from a market supplying or purchasing from the concentrated industry. In many cases,

vertical acquisitions which might be attacked under section 7 would in any case be unlawful under section 1(a) or 1(b) of this Act, so that the need for particularly contrived applications of vertical acquisition doctrines would be minimized. As noted in the Report, the Act may in some cases prevent vertical acquisitions which are not unlawful under section 7. See page III–11.

The Act would apply primarily to conglomerate mergers. Under existing law, a conglomerate merger may be attacked if the effect may be substantially to lessen competition. As more fully discussed in the text of the Report, such attacks have been predicated primarily on the likelihood of reciprocal dealing and on the loss of potential competition. While the members of the Task Force differ in their appraisal of these doctrines, they agree that, in their more extended applications, they introduce many elements of uncertainty and unpredictability into the law. The result is that many lawful mergers with potentially beneficial effects on competition may be discouraged, and that many unlawful mergers with adverse effects on competition may be consumated without attack because the lack of clear and precise standards places an excessive strain on enforcement resources and discourages voluntary compliance. It is believed that the clear prohibitions of section 1(a) and 1(b) would cover most cases which are the subject of legitimate attack under section 7 of the Clayton Act and sections 1 and 2 of the Sherman Act, and that most acquisitions not subject to attack under the proposed Act would have neutral or beneficial effects on competitive market structure. In those cases where acquisitions not subject to the proposed Act have anticompetitive effects, they will still be subject to attack under section 7 of the Clayton Act.

(c) This provision carries forward the substances of a provision, now in section 7 of the Clayton Act, which permits acquisitions of securities for the purpose of investment as distinguished from control. Since the Act does not require any showing of effect on competition, the section 7 references to competition have been omitted. The term "equity security" has been substituted for "stock" in section 7 to conform to the usage of sections 1(a) and 1(b). The term "equity security" is a familiar one, and is used in section 16(a) of the Securities Exchange Act of 1934. Some consideration was given to imposing a percentage limit on equity securities acquired for investment; since the language of section 7 has not given rise to any difficulty, it was felt undesirable to have substantially different standards under the two statutes.

(d) Regulatory approval of a merger results in immunity under the Act to the same extent as under section 7 of the Clayton Act. Although the standards for and effect of regulatory approval under some statutes may be subject to criticism, there is no reason why the effect of approval should differ under the Merger Act and under section 7 of the Clayton Act.

Section 2. Definitions.

(a) A "large firm" is a firm with annual sales in excess of $500 million or assets in excess of $250 million, in either case on a pro forma basis giving effect to acquisitions. In 1967, acquiring companies with assets of $250 million or more accounted for 59% of the assets of acquired manufacturing and mining companies with assets of $10 million or more. As the economy grows and the size of firms increase, it is anticipated that more and more firms will meet the definition of "large firm." In some cases, one or both firms in an acquisition may qualify both as a leading firm and a large firm.

(d) Regulatory approval of a merger results market share in a market in which the four largest firms have a 50% market share, but it does not include any firm which is not among the four firms with the largest market shares in such a market. As more fully described in the text of the Report, the Act is intended to apply to acquisitions by large firms or firms with significant market shares in relatively concentrated industries. Since the Act prevents future acquisitions, unlike the Concentration Act, which undoes existing concentration, a four-firm concentration ratio was picked which was at the lower end of the spectrum in which concentration leads to market performance departing from the competitive norm. It is not believed that the Act would have any significant adverse impact on investment opportunities, since it would permit a wide variety of forms of investment, including entry by internal expansion and entry by acquisition of a relatively small firm, followed by internal expansion.

(c) The definition of "firm" is similar to the definition of "person" in the Clayton Act. Unlike the Clayton Act term, it does not include individuals. It includes any person controlling, controlled by, or under common control with a firm. Thus, in determining whether a firm is a large firm or a leading firm, the assets or sales of its subsidiaries would be considered.

(d) The term "market" has been substituted for the Clayton Act term "line of commerce" in order to permit the court to make sound determinations free of the distortions which have arisen in some Clayton Act cases. In order to exclude extremely narrow market definitions the Act is limited to markets with annual sales of at least $100 million. As the economy grows, the minimum size limit will become of less and less importance.

(e) A firm's "market share" is defined as its proportion of sales in a market. The test is based on shipments rather than the more accurate but less readily available measure of value added. However, the definition of sales in the next subsection is designed to avoid serious distortions from use of this measure.

(f) "Sales" are defined by reference to amounts which would be reported pursuant to the Securities Exchange Act of 1934. Some elaboration is necessary since the Securities Exchange Act does not, and even with additional divisional reporting requirements would not, require reporting of sales in every conceivable market. Language is added at the end to indicate that, for purposes of determining sales in a particular market, the definition of sales is not limited to goods or services sold outside an enterprise. Thus, differences in the degree of vertical integration would not affect market shares.

(g) Like sales, "assets" are defined by reference to the Securities and Exchange Act of 1934.

(h) There are three "base years." The most recent base year will have ended at least six months prior to the date of an acquisition. This takes account of necessary delays in gathering and reporting figures.

(i) "Commerce" is defined substantially in the same terms as in the Clayton Act, and is designed to exhaust congressional power under the Commerce Clause.

Section 3. Injunctive Relief in Private Actions.

This provision is modeled on section 16 of the Clayton Act, but private parties may seek relief only prior to and not after completion of an acquisition. The Act is not one of the "antitrust laws" for which treble damage relief is available under the Clayton Act.

Section 4. Enforcement.

The Attorney General is authorized to enforce the Act. Title 28 of the United States Code should also be amended to cover venue, jurisdiction, and other details of procedure.

APPENDIX C. REVISION OF SECTIONS 2 (a), (b), AND (f) OF THE ROBINSON-PATMAN ACT

The attached revision of sections (2) (a), (b), and (f) of the Robinson-Patman Act is based on the following premises:

(1) There are many reasons for price discrimination and most of them are related to the improved functioning of the competitive system.

(2) It is possible for price discrimination to adversely affect competition, but such instances are exceptional.

(3) A statute designed to restrict price discrimination must therefore be narrowly drawn, so that the important benefits of price discrimination will not be lost in an excessive effort to curb limited instances of harm.

(4) Revision of the Robinson-Patman Act is preferable to its repeal, since repeal would not preclude the wholesale transfer of Robinson-Patman doctrine to sections 1 and 2 of the Sherman Act and section 5 of the Federal Trade Commission Act.

The proposed revision is divided into a number of subsections which are discussed seriatim.

Subsection (a) defines the jurisdictional scope of the law and, among other things, expands the scope of the statute to reach "the sale, lease, transfer or provision of any commodity or service," provided the latter are of "like grade and quality."

Subsection (b) defines the circumstances in which a discrimination may be found to have an adverse effect upon competition in the "primary" or "secondary" line, narrowing the scope of liability appreciably.

Subsection (c) carries forward the "meeting competition" defense of the present Act with a special provision to govern the situation where the price being met is an unlawful price.

Subsection (d) covers the "cost justification" defense of the present Act with some modifications. Among other things, the defense is liberalized by making allowance for approximations, estimates and reasonable classifications.

Subsection (e) includes the "changing conditions" defense of the present Act and makes explicit the present implied defense of "availability"—*i.e.*, a person cannot complain of discrimination if the lower price was equally available to him on reasonable terms.

Subsection (f) continues the Act's exemption for refusals to deal (with one minor qualification).

Subsection (g) carries forward, in substantially the same terms, the existing provision for buyer liability.

Subsection (h) deprives the Federal Trade Commission of authority to challenge discriminatory practices under section 5 of the Federal Trade Commission Act.

Subsection (i) imposes a time limitation on antidiscrimination orders.

"(a) That it shall be unlawful for any person in the course of commerce to discriminate, either directly or indirectly, in the exaction of consideration for the sale, lease, transfer or provision of any commodity or service where (i) the two or more transactions involved in the discrimination involve commodities or services of like grade and quality, (ii) such commodities or services are sold, leased, transferred or provided for use, consumption, or resale within the United States or any place under the jurisdiction of the United States, and (iii) the effect of the discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce."

Comment: Subsection (a) is the "jurisdictional" portion of the proposed revision. It removes a number of irrational limitations upon the scope of the present antidiscrimination law.

The Robinson-Patman Act is presently limited to *sales* of *commodities*. The revision covers the leasing or other transfer of commodities, as well as the provision of services.

The Robinson-Patman Act requires that the person granting the discrimination be "engaged in commerce"; that the discrimination occur "in the course of such commerce"; and that "either or any of the purchases involved in such discrimination [be] in commerce." Obviously, if the last require-

ment is met, the first two also would be satisfied, so the section as it stands contains redundant requirements. In the proposed revision, the second requirement is retained and the other two are omitted. This gives the section a scope compatible with the Constitution and consistent with most other provisions of the antitrust laws.

The requirement of "like grade and quality" in the present Act is retained. This limitation sometimes produces irrational results, but it appears to be administratively necessary, particularly if the scope of the section is extended beyond commodities to services. For further discussion of the "like grade and quality" restriction, see the comment under subsection 2(e) of the proposed revision.

The proposed revision retains the "directly or indirectly" language of the Robinson-Patman Act and substitutes "exaction of consideration" for "price." This broad terminology is compatible with the extension of the scope of the provision to transactions in addition to sales of commodities; it also embraces the transactions formerly covered by sections 2(c), 2(d) and 2(e) of the Robinson-Patman Act, which are omitted in the proposed revision.

Like the present Act, the proposed revision applies only to discrimination among transactions in goods or services to be used within the United States. Discriminations between domestic and international transactions are governed by international treaties, such as the General Agreement on Tariffs and Trade, and by the Anti-Dumping Act.

The final qualifying clause, pertaining to anticompetitive effects, has been modified in the proposed revision. The scope of the modification is developed more fully in connection with subsection (b) of the proposed revision.

"(b) A discrimination shall be held to have the effect described in subsection (a) only where:

"(i) The recipient of the benefit of the discrimination is in competition with others not granted the same treatment, the discrimination is substantial in amount, and the discrimination is part of a pattern which systematically favors larger competitors over their smaller rivals; or

"(ii) The recipient of the benefit of the discrimination is in competition with others not granted the same treatment, the discrimination is substantial in amount, and the discrimination imminently threatens to eliminate from a line of commerce one or more competitors whose survival is significant to the maintenance of competition in that line of commerce; or

"(iii) The person granting the discrimination is in competition with others serving significantly more limited areas (territories or classes of customers which are relevant lines of commerce) the discrimination is restricted to one or more such limited areas (representing a small part of the total area served by the person granting the discrimination), the consideration exacted in such limited areas is less than the reasonably anticipated long-run average cost of serving those areas (including capital costs), and the discrimination imminently threatens to eliminate from such a limited area one or more competitors whose survival is significant to the maintenance of competition in that area.

Provided, however, that the survival of a competitor is not significant to the maintenance of competition where, in the line of commerce or area affected, the number of competitors remaining, or the ease with which new competitors may enter, indicates that effective competition will not be suppressed for an appreciable period of time."

Comment: The Robinson-Patman Act provides that a discrimination is unlawful where the effect "may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them." The proposed revision of subsection (a) retains the first part of the proviso—up to and including "line of commerce"—and deletes the remainder. The deleted language had two unfortunate consequences:

First, it tended to focus the attention of courts, and enforcement agencies upon the plight of individual competitors rather than the state of competition in the line of commerce affected. Efforts to preserve individual competitors sometimes seriously restricted the forces of competition.

Second, the deleted language applied, *inter alia,* to the preservation of competition with "customers" of "any person who . . . knowingly receives the benefit of [the] discrimination"—the so-called "tertiary line." This basis of liability suggested that a producer, granting a functional discount, might be obliged to police the resale prices of its distributors in order to assure that they did not undercut the producer in its sales to competitors of the distributors' customers. The proposed revision eliminates this perversion of antitrust policy.

These changes were achieved in subsection (a) of the proposed revision. The purpose of subsection (b) is to provide further assurance that the anti-discrimination law will not be employed to protect individual competitors at the expense of competition. It proceeds on the premise that price flexibility is an important aspect of competition, that discrimination is an important aspect of price flexibility, and that the benefits of price flexibility and discrimination should not be needlessly sacrificed.

Subsection (b)(i) codifies the holding in *FTC* v. *Morton Salt Co.,* 334 U.S. 37 (1948), applicable to situations where favored and disfavored buyers compete with one another—so-called "secondary line" cases. But that holding is restricted to its particular facts—a systematic pattern of price discrimination favoring large buyers over small. Where such a pattern exists, the discrimination—if substantial in amount—is likely to have harmful effects at the buyer level, in the long run if not the short. If the discrimination cannot be justified under one of the available defenses, it is unlikely that these harmful effects will be offset by any important beneficial consequences. And since the prohibition applies only to systematic patterns of price discrimination, this provision should produce no serious inroads on day-to-day price competition among sellers. There are a few Court of Appeals decisions which tend in the direction proposed. See *American Oil Co.* v. *FTC,* 325 F. 2d 101 (7th Cir. 1963), cert. denied, 377 U.S. 954 (1964); *Foremost Dairies, Inc.,* v. *FTC,* 348 F. 2d 674 (5th Cir. 1965).

Subsection (b)(ii) covers other instances of "secondary line" injury. Where the discrimination represents an *ad hoc* response to a particular competitive situation rather than a systematic pattern, a more stringent standard is made applicable. In order to foster and preserve flexibility in pricing, such discriminations are made unlawful only if (1) they imminently threaten to destroy one or more competitors, (2) the demise of such competitor(s) will significantly impair competition at the buyer level by leaving less than an adequate number of competitors at that level, and (3) entry of new competitors at the buyer level is not relatively easy. The emphasis here is on the state of competition at the buyer level rather than the preservation of individual buyers. This marks a radical departure from existing practice, which at times has based "secondary line" violations upon nothing more than substantial price differentials.

Subsection (b)(iii) deals with instances of "primary line" injury in similarly stringent fashion. Where the claim is that the discrimination is adversely affecting a competitor of the discriminator, there is the distinct possibility that the competitor is really seeking relief from competition. Accordingly, it is desirable that the scope of liability be narrowly circumscribed. This is accomplished by requiring that there be a significant disparity between the areas served by the discriminator and the smaller competitors; that the discrimination be limited to a small part of the discriminator's area of operation; that the lower price be less than reasonably anticipated long-run average costs; and that the discrimination threaten the imminent adverse effects upon competition described in connection with subsection (b)(ii). Among other things, this revision would clearly reverse the result in *Utah Pie Co.* v. *Continental Baking Co.,* 87 S. Ct. 1326 (1967).

In the case of the cost standard, consideration was given to suggesting that some variation of marginal costs be employed as the measure. This approach was rejected, despite its considerable appeal, because of the controversy it would assuredly arouse and the great confusion that would attend its definition and application. Instead, average costs (including capital costs) were employed in conjunction with two qualifications: (1) relevant costs are those reasonably to be anticipated, permitting some degree of experimentation; and (2) relevant costs are long-run costs, so that price reductions designed to build volume may be justified if the volume would bring costs down to price. A price which meets this standard is consistent with the goal of long-term efficiency and should not be held to be unlawful. Hopefully the other limitations on liability will obviate the need to examine costs in a great many instances.

No reference is made to "predatory intent," and none of the standards specified calls for a finding on the issue of "predatory intent." Interpretations of intent are particularly perilous in this area and, as illustrated by the *Utah Pie* case, the concept may be manipulated to support improper results.

"(c) It shall be a defense to a charge of discrimination that the lesser exaction of consideration was made in good faith to meet an equally low exaction of a competitor. The defense shall be allowed even though the equally low exaction of the competitor is unlawful, except in a suit seeking prospective relief against all or substantially all of the competitors practicing the discrimination; in the latter event, a discrimination otherwise unlawful may not be justified as meeting an equally low exaction of a competitor if the latter's exaction is unlawful."

Comment: The "meeting competition" defense is patterned after section 2(b) of the Robinson-Patman Act. The changes of language in the first sentence are for the sole purpose of conforming this subsection to the jurisdictional scope of subsection (a).

The remainder of subsection (c) is intended to deal with the difficult problems presented where a discrimination is sought to be justified by reliance on a competitive offer which is, or may be, unlawful. The existing law on this point is not wholly consistent. There is some suggestion that the competitive prices being met must be lawful, *FTC* v. *Staley Mfg. Co.,* 324 U.S. 746 (1945); or at least that the seller must not have knowledge of their illegality, *Standard Oil Co.* v. *Brown,* 238 F. 2d 54 (5th Cir. 1956). But *Callaway Mills Co.* v. *FTC,* 362 F. 2d 435 (5th Cir. 1966), allowed the meeting competition defense without regard to the apparent illegality of the competitive prices being set (evidently because the FTC had not passed on the issue). None of these solutions is entirely satisfactory.

If sellers are permitted to meet unlawful prices, without limitation, it may be impossible to remedy an industry-wide pattern of

discrimination. The enforcement agencies would be compelled to identify the initiator of the pattern and this could well be an impossible task. Moreover, from the vantage point of obtaining prospective relief, the identity of the initiator is irrelevant.

On the other hand, if a seller is not permitted to meet unlawful prices, he is placed in an unenviable position. If the illegality of the competitive price is clear, the seller is precluded from competing effectively at a time when he is exposed to the worst kind of competitive assault; and presumably the unlawful competitive price will impair competition whether or not it is met by the seller. If the illegality of the competitive price is unclear, the seller must make a judgment as to its legality—which may be extremely difficult given the information available to the seller and the standard of legality applicable to the discrimination. Nor does it suffice to say that all doubts will be resolved in favor of the seller. For that merely raises the other horn of the dilemma, and poses a major obstacle to remedying widespread patterns of discrimination.

The proposed solution is to distinguish in terms of the relief sought. Where the only issue is prospective relief, all doubts will be resolved in favor of the prompt termination of the discriminatory pattern. By contrast, where damages are sought, the plaintiff will be obliged to track down the culprit whose initial unlawful discrimination is the ultimate cause of the plaintiff's difficulties.

The proposed revision also requires that the enforcement agency proceed against all or substantially all of the competitors practicing the discrimination if it wishes to avoid the "meeting competition" defense.

The proposed revision does not attempt to deal with other aspects of the "meeting competition" defense, in the hope and expectation that the Courts of Appeals will follow existing trends in removing encumbrances attached to the defense by a hostile Federal Trade Commission. See, for example:

Sunshine Biscuits, Inc. v. *FTC*, 306 F. 2d 48 (7th Cir. 1962) (rejecting FTC view that defense was available only for retaining old customers and was not applicable to obtaining new customers).

Forster Mfg. Co. v. *FTC*, 335 F. 2d 47 (1st Cir. 1964), cert. denied, 380 U.S. 906 (1965) (rejecting FTC position that seller must have "proof positive . . . of the amount of the competitive offers and the names of the bidders who made them").

Callaway Mills Co. v. *FTC*, 362 F. 2d 435 (5th Cir. 1966) (rejecting FTC position that seller could not meet competitor's "system" of price discrimination; several other limiting qualifications also were invalidated).

"(d) It shall be a defense to a charge of discrimination that the lesser exaction of consideration makes an appropriate allowance for differences in the cost of manufacture, distribution, sale, or delivery resulting from the differing methods or quantities involved in the transactions in question. An allowance is appropriate where the difference in consideration does not substantially exceed the difference in cost; where the difference in consideration does not exceed a reasonable estimate of the difference in cost; or where the difference in consideration is the result of a reasonable system of classifying transactions which is based on characteristics affecting cost of manufacture, distribution, sale or delivery, under which differences in consideration between classes approximate differences in cost. If a system of classification is held to be unlawful, the court or agency so ruling should indicate either (i) that the seller's customers are so similar in pertinent characteristics that no system of classification would be valid, or (ii) that a system of classification described by the court or agency may properly be employed in lieu of the one held to be unlawful.

Comment: The proposed revision makes a number of changes in the cost justification defense.

First, it includes differences in the cost of distribution among those which may justify a difference in the consideration exacted.

Second, it eliminates the power of the Federal Trade Commission to impose quantity limits upon price differentials justified by cost.

Third, it permits differences in consideration which make "appropriate" allowances for differences in cost. Appropriate allowances include those which (1) approximate the difference in consideration exacted; (2) are based on reasonable estimates; or (3) are based on a reasonable system of classification.

It is important that discrimination which reflect differences in cost be permitted. But if excessive exactitude is required in the proof of cost differences, sellers will be reluctant to charge different prices even though they reasonably believe that such price differences are justified by differences in cost. Moreover, it is vital that price differences be permitted as between different classes of transactions, for this is often the only practical means by which difference in costs may be translated into differences in prices. When a court or agency invalidates price differences based on classifications, it should be prepared to say either: (a) that all of the seller's customers are so similar to one another that no system of classification is permissible; or (b) that some defined system of classification may be used in place of the one held to be defective. See *FTC* v. *Standard Motor Products, Inc.*, 371 F. 2d 613 (2d Cir. 1967); *cf. United States* v. *Borden Co.*, 370 U.S. 460 (1962).

"(e) It shall be a defense to a charge of discrimination that the lesser exaction of consideration was in response to changing conditions affecting the market for or the marketability of the commodities or services involved, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned. A charge of discrimination also may be rebutted by proof that the lesser exaction of consideration was available, on reasonably practicable conditions, to the person or persons allegedly discriminated against."

Comment: The first sentence of subsection (e) carries forward the "changing conditions" defense from section 2(a) of the Robinson-Patman Act.

The second sentence of this subsection makes explicit a defense which is probably implicit in the present Act. See *Tri-Valley Packing Ass'n.* v. *FTC*, 329 F. 2d 694, 703–704 (9th Cir. 1964). If an alleged discrimination is available to both favored and disfavored buyers on reasonable grounds, and the latter choose not to take steps to obtain the benefit of the discrimination, the seller should not be held responsible. Thus, discounts for prompt payment are widely granted and have not been challenged as unlawful discriminations.

The defense of availability is important in another context. The jurisdictional scope of the proposed revision is limited to commodities or services of "like grade and quality". This is a vague concept and susceptible to broad or narrow interpretation by the courts and enforcement agencies. When in doubt, the seller can protect himself against an overly broad interpretation by offering the allegedly distinctive items to all customers on comparable terms. Under the proposed revision, such an offer would protect the seller against any charge based on "secondary line" injury and might prove to be of value in a "primary line" case as well. See *Borden Co.* v. *FTC*, 381 F. 2d 175 (5th Cir. 1967), on remand from 383 U.S. 637 (1966).

"(f) Nothing herein contained shall prevent any person from refusing to deal with any other person. *Provided, however,* that the offer to deal on discriminatory terms shall be treated as a completed transaction for the purpose of according relief under this section."

Comment: The first sentence of proposed subsection (f) is derived from section 2(b) of the Robinson-Patman Act: "nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade." The language is substantially modified to take account of the broadened jurisdictional scope of subsection (a). The reference to "restraint of trade" is omitted, since the Sherman Act provides a more appropriate frame of reference for such conduct.

The second sentence, which is a proviso to the first, is intended to remedy a possible jurisdictional defect in the present Act. Some courts have held that two completed transactions are required to constitute a violation, and it is possible that a buyer quoted a discriminatory high price may have to complete the transaction in order to have a right to relief. This requirement has no merit and is here expressly negatived. The seller's right to refuse to deal is maintained, since the proviso comes into play only where the seller chooses to quote terms to a prospective customer.

"(g) That it shall be unlawful for any person knowingly to induce or receive a discrimination which is prohibited by this section."

Comment: Subsection (g) of the proposed revision is based on section 2(f) of the Robinson-Patman Act. The language pertaining to commerce has been omitted as unnecessary. The discrimination induced or received must be "prohibited by this section", which means that the jurisdictional requirements of subsection (a), including the commerce requirement, must be met. This should suffice.

The "knowingly" requirement has been retained with the view that the buyer, in order to be charged with a violation, should have actual or constructive knowledge that he is the recipient of an illegal discrimination. See *Automatic Canteen Co.* v. *FTC*, 346 U.S. 61 (1953).

Even though the provision for buyer's liability has been retained in substantially its present form, the practical scope of the provision has been narrowed considerably. First, a violation by the buyer depends upon a showing that there has been a violation by the seller; and various revisions in the earlier subsections make it less likely that sellers will violate the section. Second, and more importantly, the revisions relative to seller liability make it more difficult to predict when a seller will be found to be in violation of the section and thus make it less likely that the buyer will have actual or constructive knowledge of those seller violations that actually occur. In effect, the buyer is liable only when he becomes a knowing accomplice to a clear violation by the seller.

Whether this constriction of buyer liability is desirable or not depends upon the view one takes of hard bargaining between seller and buyer. The proposed revision is based on the premise that such bargaining is generally desirable, and that the undesirable instances, where a buyer's bargaining power is pushed to extreme lengths, are the exceptions. The limited scope of buyer liability reflects this judgment, as well as the fact that most of the relevant information for distinguishing proper from improper justifications is more accessible to the seller than to the buyer.

"(h) Section 5 of the Federal Trade Commission Act shall not be held to prohibit any discrimination in the exaction of consideration for the sale, lease, transfer or provision

of commodities or serivces, or the receipt of any such discrimination."

Comment: At various points in drafting the preceding provisions, limitations have been imposed on the scope of liability under the anti-discrimination law. These limitations reflected a variety of factors and a balancing of considerations pro and con. If, however, the Federal Trade Commission remains free to challenge discriminatory practices under section 5 of the Federal Trade Commission Act, it can overturn any judgment against liability in a particular case by the simple expedient of bringing suit under section 5. See *FTC* v. *Brown Shoe Co.*, 384 U.S. 316 (1966). Proposed subsection (h) eliminates this option.

"(i) Any order issued to enforce this section shall remain in effect for a limited time, stipulated at the time of entry and reasonably related to the nature of the violation. In no case shall an order remain in effect more than five years after the date of issue."

Comment: Cease and desist orders issued by the FTC, and injunctions issued by the courts, apparently can remain in effect in perpetuity, or at least until the party subject to their terms can secure their modification. In the case of pricing practices, this is an undesirable state of affairs. Violations of either kind of decree can subject the seller to severe penalties, and the decrees therefore inhibit flexibility in pricing. Presumably such inhibition was warranted at the time the order was entered, but there is no reason to believe that the order must remain in effect forever.

Proposed subsection (i) provides for the imposition of time limits, and sets five years as the maximum period of effectiveness for an antidiscrimination order.

APPENDIX D.—PROPOSED PATENT LEGISLATION

Filing of License Agreements

SECTION 1. (a) Every person who has granted a license with respect to any patent shall, within ——— days, file with the Commissioner of Patents a copy of such license and the name and address of the person granting such license, unless a license substantially identical in all respects except the name of the licensee has been previously filed by such person with the Commissioner of Patents. The Commissioner of Patents shall promptly publish a list of such licenses and addresses, and shall make available copies of such licenses (deleting the names of licensees).

(b) If any license required by subsection (a) to be filed with respect to any patent is not timely filed, then (i) the owner of such patent may not, prior to filing such license, bring or maintain any action for infringement of such patent; (ii) the owner of such patent may not obtain any damages or injunctive or other relief with respect to any act of infringement of such patent occurring prior to the filing of such license; (iii) the owner of such patent may not collect any royalties or other consideration under any license with respect to such patent for the use or practice of such patent, and any person who has paid such royalties or other consideration may maintain an action in any court of competent jurisdiction for the recovery of such royalties or consideration or their value, together with the costs of maintaining such action (including reasonable counsel fees).

Failure To Enforce Patents

SEC. 2. In any action for infringement of a patent in which the defendant establishes that the owner of the patent knew of activities of a third person which the owner of the patent had reason to believe constituted an infringement of such patent in the same field and area of use as the defendant's alleged infringement, and that the owner of such patent has not taken diligent action reasonable in light of the commercial importance of the infringement and other circumstances to enforce the patent against such third person, no relief shall be allowed.

Nondiscriminatory Grant of Licenses

SEC. 3. (a) Except as provided in subsection (d) of this section 3, every person who has granted any license with respect to any patent shall, within 30 days of the receipt of a demand therefor from any person, grant to such person a license with respect to such patent, which license shall be neither more restrictive nor less favorable in any respect than any license previously issued by such person with respect to such patent; *provided, however,* that the obligations required to be performed by such person shall not include or reflect (i) the grant to the owner of the patent, by a person previously granted a license with respect to such patent, of a license with respect to any industrial property right; (ii) any performance or undertaking to the owner of the patent by a person previously granted a license with respect to such patent of any other obligation or undertaking that is uniquely within the capability of such person; (iii) any restriction which has the effect of making the prior license exclusive; or (iv) any obligation, performance, grant or undertaking in lieu of any of the foregoing; *provided, further,* that nothing herein shall affect the validity of any license or group of licenses requiring any of the foregoing obligations to be performed.

(b) Notwithstanding any provision to the contrary in any law or agreement, the enforceability or invalidity of a license with respect to any industrial property right or of any obligations therein which the owner of a patent could require to be performed by a qualified applicant shall not affect or be affected by the unenforceability or invalidity of any other such license.

(c) Notwithstanding any provision to the contrary in any license or agreement and notwithstanding any other provision of law, no license or agreement shall preclude the grant of subsequent licenses required by subsection (b) of this section 3 to be granted.

(d) A patent owner need not grant a license pursuant to subsection (a) of this section 3—

(i) to a person who, the patent owner establishes in an action pursuant to section 4, is not a qualified applicant because he may prove financially unable, or because of business reputation may prove unlikely, to comply with the terms of the license demanded; *provided, however,* that the court may order the license to be issued subject to such conditions as the court may find adequate to protect the financial interest of the patent owner;

(ii) with respect to any patent if the patent owner establishes, in a proceeding before the Federal Trade Commission, prior to the grant of any license with respect to such patent in the field of use and area which is the subject of such license, that the grant of an exclusive license or licenses in a field or fields of use and an area or areas is necessary in order to obtain commercial exploitation of the patent and will not tend substantially to lessen competition.

Action To Obtain License

SECTION 4. Any person who has demanded a license in accordance with the terms of section 3 and who has not received such a license within 30 days after serving such demand on the patent owner may enforce the rights created by this Act by suit in any court of competent jurisdiction. Pending the outcome of such suit, the patent owner may not obtain injunctive relief against such person with respect to any alleged infringement which would not be an infringement if such person had received the license demanded.

Definitions

SEC. 5. As used in this Act—

(a) the term "license" shall mean every license, assignment or agreement of any kind, expressed or implied, including a covenant not to sue or a settlement of litigation or interference proceedings, entered into or extended after the effective date of this Act or expiring after ——, 19—, by which a patentee, the original owner of any industrial property right, or anyone acquiring a patent or industrial property right in a transaction of the kind referred to in the second proviso to this subsection (a) directly or indirectly authorizes or permits another to make, use, sell or otherwise practise such patent or industrial property right or any invention embodied therein; *provided, however,* that the term "license" shall not include an implied license obtained by a person who purchases or leases or otherwise acquires a patented product from, or who manufactures a patented product for, a patent owner; and *provided, further,* that the term "license" shall not include any license, assignment, or agreement pursuant to which a patentee, original owner of an industrial property right or any transferee from either of them in a transaction of the kind referred to in this proviso transfers to another the entirety of such patentee's or owner's right, title and interest in any patent or industrial property right, including a transfer the consideration for which is measured in whole or in part by use of the patent.

(b) The term "industrial property right" shall mean any right with respect to any invention and the use thereof within the United States, whether or not such invention is subject to a patent.

(c) The term "patent" shall mean any United States patent, whether issued before or after the effective date of this Act.

(d) The term "person" or "persons" shall include corporations and associations existing under or authorized by the laws of the United States, any of the Territories, any State, or any foreign country, and shall include any person controlling, controlled by, or under common control with a person.

Comments to accompany proposed patent legislation

Section 1. Filing of License Agreements: (a) This provision implements our recommendation that patent licenses be filed, to expose possible antitrust violations to the light of day. There is legislative precedent for such a requirement in existing law, which requires that interference settlements be filed. Information filed should be adequate to permit antitrust enforcement authorities to determine whether additional information is needed. If so, it may be obtained pursuant to the Antitrust Civil Process Act.

If the patent law is revised along the lines of pending bills which provide for a pre-grant infringement remedy, references to patents should be expanded in section 1 and elsewhere in the Act to include patent applications with respect to which a pre-grant infringement remedy is available.

This provision should be enacted even if the other sections of the proposed patent legislation are not. In addition, it is a necessary adjunct to the nondiscriminatory licensing requirement of section 3.

(b) This subsection is designed to add effective sanctions to the filing requirement. The disabilities are intended to create sufficient financial risk so that patent owners will file on time. Criminal penalties are probably inappropriate in view of the somewhat openended definition of "license" and the possibilities of differences in interpretation of the filing requirement.

Section 2. Failure to Enforce Patents: This provision is designed to avoid concealed discrimination and circumvention of the filing requirement by failure to enforce patents against others. It does not require that an infringement action have been instituted against the third party, since it might be reasonable for the owner of the patent to settle without litigation. The introduction of

a standard of reasonableness avoids requiring the patent owner to vindicate his patent by bringing action against infringements which are *de minimis*. In general, action to enforce a patent will be reasonable if the owner of the patent pursues one or more representative test cases in good faith and makes reasonable arrangements to notify other known infringers and to ensure that other alleged infringements will abide the result of such test cases.

This provision should be enacted even if the other sections of the proposed patent legislation are not. In addition, it is a necessary adjunct of the non-discriminatory licensing requirement of section 3 and a desirable adjunct of the filing requirement of section 1.

Section 3. Nondiscriminatory Grant of Licenses: (a) The requirement of nondiscriminatory licensing is intended to minimize the possibility that license agreements can confer a share of patent monopoly profits on licensees. In general, such an arrangement suggests that the patent is either legally vulnerable or not economically valuable. In such cases, patent licenses can serve to neutralize those who are most likely to launch a successful attack on the patent, and they may serve as a pretext for cartelization.

The applicant is entitled to a license "neither more restrictive nor less favorable in any respect than any license previously issued." This language would entitle the applicant to a license identical to any license previously issued. It would not entitle him to pick a favorable royalty provision from one license, a favorable field of use provision from another license, and so on.

Although a license may still be made in consideration of a cross-license, the first proviso establishes a strong incentive for granting separate licenses, each with a cash royalty. If a subsequent licensee were required to comply with provisions in the original license which, by their terms or otherwise, could be complied with only by the original licensee or a small group of licensees, the purpose of the Act in promoting open licensing (except as provided in the second exception in subsection (d)) might be frustrated. The three phases in this proviso are intended to exclude this possibility and to give the courts ample power to deal with unforeseeable types of provisions which have the effect of making licenses exclusive.

(b) The foregoing provisions might induce patent owners who would otherwise enter into cross-license agreements to license each other for cash royalties which are higher than they would ordinarily be but which are intended to be offsetting. The effect would be to exclude third parties entitled to licenses unless they were willing to pay inflated royalties. This provision is designed to increase the risks in establishing high but offsetting royalties. Since each license agreement may be enforced without regard to the enforceability of the other, a patent owner will hesitate to agree to royalties which are above the fair value of a patent but are intended to be offsetting.

(c) This provision is necessary to avoid exclusion of the operation of the Act by contract. It does not prevent a patentee from excluding his own practice of the patent.

(d) The first exception protects the patent owner from financially and otherwise irresponsible licensees. The second is analogous to the judicially created exception to section 3 of the Clayton Act for exclusive dealerships necessary to obtain dealers. For the patentee's own protection, as well as to avoid litigation, the question of such necessity must be determined before any license is granted in a particular field or area of use. Such necessity would arise only in cases where exploitation could not be obtained through conveyance of the patentee's entire interest for a consideration based on future use.

Section 4. Action to Obtain License: This section suspends the patent owner's injunctive remedy for infringement pending the resolution of an action to obtain a license. Thus, prolonged litigation will not frustrate the purpose of the Act.

Section 5. Definitions: (a) This definition of "license" is designed to be sufficiently broad to reach any agreement with respect to any patent or industrial property right, other than an agreement transferring the owner's entire interest. In that case, the statute would apply to any license granted by the transferee. Under this definition, a sublicense of a patent would not be a patent license, because the licensee granting sublicenses would be neither a patentee nor a transferee of the entire right, title and interest in a patent. Thus, a licensee could himself discriminate among sublicensees; their appropriate response would be to apply for direct licenses.

The definition is limited to licenses granted after the effective date of the Act. Therefore, the terms of licenses granted prior to the effective date of the Act need not be made freely available to all. If the Act had been in effect, a patent owner might not have granted a license, or might have granted a license on other terms.

The first proviso is designed to avoid interference with transactions which are not primarily licensing arrangements. The "including" phrase in the second proviso is designed to permit a patent owner to dispose of his patent to another in a better position to exploit it. An acquisition falling within the proviso might, however, be an asset acquisition within the meaning of section 7 of the Clayton Act or might be in violation of section 1 or section 2 of the Sherman Act.

(b) "Industrial property right" is a term broad enough to encompass patents, but is not limited to patents.

(c) Patents are restricted to United States patents. Unlike the license definition, which refers only to licenses granted after the effective date of the Act, the patent definition is not so restricted. There is no real problem of retroactivity, since it is not likely that knowledge that the Act would be passed would have influenced decisions to apply for or acquire a patent.

(d) The definition is similar to the definition of "firm" in the other proposed statutes. Since the Act rests on the patent power and not on the commerce power, it is not limited to persons engaged in interstate and foreign commerce.

APPENDIX E.—ADDITIONAL LEGISLATION

I. Amendment to Antitrust Civil Process Act to require premerger notification

Section 3 of the Antitrust Civil Process Act is amended by adding thereto a new subsection (g) which shall read as follows:

"(g) The Attorney General may by regulation require that any person or persons acquiring, or planning, proposing or agreeing to acquire, any other person or persons, or any person, or persons being acquired by, or planning, proposing or agreeing to be acquired by, any other person or persons, and any officer, director or partner of any such person, file with the Attorney General, at such time or times, not earlier than 30 days prior to the effective date of an acquisition, as shall be specified in such regulation, such documentary material and other information as shall be specified in such regulation; *provided, however,* that such regulation shall not impose any requirement which, by reason of subsection (3) of this section 3, could not be contained in a civil investigative demand."

Comment: This provision authorizes the Attorney General to adopt regulations establishing advance reporting requirements for mergers, and imposing responsibility for compliance on specified officers of firms involved in such mergers. Such reporting requirements will permit more efficient enforcement of the merger prohibitions in the antitrust laws and in merger legislation proposed in the Report. In many cases, particularly under legislation proposed in the Report, it should be possible to resolve merger actions before consummation of mergers, rather than unscrambling mergers after consummation. In order to prevent unduly burdensome requirements, the statute limits the timing of required reports to 30 days in advance of a merger, and it prevents the Attorney General from requiring any information privileged under the Antitrust Civil Process Act.

The regulations would probably not be as broad as the statute. For example, the formation of a subsidiary other than a joint venture would generally not be of antitrust significance. In addition, acquisitions involving a small acquiring or acquired firm should probably be excluded, as should most portfolio investments and some kinds of partial asset acquisitions.

II. Criminal provisions relating to premerger notification

Add the following section to title 18 of the United States Code:

"(a) Any person, or any officer, director or partner of any person, who willfully fails to file any report required to be filed by such person or officer, director or partner pursuant to regulation under authority of section 3(g) of the Antitrust Civil Process Act shall be fined not more than $_____, or imprisoned not more than _____, or both. Such failure with respect to each day of failure to file shall constitute a separate offense.

(b) Any person, or any officer, director or partner of any person, who willfully files or causes to be filed any report required to be filed by such person or officer, director or partner pursuant to regulation under authority of section 3(g) of the Antitrust Civil Process Act, which report is false or incomplete in any substantial respect, shall be fined not more than $_____ or imprisoned not more than _____, or both. Such failure with respect to each report shall constitute a separate offense."

Comment: This section implements the premerger notification requirement by imposing criminal penalties. Subsection (a) penalizes failure to file, and makes each day of failure to file a separate offense. Subsection (b) penalizes willfully filing false or incomplete reports. Under both subsections, officers, directors or partners made responsible for filing under the regulations would be criminally liable.

III. Amendments to Antitrust Civil Process Act to cover legislation proposed by task force

Section 2 of the Antitrust Civil Process Act hereby amended to read as follows:

"(a) The term "antitrust law" includes:

"* * * * *

"(3) The Merger Act;

"(4) The Concentrated Industries Act;

"(5) Any statute hereafter enacted by the Congress which prohibits, or makes available to the United States in any court of the United States any civil remedy with respect to (a) any restraint upon or monopolization of interstate or foreign trade or commerce, or (b) any unfair trade practice in or affecting such commerce;

"* * * * *

"(d) The term "antitrust violation" means any act or omission in violation of any antitrust law or any antitrust order, or any state of facts which would justify an investigation under section 1(a) or a judgment under section 1(c) of the Concentrated Industries Act;"

Comment: Paragraphs (3) and (4) are added to subsection (a) and subsection (d) is added to cover other legislation proposed in the Report. Paragraph (5) is identical to former paragraph (3).

IV. Addition of section 4C to the Clayton Act

A new section 4C is added to the Clayton Act, to read as follows:

"Any action to enforce any cause of action arising by reason of violation of section 7 of an Act entitled "An Act To supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved Otcober 15, 1914, as amended, or section 1 of the Merger Act or by reason of an acquisition in violation of section 1 or section 2 of an Act entitled "An Act To protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, as amended, shall be forever barred unless commenced within ten years after the latest of the following dates: the date of such acquisition, the date of filing any report required to be filed with respect to such acquisition pursuant to regulation adopted under subsection (g) of section 3 of the Antitrust Civil Process Act or the effective date of this Act. No cause of action barred under existing law on the effective date of this Act shall be revived by this Act."

Comment: This provision imposes a ten-year statute of limitations for proceedings under section 7 of the Clayton Act, the proposed Merger Act, or acquisitions in violation of section 1 or 2 of the Sherman Act. It does not prevent consideration, in a monopolization action under section 2, of a time-barred merger not itself alleged to be unlawful but part of a pattern of monopolization. The provision does not require the Government to proceed prior to consummation of a merger. It provides a ten-year grace period for proceedings against mergers occurring prior to its effective date. The statutory period is tolled if a required premerger notification is late.

V. *Duration of antitrust decreases*

"Any order, decree, or injunction issued by the Federal Trade Commission or any court, by consent or otherwise, to enforce any of the antitrust laws (as defined in section 1 of the act entitled "An Act To supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, as amended) or the Federal Trade Commission Act, shall remain in effect for a limited time reasonably related to the nature of the violation or threatened violation, and in no case shall an order, decree or injunction remain in effect more than ten years after the date of issue (or, in the case of an order, decree or injunction issued prior to the effective date of this Act, more than ten years after the effective date of this Act); *provided, however,* that upon appropriate motion made prior to the expiration of such limited time or ten-year period, the Federal Trade Commission or court which issued the order decree or injunction (including any extension thereof pursuant to this proviso) may extend the same in its original form or as modified for a further period of not more than ten years."

Comment: This provision is designed to minimize the possibility that changing conditions will render a decree obsolete, either because it is ineffective or because it is anticompetitive in effect. Since the proviso permits any number of ten-year extensions, the Federal Trade Commission or court will retain ample power to deal with situations which require an order of longer duration than ten years. Our proposed revision of the Robinson-Patman Act would limit decrees and orders under that Act to five years, with no provision for renewal.

APPENDIX F.—GLOSSARY

Acquisition: We use this term interchangeably with merger. It includes all forms of mergers and acquisitions, including statutory mergers and acquisitions of stocks or assets, whether for cash or securities or both.

Clayton Act: Enacted in 1914. Section 7, amended in 1950 by the Celler-Kefauver Act, prohibits mergers or acquisitions of stock or assets where the effect may be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the country. Other provisions include a prohibition on price discrimination (which, as amended, is referred to as the Robinson-Patman Act), prohibition on exclusive dealing and tying arrangements, and various procedural provisions (including a provision for private actions for violations of the antitrust laws).

Concentration ratio: The aggregate market share of the number of firms with respect to which the concentration ratio is computed, *e.g.*, four-firm concentration ratio.

Conglomerate: Refers to an acquisition which is neither vertical nor horizontal. Includes product extension and market extension mergers.

Digits: See SIC.

Four-digit product or industry: See SIC.

Horizontal: Refers to an acquisition involving competitors in the same market.

Market: A collection of buyers and sellers whose transactions determine the price of a commodity or service. The buyers or sellers, or both, may and do trade in various parts of the market, which may be accessible areas within which traders or commodities or services move, or accessible products whose prices exert a decisive influence upon the price of the commodity or service in question.

Market extension: Refers to a conglomerate merger involving two firms which produce goods which are identical or substitutable but are sold in different geographical markets.

Merger: We use this term interchangeably with acquisition. It includes all forms of mergers and acquisitions, including statutory mergers and acquisitions of stock or assets, whether for cash or securities or both.

Product extension: Refers to a conglomerate merger involving two firms which produce goods which are not identical or substitutable but may be related in methods of production or distribution.

Robinson-Patman Act: The price-discrimination law; originally section 2 of the Clayton Act.

Sherman Act: The first major antitrust law, enacted in 1890. Section 1 prohibits contracts, combinations and conspiracies in restraint of trade. Section 2 prohibits monopolization or attempts to monopolize.

SIC: The Standard Industrial Classification developed by the Bureau of the Budget for statistical purposes, and usually considered as including the Census product classification. Products or industries are classified by number. The number of digits in the classification is an indication of the detail of the classification. An example of a two-digit major industry group is Group 28, Chemicals and Allied Products. An example of a four-digit industry is 2841, Soap and other detergents, except specialty cleaners. An example of a five-digit product class is 28412, Soaps except specialty cleaners, bulk. An example of a seven-digit product is 28412 41, Scouring cleansers, with or without abrasives. These categories do not necessarily reflect relevant markets.

Vertical: Refers to an acquisition involving two firms in a supplier-customer relationship.

SEPARATE STATEMENT OF ROBERT H. BORK

The Task Force's major recommendations seem to me to rest on erroneous analysis and inadequate empirical investigations. Their net effect seems more likely to injure consumers than to aid them.

The Concentrated Industries Act

This statute proposes to break up the leading firms in "concentrated" industries on the theory that such industry structures cause noncompetitive pricing behavior. The evidence for this was certain studies which purported to show a correlation between industry concentration and profitability.

My objection to the proposed statute is that the studies relied upon are shaky and open to question and that the correlation, if it were shown to exist, would prove nothing. The latter point is by far the more important and I will discuss it along.

In judging whether it is worthwhile to break up a concentrated industry structure it is necessary to estimate whether more will be gained through the predicted end to noncompetitive pricing or lost through the destruction of industrial efficiency. When the structure has been created by recent merger or by predatory business practices, neither of which necessarily demonstrates efficiency, a policy of dissolution is intelligible. But those cases are taken care of respectively, by amended section 7 of the Clayton Act and section 2 of the Sherman Act. The proposed statute, therfore, would have its impact almost entirely upon industries in which concentration had evolved through the growth of the leading firms or through mergers that occurred years ago. Amended section 7 of the Clayton Act now enables the government to reach any merger within the past 18 years and as time goes on the proposed statute will apply almost entirely to firms that reached large size through internal growth.

The dissolution of such firms would be a disservice to consumers and to national strength. When firms grow to sizes that create concentration or when such a structure is created by merger and persists for many years, there is a very strong prima facie case that the firms' sizes are related to efficiency. By efficiency I mean "competitive effectiveness" within the bounds of the law, and competitive effectiveness means service to consumers. If the leading firms in a concentrated industry are restricting their output in order to obtain prices above the competitive level, their efficiencies must be sufficiently superior to that of all actual and potential rivals to offset that behavior. Were this not so, rivals would be enabled to expand their market shares because of the abnormally high prices and would thus deconcentrate the industry. Market rivalry thus automatically weighs the respective influences of efficiency and output restriction and arrives at the firm sizes and industry structures that serve consumers best. There is, therefore, no need for the proposed Concentrated Industries Act, and, in fact, its results would be detrimental.

THE MERGER ACT

The rationale of the Merger Act is that conglomerate acquisitions should be diverted from the leading firms in the industry in which the acquired firm operates to the smaller firms. This diversion of the efficiencies created by conglomerate mergers will, it is contended, benefit consumers by deconcentrating the industries involved.

This statute may easily be shown to be a prescription for decreasing the consumer benefits that conglomerate acquisitions are capable of creating. A conglomerate acquisition is not a way of creating monopoly power. It adds nothing to the market share of the acquired firm and any monopoly position that firm may already have will be paid for in the purchase price. The investment will provide only a competitive return unless the acquiring firm can bring efficiencies to the acquired firm. If this is so, the acquiring firm's choice of one firm in the industry rather than another as a merger partner must be dictated by considerations of efficiency potential. Thus, the statute will either shift the acquisition to a less preferred firm, causing a decrease in the efficiencies realized, or cause the abandonment of any plan to acquire a unit in that industry, causing a complete loss of expected efficiencies.

It is no answer to say the frustrated acquiring firm could achieve the same efficiencies by entering the market through growth. The same analysis as that above shows that the forced shift from acquisition to growth

would impose a higher cost, which is a cost to society as well as to the firm. If the higher cost is prohibitive, all efficiencies expected from merger will be lost.

The preferences of firms contemplating conglomerate acquisitions can only be explained on grounds of differential efficiency. By frustrating this preference, the Merger Act, like the Concentrated Industries Act, operates on the principle that industrial fragmentation is to be preferred for its own sake to industrial efficiency. If we agree that antitrust is about consumer welfare, I cannot accept such a principle; indeed, I cannot even understand it.

The Patent Licensing Act

We have given too little attention to the patent field for me to be able to agree to the changes proposed. In particular, the proposal that a patentee who licenses one applicant must license all upon equal terms seems ill-advised. It assumes, without any theoretical or empirical support, that such a practice (even when there is no price, territory, or output restriction in the license) is a method of cartelization. It assumes further, contrary to what we know of analogous business contexts, that there are no valuable efficiencies in an exclusive dealing policy. Though we have not studied the matter sufficiently to permit a confident estimate either way, our present information suggests that this requirement is a mistake.

The revision of the Robinson-Patman Act

I sympathize with the attempt to make the Robinson-Patman Act a more rational statute, but three factors prevent me from agreeing whole-heartedly to this revision. *First*, the coverage of the Act ought not to be extended to services. *Second*, I doubt that the sections defining injury to competition will have the effect of substantially confining the enforcement agencies and the courts. *Third*, a number of us probably think that the entire Act should be repealed and I think we should say so.

The repeal of the Miller-Tydings and McGuire Acts

Contrary to the Task Force Report's wholly unsupported assertion, the case against resale price maintenance is not at all persuasive. From the consumer point of view, there is a case against resale price maintenance when it is no more than a cover for a dealer cartel, but there is a strong case for the practice when a manufacturer desires to use it to improve his dealers' performance. I would recommend federal legislation approving the latter form of resale price maintenance, whether or not a State Fair Trade law has been complied with, as entirely consistent with the purposes and the spirit of antitrust.

Other matters

I agree with the recommendations that a 10-year limit be set upon attempts to undo old mergers, that antitrust decrees be limited to 10 years duration (though I think the court should not have the power to renew the decrees for additional periods), and that the regulated industries should be studied with a view to substituting antitrust and market controls for regulation where possible. As to the other matters discussed, we have too little information to make recommendations. I know at least that I do.

SEPARATE STATEMENT OF PAUL W. MAC AVOY

I would like to offer some comparative reflections on the two major recommendations—the Concentrated Industries Act and the Merger Act.

The reason for drafting these Acts is that they move us toward establishing and preserving competitive conditions throughout the economy. There is necessarily some hesitancy in pursuit of such an aspiration, because there are costs imposed by radical new legislation in disrupting continuing institutions or dislocating resources. There may also be costs in the long run from operating at competitive but less than efficient scale. But these costs are overweighed by the benefits of reduced price-cost margins, increased efficiency and growth, that mark highly competitive industries. As I understand the argument, the *general* good overweighs *particular* losses.

The report on the Concentrated Industries Act makes this argument quite strongly. Economic evidence, from a large number of research articles and monographs on the relation of concentration to industry performance, provides a sound basis for predicting general effects from reducing industry concentration. The lack of evidence indicating general loss of efficiencies from deconcentration furnishes further strong support for this policy. There is substantial basis on which to conclude that "remedies to reduce concentration should be made available as part of a comprehensive antitrust policy." More work remains to be done to establish that oligopolies of four or five firms can be expected to restrict output and raise price under most or all market conditions, but the evidence presently available is strong enough to provide rationale for this legislation.

There does not seem to be a similar factual basis for the Merger Act. There is no set of research materials showing a relationship between concentration of general economic activity in conglomerates and anticompetitive behavior. This evidence is necessary if "the case" for new legislation is to be as comprehensive as that for the Concentrated Industries Act—if there is to be a general expectation of increased competition from changing the present patterns of conglomerate growth.

The lack of such evidence is not oversight. A thorough review of existing literature produces no such finding; some preliminary, extremely new material from Charles Berry at Princeton University may well establish the opposite case, or that the recent growth patterns of conglomerates—including patterns precluded by the proposed Act—have added to the competitiveness of industry structure. Another round of research may bring findings that substantiate the opposite; but these require a much higher level of economic research activity than now exists.

In place of factual support for the Merger Act, we have some very delicately worded assertions: "Potentially anticompetitive mergers may be allowed to proceed because economy theory and analytical foresight are inadequate to predict anticompetitive effects in specific cases. . . ." This is a problem of concern in all aspects of behavior of firms in private markets. I would propose, if it were to be taken seriously, that we move from a market economy to one of state regulation to minimize this risk. More serious is the fear that, without new legislation, the courts will extend existing law because of objections based on considerations other than effects on competition, leading to "distortions which would result in uncertainties in enforcement and unfairness to those affected."

The means for preventing such distortions is to pass a law not quite as bad as "free form" court interpretations; on this ground, the Merger Act surely qualifies, but it still may be second best to alternative legislation which better defines the problems and contrives means for solving it. That is to say that I do not think this Merger Act, while sufficient for preventing the court from acting unfairly, is necessarily the best means for doing so.

I would propose that a moratorium be put on both court decisions and legislation on conglomerates by the establishment of a Presidential Commission to inquire into the purpose and effects of conglomerate mergers. This commission would be made up of eminent lawyers and economists with the full time staff assistance necessary to carry out full-scale research into conglomerate activity. The form and content of the work done would have to be similar to recent investigations by government into the securities markets. They would analyze statistics and case studies that would provide authoritative bases for recommendations to Congress of new legislation. The process of preparing their report would raise the level of inquiry and the volume of evidence by its mere existence; the findings would be subject to the cross-examination of the experts in both economic and legal professions. They should be of the quality and range of those we had available to us on the behavior of oligopolies.

In retrospect, I have the feeling that the Task Force did well with problems on which documentation was available in some profusion. At least I am proud of my colleagues for their proposals in the Concentrated Industries Act, the revision of the Robinson-Patman Act, and the new patent legislation. But the device of the secret task force does not work well when there is no evidence. Personal impressions where no evidence exists are not enough to produce legislation that meets the needs of the economy.

SEPARATE STATEMENT OF RICHARD E. SHERWOOD

Procrustean is the most polite adjective I can find for the bulk of the Task Force report and recommendations. Mechanistic tests may be easy for enforcement agencies and courts to apply, but that is a feeble reason for abandoning the requirement of proof of actual or probable adverse competitive effects in concrete market situations as a predicate to remedies as drastic as dissolution, divestiture or compulsory patent licensing.

The Task Force has done no case studies on corporate concentration, conglomerate mergers or patent licensing, yet the report speaks as if there were a solid body of evidence in support of each of its recommendations. In my view, bigness is neither presumptively bad nor good; oligopoly is neither presumptively bad nor good; conglomerate mergers between large firms and leading firms are neither presumptively bad nor good; and single patent licenses are neither presumptively bad nor good. Each may, in actual market contexts, be appropriate for attack by the Justice Department or the Federal Trade Commission. But in the present state of economic and legal knowledge, the sweeping condemnation which the Task Force has accorded them appears to be rooted in dogmas I do not share. Moreover, the remedies which the Task Force would apply could have a potentially disruptive impact upon American economic life and growth in which potential mischief far outweighs demonstrable benefits.

(1) *Concentrated Industries.* The Task Force report proposes a statute which would place a blanket prohibition (together with a requirement of a substantial reduction of concentration in the direction of individual market shares of 12% or less) upon any market structure in which, for a prescribed period of years, four or fewer firms had an aggregate market share of 70% or more and industry sales exceeded $500,000,000. The proposed statute has no defenses (or discretion) except as to relief, and a firm could resist dissolution or divestiture only if it could demonstrate affirmatively that such remedies "would result in substantial loss of economies of scale," whatever that may mean.

I see no reason for imposing such a straitjacket on big business.[7] Rather, it is my view that the government now has the power to

[7] It would apply, for example, to industries as diverse as aircraft and cereal preparations, and to each oligopolist regardless of its profitability, market behavior, or increasing or decreasing market share.

seek a panoply of equitable relief, on a "shared monopoly" theory under section 2 of the Sherman Act, against the dominant firms in any oligopoly industry where it believes that concentration has produced stagnant market behavior and where it believes that the proposed relief would result in more vigorous competition, lower prices, technological innovation and other benefits to consumers. If the Supreme Court were to refuse to apply section 2 to such a shared monopoly, I would then recommend that section 2 be amended or a new statute enacted empowering the government to proceed where oligopoly conditions have produced a substantial lessening of competition.

As I see it, the difference between the Concentrated Industries Act and the selective approach I have sketched is the difference between a bludgeon and a scalpel.

(2) *Conglomerate Mergers.* The Task Force has recommended a statute which would prohibit flatly any acquisition by a large firm (a firm with $500 million in annual sales or $250 million in assets) of any "leading firm" (a firm with a market share greater than 10% in a market where four or fewer firms have 50% of the market and industry sales exceed $100 million). The Task Force has adduced no evidence that conglomerate mergers have resulted, in general (or in specific), in any lessening of competition in any industry. On the other hand, one certainly cannot say that conglomerate mergers are always procompetitive. Thus, again, the proposed statute tinkers, drastically and unecessarily, with an economic phenomenon which deserves neither sweeping condemnation nor uncritical approval.

In my view, section 7 of the Clayton Act (buttressed by section 1 of the Sherman Act) provides an adequate weapon to attack those conglomerate mergers which may have an adverse effect upon competition. For example, if it can be demonstrated that acquisition by a large firm of a leading firm would tend to impair the ability of other firms to compete or discourage independence entry into an industry, the Justice Department could and should appropriately attack the acquisition.

If, on the other hand, there is no evidence that the acquisition of a leading firm by a large firm will have any substantial adverse impact upon the industry in which the acquisition takes place, then there is no reason for banning the merger. In other words, enforcement agencies should be required to do their economic homework on conglomerate mergers, without benefit of per se rules.

(3) *Patent Licensing.* I agree with the changes recommended by the Task Force in patent licensing except for the requirement that a licensor, if it licenses anyone, must license everyone. Few of the members of the Task Force have had any experience in patent licensing or patent litigation. I certainly have not. There may be instances in which a refusal to license more than one company constitutes part of a scheme for market division, price fixing, or other anticompetitive behavior. But there may also be instances where a licensor, in the exercise of business judgment, has concluded that he will maximize exploitation of a patent (*i.e.*, the largest output of effort by those licensed) if a relatively few licensees participate in its exploitation. The draft statute would require of every patent license either (a) that the licensor be big enough so that it need not license anyone, (b) that the licensor sell the patent to someone who is big enough, or (c) that the licensor license everyone. Such tampering with corporate decision-making requires proof I have not seen.

(4) *Other Matters.*—(a) I agree with the proposed revision of the Robinson-Patman Act, though as a matter of technique I would urge that the Federal Trade Commission pursue powerful buyers with greater frequency then it has.

(b) I agree with the recommendations as to greater information being made available to antitrust enforcement agencies so that their decisions will be better informed.

(c) I agree with the recommendation as to premerger notification and setting a 10-year limit on attempts to undo old mergers.

(d) I agree that antitrust decrees should be limited to ten years in duration.

(e) I agree that the Miller-Tydings and McGuire Acts should be repealed so that state-sanctioned fair trade price-fixing would become unlawful.

One final note. The Task Force has been too kind to the enforcement agencies and to the courts. The Antitrust Division has shown limited imagination and strategic planning in its program for enforcement of the antitrust laws. And it has entered into a number of consent decrees (and obtained a number of litigated decrees) which have done little or nothing to remedy the evils against which they were fashioned. At least as much can be said of the Federal Trade Commission. As a result, cases have been brought that should never have been brought. And other cases have been brought in which the relief was irrelevant or absurd. The courts come off no better than the enforcement agencies. Many decisions may be justified in result but have been accompanied by opinions which are illogical or unintelligible. Other decisions have been both wrong and badly reasoned. Judicial bias against bigness in the Section 7 sector has resulted in a retreat from hard economic and legal analysis to the lotus-land of percentage tests.[8]

The performance of the courts, and in particular the Supreme Court, bespeaks the desirability of amending the Expediting Act so as to permit the Courts of Appeals to review, hopefully in depth, district court decisions. Such review may not be superior to Supreme Court review, but it cannot be more cursory, and the Supreme Court would continue to be available for ultimate discretionary review.

ROBERT PATRICELLI NAMED TO TOP POST IN HEW

Mr. DODD. Mr. President, yesterday, Secretary Robert H. Finch, of the Department of Health, Education, and Welfare, announced the appointment of Robert E. Patricelli as Deputy Assistant Secretary of Planning and Interdepartmental Affairs. Secretary Finch also said that Mr. Patricelli will also be his special assistant for Urban Affairs Council. Mr. Patricelli, according to Secretary Finch, will play a key role in the formulation of HEW policies on such programs as model cities, manpower training and providing social services.

Mr. President, I wish to commend Secretary Finch for making this appointment. Mr. Patricelli is an outstanding young man with a record of accomplishment that is hard to beat. I am extremely proud that Robert Patricelli is a native of Hartford, Conn., and the son of Mr. and Mrs. Leonard J. Patricelli. The senior Mr. Patricelli is president of Broadcast Plaza, Inc., operators of WTIC–TV and WTIC radio and is one of the most respected broadcast executives in America.

Prior to joining the Health, Education, and Welfare Department, Mr. Patricelli was minority counsel for the Senate Subcommittee on Employment, Manpower, and Poverty. While with the committee, he did extensive work on juvenile delinquency and manpower training programs. In September 1965, he was appointed a White House Fellow, one of 15 chosen from among 3,100 applicants. He spent the next year in the office of then Secretary of State Dean Rusk, where he handled special projects on Vietnam, congressional presentations, and departmental administration.

Mr. Patricelli graduated from Wesleyan University in 1961. He received his law degree from Harvard in 1965. He and his wife, Susan, have two children and reside in Woodacres, Md.

Mr. President, Robert Patricelli is a fine young man. He is the kind of man we need in government.

S. 2263—INTRODUCTION OF A BILL TO AMEND THE JUVENILE DELINQUENCY PREVENTION AND CONTROL ACT OF 1968

Mr. DODD. Mr. President, last year Congress passed the Juvenile Delinquency Prevention and Control Act of 1968, the second major Federal law to combat youth crime passed in the last 8 years. At that time it was hailed as a major breakthrough in our efforts to help reduce the delinquency problem.

This act was the response of the Congress and the administration to a juvenile crime menace that had reached near critical proportions.

We passed it knowing that arrests of juveniles for serious crimes increased 60 percent from 1960 to 1967.

We passed it knowing that 40 percent of our juvenile population will have an arrest record in the next decade.

And we knew that 70 percent of all offenders were first arrested under the age of 25.

Most serious of all, we knew that young people under 18 years of age have shown the largest increase in the crime of murder of any age group. This increase has been 56 percent since the beginning of this decade.

These were some of the more compelling reasons the Congress passed this legislation and President Johnson signed it into law on August 1, 1968.

For my own part, I have been deeply involved with this act since its inception. Senator Kefauver and I introduced its predecessor in 1961.

I introduced the current act. I testified on it before the Labor and Public Welfare Committee. And I proposed several perfecting amendments to it. One of these amendments, which would provide for delinquencey programs in primary and secondary schools, was accepted on the floor of the Senate and is part of the law today.

I had high hopes for this act together with its other supporters in Congress.

Today, however, I am disappointed to say that this law has failed to prevent or control one single delinquent act.

The main reason for this is our failure to appropriate and release the money to put the act into operation. Congress was asked a modest $25 million for the first

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[8] A lotus-land now codified in Mr. Turner's guidelines.

year of its operation. Of that amount, we authorized only $5 million. The President used $600,000 of that money to fund the Violence Commission. This left about $1.75 for each known delinquent in the country.

But the story gets worse, for even this small amount has yet to be made available to the States and localities as required under the provisions of this law.

Mr. President, if we continue in this vein, we will succeed in killing this legislation without having helped one juvenile delinquent. Then in a year or two we will rise up and denounce the law as ineffective, neglecting to realize that we ourselves made it unworkable.

As a first step, today I introduce a bill that will expedite distribution of the funds authorized for fiscal year 1969 to the States.

The act was intended to encourage States to develop centralized and comprehensive programs for juvenile delinquency prevention and control. Funds were made available for planning, for rehabilitation and prevention services and for other purposes.

Moneys were to be granted either to the States to be allocated to localities or nonprofit organizations through a central State agency, or directly to localities or nonprofit organizations.

There was a strong preference among some segments in Congress for making grants to State agencies under the so-called State plan.

Today, however, we find that in many cases the State plan has proven to be a liability rather than an asset.

This is because section 131 of the act provides that funding grants under the State plan can go only to local agencies and nonprofit organizations, and that these funds cannot be used for aiding programs or projects carried out by State agencies.

This is a serious handicap in those States that have accomplished a significant centralization of delinquency control services under State auspices.

I know that this is a serious handicap in my own State because Connecticut, which has a State-operated juvenile court system and correctional system, will be prevented from financially aiding these agencies. These two systems alone handle the bulk of the delinquents of Connecticut.

In these cases where the States have already extended State aid by operating what were formerly local delinquent control programs the State agencies now need the Federal aid that would have otherwise gone to local programs.

It is absurd to deny Federal aid to those very States that have been the most compliant with the objectives of the State plan as envisioned by its supporters in Congress.

To accomplish this purpose I offer my amendment to section 131(b)(1) of the act which will permit States to use funds for State as well as local programs and projects. This will in no way change any of the goals of the act and will in no way discriminate against local agencies in obtaining grants for their own programs under the act.

Mr. President, I ask that the following letters be printed in the RECORD at this point. They are from David R. Weinstein, deputy director of the Planning Committee on Criminal Administration for the State of Connecticut, and George B. Trubow, executive director of the Governor's Commission on Law Enforcement and the Administration of Justice for the State of Maryland. They outline the problems the States of Connecticut and Maryland are having in complying with the provisions of the Juvenile Delinquency Prevention and Control Act of 1968.

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

STATE OF CONNECTICUT
PLANNING COMMITTEE ON
CRIMINAL ADMINISTRATION,
Hartford, Conn., May 6, 1969.

Hon. THOMAS J. DODD,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR DODD: The Planning Committee on Criminal Administration has been designated by Governor Dempsey to administer the Juvenile Delinquency Prevention and Control Act of 1968. Several provisions of the Act have caused us great concern.

Under Section 132 of the Juvenile Delinquency Prevention and Control Act of 1968, until a state has submitted and had approved a comprehensive juvenile delinquency plan, the Secretary of HEW may make direct grants to state, local and private grantees. Following submission of the state plan and its approval by HEW, grants to state, local and private agencies can be made only through a single state agency designated for such purpose. If the state chooses to administer the funds available under the Act, it cannot, however, make grants to state agencies.

This anomalous situation arises because Section 131(b)(1) of the Act requires that the state comprehensive plan provide that federal funds must be used *solely* for projects and programs submitted by a community, municipal or other *local* public or private agency. Thus, if the state creates a comprehensive plan, it will be barred from using funds to assist *state* agencies and programs. It states such as Connecticut which have a state operated juvenile court system and state operated juvenile correctional centers, a substantial portion of the agencies which serve juvenile delinquents would be barred from receiving financial aid under the Act.

Further, Section 131(b)(14) requires that the state comprehensive plan provide assurance that the state will furnish at least one-half of the non-federal share of funds required to meet the cost of programs and projects aided under the state plan. This provision only applies if the state files a comprehensive plan. The state is penalized if it chooses to administer the distribution of federal funds for juvenile delinquency programs within the state.

As matters stand now, Connecticut cannot avail itself of the "block grant" approach without cutting off all state agencies from federal aid. The best information we have is that before June 30, 1969, each state will receive from HEW $50,000 for planning, action programs or a combination of the two. If Connecticut elects to use these funds to pursue the route of comprehensive planning for the control or prevention of juvenile delinquency, it will, if it is to protect the interests of state agencies, be forced to take the plan and put it in a drawer and use it only as a general guide.

We know of your continuing interest in the expansion and proper administration of juvenile delinquency programs and hope that you will take our thoughts into account when the present Act comes up for reconsideration.

Sincerely,

DAVID R. WEINSTEIN,
Deputy Director.

EXECUTIVE DEPARTMENT,
STATE OFFICE BUILDING,
Baltimore, Md., May 13, 1969.

Mr. WALTER J. KENNEY, Jr.,
Counsel to Senate Juvenile Subcommittee,
Old Senate Office Building,
Washington, D.C.

DEAR MR. KENNEY: Although the Juvenile Delinquency Prevention and Control Act of 1968 is a forward step in comprehensive planning and program implementation for the prevention, control and treatment of juvenile delinquency, Section 131 of the Act makes impossible any significant participation by the State of Maryland. The present language of that section provides for grants only to local public and non-profit agencies. In Maryland, almost every juvenile program or project is operated by the State Department of Juvenile Services. Maryland is a leader in unifying juvenile affairs programming at a State level, consistent with recommendations of acknowledged experts in the field.

So that Maryland can participate in the grant sections of the Juvenile Prevention and Control Act, the language of Section 131 should be amended to allow action grants to states agencies. Without such a provision the purposes of the Act will be frustrated in the State of Maryland.

Sincerely,

GEORGE B. TRUBOW,
Executive Director.

Mr. DODD. Mr. President, this situation exists in varying degrees in every State in the Nation and constitutes a serious flaw in the act, which my amendment will correct.

Mr. President, for one reason or another we have severely retarded and neglected this legislation. The moneys requested in the original bill were not nearly enough to attack the increasing rate of juvenile delinquency. The amount actually authorized was negligible, and the language of the bill has added to the difficulty of distributing even these meager funds.

I think we can ill afford to forego the benefits which could be achieved with this legislation. I think for the next fiscal year we will have to improve the funding under this act. And I think we may need other improvements as well. Today I merely ask that we improve the language of the bill to facilitate the funding of State programs for this fiscal year, the end of which is only a short month and a half away.

Mr. President, I urge swift and favorable consideration of this amendment.

I ask unanimous consent to have the text of the bill printed at this point in the RECORD.

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

The bill (S. 2263) to expand the participation by State agencies in programs authorized by the Juvenile Delinquency Prevention and Control Act of 1968, introduced by Mr. DODD, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 2263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 131(b)(1) of the Juvenile Delinquency Prevention and Control Act of 1968 is amended by adding at the end thereof a colon and the following: *"Provided,* That the approval of programs or projects by the State agency, designated under subsection (a) of this section, to be carried out by it or by any other State agency shall be deemed an award of a grant to a local public agency, if the State plan contains, in addition to the provisions otherwise required by this section, provisions and assurances (applicable to such project or program) that are fully equivalent to those otherwise required of local public agencies".

PUBLIC FINANCIAL DISCLOSURE BY CERTAIN PUBLIC OFFICIALS—AMENDMENT

AMENDMENT NO. 24

Mr. CASE. Mr. President, once again public confidence in the integrity of our Government has been shaken by reports reflecting on a top official of the Government, in this case a member of the Nation's highest tribunal and most revered institution, the U.S. Supreme Court. And, I believe, confidence will not be restored until Congress makes it mandatory for Supreme Court Justices and all other members of the Federal judiciary—as well as Members of Congress and high officials in the executive branch—to make full, regular, and most importantly, public reports on their income and financial activities.

On April 29 the Senator from Michigan (Mr. HART) and I introduced S. 1993—the Case-Hart bill—to require such disclosure by members of the legislative and executive branches. Joining us as cosponsors were Senators COOK, HATFIELD, JAVITS, MATHIAS, PROXMIRE, SAXBE, SPONG, and TYDINGS.

Today, on behalf of most of the same sponsors and Senators BELLMON, CHURCH, GOODELL, HARRIS, KENNEDY, MANSFIELD, MONDALE, MOSS, MUSKIE, PERCY, and SCOTT, I submit an amendment intended to be proposed by us jointly to S. 1993, to extend its provisions to the judicial branch.

Once considered an intolerable invasion of privacy, public financial disclosure is no longer a novelty. It has become almost routine for presidential candidates. For years now a goodly number of us in the Senate and the House of Representatives have voluntarily made such reports annually. This year, under rules adopted last year, each Member of the Senate and the House had to file both confidential and public reports concerning their income and "outside" activities.

But both Houses sharply limited the nature and scope of the public reports which in both cases are woefully inadequate. To many Members, let alone the public, they seemed like an exercise in hypocrisy.

They have served some purpose, however. To an extent, they have accustomed Members of Congress to the idea of public disclosure. And having dipped a toe into the water, Members will find, I believe, getting all the way in less painful than many have feared.

In the past, it has been argued that the protection of a disclosure requirement is neither needed nor appropriate for the judiciary. Generally speaking, it is true, I believe, that the bench by statute and tradition has maintained more careful standards of conduct than the other branches of Government. Instances of impropriety or corruption of Federal judges, although not unknown, have been relatively few.

Yet the very fact that the judiciary is removed from the political arena makes public disclosure a peculiarly appropriate safeguard of judicial integrity. For judges are traditionally expected to remain silent and make no direct response to criticism, although even the appearance of impropriety can do grievous damage to public trust in a vital element of our political system.

Elected officials can be turned out of office. Executive officials can be dismissed or otherwise disciplined. Federal judges alone are appointed for life. Though this is qualified by the constitutional limitations of "during good behaviour," the process of removal is rarely invoked.

In these circumstances I expect that many members of the Federal judiciary would not object, indeed many would welcome inclusion of the judicial branch, along with the executive and legislative branches, in the adoption of a full public financial disclosure statute. In this connection, it is worth noting that just a few days ago one of the Associate Justices of the U.S. Supreme Court called for full disclosure of sources of income.

No less than with the Congress, a cloud over the bench casts a shadow on not only the institution but all of its members. And, unlike Members of Congress, our Federal judges can hardly take to the hustings to dispel that shadow.

Full public disclosure of income and financial activities offers the same advantages to the Federal judiciary as to the legislative and executive arms of our Government.

Prime among them is its preventive thrust.

The knowledge that one's financial activities and interests will become known is the best possible "stop and think" signal—the surest way to sharpen awareness of any possible conflict of public and private interests.

Second, the requirement for full regular reports puts into the public domain the facts essential to maintain confidence in our court system. And it does so without impairing the independence of the judiciary or the traditional reticence of judges to speak out other than from the bench.

Finally, it will give the judiciary itself information on which, through the judicial conference or other appropriate means, it can take any steps that may be indicated to strengthen observance of the highest standards of judicial conduct.

I am encouraged by the renewed interest shown in the disclosure approach by both Members of Congress and the press. In the last Congress the Senate twice came within four votes of adopting a full disclosure rule for Senators and top Senate staff—and also candidates for the Senate. When I again introduced a disclosure bill a few weeks ago, I was delighted to have so many new Senators join our bipartisan group from prior years. With this amendment the bill covers all three branches of Government.

I hope and believe we can achieve passage this year. Its enactment would be the clearest possible evidence of congressional determination to assure that public office, whether legislative, executive, or judicial, is treated as a public trust.

Mr. President, I ask unanimous consent that at its next printing, the names of the Senator from Oklahoma (Mr. BELLMON), the Senator from Idaho (Mr. CHURCH), the Senator from New York (Mr. GOODELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MANSFIELD), the Senator from California (Mr. MOSS), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Illinois (Mr. PERCY), and the Senator from Pennsylvania (Mr. SCOTT) be added as cosponsors of our bill (S. 1993), to promote public confidence in the integrity of Congress and the executive branch.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. CASE. Mr. President, I ask unanimous consent that at this point in the RECORD there be printed the text of the amendment submitted today, followed by the text of the bill (S. 1993), as it would read with the amendment; and, finally, I ask unanimous consent that there be printed in the RECORD a copy of a letter dated May 27, 1969, which I have received from the Senator from Illinois (Mr. PERCY) asking that he be added as a cosponsor of the Case-Hart bill.

The VICE PRESIDENT. The amendment will be received, printed, and appropriately referred; and, without objection, the amendment, the bill as it would read with the proposed amendment incorporated in it, and the letter will be printed in the RECORD.

The amendment was referred to the Committee on Rules and Administration, as follows:

AMENDMENT NO. 24

On page 1, line 5, strike out the comma and insert in lieu thereof the following: "of the executive branch or any department or agency thereof, each judge or justice of a court of the United States,".

On page 1, line 6, strike out the words "executive or legislative", and insert in lieu thereof the words "legislative, executive, or judicial".

On page 4, line 18, strike out the words "executive or legislative", and insert in lieu thereof the words "legislative, executive, or judicial".

On page 5, between lines 9 and 10, insert the following new paragraph:

"(5) The term 'court of the United States' means each court so defined by section 451, title 28, United States Code, and each of the following courts: the District Court of the Virgin Islands, the District Court of Guam, the Tax Court of the United States, and the Court of Military Appeals."

Amend the title so as to read: "A Bill to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States."

The bill (S. 1993) as amended, would read as follows:

S. 1993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) each Member of the Senate and the House of Representatives (including the Resident Commissioner) each civil or military officer of the executive branch or any department or agency thereof, each judge or justice of a court of the United States, and each employee of the legislative, executive, or judicial branch of the Government of the United States or any department or agency thereof who is compensated at a rate in excess of $18,000 per annum shall file annually, and each individual who is a candidate of a political party in a general election for the office of Senator or Representative, or Resident Commissioner in the House of Representatives but who, at the time he becomes a candidate, does not occupy any such office, shall file within one month after he becomes a candidate for such office, with the Comptroller General a report containing a full and complete statement of—

(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received from any relative or his spouse) received by him or by him and his spouse jointly during the preceding calendar year which exceeds $100 in amount or value; including any fee or other honorarium received by him for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication, and the monetary value of subsistence, entertainment, travel, and other facilities received by him in kind;

(2) the value of each asset held by him, or by him and his spouse jointly, and the amount of each liability owed by him, or by him and his spouse jointly, as of the close of the preceding calendar year;

(3) all dealings in securities or commodities by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year; and

(4) all purchases and sales of real property or any interest therein by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction, during the preceding calendar year.

(b) Except as hereinbefore provided, reports required by this section (other than reports so required by candidates of political parties) shall be filed not later than April 30 of each year. In the case of any person who ceases, prior to such date in any year, to occupy the office or position the occupancy of which imposes upon him the reporting requirements contained in subsection (a) shall file such report on the last day he occupies such office or position, or on such later date, not more than three months after such last day, as the Comptroller General may prescribe.

(c) Reports required by this section shall be in such form and detail as the Comptroller General may prescribe. The Comptroller General may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property, when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities, or purchases and sales of real property of any individual.

(d) Each report required by this section shall be made under penalty for perjury. Any person who willfully fails to file a report required by this section, or who knowingly and willfully files a false report under this section, shall be fined $2,000, or imprisoned for not more than five years, or both.

(e) All reports filed under this section shall be maintained by the Comptroller General as public records which, under such reasonable regulations as he shall prescribe, shall be available for inspection by members of the public.

(f) For the purposes of any report required by this section, an individual shall be considered to have been a Member of the Senate or House of Representatives, a Resident Commissioner, or an officer or employee of the legislative, executive, or judicial branch of the Government of the United States or any department or agency thereof, during any calendar year if he served in any such position for more than six months during such calendar year.

(g) As used in this section—

(1) The term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954.

(2) The term "security" means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b).

(3) The term "commodity" means commodity as defined in section 2 of the Commodity Exchange Act, as amended (7 U.S.C. 2).

(4) The term "dealings in securities or commodities" means any acquisition, holding, withholding, use, transfer, disposition, or other transaction involving any security or commodity.

(5) The term "court of the United States" means each court so defined by section 451, title 28, United States Code, and each of the following courts: the District Court of the Virgin Islands, the District Court of Guam, the Tax Court of the United States, and the Court of Military Appeals.

SEC. 2. Section 5 of the Administrative Procedure Act (5 U.S.C. 1004) is amended by inserting at the end thereof the following new subsection:

"(e) Communications to agency: All written communications and memorandums stating the circumstances, source, and substance of all oral communications made to the agency, or any officer or employee thereof, with respect to such case by any person who is not an officer or employee of the agency shall be made a part of the public record of such case. This subsection shall not apply to communications to any officer, employee, or agent of the agency engaged in the performance of investigative or prosecuting functions for the agency with respect to such case."

The letter presented by Mr. CASE is as follows:

U.S. SENATE,
COMMITTEE ON BANKING AND CURRENCY,
Washington, D.C., May 27, 1969.

Hon. CLIFFORD CASE,
Old Senate Office Building.

DEAR CLIFF: I am pleased to join in sponsoring your bill, S. 1993, as amended, to require full public disclosure of the personal financial interests of Members of Congress, candidates for Congress, top executive branch officials, and federal judges.

I believe that passage of this legislation would constitute an important step in maintaining public confidence in the integrity of federal officials in the legislative, executive, and judicial branches of government. The bill has uniform applicability, rigid guidelines, and most important of all—it enhances the public's right to full knowledge of the outside interests and financial activities of federal officials as well as candidates for congress. It helps reduce the possibility that a federal official would confuse public and private interests.

It is my hope that the 91st Congress enacts this legislation, or a comparable comprehensive public disclosure bill.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. CASE. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. HART and Mr. SCOTT addressed the Chair.

Mr. CASE. Mr. President, I shall be glad to yield to the Senator from Pennsylvania, but first I would like to yield to the cosponsor of the bill, the Senator from Michigan (Mr. HART).

Mr. HART. Mr. President, public confidence in Government demands full disclosure of assets and income by all top Federal officials.

The Case-Hart bill, to which the Senator from New Jersey now offers the amendment, would require full annual disclosure of assets and income by all Federal officials making more than $18,000 annually.

Congress up to now has been seeking to placate public opinion with disclosure measures that really disclose very little. Most of the pertinent information that Senators must file is left safely in sealed envelopes.

So our financial affairs are "on file"—but on file in deep drawers, carefully locked. I fear that where we tried to look virtuous we only succeeded in looking mildly ridiculous.

Full disclosure—it must be understood—is not designed to catch people out, to discover wrongdoing, and to provide a way to prosecute it.

I do not expect it will have very much effect on the affairs of the men to whom it applies, although certainly all of them will feel compelled to scrutinize their dealings in advance with an eye as to how they will look in print.

The big asset to be gained here is the public's confidence in its Government. As that confidence diminishes, our ability to govern diminishes in proportion.

Today's public, Mr. President, is not slow to detect hypocrisy. And let us face it, the rules under which Congress operates today do deserve a degree of skepticism.

I have often heard the argument that Congress need not operate under disclosure rules as strict as we might require of other branches because there is an additional check at work in the legislative: the public's opportunity to vote us out of office periodically.

But is it fair to put forth that argument while being careful to see that the public is given very little information on which to base its judgment? I think not.

Clearly, public concern over the outside income of Federal judges should require—again for the reason of enhancing public confidence—inclusion of the judicial branch in the disclosure procedure.

I thank the Senator for yielding.

Mr. CASE. I thank the Senator from Michigan. Mr. President, to add a personal note, there is no one in the Senate with whom I would be more happy or proud to be associated than the Senator from Michigan.

Mr. President, I yield to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I wish to commend the distinguished Senator from New Jersey for bringing this matter to the attention of the Senate. I think it is salutary.

I mention that the committee of 11 of the judiciary branch is currently reported to be considering the matter of ethics, particularly as affecting the judiciary, but I assume it includes the possibility of disclosure requirements to be promulgated by the Supreme Court or by the judicial conference. If such ethical procedures are recommended by the courts and if they go this far, or perhaps further, then perhaps they will accomplish the purpose. But to keep public attention on this matter I think it desirable that we consider the bill proposed by the Senator from New Jersey. I have joined in sponsoring the measure because I think its purpose good, its intent wise, and its enactment—in this form or in the form of judicial direction, in one form or another—highly desirable.

I thank the Senator.

Mr. CASE. I thank the Senator from Pennsylvania.

Mr. CHURCH. Mr. President, first of all, I congratulate the Senator from New Jersey and the Senator from Michigan (Mr. HART) for the bill they introduce today. For some time now, I have believed that there should be a uniform disclosure requirement applicable to Members of Congress, to highly placed officers of the executive branch, and to the judiciary.

In the past, I have periodically made a voluntary disclosure of my own income and holdings, even though no such requirement has ever been imposed.

The time is long past due for this bill to be favorably considered and passed by the Senate.

I would appreciate it if the Senators responsible for introducing this legislation would permit me to join in cosponsorship of it, along with the other Senators named.

Mr. CASE. I am sure that the other cosponsors will have no objection, and of course I do not. We welcome the Senator from Idaho with open arms.

Mr. CHURCH. I thank the Senator very much.

Mr. CASE. Mr. President, I ask unanimous consent that the name of the Senator from Idaho (Mr. CHURCH) be added as a cosponsor of this bill and to be shown on all subsequent printings of the bill and any amendments.

The VICE PRESIDENT. Without objection, it is so ordered.

IDAHO NEWSPAPERS OPPOSE MINE IN WHITE CLOUDS REGION

Mr. CHURCH. Mr. President, my State of Idaho is richly endowed with natural beauty, but among its choicest diadems is a range of snow-capped mountains called the White Clouds. They are located in central Idaho, north of the famous Sun Valley resort, and their highest peak rises well above 11,000 feet. Often, even in summer, these lofty battlements are encircled by fleecy clouds—making their name most appropriate. Beneath them are fragrant evergreen forests and many small turquoise lakes. It is a roadless wilderness, a mecca for hikers, hunters, and fishermen, and is located on national forest land.

Recently, a mining company applied for permission to construct a road into a mining claim located in the heart of the area, looking eventually to the operation of an open-pit mine to extract molybdenum. This threat to the beauty and serenity of the White Clouds brought a quick reaction from thousands of Idahoans, who have vigorously protested the mining company's application.

Their views have been articulately reinforced by the newspapers of Idaho, many of which have come out in opposition. I ask unanimous consent, Mr. President, to have printed in the RECORD a number of these excellent editorials.

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

[From the Pocatello (Idaho) State Journal, May 14, 1969]

A MATTER OF VALUES

There are many compelling reasons wny Idaho should not permit the White Clouds mountain area to be despoiled by a molybdenum mine, and very few reasons why it should.

American Smelting and Refining Co. wants to develop the open pit mine, and the Forest Service held hearings at Boise and Idaho Falls to explore the matter.

Not surprisingly, a majority of those who attended the hearings opposed the mine. It would be located at the base of Castle Peak, in the heart of the relatively small White Clouds area about 40 miles north of Sun Valley.

There are dozens of small alpine lakes boasting excellent fishing, there is good hunting of goats and deer, and five access roads bring people within easy hiking distance. The area offers unusually fine opportunities for hiking, horseback riding, pack trips, climbing and photography. The number of persons visiting the area has climbed sharply in recent years. With demand soaring for quality outdoor recreation, recreation use of the White Clouds area may be expected to rise accordingly.

It appears unlikely that the area can be preserved in anything like its present form if the mine is developed, although Gov. Don Samuelson, who favors developing the mine, says coexistence is possible.

Richard Woodworth, Idaho Fish and Game director, says the high quality fishing in the area would be destroyed by mineral development. An open pit mine, from which 20,000 tons of mineral is taken daily and processed, with 99.5 per cent of it deposited in a waste pile or settling pond, would foul runoff water. The waste would grow at the rate of six million tons per year.

Molybdenum is not a strategic metal. It is a steel and iron alloy which is in abundant supply with 25 per cent of the U.S. production exported. New mines are being added elsewhere.

American Smelting and Refining spokesmen have estimated a payroll of 350 men, a total investment of $40 million and sizable tax contributions to Idaho and Custer County would result from the mine. Mine proponents also complain that minerals must be mined where they are found, and that wilderness proponents want to lock up millions of acres.

We doubt that many Idahoans would want to stop mining in most areas of the state. But areas such as the White Clouds are scarce and irreplaceable, with higher values for other purposes than mining.

The Forest Service, which is charged with administering the public lands involved in this case, announced in February of this year plans for an intensive study of the area to determine how it can best serve the needs of the American people. The study is expected to take two years, during which no change in the character of the area will be permitted. Minor projects tending to improve the recreation use of the area may be initiated, such as work on trails and installation of minimal sanitation facilities.

Prospecting and mineral development are authorized on most Federal lands, including national forests. Basic authorization originates from the General Mining Laws of 1872. The Forest Service, however, authorizes whether roads may be built into areas and prescribes standards.

There has been agitation in the wake of the White Clouds case to revise the 1872 mining laws, and such a revision would seem to be in order to recognize areas of special significance such as the White Clouds.

In the meantime, there should be no automobile roads into the area, and no disruptive molybdenum mine.

[From the Post-Register]

WHY CASTLE PEAK SHOULD NOT BE MINED

The Castle Peak mining venture in Central Idaho of the American Smelting and Mining Co. cannot be considered in the context of a standard mining claim in a standard forest area.

The White Cloud mountain area is simply not a standard area. It is one of Idaho's unique wilderness treasuries—which should not be lost for all time, as a pack-in or walk-in area, because of the company's projected road and mining operation in the heart of this lake-laced high country.

But some are trying to give this mining project a "business as usual" image—which it decidedly does not have.

What's wrong with a road and a mining operation in the White Clouds? R. J. Bruning, editor of the North Idaho Press, in Wallace, asks.

Mr. Bruning speaks from a setting which cared little about environmental balance in the course of its history . . . and the area shows it. Not that mining is not important to Idaho, mind you, because it is. But Mr. Bruning makes the mistake again of equating the White Clouds with any mining venture anywhere.

The trouble, Mr. Bruning, with a road into the heart of the White Clouds—which is not a large area—is that there are thousands of public roads in the forest but there are precious few areas like the White Clouds. As a matter of fact the current push by the lumbering industry is probably going to see a great many more roads opened up. If Mr. Bruning will sit down now and examine the roads into the national forests and on Bureau of Land Management land over the state, he cannot claim that the public is not served more than adequately in their quest for the forested back country.

But Mr. Bruning misses the big point—and that is the vital importance of preserving those fast disappearing wilderness-type areas which, although small percentagewise as compared against the road-served forested areas, is uniquely endowed for preservation.

This does not mean that the White Clouds are not or will not be used. The Frog Lake area is over-used now. And the Forest Service reported recently that it is considering controls on the time allowed for horses to be in the area because of the fragile ecology of the area as against the heavy use some areas are receiving. It will always be used by the hunters and fishermen, the stone hunters, the photography buffs, and the hikers who pack in or walk in . . . and increasing. But put a road into the area and an open pit mining operation (which we

presume it will be), and something has been irretrievably lost.

Mr. Bruning should ask Idahoans—or those outside of Idaho who have visited it—what sort of value they place on the existing primitive area in Idaho. What would have happened by now to this spectacular country if the Forest Service was not wise enough to preserve it some 50 years ago. And can Mr. Bruning say that the Middle Fork of the Salmon River or the Salmon river country itself is not used? We would refer him to Forest Service statistics on last summer's number of boats and people who fished, hunted, boated and hiked in this area.

The Forest Service gave its own cue on the importance of the preservation factor of this area for recreation, when the regional office recently stated:

". . . Challis National Forest management plans developed prior to the recent mining exploration in the area do not call for development of roads. Under these plans, management emphasis is being given to the area's exceptionally high recreation values."

The Forest Service has kept the area roadless precisely for this purpose.

It should also be pointed out that the taxpayers are paying a big bill for the American Smelting and Mining Co. to irretrievably alter this area. The federal government pays 50 per cent of the mining exploration cost and 50 per cent of the road cost under its minerals incentive program. Fine. We should have a minerals incentive program. But does it have to have the tunnel vision of equating all areas with such unusual areas as the White Cloud? What is particularly questionable is indication by the mining company that it really is still exploring the value of the molybdenum in its White Cloud claim—and is having the taxpayers foot half of the bill to find out. The tragedy is that this "business as usual" attitude is being deployed in an area which, we are confident, Idahoans and the rest of the nation, once familiar with its offering, would want preserved.

And keep in mind, this country is exporting 25 per cent of its molybdenum production.

We hope Idahoans familiarize themselves with the issues involved in the Castle Peak mining venture. We are sure, then, that they will show up in decisive numbers at the Idaho Falls hearing this coming Saturday to protest it, and to ask the Forest Service to apply extraordinary authority to stop it.

[From the Idaho Sunday Statesman, May 11, 1969]

SACRIFICE IDAHO NEEDN'T MAKE

Some treasures—like classic paintings, historical cathedrals, literary classics, beautiful bays, or unusual mountain areas of lofty peaks and clear lakes—have exceptional value. Idaho has such treasure in the White Clouds mountain area northeast of Sun Valley.

Hearings the past two days have explored the question of whether the White Clouds should be opened to an open pit molybdenum mine, and to possible further mining developments. The record indicates that:

Idaho is not forced to accept mining in the White Clouds at this time.

The Forest Service should explore all other possible means of permitting further exploration and evaluation of the mining claims, rather than allowing a road into the area.

A Forest Service land management study of the area already commenced should be completed before any mining is allowed.

Both the state and the nation need to make some judgments about conflicts between mining and other uses in such exceptional areas as the White Clouds. Ways must be sought to protect the most magnificent achievements of nature, without preventing mining from doing its vital job.

Mining people have legitimate concern that too much land will be excluded from mining. The problem is to identify truly exceptional areas, other areas of lesser recreational and aesthetic value, and average areas.

Gov. Don Samuelson lent the prestige of his office to the mining proposal. The governor presented a good summary of the case for a mine in the White Clouds, but we can't agree with some of his assumptions or with his conclusion.

Governor Samuelson said that Idaho's need for economic development transcends other aspects. Spokesmen for American Smelting and Refining Co. estimated a payroll of 350 men, a total investment of $40 million and sizable tax contributions to Idaho and Custer County.

The fundamental issue is the quality of the White Clouds area versus the economics of a mine. People who have been there consider it one of the outstanding scenic and recreation areas of the nation. A mine there is not the same as a mine somewhere else in the Idaho mountains.

Governor Samuelson said that mining and recreation use can coexist. But it seems obvious that an open pit mine, from which 20,000 tons of material is taken daily and processed, with over 99.5 per cent of it deposited in a waste pile or settling pond, is going to have a tremendous impact. Such a waste deposit would grow at the rate of six million tons per year.

A similar molybdenum mine at Climax, Colo., has seen half a mountain removed and put into a settling pond that is measured in miles. Colorado's hikers, fishermen, campers, picnickers, hunters and seekers after scenic grandeur go elsewhere.

Dirctor Richard Woodworth of the Idaho Fish and Games Department said the high quality fishing in the lakes of the White Clouds area would be destroyed. He said full mineral development of the area would severely jeopardize fishing and other uses.

Ernest Day of the Idaho Wildlife Federation pointed out that the proposed road would open the White Clouds to other mineral exploration with heavy equipment. Once a road is built the question of the future of the White Clouds might be permanently determined.

American Smelting has conducted itself well, cooperating with the Forest Service to protect the ecology. Company representatives promised to be conscious of conservation practices. But the sheer dimensions of a molybdenum operaton, recovering less than one half of one per cent of millions of tons of ore, creates an immense obstacle to conservation.

Other mining exploration, and possible development, would have further impact—and could pose threats to the headwaters of the East Fork of the Salmon River.

Thousands of Idahoans enjoy outdoor recreation. Anyone who can walk and who can get away for a day or two can enjoy the White Clouds area. There are five access roads to bring people within easy hiking distance.

The area is relatively small, only eight by 10 miles. It has 54 lakes, and one of the few glaciers in Idaho.

Over the years a sizable percentage of the entire Idaho population can be expected to spend some time there—particularly in view of the publicity the area is receiving after being relatively unknown for years. It is close to Sun Valley and the Stanley Basin and a part of an extremely popular region of recreation use.

Its recreation value has already been recognized by the Forest Service, which has sought to protect its unusual qualities.

Unfortunately, the potential molybdenum discovery is within two miles of Castle Peak, the granddaddy of the White Cloud mountains. It would be wonderful if Idaho could have this mining development, and protect the quality of the White Clouds. It can't have both.

Molybdenum is a steel and iron alloy which contributes to the autos and airplanes that transport people. Increasingly people are using such vehicles for travel to recreation areas like Idaho. Recreation helps create the demand for molybdenum.

The metal is in abundant supply and 25 per cent of the U.S. production is exported. New mines are being added in Canada, the United States and South America. One mine in Colorado, to be opened in 1975, is expected to increase the present level of production by one half. It is not in an area of the quality of the White Clouds.

The big Climax mine in Colorado, with an ore body that is expected to last 30 to 40 years, is not being operated at full capacity. It is obvious that the nation does not presently need this particular mine. If production from this location should become vital in the future the ore would still be there.

The White Clouds are a higher quality area than much of that already included in or suggested for wilderness. It would be far better to have mining in some of those areas than in this particular location.

Present demand for minerals does not require Idaho to surrender the Salmon and St. Joe to dredging, or the White Clouds to open pit mining. The state could retain such exceptional areas, and still have a vital mining industry.

The mining people have a point—that designation of vast areas for non-mining use would seriously impair potentially vital mining needs. In identifying areas that should not be mined, emphasis must be placed on quality, rather than on acreage

Idaho should not lock up millions of acres from mining. But it ought to be able to protect a very few relatively small, exceptionally high quality areas as the White Clouds. Mining and recreation should learn to work together and neither should attempt to lay claim to every acre of mountain terrain in the state.

Mining people tend to say that all areas where minerals can be located should be held open for mining. That proposition should be amended to make an exception for the highest quality recreation areas, particularly when large acreages are not involved.

Testimony at the hearings that the mining industry is aware of growing interest in environmental quality was encouraging. Conservation practices, in exploration and operation, can mitigate the impact of mining on the environment. Spokesmen said the industry is aware of the pressures, has responded to them and will continue to respond.

The outlook for the nation, despite present social problems and unrest, is for a more affluent, automated society with more leisure time. No one could foresee the present attendance levels in Yellowstone and Teton Parks 30 or 40 years ago. What will 30 or 40 years bring to Idaho tourism?

Completion of the Lowman-Stanley highway will open the Stanley-Sun Valley area, which includes the White Clouds, to easier access from the Western side of the state. The problem in the future may be to keep use of areas like the White Clouds down to levels that will avoid destruction of their quality.

What will Idaho people have that other states don't have in years to come if they fail to guard against pollution of the air and water, and fail to protect their most awe-inspiring recreation areas?

Mining has not yet reached its prime nationally or in Idaho. But the state is not so desperate for dollars that it must be anxious to sacrifice the crown jewels of its natural heritage to relatively short term dollar benefits. Mines can be developed and payrolls can be created in other locations in Idaho, and will be. Idaho should be able to have its cake and eat it too, both protecting its highest quality recreation areas and developing its economy. As population grows and industry expands, the value of unique areas like the

White Clouds to the people of the state will multiply.

[From the Messenger-Index, May 15, 1969]

WHITE CLOUDS

It came as no surprise last Friday when Idaho Gov. Don Samuelson threw the weight of his support behind the American Smelting & Refining company plan to mine the White Clouds at the base of Castle peak—no surprise but nonetheless dismaying.

It is dismaying because the office of the Governor and the unquestioned integrity of Governor Samuelson combine to exert great influence on such a decision as now confronts the Forest Service, and on the thinking of the people of Idaho.

The Governor, of course, is very sincere in seeing the White Cloud issue without any emotionalism. For him, efficient business and industry are the guardians of all virtue. Anything that can or might advance the industrial development of the state is right. There is no place for any other value. And even though his obsession with applying "business principles" to the art of government has had very questionable success, the Governor's position in favor of American Smelting & Refining is wholly consistent and predictable.

But among some people there is appreciation for the very special and unique qualities of the White Clouds. A very small area, eight by ten miles, it has no equal anywhere in the United States—not in the Sawtooths, not in the Olympics, nowhere in Appalachia, not even in the Tetons—it is unmatched anywhere for the special quality of its beauty.

The White Clouds is far more rare than diamonds, more rewarding than the greatest factory or the tallest building, more spectacular than the Grand Canyon or the face of the moon. For it is one of those precious things, a special place where man can identify himself with his past and with his future.

And Castle Peak is at the very heart.

It is absolutely incompatible with an open pit molybdenum mine, and would not be even if survival of the nation was thought to depend upon it (there is no shortage of molybdenum).

The pertinent question now is whether the White Clouds, unspoiled, will still be there a thousand years from now.

Most people have seen the mountain of rubble, the barren settling pond of the old Deadwood mine that operated a few years during the World War II. This was an underground mine with a single portal.

Its mill capacity was 100 tons a day.

The proposed Castle Peak mine would be 20,000 tons a day, open pit!

Yes, for a while, it would yield some taxes to Custer county and to the state. For a moment in time it would employ some people, and it might make some big eastern company very rich.

But soon enough it would be stripped out and abandoned. The taxes would dry up, and the people would move elsewhere.

And the White Clouds would be gone forever.

Even the greater-than-molybdenum economic potential of future recreation would be gone for all time, for once such a precious area is roaded under the mineral entry laws, it can be crossed off the face of the earth as anything but an abandoned mine.

A hallmark of civilization is sensitivity to beauty, beauty that is not held accountable to earn a profit or to fill any other need, beauty that is revered for its own sake.

It is most dismaying at this fleeting moment in time that Idaho's Governor, busily wielding the tools of desecration and destruction, is so terribly uncivilized.

Especially so in the light of how very, very long the White Clouds have waited to serve some more noble purpose.

[From the Blackfoot (Idaho) News, May 12, 1969]

LET'S KEEP IDAHO GLORIOUS

It's a glorious experience to live in Idaho! Let it be May when the hills and mountains and mountain parks are swathed in green. Let it be July or August when hot sunshine and water sparkling in irrigation ditches or in cascades from pumping wells combine to produce bumper growths in alfalfa and potato fields. Let it be September or October when aspen and sumac and pine forests produce a panorama of breathtaking beauty.

These thoughts were in mind Saturday morning at the beginning of a drive to Bear Lake for a sailboat cruise on its brilliant blue waters.

Nearly everything, including a smooth cruise and return from Bear Lake by way of the Logan Canyon, then north through the Cache Valley to Preston and so home was calculated to create a day of cameo-like beauty that can never be forgotten.

There were, however, two situations that intruded some feeling of foreboding that our intermountain Eden could be lost.

The first was the cloud of smog, so similar that of Los Angeles, that hung over the city of Pocatello at an early hour of the day. The second was a cloud of similar pollution hovering over the valley a few miles further south in which Inkom is located.

Pocatello was blanketed by a gray cloud produced by the belching smokestacks of the J. R. Simplot and FMC phosphate-producing plants, outlined on the western horizon with their high rising columns of air pollutants. The Inkom valley air was polluted by the smokestack of a cement manufacturing firm.

Industry is needed in Idaho, but industry must not be permitted to foul the air and atmosphere or pollute the streams of Idaho.

It need not be that way. In the past, industry could destroy the quality of life in Wallace, Idaho or Butte, Mont., and it was accepted as a necessary condition of growth for the industry of the state.

It mattered not that the spoilers were enriched at the cost of impoverishment of forests, fields, farms and the creation of a new form of peasantry for the people who remained because of the investment of their lives in an environment that eventually became ruined.

As one drives Interstate Highway 15 over the hills east of Pocatello, one cannot help but consider that few cities of 30,000 or more persons are situated in an area of such natural beauty.

It is unlikely that the people of Pocatello will for much longer accept the rationalization advanced in the past that their smog has about it the smell of money. It just isn't working out that way. Pocatello citizens surely must be weighing the advantages of the fruit of increased industrial payrolls against the civic costs of polluted air, the increased expense of public education of the children of workers at the polluting plants, and the lack of increased property tax valuation due to sharp investment self interest displayed in the location of plants just outside the Bannock County line.

All of the people of Idaho have an interest in the conservation and protection of its splendid natural resources. When industry is permitted to become or remain a spoiler, another precedent for the primacy of industry's right to be free of responsibility for the quality of life that results is established.

It is correct for those of us who understand what shambles uncontrolled exploitation of the land and air has created in other sections of the state and nation to question the desire of the American Smelting and Refining Company to open up a scenic section of central Idaho for strip mining.

For that reason I applaud the response of James Phelps of Pocatello at a hearing in Idaho Falls Saturday on the application of American Smelter and Refining for the strip-mining permit.

When Mr. Phelps asked Keith Whiting, supervisor for ASARCO for the northwest, about the percentage of values in the mining area, he was told by Whiting: "Frankly, I don't think it is any of your business."

This led Mr. Phelps to include within his later statement for the hearing record this remark:

"I submit it is my business and that of others. Mr. Whiting's answer indicated industry will only be so responsible as it is required to be."

Sad, but all too often it is true.

THE NEW CONSERVATION

Mr. CHURCH. Mr. President, on April 22, it was my pleasure to address the Pacific Northwest District Conference of the National Recreation and Park Association in Coeur d'Alene, Idaho.

In that speech, I called on American conservationists to expand the dimensions of their concern and look toward the concept of a new conservation, embracing nothing less than the goal of achieving a healthy and habitable environment for man.

I ask unanimous consent, Mr. President, that the text of my speech be printed in the RECORD.

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

THE NEW CONSERVATION

More than 50 years ago, Theodore Roosevelt sounded the call which has since made conservation a moral imperative for all Americans who feel deeply about the protection and enhancement of the natural heritage of this country. "To skin and exhaust the land instead of using it to increase its usefulness," Roosevelt said, "will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them amplified and developed."

Roosevelt's warning has not gone wholly unheeded. Remarkable achievements have been made in the field of conservation—achievements of which we can all be proud.

In the past 50 years we have seen the enactment of legislation to provide for the regulated use of our land and water against the ravages of erosion, fire, flood, pestilence, crop diseases, and other enemies of man and his resources. We have seen the expansion of the National Forests and the National Park System, the creation of Wilderness Areas, the establishment of a Wild and Scenic Rivers System and a network of National Trails. And the ranks of dedicated conservationists have steadily grown.

Here in Idaho, we can draw satisfaction from the fact that the Wilderness Act insures that the future will not witness the ruination of our great primitive areas. The Wild Rivers Bill, which became law last year, provides Idaho with a major part of the initial Wild Rivers System, assuring us that long stretches of the Salmon and Clearwater Rivers, including the Selway and the Lochsa, will remain sparkling clear, free-flowing streams—among the finest of the unspoiled rivers left in America.

Yet, much remains to be done, even here in Idaho where—more than in any other state save Alaska—vast stretches of our natural inheritance still remain untarnished and untouched.

Further study is underway on the possible future inclusion in the Wild Rivers System of the main stem of the Salmon River, as well as parts of the St. Joe, the Bruneau, the Moyie and Priest Rivers. Beyond this, we must concern ourselves with the spreading pollution in the Snake River in Southern

Idaho, as well as the continuing corruption of Lake Coeur d'Alene itself. In the lofty Stanley Basin, Congress has yet to take final action on legislation to establish the Sawtooth Recreation Area—action I hope will be completed this year.

This is a brief sketch of some of the unfinished business in conservation as it affects Idaho. But tonight, I want to go beyond the immediate conservation targets in Idaho and focus instead upon the larger challenge which confronts the country as a whole.

At one time, conservation was a rather limited concept. Broadly speaking, it dealt with protection, preservation, and prudent management of natural resources—the soil, timber, water and wildlife—against the onslaught of heedless exploitation. The issues were clear-cut; the boundaries carefully laid out. In Teddy Roosevelt's day, the symbol of conservation was the forester, concerned primarily with the proper husbandry of timber resources endangered by those who stripped the forests bare, and left nothing but ugly, denuded land behind them. The second Roosevelt introduced the Civilian Conservation Corps, planting new trees and dealing with the waste caused to our forests by soil erosion and bug infestation. The 1950's witnessed the first great explosion in outdoor recreation, bringing with it the realization that a much more ambitious program was needed to accommodate the burgeoning pressures of our growing population, ever more mobile and affluent, searching for some escape from the congestion of city life. In the 1960's that program emerged, adding new National Parks, seashores, recreation areas, and expanded campgrounds. More important still, the establishment of the Land and Water Conservation Fund by Congress made federal matching funds available for the first time to stimulate the development of outdoor recreational facilities by city, county and state governments.

Today, however, conservation can no longer be considered a matter of simply protecting soil and timber resources, or creating new parks, or preserving wilderness, or protecting wildlife. These are all vital areas of concern, and will remain so in the future. But for conservationists true to their calling, there are new dimensions which we scarcely dreamed of a decade ago, stretching the scope of our endeavor far beyond anything known to the past. These are the horizons of a New Conservation.

Today we face the total task of achieving nothing less than a healthy and habitable environment for man. In this age of uncontrolled technological expansion, we have plundered our environment—the delicately-balanced blanket which Nature has wrapped so thinly around our planet within which all life depends—as though it were an unwreckable and inexhaustible resource.

Prime examples are the pesticides, herbicides and other poisons with which we are now filling our air, our water and our soil to such an alarming degree that Nature's balance may already be permanently upset. The chemists who synthesize these drugs act out of a naive belief that others will insure the safe application of their work. But all too often, the reputed investigations that there will be no ill-effects on the general population, or on animal life, turn out to be little but the wishful thinking of public relations men and advertising executives bent on selling their dangerous wares.

Today, some 600 million pounds of pesticides, herbicides, fungicides, rodenticides and fumigants are used annually in the United States—in other words, some three pounds for every man, woman, and child in our country. Last year the sale of these drugs increased by 10 per cent over the previous year and *by 1985 it is estimated that they will increase sixfold.*

Already, one acre in every ten in America is treated with an average of four pounds of pesticides annually.

Senator Gaylord Nelson, who has just introduced legislation to create a National Commission on Pesticides, has noted that "Through this massive, often unregulated use of highly toxic pesticides, every corner of the earth has been contaminated."

It is nearly impossible to know, let alone describe, the ultimate effect of these drugs on human and animal life. They reach the bloodstreams of every living organism through the soil, the air and the water. It is a never-ending cycle. Plant life is infected through the soil, passing in progressively larger concentrations to wildlife and people through the natural food chain. Lakes and streams accumulate concentrations of pesticides from natural water runoff as well as through direct spraying to kill such insects as flies and mosquitoes. Once in the water, pesticides are passed to plankton and other organic plants which in turn pass them to fish and into the atmosphere through evaporation. The atmosphere, in its cycle, returns the residue to earth both directly and through rainfall.

The consequences are foreboding.

In the Antarctic, where DDT has never been sprayed directly, penguins are showing traces in their blood.

In Alaska, the reindeer are in danger.

In the sea, the blue shell crab is being pushed to the point of no return.

In England, pesticides similar to DDT have been proved the cause of sterility in certain vanishing species of birds.

The Food and Drug Administration recently seized 28,000 pounds of Coho Salmon from Lake Michigan and found them to contain 19 parts per million of DDT and 0.3 (three-tenths) part per million of the drug Dieldrin (pronounced Deel-drin)—concentrations considered hazardous by both the FDA and the World Health Organization.

And, in the Soviet Union, scientists have discovered that workers exposed to DDT for a decade now show symptoms of serious disturbances of stomach and liver functions.

The potential list of such disturbing discoveries is nearly endless. Day after day, newspaper headlines record the accumulating evidence of the danger we face as a result of the new chemistry—from thalidomide, which left hundreds of crippled children in its wake a few years ago, to the killing of thousands of sheep in Utah last year as a result of careless Army experiments in chemical warfare.

These few examples should at least alert us to the work we have to do. In our headlong rush toward cures for specific maladies, insufficient attention has been given to their long-term consequences on our whole environment. Ernest Swift, in his book *Count Down to Survival*, has given us this warning: "Conservation is no longer a pleasant hobby; it is a matter of life and death."

Science has freed us from the drudgery of the past. Applied science has practically inundated us with merchandise. But has this been an unalloyed blessing? Perhaps Robert Hutchins, former president of Chicago University, may be partly right when he says: "Technological progress has merely provided us with more efficient means for going backward."

In our major cities, for example, the ease and convenience of life has steadily deteriorated. Commuters waste hours each day driving back and forth from their downtown office cells to split-level suburbia, imprisoned in their own automobiles. Is a man better off for having to endure bumper-to-bumper traffic on hot, clogged, exhaust-ridden thoroughfares than his forefather who toiled outdoors in the fields and the woods?

When the traffic snarl in Washington becomes unbearable, I often think of Henry David Thoreau and this passage from *Walden*:

"We need the tonic of wilderness, to wade sometimes in the marshes where the bittern and the meadowhen lurk, and hear the booming of the snipe . . ."

Yet, not only is the "tonic of wilderness" an unknown experience for most Americans, it becomes increasingly difficult for the average citizen to find any day-to-day relief from the depressing ugliness of our urban environment.

In 1968, the President's Council on Recreation and Natural Beauty released a publication entitled "From Sea to Shining Sea." The Council found that

"In pursuing survival and greater security, man has tampered with the careful balances in natural systems, sometimes with unintended consequences that endanger his security. He often overlooks the elaborate relations between predators and prey that exist in nature. Frequently, he has waged successful war against one species only to see the resulting unnatural gap filled by disastrous proliferation of another species.

"Man has learned to inoculate himself against deadly plagues, and diseases that once took a dreadful toll have been almost banished from the more advanced societies. Yet simultaneously there has been a tremendous increase in the diseases of urbanization and high pressure living . . . Man is a part of nature and cannot with impunity separate himself from the natural rhythms that have given him nurture during all his previous millennia on this planet . . .

"There are elements of tragedy in man's abuse of nature and of his own promise . . . But there is still opportunity to repair the damaged fabric of life if Americans begin to consider themselves part of the earth's interlocking, interdependent natural system. Americans who learned in the frontier era to 'conquer' nature now need to learn new techniques of cooperating with nature."

The Council felt there is hope that we can learn to "cooperate with nature." But if that hope is to become reality, the New Conservation must point the way toward redressing the imbalance which now exists between man and the whole of his environment.

I'd like you to consider tonight just a few of the areas in which the imbalance has reached crisis proportions.

WATER POLLUTION

Of all our natural resources, undoubtedly the most abused is water. So long as our streams, rivers and lakes could cope with ever-increasing loads of pollution, we were content to let them struggle along. Now, suddenly, the load is too much. We can literally smell the evidence all about us.

In the East, the Merrimack River is filthy brown, bubbling with nauseous gas.

The Hudson River has become an open sewer.

Parts of the Missouri River flow red with blood and offal from slaughter houses.

In the industrial Middle West, the waters are rusty with "pickle Liquor" from steel mills.

Detergent foam flows from taps in many cities.

The Potomac River winds its slimy way past the Nation's Capitol, corroding and despoiling waterside structures and boats.

The mighty Mississippi carries 500 millions tons of mud into the delta every year.

The sordid story is the same in many of our freshwater lakes. Lake Erie, for example, is now a huge chemical tank, reflecting the sky with a dull silver sheen. Oil, chemicals, trash and sewage float on its surface. Every day, 10 million people pump more than 18,000 tons of sewage, chemicals, and fertilizers into the lake, including an estimated daily dose of 150,000 pounds of phosphate. If the lake can be saved—and that remains a big "if"—the cost will run into the billions of dollars. The most optimistic forecast is 20 years for the lake to be flushed clean once all the rivers flowing into it are freed of contaminants.

Recently, Stewart Udall expressed his concern for the invading sickness and pollution

that threaten our total environment. These are his words:

"Today we lead the world in wealth and power, but we also lead in the degradation of human habitat. We have the most cars, and the worst junkyards. We are the most mobile people on earth, and we endure the worst congestion. We produce the most energy, and breathe the foulest air. Our factories pour out the most enticing products, and our rivers carry the heaviest loads of pollution."

AIR POLLUTION

The second major element in the poisoning of our environment is the contamination we daily add to the atmosphere.

There is tragic irony in the sick joke, now making the rounds, of the man from Los Angeles who moved to Coeur d'Alene, but returned to his native city only a few weeks later. Asked why, he replied, "I don't like living in a city where I can't see what I'm breathing."

For more and more Americans, it is now literally possible to see the air they breathe, just as they can smell the water they drink.

Research has shown that "airsheds"—geographical area in the atmosphere similar to watersheds on the ground—have become increasingly polluted.

It is thought, for example, that pollution above Manhattan eventually finds its way into the atmosphere above Philadelphia.

In Los Angeles, three-and-a-half million motor vehicles pump contaminants from exhaust gasses into a relatively small coastal plain surrounded on three sides by mountains. The result is the infamous smog which infects Southern California.

But Los Angeles is not alone—far from it. Virtually every region of the country is now affected by a pollution problem which threatens the public health—from the steel mills near Chicago to the mines of Appalachia, from the pulp mills of the Northwest to the factories of Birmingham.

Air pollution is already a matter of life and death. A study conducted by Dr. Leonard Greenberg of the Albert Einstein College of Medicine revealed that the noxious smog which enveloped New York City during Thanksgiving was directly responsible for 168 deaths. Hundreds of others afflicted with respiratory ailments were hastened to the grave.

Yet we continue to turn out 10 million lethal, internal combustion engines each year to add to the problem. Cities continue to burn their trash and garbage in open pits. Industry continues to pump thousands of tons of solid waste into the atmosphere each year.

How much longer can we stand the toll? If we are insensitive to the actual deaths and the physical ailments inflicted upon our people, perhaps we will at least awaken to the huge monetary loss incurred. As the President's last message on conservation put it, the "economic toll for our neglect amounts to billions of dollars each year."

We have just begun to attack the problem of foul air. The Air Quality Act of 1967 is a start at the national level. But as Senator Edmund Muskie, author of the bill, admits, "Whether or not (this legislation) succeeds depends upon the degree of commitment and cooperation we get from state and local government, from industry, from the taxpayer, and from the citizen."

That means you and me.

NOISE POLLUTION TOO

One of the newer forms of pollution that diminishes the quality of our environment is noise, and it is potentially one of the most dangerous. For the past 30 years, noise levels have risen an estimated average of one decibel per year. Continued at this rate, noise may well outrank water and air pollution as a threat to human health within a short time.

Permanent hearing damage has been shown to result from a steady, overall sound above 95 decibels. Sustained and unpleasant noise is suspected of causing or aggravating many physical ailments, from insomnia to heart disease. The most common affliction attributed to noise is the nervous tension headache—a malady virtually unknown to man until this century.

Yet, jet aircraft daily subject millions of people to thunderous noise. We are currently in the process of producing a supersonic transport which will fly faster than sound—leaving sonic bursts in its wake. We've even conducted experiments in Oklahoma to determine if people can adapt to the fabricated thunder of planes regularly breaking the sound barrier.

RECREATION BOOM

This brings us back to open space and the demands upon it we can expect in the near future. What will we do with the hordes of tourists who will swarm into every nook and cranny of our countryside?

Our best planners anticipate that by 1975, water-based recreation needs will increase by 170 percent over what they were in 1960, and by 400 percent by the year 2000.

The demand for hunting lands will increase by 125 percent by 1975, 200 percent by 2000—and 90 percent of this activity will be on private land.

The demands for camping areas will increase by at least 160 percent by 1975 and by 250 percent by the year 2000.

In discussing this challenge, former Secretary of Agriculture Orville Freeman had this to say:

"Every year, 9 out of 10 Americans—some 175 million of us—are on the move in search of outdoor fun—places to picnic, swim, hunt, fish, play, or just to relax and enjoy the fresh air and sunshine. Great as the demand for such facilities already is, we expect it to *triple* by the end of this century."

While affirming his belief that the challenge can be met, Mr. Freeman warned. "There is one sure way to fail to meet it—that is by attempting to resolve the recreation challenge by itself. We cannot meet it piecemeal. We can adequately meet it only in the context of the total environmental challenge."

CONCLUSION

For the New Conservation, it is man himself who has become the endangered species on this capsule we call earth. Ours may well well be the only planet in all eternity on which life can be sustained. Yet we continue to pollute, and poison, and uglify and degrade the thin layer of soil, water and air on which our very existence depends.

Our eyes smart from nauseous gasses in the atmosphere. Our sense of smell is assaulted by the stench of poisoned rivers. Our ears have ceased to know the tranquility of silence.

We have perfected to the ultimate the art of killing—the thermonuclear arsenals of the world are the equivalent of 10,000 pounds of TNT against the temple of every human inhabitant on earth. But we know less than the ant about the art of living, in terms of planning an environment for survival.

David Brower of the Sierra Club has noted that all life on earth, from plankton to people, is "part of an incredibly complex interwoven blanket spread around the world. There is no losening of one thread in the blanket without changing the stress on every other thread, or worse, unraveling it."

But the rending of our life fabric goes on. If we are to mend it, we must begin now.

Conservation, indeed, has become a "matter of life and death."

SUCCESS OF APOLLO 10'S TRIP TO THE MOON

Mr. DODD. Mr. President, I have been privileged to be a member of the Aeronautical and Space Sciences Committee for 10 years, and believe I should note for the RECORD the great achievement of the brilliant, capable, and truly remarkable astronauts and the completion of their great mission around the moon.

I wish at the same time to pay high compliments to Dr. Paine and General Phillips and their colleagues in the NASA.

Mr. President, I was in Florida at the launching of Apollo 10. It was an awe-inspiring sight. The Vice President was there to grace the occasion with his presence. There was also a great gathering of scientists and important visitors.

I also wish to say this morning, however, Mr. President, that while this is a great accomplishment for the United States of America, NASA, and the Aeronautical and Space Sciences Committee, it is also a compliment to the chairman of the Aeronautical and Space Sciences Committee, the Senator from New Mexico (Mr. ANDERSON).

I think I should point out that we have done something more than complete a successful trip close to the moon. For I am confident that great benefits will accrue to mankind from this trip not only in the United States but also all over the world, benefits of all kinds, some as yet unknown and some already known.

Our space program has helped us to vastly improve our weather forecasting, our communications, and medical science.

The benefits of space research will help agriculture. They will help in understanding the many questions still unanswered regarding our own planet, as well as those about the moon and many other things, too.

I, as one Senator, say with deep feeling, thanks to those wonderful astronauts, thanks to Dr. Thomas O. Paine and his associates at NASA, and thanks to the American people for having made it possible for us to accomplish this mission.

Mr. President, I should like to make clear in the RECORD that we did this out in the open, without any secrecy, or behind closed doors.

I remember in the beginning, there was criticism in some high places and elsewhere because we were doing it all so openly. Some said, "Why must we do it that way, in front of the whole world? The Soviet Union is not showing us anything."

Our answer was, "That is the way to do it. Let us do it openly. Let the American people and others know what we are doing."

Mr. President, I think that is one of the best things we have done. The openness, the full publicity, is a great thing for us and for the world. I have an idea that the Soviet Union may have learned a lesson from it and they will be doing more of the same.

And this may yet prove to be the best return of all. For the world needs openness, politically and scientifically.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS, AND FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE PRESIDENT OF THE UNITED STATES AND THE HOUSE OF REPRESENTATIVES, AND THE VICE PRESIDENT TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING THE ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the adjournment of the Senate from today until noon on Thursday next, all committees be authorized to file their reports, including any minority, individual, or additional views; and that during the same period the Secretary of the Senate be authorized to receive messages from the President of the United States and from the House of Representatives and that they may be appropriately referred; and that the Vice President be authorized to sign duly enrolled bills and joint resolutions.

The VICE PRESIDENT. Without objection, it is so ordered.

S. 2264—INTRODUCTION OF COMMUNICABLE DISEASE CONTROL AMENDMENTS OF 1969

Mr. YARBOROUGH. Mr. President, in January of this year, the preliminary findings of the national nutrition study, which sampled 1,000 preschool children in poverty areas of Texas, reported that:

Nearly one-half had not completed the DPT series for protection against diphtheria, whooping cough, and tetanus;

Only 43 percent had been protected against polio; 56 percent had not received smallpox inoculation; 61 percent had not received a measles injection.

Last year the Vaccination Assistance Act was allowed to lapse.

This year the situation will become more serious if the Department of Health, Education, and Welfare is successful in its plan to dismantle the tuberculosis control program.

Medical authorities point out that the immunization problem is susceptible to vigorous action. But if that action is to be effective, it is essential that we have national leadership and a national commitment to combat those communicable diseases that can be prevented or controlled.

The Senate will recall the experience in the case of poliomyelitis. When a vaccine became available, the Congress approved the Poliomyelitis Vaccine Assistance Act of 1955 and later extended it through June 30, 1957. This financial assistance was instrumental in dramatically reducing the incidence of polio in the United States. But the Federal aid was curtailed in 1957, and by 1960 it became apparent that polio would continue to take a needless toll in pockets of poverty. There were epidemics in Providence, Chicago, and Detroit. In May 1960, a special appropriation of $1 million was approved for the purchase of oral polio vaccine to be used to control epidemics. It was not until 1962 that it became apparent that continuing financial assistance was required and this led to the passage of the Vaccination Assistance Act of 1962. The act was extended for 3 additional years in 1965. The authority expired June 30, 1968, and the States are now spending the last of the funds that have been appropriated.

If the authority for financial assistance to combat polio is allowed to die, it is likely that we will have a repeat of our 1960 experience when we had to make a special appropriation of funds to control polio epidemics. Furthermore, the fact that only one-half of the preschool children in poverty areas are now vaccinated against polio is evidence enough that a straight extension of the Vaccination Assistance Act will not do the job.

German measles is another communicable disease that can be prevented with a vaccine. It is expected that a vaccine for German measles will be licensed in the very near future.

Each year about 50,000 cases of German measles are reported, although the actual incidence is estimated to be approximately 2.5 million. This is a disease that brings mild discomfort to children, but when transmitted to pregnant women, it carries with it risk of death, physical disability, and mental disorder to the unborn child. We are told that approximately 25 percent of the women who have German measles during the first trimester of pregnancy give birth to infants with severe congenital defects. During the 1964 epidemic, 20,000 children were born with congenital abnormalities. A major German measles epidemic is predicted for 1970–71, and it is estimated that there are now some 50 million children who need protection.

Still another communicable disease that can be controlled is tuberculosis. Control has been improving, but it is doubtful that this progress will continue under the 1970 budget amendments pertaining to tuberculosis control submitted by the Department of Health, Education, and Welfare. These budget amendments would eliminate $18 million in project grants for the control of tuberculosis and add $18 million in formula grants that States would be encouraged to use for the control of tuberculosis, venereal diseases and alcoholism. To further complicate the picture, the project grants for tuberculosis control were concentrated in States with the highest incidence of tuberculosis, but the formula grants by law must be allocated on the basis of population and financial need without regard to the extent of the tuberculosis problem. This revision in the allocation of funds will have a serious impact because the new active tuberculosis case rate ranges among the States from a low of 5.5 per 100,000 population to a high of 52 per 100,000. Many States with the most severe tuberculosis problem will lose substantial sums of money in the shift from tuberculosis project grants to formula or block grants.

Although it can be argued that all States need a certain minimum level of funding for the control of tuberculosis, the wide range in incidence rates for tuberculosis among the States makes it apparent that the Federal investment in combating this communicable disease should not be entirely allocated on the basis of population and financial need. The same principle applies with respect to venereal diseases. That is why the bill that I am introducing, the Communicable Disease Control Amendments of 1969, would give recognition to the geographical incidence of communicable diseases in the allocation of funds for their eradication.

This legislation would provide financial assistance to the States to prevent the introduction, transmission or spread of communicable diseases in the United States from foreign countries and from interstate and intrastate sources. Grants would be awarded by the Secretary of Health, Education, and Welfare to States and to political subdivisions of States, with the approval of the State health authority, to assist in financing communicable disease control programs. The grants would finance the purchase of vaccines or other agents for those population groups determined to be epidemiologically important to the control of communicable disease as well as payments for personnel and other program expenses needed for organization, promotion, surveillance and other epidemiological activities.

A most important feature of the legislation is the requirement that the project grants be awarded after the Secretary has given consideration to performance standards. For example, in the case of vaccinations the Secretary would take into account the actual number performed when making awards. Similarly, the number of tuberculosis cases under control would also be one important consideration in the awarding of funds.

If the Federal financial assistance for vaccinations against polio, diphtheria, measles and other diseases that can be prevented or controlled is abolished, we can expect needless suffering and death—a further widening of the health gap. Furthermore, if the funds for the control of tuberculosis are eliminated, we will further widen the health gap. When we have the medical knowledge to prevent illness, our only responsible course of action is to take the steps that are required to secure its application. In this case, the action that is required is the enactment of the Communicable Disease Control Amendments of 1969, which will authorize appropriations of $60 million in fiscal year 1970 and $75 million for each fiscal year thereafter.

Mr. President, I send to the desk the Communicable Disease Control Amendments of 1969 and ask that it be appropriately referred. I ask unanimous consent that the bill be printed in the RECORD.

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

The bill (S. 2264) to amend the Public Health Service Act to provide authorization for grants for communicable disease control, introduced by Mr. YARBOROUGH, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 2264

Be it enacted by the Senate and House of Representatives of the United States of Amer-

ica in Congress assembled, That this Act may be cited as the "Communicable Disease Control Amendments of 1969".

GRANTS FOR COMMUNICABLE DISEASE CONTROL

SEC. 2. Section 361 of the Public Health Service Act (42 U.S.C. 264) is amended by inserting at the end thereof the following new subsection:

"(e)(1) There are hereby authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1970, and $75,000,000 for the fiscal year ending June 30, 1971, and for each fiscal year thereafter, to enable the Secretary to make grants to States and, with the approval of the State health authority, to political subdivisions or instrumentalities of the States under this subsection. In the award of such grants the Secretary, in accordance with appropriate regulations, shall give consideration to the relative extent of the communicable disease problems and to the levels of performance in preventing and controlling such diseases.

Such grants may be used to pay that portion of the cost of communicable disease control programs which is reasonably attributable to (A) purchase of vaccines or other agents needed to protect those portions of the population determined to be epidemiologically important to the control or prevention of communicable diseases and (B) salaries and related expenses of additional State and local health personnel needed for planning, organizational, promotional, and other epidemiologic activities in connection with such programs, including studies to determine the communicable disease control needs of communities and the means of best meeting such needs and personnel and related expenses needed to maintain additional epidemiologic and laboratory surveillance occasioned by such programs.

"(2) For the purposes of this subsection—

"(A) a 'communicable disease control program' means a program which is designed and conducted so as to contribute to a nationwide effort aganist tuberculosis, venereal disease, rubella, measles, poliomyelitis, diphtheria, tetanus, whooping cough and other communicable diseases which are transmitted from State to State, are amenable to reduction, and which are determined by the Secretary on the recommendation of the National Advisory Health Council to be of national significance, and

"(B) the term 'State' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

"(3) Payments under this subsection may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments, or overpayments, in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of this subsection.

"(4) The Secretary, at the request of a recipient of a grant under this subsection, may reduce the money grant to such recipient by the fair market value of any supplies (including vaccines and other preventive agents), or equipment furnished to such recipient and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the recipient when the furnishing of such supplies or equipment, or of the detail of such officer or employee (as the case may be), is for the convenience of and at the request of such recipient and for the purpose of carrying out the program with respect to which the grant under this subsection is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies, equipment, or personal services on which the reduction of such grant is based, but such amount shall be deemed a part of the grant to such recipient and shall, for the purposes of paragraph (3) of the subsection, be deemed to have been paid to such agency.

"(5) Nothing in this subsection shall limit or otherwise restrict the use of funds which are granted to a State or to a political subdivision of a State under other provisions of this Act or other Federal law and which are available for the conduct of communicable disease control programs from being used in connection with programs assisted through grants under this subsection.

"(6) Under this subsection, the Secretary shall be required to submit an annual report on performance in preventing and controlling communicable diseases."

BIG THICKET SUBJECT OF NEW MUSICAL DRAMA

Mr. YARBOROUGH. Mr. President, the unique and natural beauty of the Big Thicket area in southeast Texas is well known to those of us who have long been acquainted with the region. Recently, interest in this wilderness area has gained national significance, and numerous influential organizations have taken a great interest in the preservation of the Big Thicket. The Izaak Walton League, the Sierra Club, the Wilderness Society, and some 24 Texas groups and organizations have publically endorsed my bill, S. 4, to establish a Big Thicket National Park in southeast Texas of not less than 100,000 acres.

Interest in the historical and natural values of the Big Thicket has now taken a new and different twist. On April 25 and 26, the world premiere of a new musical play entitled "The Big Thicket" was presented in Fort Worth, Tex. This play, set in the Big Thicket area just before the famous Battle of San Jacinto, recounts the efforts of the "Thicket folks" in the Texas fight for independence.

Mr. President, the Thursday, April 3, 1969, edition of the Kountze News published an article on "Why Thicket was Chosen for Musical." This article outlines the development of the play, and underscores once again the need to preserve this priceless part of our natural heritage.

I ask unanimous consent that the article from the Kountze News be printed in the RECORD.

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

WHY THICKET WAS CHOSEN FOR MUSICAL

Tom Booth, currently a member of the New York City Opera Company, composed the music for The Big Thicket in collaboration with the show's author, Don Shook.

For the past two summers he has been musical director of the Seagle Opera Colony in up-state New York.

Tom is no newcomer to the Fort Worth metro area. He spent two summers at Casa Manana as Assistant Musical Director.

His musical versatility is proven when he provided all the arrangements for the 26 piece orchestra which he will conduct at the two performances of The Big Thicket, April 25 and 26th. He received his B.A. degree in music from Trinity University at San Antonio, and his masters from T.C.U. He also has to his credit, two symphonic works which he composed and conducted for the San Antonio Symphony in 1961 and '63. His one act opera, "Gentlemen in Waiting" has been performed all over New York for the past two years.

The talented Tom Booth has been concert accompanist for three outstanding Metropolitan Opera Singers: Fort Worth's own William Walker, John Alexander, and Justino Diaz.

Finding a setting for a story that hasn't already been used again and again, is a difficult assignment. Author Don Shook chose the arresting background of the Big Thicket from legends and stories he had heard about this little known part of Texas.

The Big Thicket, which was once an area of over a million acres a hundred years ago stretching from Nacogdoches to Beaumont from the Sabine River to the Trinity River, has now shrunk to a mere 435,000 acres. This fascinating "little Amazon" is a botanical wonderland, a veritable garden of 2,000 classified trees, plants and shrubs. Among the hundreds of varieties of wild life are rare and exotic birds such as the practically extinct Ivory Billed Woodpecker.

The Thicket is a place of flora and fauna—sandy humus soil, low-lying mounds and many crawfish flats. A rainfall of 45" to 50" annually feeds the creeks and rivers and the numerous swamps, bogs, and baygalls. Longleaf pine dominates the area and along stream bottoms the valuable hardwoods are abundant. A unique loblolly pine changes color twice a year. Evergreen smilax canopies the treetops and the swamps of tupelo and bald cypress are surrounded by native rhododendrons, azaleas, and the wild camellias. Magnolias and bays tower above terrestrial orchids while wintergreen, bearberry, and scented myrtle trail underfoot. Even a stout heart finds himself intoxicated with the bizarre beauty of it all. Even in the 91 per cent density, a common cow pasture is as velvety green as a manicured golf course. Four of the five carnivorous plants of the world are native to this Fairyland of beauty.

You instinctively come to know that the Big Thicket boundaries are not clearly defined and fenced off. It is more. It is a state of mind. An eerie place where the only enemy an outsider would recognize would be the Goble Man who goes into the swamps after a hard day of scaring little children.

The real intrigue of this densely wooded underbrush bayou country is the strange habits of the people who have lived there since the days of the French. The early settlers came from the "old states": Tennessee, Kentucky, Carolinas, Alabama, Georgia, and Louisiana. The French love of beauty is as prominent as the Scot hatred of the Revenue Man and used to prompt the best "distill squeezin'" this side of the Kentucky hills.

Take a look at this wonderland: hound dogs and blowing horns, blackeye peas and hog jowl, Razor-back hogs and hickory nuts, light-bread and sweet milk, English walnuts and Irish potatoes, and firecrackers at Christmas. You see a gray silvered shack with bitter oranges and chinaberry trees near it. In the yard there is a bleached sweep of hard-packed earth, an iron washpot turned over near a round white spot on the ground where the suds have been emptied for years. The broomstick used to punch the clothes down is boiled to the color and smoothness of old ivory. Smell the fresh-made lye hominy and the lacquered cypress beams of the smokehouse and hear the sweet mouth of a coon dog when he trees.

You are now in the Big Thicket.

LABOR-MANAGEMENT COOPERATION SOLVES LABOR SHORTAGE; INDUSTRY AND LABOR FOOT BILL IN DRESSER INDUSTRIES CASE

Mr. YARBOROUGH. Mr. President, one of the most successful cooperative efforts between labor and management to solve their particular problems has

recently come to my attention. This example of how a corporation can effectively help itself by helping others was a program of recruiting and training the disadvantaged unemployed, with the expert assistance of Mr. Paul Montemayor, international representative of the United Steelworkers' Union.

The corporation is Dresser Industries, Inc., which is headquartered in Dallas, Tex. Since the company is a member of "Plans for Progress" and an equal opportunity employer, it felt that a program to both create opportunities for disadvantaged citizens and meet the growing employment needs of the company could and should be designed. In the planning of such a program, Dresser personnel has worked closely with the Texas Employment Commission and the United Steelworkers' Union. The program was done without the assistance of Federal funds.

The city of Dallas enjoys almost full employment, with an unemployment rate of 1 percent, the lowest of America's 100 largest cities. Dresser, therefore, undertook to locate and recruit prospective employees from other areas with high unemployment where the need for more jobs was not being met locally. Laredo, San Antonio, and Corpus Christi were initially recommended by the Texas Employment Commission as areas with relatively high unemployment.

The first step is for company representatives to visit these areas prior to the actual scheduling of interviews, to meet and discuss the recruiting and training program with community leaders, especially Mexican American and Negro leaders since unemployment is highest among these groups. Arrangements are then made with the local offices of the Texas Employment Commission for prescreening and administering of mechanical aptitude tests for applicants.

The training program is advertised in the various media, although television has been found to be the most effective means of communicating with the unemployed. For example, Paul Montemayor arranged for several Dresser Co. representatives to appear on a popular local television show in Corpus Christi. This received a good response. Spot TV announcements are also used, telling about the training program and films are shown of the company operations. These announcements also included live appearances by Dresser representatives as well as local union leaders. Additional publicity is gained through representation to local organizations concerned with unemployment and to neighborhood centers who helped to organize meetings of their members and other interested persons.

After being tested, applicants who meet trainee qualifications are given medical examinations and interviewed by company representatives. Each applicant selected for training is asked to bring his wife or family to the local Texas Employment Commission office for a thorough explanation of the training program, and counseling regarding moving and relocation. The family counseling greatly contributes to the success of the program by extending to the applicant's entire family a full understanding of the implications of permanent relocation in Dallas.

A great effort is made to keep the trainee and his family together. Travel allowances are paid the trainee to defray the immediate expenses of coming to Dallas. Some difficulty has been experienced in locating housing for the trainees. However, Dresser provides assistance by scheduling training hours appropriately and helping in contacting real estate agents. The Texas Employment Commission also gives helpful information regarding apartment complexes and housing listings.

Labor Mobility Act funds helped to move a few of the new trainees. Because this program proved insufficient, Dresser adopted a method of advancing money for relocation expenses to trainees, with the funds to be repaid on a payroll deduction plan. Actual moving expenses for household goods are paid by the company to be reimbursed by the employee in the event his employment terminates before a 1-year period. If the employee remains for over a year his moving expenses are cancelled.

The actual training program begins with a week of classroom work. Basic math, blueprint reading, shop theory, safety factors, and precision instrument reading are included in the classroom study. Each trainee is assigned a working partner; one assuming the position of an operator while the other partner acts as an inspector. Both must work out each assigned problem and agree upon an answer within a specific given tolerance. The system of double checks helps to eliminate errors and sets work habits of confirming answers before taking action—a system used on the shop floor. The trainee leaves this portion of the training with the ability to speak and understand the vocabulary of a machine operator and is ready for training on actual machines. High learning performance is encouraged with job assignments being made in accordance with classroom grades. The highest job classification being filled by those with the highest grade averages. Dresser trainees have thus far received classifications on such advanced machinery as automatic lathes, mills, internal and external grinding machines and automatic screw and drill presses.

The second phase of the program is carried out as on-the-job training. It involves a coordinated effort from three men: the training coordinator keeping close watch upon the progress and problems of each trainee, the machine operator who is the actual trainer, and the department foreman. On the shop floor the men are trained for periods ranging from 3 weeks to 12 months, depending upon the complexity of assigned machines. Promotion is given on an individual basis as skill, knowledge, and production increases.

Thus far, 195 trainees have been recruited, of which a very encouraging 75 percent are still in Dresser employment.

The success which Dresser is finding with this program demonstrates that labor-management cooperation in employment can produce mutual benefits, even in areas of labor shortages.

TOWARD A MORE REALISTIC RECOGNITION POLICY

Mr. CRANSTON. Mr. President, I rise to introduce a resolution on behalf of myself and my esteemed colleague, the Senator from Vermont (Mr. AIKEN).

The final form of this resolution in part reflects reactions and views expressed to us in discussions held with the distinguished chairman of the Foreign Relations Committee, Senator FULBRIGHT, of Arkansas, with other majority and minority members of the committee, with the Secretary of State and other State Department officials, and with foreign affairs experts not presently in Government service.

The Senator from Vermont and I anticipate, hope for, and seek broad bipartisan support for our resolution.

We introduce it together as a symbol of the bipartisan nature of our common effort.

This resolution states, in effect, that recognition of a foreign government is done not to confer a compliment but to secure a convenience, and is intended not as an ineffective stamp of moral approval, but as a step designed to serve our national interest.

The resolution seeks to put U.S. recognition policy on a more rational basis. It would lead to a situation where it would be considerably simpler for us to establish useful channels of communications with others. We would be able, more easily than now, to exchange ambassadors with a new government when it came to power and demonstrated that it was capable of maintaining itself.

For the last 50 years, U.S. policy on the recognition or nonrecognition of foreign governments has had disastrous results.

At home, we have been a reasonably practical people, capable of relating our principles to the real world of diverse and competing forces—a world where civilization begins with tolerance and respect for the convictions of others.

But abroad, in our diplomatic relations, we have become all too prone to take self-righteous and moralistic positions unrelated to the realities of power in the world. Too often, we have chosen to judge other governments, instead of making hard choices about how to react to them, and how to deal with the real problems they create for us. And as we have grown to be an enormous world power, we have become increasingly tempted to impose our moralistic views on our neighbors—although our international responsibilities and our own security requirements do not really necessitate our acting as sheriff or ideological censor.

Increasingly, over the years, our moralistic views in foreign policy have found expression in our recognition policy. But the expression has been inadequate and ineffectual insofar as our national interest has been concerned.

The original American doctrine of recognition was quite simple. During the Jeffersonian era and up to the end of the 19th century, we used fairly objective tests in determining whether to recognize a new government. We merely ascertained whether or not it existed, and was capable of sustaining itself. This policy, reflecting a belief that we had no

right to interfere in the internal affairs of other nations, was described in these words by Daniel Webster:

From President Washington's time down to the present day it has been a principle, always acknowledged by the United States, that every nation possesses the right to govern itself according to its own will, to change institutions at discretion, and to transact its business through whatever agents it may think proper to employ.

Our recognition policy changed markedly during the late 1890's, when we opted for dollar diplomacy and demanded that new governments agree to respect the international obligations of their predecessors. Our principal purpose, in actuality, was to secure pledges from new governments that they would not interfere with the investments of American firms in their countries.

Two decades later, the dimension of democratic legitimacy was added to our recognition doctrine.

The fillip of moral self-righteousness has haunted us ever since. During the Mexican revolution, it led not only to nonrecognition of the Huerta regime, but to a dangerous and messy military intervention—an intervention which alienated the Mexican people and was completely counterproductive in terms of promoting democratic and constitutional legitimacy in Mexico. We escaped from this dilemma only when involvement in World War I turned our attentions to Europe.

Yet the processes we had set in motion soon sucked us into still another intervention in Latin America, an adventure summmarized succinctly by Ernst B. Haas of the University of California's Institute of International Studies, who rendered invaluable assistance to me on my initial research on this subject 3 years ago, in these words:

In 1926, there occurred a disputed election in Nicaragua. The Conservative Party's candidate, Adolfo Diaz, appeared as the successor to a staunch friend of the Untied States, outgoing President Emiliano Chamorro. The opposition Liberal Party's candidate, Juan Sacasa, had close ties with the Mexican Government. His victory was interpreted by everybody as a victory for Mexican influence and interests in Central America over that of the United States. The disputed election led to civil strife, with Mexico recognizing the Sacasa forces as "the government" and the United States recognizing Diaz. In order to forestall a military victory by the Liberals, U.S. Marines were landed and fought to cement the power of the Diaz "government." The intervention, of course, lasted until 1933.

A classic example of the results of this policy of not recognizing a government of which we disapprove, followed by widening misunderstandings, deepening disputes, and military intervention, lies in the sequence of events that included our sending an expeditionary force into Russia after the Soviet revolution.

This move solved nothing, but it created deep suspicions in the Soviet Union which persist to this day.

From 1917 to 1933, we acted in accordance with the pretense that Russia had no government. It was argued that recognition would suggest that we approved of this violent, Marxist revolutionary ideology garrisoned in the Kremlin. The Communist regime somehow survived us when we intervened, and also survived us when we ignored its existence. In 1933, when we finally recognized the Soviet Union, all that we achieved was a compromise settlement of some financial claims dating back to the Czarist government.

Clearly, our policy of recognition based upon our approval, or disapproval, of a government has more than once drawn us on to military intervention.

Dangerously, our present recognition policy also often serves as a screen for avoiding real policy decisions. The fact is that a policy of non-recognition is really no policy at all. It substitutes rhetoric for substance. This was vividly illustrated in the Manchukuo case.

We refused to recognize the puppet regime in Manchuria in the 1930's, declaring that our refusal reflected our disapproval and disavowal of Japan's behavior. We failed, however, to make any firm decisions about how to deal with the reality of the Japanese aggression which created the regime. We really did nothing, while the smokescreen of morality hid the void in our policy.

And in the end the policy of nonrecognition is doomed to failure. It did not deter Japan. It did not isolate the Soviet Union. It has not isolated Red China. All too often, it has tended to isolate us as much as, or more than, it has isolated various regimes we have not approved. It has never really succeeded in bringing hostile regimes either down or to terms. Often, nonrecognition actually strengthens a regime it is supposed to weaken, causing the people to rally to the support of their government against the apparent threat posed by hostile foreign powers.

It has been singularly ineffective in moving Latin American juntas back towards constitutional democracy. In Latin America, Asia, and Africa, our nonrecognition policy has won us the scorn and enmity both of social reformers on the left, and of military dictatorships on the right.

It has consistently failed in Europe, too.

In 1945, we recognized Hungary's communist government. The State Department announced that Hungary had first given suitable guarantees of free and fair elections and the establishment of a truly democratic government. The elections are still to be held, and Hungary is still not democratic. We still recognize Hungary.

Over a rather predictable course of time, we generally recognize new governments if they last—not because of what they have done, but often in spite of what that have done. And our nonrecognition policy, generally, has no effect on whether or not they last, nor on what they do or do not do.

In recent years in Latin America, we have not tried to use recognition policy to protect business interests, as we did early in the century. However, we have frequently attempted to utilize recognition policy to demonstrate support for democracy, and to cause military juntas taking power through coups to set timetables for restoring constitutional government.

This approach has been substantially incorporated in international agreements that, in effect, set criteria for recognition. Unfortunately, the criteria are not only highly subjective but, in practice, they are ineffective and unenforceable.

The OAS Charter, for example, says in article V that the purposes of OAS can only be fulfilled if its member states are organized politically "on the basis of the effective exercise of representative democracy." There are now fewer constitutional democracies in Latin America than there were when OAS was created.

When a government is overthrown in Latin America, the other OAS members exchange views on these topics while one or more of them negotiate quietly with the new regime, seeking assurances that they will comply.

The record indicates—particularly in cases involving Argentina and Peru—that eventually we recognize a new government, no matter how unsuccessful the negotiations preceding exchange of ambassadors may have been, and regardless of whether the government came to power by force or fraud. And at the time of recognition, there is at least a tacit assumption—based on a 1965 OAS resolution—that the new regime has met the OAS test. So the military junta in question gets a kind of moral seal of approval—which may be totally undeserved—simply because moralistic issues have been injected into the equation.

The eminent and esteemed John Basset Moore, a noted American international lawyer who served as a member of the Permanent Court of International Justice, said in 1930:

It has repeatedly been shown that a frown or scowl on the countenance of the United States is not a cure for revolutions . . .

Not only does our recent departure keep us in an attitude of intervention in the domestic affairs of other countries, but it has indoctrinated our people in the preposterous and mischievous supposition that the recognition of a government implies approval of its constitution, its economic system, its attitude towards religion, and its general course of conduct. Not only is this supposition contrary to elementary principles of international law, which assure to each independent state the right to regulate its domestic affairs, but it is flagrantly at variance with the facts. It is, for instance, inconceivable that the government of the United States has at any time approved all the governments with which it held diplomatic relations. Even at the lowest ebb of our fortunes, I believe we should have resented such an imputation . . . I hold in review the motley procession: governments liberal and governments illiberal; governments free and governments unfree; governments honest, and governments corrupt; governments pacific and governments even aggressively warlike; empires, monarchies, and oligarchies; despotisms decked out as democracies, and tyrannies masquerading as republics—all representative of the motley world in which we live and with which we must do business.

Adoption by the Senate of a resolution clarifying the meaning of American recognition policy would not prevent us from consulting with Latin American nations under the OAS Charter. It would not prevent us from reserving the right

to withhold recognition of any government anywhere on earth if we deemed it in our interest to do so. It would give our President and our Secretary of State greater liberty than they now possess to conduct our foreign policy in ways most conducive to international understanding and to national security.

There are few, if any, cases where our present policy of nonrecognition has succeeded either in moving another government to change its policies, or in isolating it from the world community. Even when promises have been extracted from a new regime in the course of negotiations preceding recognition, there has been no guarantee that the promises would be kept. They have been broken quite frequently, often soon after they were agreed to and ambassadors were exchanged. Bolivia's seizure of Standard Oil's properties in 1937, 1 year after recognition of a revolutionary military junta that had promised to respect international obligations, is but one of many, many sad examples. Yet violation of commitments has seldom caused suspension of diplomatic relations.

Nonrecognition leads to a lack of communication with the very people it is most important for us to talk to—those who would be our enemies. It is particularly important for governments to talk to each other when they disagree. It is when relations are most difficult that diplomacy is most needed.

All too many wars have occurred as a result of a lack of communication, and a consequent failure to calculate properly the intentions, determination, strengths, and weaknesses of a potential foe.

Recognition, of course, does not automatically improve communications, nor do diplomatic relations necessarily immediately follow an official statement that we are prepared to recognize a foreign government. The exchange of ambassadors is the final and formal act confirming recognition, and this act can be subject to negotiations. However, neither an expression of a willingness to recognize, nor the exchange of diplomatic representatives, should imply any moral judgment about the foreign government involved. Setting up an embassy in another country should mean only that we consider it to be to our advantage to establish and maintain effective channels of communication with the government on the other end, and to obtain at first hand as much information and intelligence as possible about the other country.

We have a hot line to Moscow simply because failure to communicate clearly with the Soviet Union in a moment of crisis could cause utter catastrophe. The hot line proved its worth in the Cuban missile crisis of 1962, but in that same situation our lack of communications with Cuba contributed to a situation that led to our closest brush yet with nuclear disaster. If we had an ambassador in Cuba now, the problem of dealing with airplane hijackers would not automatically be solved, but the task of dealing with it would certainly be facilitated.

Mainland China offers another example of a country where better communications and more accurate information would be to our advantage. Most U.S. officials and foreign policy experts will concede privately, if not publicly, that the present lack of more direct contact with China—the Warsaw talks are too irregular and too formalized to meet the need—seriously limits our ability to make accurate estimates of China's intentions in Southeast Asia. It badly injures the quality of information on which American policy is based in one of the most sensitive and dangerous parts of the world.

Yet many of these experts oppose recognition because it would be widely interpreted as implying approval. One of our Secretaries of State once said of Mainland China:

> It is one thing to recognize evil as a fact. It is another thing to take evil to one's breast and call it good. That explains our nonrecognition of the communist regime.

Our inability to estimate China's intentions accurately bears directly on our position in Vietnam. Under similar circumstances, we badly misjudged Chinese intentions in Korea a decade and a half ago. Perhaps we would have marched to the Yalu River even if we had been well informed—but the price we paid and the losses we suffered would have been far less if we had been prepared for China's violent reaction.

And what of developments inside China? Without our own representatives on the spot, we are dependent on second-hand reports the validity of which is hard to evaluate.

It is probable that Mainland China, and perhaps some other governments we do not presently recognize, would not be willing to enter into diplomatic relations with us today even if we offered to recognize them and to exchange representatives. Mao has already declared that recognition is "something to be negotiated," and China would almost surely insist that the status of Taiwan must first be worked out. We, for our part, would want to insure that our personnel in Peking would not be mistreated or become Chinese hostages.

Thus this may not be the time to recognize China. But if we now make plain that recognition means nothing concerning our judgment of the nature of any government anywhere, we shall have removed a very significant barrier that will otherwise stand in the way of recognition—even if a time comes when recognition would otherwise be negotiable and would clearly serve our national interest.

We have paid a high price for our present recognition policy. Over months or years we have been compelled to adjust to the reality of the existence of governments we have originally refused, on high moral grounds, to recognize. We have found it necessary to rationalize our eventual recognition when the price of noncommunication has become too high. During the intervening period, lack of communication has often clouded reality, and rational approaches to policy formulation have become far more difficult to attain.

I submit that the Senate has a unique opportunity—and a clear and present responsibility—to open the way to changing all this. By adopting this resolution, the Senate can begin the long-overdue process of placing our recognition policy on a more sensible basis, through a return to America's original recognition doctrine.

We are by nature an idealistic people, and this is all to the good. We cannot lose sight of the fact, however, that we are just one member of the world community, with finite resources. We cannot right all the injustices in the world. We cannot persist in our self-appointed role as the moral arbiter of other governments, a posture that puts us in the position of trespassing upon the sovereignty of other nations.

I believe it is essential that we take the step which this resolution represents.

I believe that we should generally seek to establish more open communications with all governments—a development which would serve both our national interest and the broader interest of peace and security for all mankind.

In order to move in this direction, we must make clear that neither recognition of a foreign government, nor the establishment of diplomatic relations with it, implies any judgment of it.

This by no means suggests that we should be equally friendly with all nations. Recognition will not necessarily lead to a policy of intimate cooperation and collaboration with a particular foreign government. There are values that we most certainly want to preserve, protect, and project in our foreign policy. But let us seek effective ways to do this, and let us abandon ineffective ways.

The evidence is overwhelming that our present policy of withholding recognition from governments of which we disapprove, and with whom our relations are particularly hostile, has failed totally to advance our values or to achieve any other of its most significant intended purposes. Indeed, nonrecognition makes it difficult for us to transmit our values and to state clearly our purposes. It deprives us of an opportunity to declare and discuss our policies and principles, and to measure more accurately the effectiveness of our actions. It prevents us not only from exerting influence, but from gaining insight.

More critically, it holds increasingly grave risks of war through misunderstanding in an age when atomic Armageddon is an ever-present danger.

I send the resolution to the desk for appropriate reference.

The PRESIDING OFFICER (Mr. ALLEN in the chair). The resolution will be received and appropriately referred.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. CRANSTON. I am delighted to yield to the distinguished chairman of the Foreign Relations Committee.

Mr. FULBRIGHT. Mr. President, I wish to commend the Senator from California for his initiative and foresight in submitting this resolution. It is very timely. Since the Senator comes from a State which I presume has the largest numbers of citizens of oriental descent, both Chinese and other far easteners, I think it is extremely appropriate for him to have been the sponsor of the resolution. I certainly feel that the principle

which he is stating in the resolution is the correct one. At one time we followed that principle and we were sadly mistaken in departing from it.

As far as I am concerned, as chairman of the Committee on Foreign Relations, I will do my best to have hearings at an early opportunity. I assume the Senator from California will cooperate with the staff in arranging for an appropriately mutual time for such hearings.

I again commend the Senator.

Mr. CRANSTON. I most certainly will. I deeply appreciate the Senator's interest and support.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield to the Senator from Vermont. I deeply appreciate the work he has done on the matter.

Mr. AIKEN. Mr. President, I am glad to be a cosponsor of the resolution of the distinguished Senator from California, but I want it understood that, before making the decision, I talked with the State Department and found that, in their opinion, the resolution will not handicap their work in any way. In fact, they will continue to decide what countries to recognize. But there has been a growing impression around the country that perhaps we should not recognize countries unless we approve their form of government. Every week we get letters from people at home saying we ought to break relations with this country or that country, some because they have military governments and some because they have a socialistic or communistic form of government. The resolution makes it very clear that just because we recognize a country, it does not necessarily mean we approve its form of government or even the people who are in control of the government at that time.

One thing we do want to know before recognizing a government is that it is a government which is really in control of the country, where it has taken the leadership, or dictatorship, or whatever one wants to call it. But sometimes I think we have gone a little too far in telling some of the countries of the world what kind of government they should live under.

We are finding out it is very difficult to enforce that position, even if we were unwise enough to assume it. So I wish to say again that I am glad to cooperate with the Senator from California in offering this resolution. I know we will have good hearings before the Committee on Foreign Relations, and there may be some discussion on the floor.

But I reiterate that before going on the resolution, I made sure that it would not handicap the State Department in any way in carrying out our relations with other countries, or in formulating relations according to their usual practices—perhaps that is the way to put it.

Mr. CRANSTON. I thank the Senator for his instructive remarks and his cosponsorship, which mean very much.

Mr. AIKEN. May I add that it seems conceivable that this resolution could help the State Department in handling one or two problems which may very well come up in the foreseeable future.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield with pleasure to the Senator from Idaho.

Mr. CHURCH. I commend the Senator from California for introducing a sense-of-the-Senate resolution which makes a great deal of sense.

As the Senator will recall, the U.S. Government refused to recognize the Soviet Government following the October revolution in Russia and for many years thereafter. Our attitude toward recognition of the Russian Government was the same, during the 1920's and the early part of the 1930's, as our attitude has subsequently been toward recognition of the Communist government of China.

During those early years, a great Senator from my State, William E. Borah, was the only prominent man in public life, in either political party, to contest what was otherwise a uniformly upheld position of orthodoxy that because we objected so strenuously to communism, we must not to send an ambassador to represent us in Moscow.

Senator Borah in those days used to say, "If recognition is made to depend upon our approval or disapproval of a given foreign government, then there will be precious few foreign governments with which we can maintain relations."

He alone pointed up the hyprocrisy and inconsistency of that position. Ultimately, as Senators know, there came a President, Franklin D. Roosevelt, who also recognized that this was not a tenable position, nor one which served the real interests of the United States. He abandoned it, recognized the Soviet Union, and immediately afterward those who had conformed so long, including politicians, columnists and major newspapers of the country, commended the President for the self-evident wisdom of his decision.

For us to go through the same round again with respect to China certainly suggests that we find it hard to learn even from our own experience. So I commend the Senator from California for the action he has taken. The proposition set forth in this resolution is eminently sound; it is consistent with what, prior to 1917, had been the traditional practice in the United States and, indeed, the customary practice of other countries throughout the world. It should be good for us to face up to that proposition once again, and remind ourselves of it as we ponder our future relationship with the Chinese government. The Senator has taken a very sensible step today, and I extend to him my congratulations.

Mr. CRANSTON. I thank the Senator, whose knowledge of foreign affairs is great and whose support means a very great deal.

Mr. PELL. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield with pleasure to the Senator from Rhode Island.

Mr. PELL. Mr. President, I think this resolution of the Senator from California and the Senator from Vermont is an excellent one. To my mind, the policy that we as a Nation have followed in the past has been one, very often, of cutting off our nose to spite our face. We withhold recognition, or even just go through the preliminary step or the halfway step of withdrawing or not sending an ambassador to a country. What that means is that we simply lack the means of communication with a government of which we disapprove at the high level at which we should be communicating. It means we are either communicating through a charge d'affaires who cannot deal with the highest levels of the receiving country. Or, if we withdraw our mission entirely, we must communicate through a third country. I would think, when we have problems between ourselves and another nation, we would be much better off to have communication at the highest level available, rather than cutting off our direct lines of communication.

The most ridiculous path we have followed sometimes in the past is, not only to withdraw our Ambassador, but leave our aid mission. If we really wanted to express our disapproval, we would be much better off to withdraw our aid mission and leave our Ambassador.

I think other nations of the world have a simple, pragmatic approach to this problem. When a new government has secured the tacit acceptance of its people, it is then in de facto control and is recognized as such. I believe that it is high time that we, too, follow this simple approach.

To do so is not to establish a new precedent for America, for in our early days we did have this so-called traditional policy of recognition. We first departed from this policy a little more than a hundred years ago, during the Civil War, with Secretary of State Seward's statement that a new government must give formal evidence of support by its people. This trend was further continued by President Wilson's administration, which took the stand that recognition depended upon a country's agreed willingness to settle disputes by "pacific" means. In subsequent years we have fallen more and more into the habit of confusing recognition with approval.

At this time, I am convinced that it is in our national self-interest to return to our original concept of recognition, and to recognize that when a government controls its people, and is in de facto control, it ought to receive de jure recognition. This applies to rightwing governments as well as to leftwing governments. To my mind, for instance, in Greece today, a government of which we disapprove, we have no ambassador at all. And we should have an ambassador. When we send one there, I hope he will be a strong one. He should work emphatically, too, not be a general who would have a hard time dealing with the generals. Rather, it should be a strong-minded, tough, civilian-oriented person.

With any government in the world, whether we disapprove it because it is too far to the right or to the left for our tastes, we are better off having direct relations and open lines of communications. I hope this resolution will be agreed to.

I think in approving it, too, we should bear in mind that China is a special situation, and in no way consider that this

resolution involved is designed to bear directly on or open the door to that problem. The problem of nonrecognition of China occurred many years ago, and many other elements have come in since to confuse the issue and make more difficult the solution to that problem.

This is a simple resolution, and I think it is essentially correct, in seeking to put us back into the same path most other nations have followed.

Again I commend the Senator from California.

Mr. CRANSTON. Mr. President, I thank the Senator from Rhode Island for his most helpful remarks. His interest and support are particularly significant, not only because of his service on the Committee on Foreign Relations, but also because of his experience, before that time, in the Foreign Service. I also appreciate his helpful closing remarks, and I wish to emphasize that this resolution by no means centers on the matter of China. There are other nations we do not presently recognize. There are many nations we now do recognize, the behavior of which we do not approve, nor the nature of their governments. Adoption of this resolution will not mean that immediate recognition of China will follow. There are various problems that must be dealt with and negotiated, I am certain, prior to the time that we can establish diplomatic relations with mainland China.

However, the adoption of the resolution will clear the air all over the world, and insofar as China is concerned, it will remove one obstacle that would still stand in the way of recognition, even if other obstacles are, in the course of time, removed, and even if the time comes when establishing diplomatic relations with China would clearly serve the interests of America in terms of our security, and serve the cause of peace.

The PRESIDING OFFICER. Is there further morning business?

SENATOR EDMUND S. MUSKIE URGES FEDERAL EDITORS ASSOCIATION TO REDUCE THE COMMUNICATIONS GAP

Mr. SPARKMAN. Mr. President, my good friend and colleague Senator EDMUND S. MUSKIE recently addressed the Federal Editors Association at its annual publications banquet.

The Senator from Maine made some very important points about the job of communicating the Federal Government's story to the people. One point I particularly want to call attention to is Senator MUSKIE's statement that Government information is attuned to the written word in an era when oral communications and visual images have gained the ascendency. I think there is much to be said for that point of view. Senator MUSKIE also notes that the volume of information has far exceeded the capacity of our information systems to absorb it. This statement also spotlights one of the problems we face in Federal Government.

The Federal Editors Association, the organization to which Senator MUSKIE delivered this speech, is a 6-year-old group of editors who work for the Federal Government. The organization is dedicated to improving the quality of written matter which comes out of Federal Government agencies. In an effort to stimulate interest in better writing, the Federal Editors Association annually conducts a publications contest. This year over 300 Government publications were entered in the contest and 36 winners were named in 11 different publications categories. This year's president is Grover C. Smith, who, incidentally, is my press secretary.

I submit Senator MUSKIE's speech for the very important message it carries for all of us in Government who are concerned about the problem of explaining to the people what their Government is doing and how it affects them now and in the future.

There being no objection, the speech, which was delivered to the Federal Editors Association Annual Publications Luncheon in Washington, D.C., on May 6, 1969, was ordered to be printed in the RECORD as follows:

REMARKS BY SENATOR EDMUND S. MUSKIE

Federal editors are a tolerant lot. They must be to invite a contributor to the Congressional Record to speak on matters of editorial excellence.

As an example of man's capacity to convey the spoken word to the printed page in a short time, with minimum printing errors, the Record is a constant miracle. I can give it an "A" for production, but for reasons of personal privilege, I withhold judgment on its contents.

I recall Lincoln's description of the forensic ability of a colleague at the bar. "He can compress more words into a small idea than anyone I know."

As a communications specialist, I may be comparable to a lobbyist I once knew who called himself an "educational specialist."

In spite of these reservations, I think you and I have a lot in common.

We have much to say, and a limited time in which to say it.

We must deal with a public which is often suspicious of our motives.

And there are limitations on the imagination we can apply in the course of our official pronouncements. Too often there is little relationship between our medium and the message.

Government information is attuned to the written word in an era when oral communications and visual images have gained the ascendancy.

Facts, figures and events spill out at an unprecedented rate—aided and abetted by the techniques of electronic communications.

As a result, those charged with the responsibility for interpreting public business to the public must face increased competition for attention by reporters and editors and the general public. The volume of information has far exceeded the capacity of our information systems to absorb it.

Your efforts to improve your technical skills are important and heartening. We may be calling on Grover Smith to improve the transfer of skills from your offices to ours.

We all recognize the importance of going beyond the question of communication skills, however.

We live in a period of public skepticism about government. We are plagued by the gap between promise and performance, the confusion of multiple programs and overlapping agencies and the rush of events which outstrip our efforts to meet yesterday's crisis.

There is an underlying suspicion that governments do too much talking and too little working. I once heard that public relations is ten percent doing and ninety percent telling about it. That hits home for politicians and executive branch employees as well.

Young people have shocked us with their challenges to our institutions and our political philosophies. They have insisted that we "tell it like it is." I wince at their grammatical vagaries, but I must concede the accuracy of many of their criticisms.

In too many cases we have substituted rhetoric for action and cliches for substance.

We have made nouns into verbs, as if that would give motion and meaning to outmoded practices.

Precision in language is a direct reflection of the state of our minds.

Direct, cogent statements which produce meaningful responses from individual citizens reveal an understanding of the listener as well as a grasp of the writer's material.

In a crowded society, where the techniques of communication are versatile and astonishing, individual citizens are anxious because the words and the images are not addressed to their needs, or undermine their security.

If they cannot grasp the words and the images, if they cannot engage in a meaningful dialogue with the information givers, they will reject the information as irrelevant.

They are not unlike Eliza Dolittle who told her wordy suitor: "Don't talk of love . . . show me!"

This is happening in the ghetto, the suburbs and the rural areas.

It is happening because too many of us who are public spokesmen have been doing too much talking and not enough listening.

Last fall I learned that divided Americans could be brought together if they could be encouraged to listen to each other—not passively, but with understanding and a desire to reach common goals.

I learned that the complicated problems of our society could have meaning for individual citizens, if you took the time to relate them to the everyday concerns of men and women.

That is an advantage a politician can enjoy. His life is one of encounters with his constituencies. If he is responsive and relevant, his constituency responds.

You have a more difficult problem. Your relationship with the American public is through the medium of your words and the design of your publications. But I am convinced that you can reduce the communication gap, you can contribute to a restoration of trust and confidence, you can help make government the hope of its people—if your writing is readable, responsive and relevant.

Brief as I have been—for a Senator—I have taken too many words to make a point which I can make in less than ten: "Say what you mean—and mean what you say."

PREVENTIVE MEDICINE

Mr. MAGNUSON. Mr. President, two informative articles have recently come to my attention. They discuss a health issue of importance to all of us, preventive medicine. I feel strongly that our progress in combatting disease is dependent upon our progress in preventing disease, as well as in curing it.

Dr. George James, the dean of the Mount Sinai School of Medicine, and Jean Carper, the author, are both well versed in this subject and their observations deserve special attention. I ask unanimous consent that their articles be printed in the RECORD.

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

THE TERRITORY OF PREVENTIVE MEDICINE

(By George James, M.D.; M.P.H.; dean of Mount Sinai School of Medicine; chairman of Board of Scientific Consultants, American Health Foundation)

Preventive medicine is not as fortunate as was the weather in Mark Twain's familiar statement. Not only are we doing very little about it, but we do not even talk about it very much!

This is curious, because the lesson of history is that hardly any disease of major significance has even been effectively controlled by attacking it only after symptoms have occurred. Why, therefore, this enormous enthusiasm for heroic surgery, coronary care units in hospitals and renal dialysis centers, concurrently with years of relative indifference to the curbing of cigarette smoking, the fluoridation of the public water supplies; the lowering of dietary saturated fats, the control of obesity and the detection and treatment of non-clinical hypertension, glaucoma, diabetes and carcinoma of the cervix?

Why have our Medicaid and Medicare laws been written so that a physician who wishes to be paid for anticipating clinical illness under these programs must use subterfuge? Why do these measures provide "deductibles" to discourage further the patient from seeking care, until the symptoms become unbearable because of pain or anxiety? We appear to have a double standard of scientific proof.

Even though the efficacy of a suggested therapy has not yet been completely proved, we try it in the treatment of symptomatic disease—because it is all we have, and the patient demands care. But we do not employ a preventive medicine technique until it has been completely proved—because we must not risk creating a demand for it, unless we are certain that it is entirely effective! For our major degenerative diseases this is a qualification that is rarely either met or capable of being met on the basis of evidence likely to be available within our lifetime.

PRAGMATIC MEASURES

Yet the treatment of symptomatic disease is getting increasingly out of touch with the control of disease. Note the following facts:

1. If all the Frenchmen who could benefit from the artificial kidney were to have it, this would require 80% of France's total social security funds.

2. Mike Kasperak, one of the first cardiac transplant patients, ran up a hospital and blood bill of $28,000 in about two-and-a-half weeks—a per diem cost well over $1,500 per day.

3. If barriers to the application of medical care to large masses of people were removed today, there would be an explosive increase in demand for care which our present health manpower could not possibly meet.

4. The highly trained chest surgeon can save only about one-fifteenth to one-twentieth of his patients with carcinoma of the lung.

5. Coronary heart disease is our leading cause of death by far, pulmonary emphysema is increasing rapidly in significance, cancer of the lung is still our leading cause of cancer death in males, cirrhosis of the liver has entered the list of the top ten killers and diabetes, despite the widespread availability of insulin, is still among these top ten causes of death.

WHERE HOPE LIES

Consideration of these facts points up the inadequacy of our present efforts at control through the use of clinical medicine alone. It is time for us to increase our use of the growing list of available techniques of preventive medicine. If the lesson of history still holds, then it must be primarily through this type of effort that ultimate success can be achieved.

We know that fluorides prevent more cavities than our dentists can fill and that polio vaccine prevents thousands of cases of crippling which our orthopedists and physiatrists could not effectively rehabilitate. There is good reason to believe that ending the cigarette smoking habit in this nation—if it could be done—would save more lives (300,000 a year) from such diseases as cancer and heart disease than all of our best surgeons and cardiologists, in fact all of our physicians, could hope to achieve by today's best techniques.

The quality of medical care must be measured by results—results in the control of disease—and not only by the amount of money spent and numbers of patients reached, hospitals built, medical specialty board examinations passed and doctors, dentists and nurses trained.

Great in number though our unused preventive techniques may be, they are still not as well proved, nor are they as effective in application or impact, as we would like. Research to discover new techniques must, therefore, remain a leading priority. Evaluation of available techniques runs a close second. Far too little of this kind of effort has been undertaken to date. It has not yet begun to compete with the vast programs of research and development in the realms of cardiac surgery, coronary care units, cancer chemotherapy and organ transplants.

Some mention of multiphasic screening also must be made. Without belaboring the extent of our knowledge about the ultimate significance of each particular finding, a case can still be made for screening, provided a quality follow-up program is carefully observed. We cannot ignore the presence of certain "abnormal" screening findings, but we should look on these as indications for further study and as part of the profile of the patient. The history of disease control is replete with instances where detection and diagnosis preceded the invention of effective therapy. We may not be able to cure what we find. But we can hardly cure, follow up, or otherwise study that of which we are not aware.

FITTING LIFE PRACTICES

Ideally, preventive medicine should be developed and engineered to fit smoothly into the normal life practices and motivation of the average citizen. We have done this superbly in our measures to provide pure water, milk and food. Only a little more controversial are measures such as fluoridation of the water and regulations relating to air pollution.

At another stage are the programs requiring discrete, intermittent effort, such as immunization for various communicable diseases. Finally we have the most difficult, which require constant awareness, habituation and reinforcement: those involving dietary control and routine medical surveillance. One of the aims of preventive medicine is to develop more routine and painless acceptance of such measures.

To all of these general principles and to many more in the field of preventive medicine, this new foundation is dedicated. As is the mission of all voluntary associations, it seeks to play its role as part of the public conscience to stimulate interest, development and research. It deserves our support.

DISEASE PREVENTION—TOMORROW'S BEST HOPE

(By Jean Carper)

If the disease-death rates of 1900 had continued, this year nearly 400,000 Americans would die of tuberculosis, 280,000 of gastroenteritis, 80,000 of diphtheria, and 55,000 of poliomyelitis.

Instead, during 1969, about 6000 are expected to die of tuberculosis, 3000 of gastroenteritis, and fewer than 100 from diphtheria and polio combined. The primary reasons for this drastic improvement are taken for granted by most of us: inoculations, sanitation, early diagnosis through mass screening—in short, disease prevention.

Nearly all the great scourges of yesteryear—typhoid fever, smallpox, the plague—were wiped out, not by the creation of miracle cures that arrested progress of the diseases, but by vaccines and community health programs that prevented the diseases from getting started. Even today, in an era of dramatic medical cures such as heart transplants, artificial arteries, and sophisticated drugs, doctors agree that few diseases are eradicated by therapeutic miracles. In the words of Dr. George James, dean of the Mt. Sinai School of Medicine in New York City, "Only two major diseases in the United States today—appendicitis and lobar pneumonia in the young—are being controlled rather completely by the use of treatment alone."

The great killers and disablers of today are heart disease, cancer, stroke, accidents, diabetes, and mental diseases. Following the trends of history, will they too be erased only by preventing their occurrence? Most medical authorities think so. Although doctors both in practice and in laboratories are seeking cures to relieve misery and prolong life, their ultimate hope lies with prevention. This, notes one doctor, is "the only true cure."

By the time a disease is diagnosed, the patient may be beyond help. After lung cancer has been identified, for example, the average victim has only 13 months to live, despite the most brilliant surgery and care. One-third of the men with coronary heart disease die within four weeks after their first attack. Only half of the patients who receive costly kidney dialysis will live as long as five years. Damage from hypertension, arthritis, cancer, stroke, or rheumatic heart disease is often such that no known treatment can restore the victim to health. Similarly, infants born with defects due to infections, excessive x-rays, or the unwise use of drugs by the mother can never be completely rehabilitated. Even when partial cures are found, administering them becomes a staggering burden on society, resulting in ever-increasing loads on already overworked physicians and continually rising costs in health care.

"Treatment never equals prevention," says Dr. Theodore Cooper, director of the National Heart Institute. Recently, noted heart surgeon Dr. Michael DeBakey told a Washington, D.C., audience that heart transplants are a stop-gap measure, but that the real potential for conquering heart disease is in preventing it. Surely, as long as disease exists, patients must be given the best treatment medical science can provide. But treatment is not an end in itself. The goal of medicine is to make treatment unnecessary.

Although much more research is needed in most areas, present findings in prevention hold some exciting implications for the possible eradication of some of our most serious modern ailments. What is the current status of prevention? What is possible now, and what promises does the future hold? Here are some answers from leading medical authorities.

Infectious diseases: Among all types of diseases, infections probably are the easiest to prevent. Once the bacterial or viral agents are identified, there is at least the possibility that a vaccine can be manufactured to produce immunity. Today, vaccines for measles, smallpox, diphtheria, whooping cough, mumps, tetanus, and influenza are commonly used in this country, especially for children.

A vaccine against German measles (rubella) is being tested and may be licensed within the year. If contracted by women early in pregnancy, rubella can cause miscarriages and congenital defects. One new vaccine, which has proved 90 percent effective in tests, could virtually eliminate German measles in the future.

Within the next two years, a vaccine against the infectious disease that remains one of our biggest killers, pneumococcal

pneumonia, may be on the market. A large-scale study of this bacterial pneumonia vaccine is now being conducted under grants from the National Institute of Allergy and Infectious Diseases. If susceptible persons can be inoculated against pneumonia, up to 25,000 deaths a year could be prevented.

Eventually, vaccines may be available against chicken pox, shingles, infectious hepatitis, mononucleosis, and venereal diseases. Work is progressing on developing an inoculation against syphilis.

However, the prospects for a vaccine against that troublesome disease that afflicts everyone, the common cold, are still quite dim. Much research is under way, but since colds are caused by many types of viruses, isolating the most common ones is difficult. A person conceivably could have a cold every year for 80 years, and a different virus might be responsible each time. Scientists hope to perfect more sophisticated techniques for developing a vaccine that would include the immunizing antigens from viruses causing the majority of cold symptoms. This would offer widespread but not absolute protection against colds.

One promising recent discovery is an experimental vaccine against streptococci which cause sort throats. The soreness itself may be more painful than serious, but if not treated immediately, the strep infection can lead to rheumatic fever and serious kidney disease. Such infections can be discovered through throat cultures and cured by penicillin before complications in the heart and kidneys develop. Prompt treatment of extreme sore throats is imperative today. In the future, a vaccine would prove even more reliable.

HEART DISEASES

In the last few years, massive research attacks have been launched against our number one killer, cardiovascular diseases (which cause about one million deaths every year). Although evidence on the precise causes and prevention of heart disease is mounting, there are still no definitive answers. According to Doctor Cooper of the National Heart Institute: "We have no real preventive against coronary artery disease. At best, we have a number of research investigations which have given clues which lead some people to advocate programs of prevention."

These clues come from studies which show relationships between heart attacks and obesity, high blood pressure, high cholesterol levels in the blood, lack of exercise, and high rates of cigarette smoking. On the basis of these findings, many doctors confronted with heart-attack patients or high-risk persons (middle-aged males who are overweight, heavy smokers, and sedentary) recommend exercise, diets low in animal fats and cholesterol, and elimination of cigarettes. This advice is an effort to avert the patient's headlong dash toward a heart attack. With our present knowledge, these are advisable precautions, says Doctor Cooper. But by no means is all the evidence in.

We know that people with high-cholesterol blood counts have heart attacks most frequently. It also is known that certain drugs and diets can reduce the amount of cholesterol in the blood. Does it necessarily follow that reducing the amount of blood cholesterol also reduces the chance of heart attacks? The experts aren't sure.

A number of men with high-cholesterol levels never have heart attacks, and some with low cholesterol do. The United States has one of the highest death rates in the world from cadiovascular disease; yet in Sweden, where the diet is rich in dairy foods containing fat and cholesterol, the heart-disease rate is one of the lowest in the world.

In a search for clinical information on the potential for reducing heart disease by reducing blood cholesterol, the National Institutes of Health is conducting a study of 8000 men who have had heart attacks. Four drugs known to reduce cholesterol will be tested. By 1974 we should know whether the men given the drugs actually do have fewer recurrent heart attacks. If so, we will have evidence that the drugs are valuable in preventing heart attacks and should be prescribed for high-risk patients. Still questions would remain: Were the attacks reduced because the cholesterol was lowered, or because of something else the drugs did? And if the drugs prove effective, should they be used as a wide-scale preventive on the general population? If the reduction of cholesterol proved to be a critical preventive should food manufacturers be persuaded to reduce the fat and cholesterol contents of their products? They now have the technology to do so.

These questions and many others are yet to be answered. Much basic research is necessary. "Mainly," says Doctor Cooper, "we need key information on the thrombotic phenomenon (clotting) which leads to heart attacks and on atherosclerosis, particularly as they are associated with each other."

In sum, we know enough now to try vigorously to prevent the progression of heart disease in high-risk patients. But we need more fundamental answers about the cause of cardiovascular disease before we can embark on a wholesale preventive program to eradicate this major killer and disabler.

Cancer: The outlook for preventing cancer—at least some forms—is brighter than many people think. Some authorities believe we are on the verge of a major breakthrough.

Essentially there are two approaches to preventing cancer. We can prevent known carcinogens (of which there are thousands, including smoke, radiation, and a long list of chemicals) from coming in contact with man. We can curtail smoking, clean up the air, offer better protection against radiation, and avoid the handling, breathing, and eating of certain harmful chemicals. Protective clothing against some carcinogenic chemicals in industry has made cancer of the skin and bladder relatively rare.

It is generally agreed that if people would stop smoking, the incidence of lung cancer (which now takes 55,000 lives a year) would drop drastically. Last year the per capita consumption of cigarettes did decline. Researchers also are attempting to develop a safer cigarette, with less tar yield. Such preventives, because they are immediately effective, should be religiously adopted. Still, because the list of known carcinogens is already long and growing constantly, many researchers despair that cancer will ever be conquered by keeping man isolated from cancer-producing agents.

Thus, a second tack toward combating cancer may hold more exciting possibilities. The premise of this approach is: If you can't eliminate all the carcinogens, perhaps you can make man resistant to their ravages—give him a certain amount of immunity. Before cancer can become deadly, a natural sequence of events must take place in the body. This may include penetration of a healthy cell, metabolic changes, and a dysfunction of the cell which causes it to reproduce wildly. If this progress could be blocked at any one of many points from the time the carcinogen enters the body until the time the tumor is formed, cancer could be prevented. In effect this would interfere with the mechanism that triggers the growth of the cancer.

It is probable that certain persons already have a kind of immunity to cancer. Perhaps they have certain inherent enzymes or hormones which, upon the invasion of the carcinogen, go into action, inhibiting the progression of events leading to the tumor. If such inhibitors could be identified, they could be supplied to cancer-prone persons. Research now is being conducted in this area. Animal experiments have indicated that massive doses of vitamin A halt the synthesis of certain cells—a necessary prelude to the formation of lung cancer.

The most dramatic speculation for rendering man immune to cancer centers on the theory that a virus may cause some cancers. The American Cancer Society agrees that it is no longer a question of *whether* cancer is caused by a virus, but only of *which* cancers are virus-caused. One theory is that a virus must be present in the body to predispose a person to develop cancer. Then when a carcinogen comes along, such as cigarette tar or other chemical, it somehow activates the virus, triggering the sequence of events leading to cancer. This would help explain why some heavy cigarette smokers develop cancer but others don't.

If a specific virus could be linked to a specific human cancer, a vaccine could be developed to immunize potential victims against the disease. However, if cancers are caused by many different viruses, inoculation against them all would be difficult. Nevertheless, according to Dr. Robert Huebner, director of the Viral Disease Laboratory at NIH, this does not mean the job would be impossible. "I have always thought," he says, "we would solve cancer before we would solve the common cold."

Stroke: A major obstacle to prevention of stroke is that instruments for detecting cerebrovascular disease are not sophisticated enough to identify potential stroke victims until the disease is relatively far advanced. Few people get medical attention until they exhibit symptoms such as momentary dizziness, tingling lips, or difficulty in speaking. At this stage, some degree of occlusion or hemorrhage usually has already occurred. If we are to conquer stroke, we must develop techniques of determining when the patient first starts going downhill, mentally, signifying that bleeding or a clot may be beginning, according to Dr. Murray Goldstein, associate director of the National Institute of Neurological Diseases and Stroke. "When we achieve that, we will get the first big breakthrough in prevention," he says.

In the meantime, there are good methods for preventing cerebrovascular disease from progressing into full-fledged, incapacitating strokes. On a broad scale, gradually reducing the blood pressure of those who suffer from hypertension significantly decreases the possibility of stroke. This can be accomplished with drugs. It is not yet known whether reducing the blood pressure of those moderately affected (with diastolic pressure of over 90 but below 110) also reduces chance of stroke. A study sponsored by NIH is under way to find out.

Strokes generally are caused in one of two ways. One is by hemorrhage resulting from rupture in a bloodvessel wall, often because of a congenital balloon-like weakness in the wall, called an aneurysm. The other is from a blockage of blood flow, often caused by a buildup of atherosclerotic plaques (fatty materials) in the arteries and subsequent blood clots.

An aneurysm may be located by the injection of a dye into the bloodstream. Severe strokes may be avoided either by surgery which removes the aneurysm, closing up the artery wall, or by plugging up the aneurysm. The accumulation of plaque and blood clots can be removed surgically if they are accessible, for example, in the neck artery. Anticoagulant drugs also retard development of clots.

As helpful as these methods are, the real issues are to prevent high blood pressure as a disease from developing and to stop the accumulation of plaque on blood-vessel walls. Such prospects do not seem imminent, for we do not know the cause of high blood pressure, or why the plaques form. There is evidence that cholesterol is implicated in the accumulation of plaque and that people with high-cholesterol levels have a greater degree of artherosclerosis and a greater proportion of strokes than normal persons.

However, whether reducing cholesterol would reduce the chance of strokes has not been proven. More fundamental research is needed on stroke before large-scale preventive programs can be initiated or stroke-prone individuals clearly identified.

Diabetes: Diabetes is thought to be caused by a genetic predisposition found in about 20 percent of the population. Because the cause has not been determined positively, "we are not even close to preventing the disease," says Dr. Rachmel Cherner of Philadelphia's Albert Einstein Medical Center. "The best we are doing is trying to find and prevent complications of the disease, such as blindness, difficulties in pregnancy, vascular changes, heart attacks. If we can identify those people early who are predisposed to diabetes, we can modify the complications by the manipulation of drugs and diet," he states.

For example, drugs that accelerate the disposal of glucose in the body are now being tested on diabetic youngsters. Potential victims of diabetes are identified through diabetic history in the family, genetic "markers" (such as the presence of a substance called synalbumin), and glucose-tolerance tests. But doctors believe that more sensitive methods of detecting early diabetic tendencies must be developed.

Kidney disease: The causes of kidney disease vary. Hypertension, for instance, may cause kidney damage; thus, keeping blood pressure down is a preventive. Or gram-negative organisms may cause pyelonephritis, a disease that strikes pregnant women particularly. The progression of this, too, can be prevented if detected early through bacterial examinations of urine.

More mysterious is a prominent killer, glomerulonephritis (commonly called Bright's disease). It is thought that this disease often is caused by a malfunction of the body's immunological system. In some individuals the presence of bacteria is believed to cause an overreaction of the body's defense mechanism, producing an excess of antibodies which inexplicably attack the person's own kidney tissue. Much research is being done on ways to suppress this defense mechanism in sensitive individuals, perhaps by drugs.

ARTHRITIS

Causes have been found for less crippling forms of arthritis. Gout has been linked to an inherited metabolic disorder; osteoarthritis has been tied to heredity and mechanical wear and tear; Reiter's syndrome has been traced to a virus

There are two theories as to the cause of the number one crippler, rheumatoid arthritis: that it is brought on by an infection or that, for some reason (as in Bright's disease), the body's defense mechanism goes haywire and attacks its own connective tissues in joints. Although research is proceeding, the prevention of arthritis is a long way off.

ACCIDENTS

The prospects of making a dent in our tremendous accident toll—which takes 100,000 lives and causes 10 million injuries annually—are better than at any other time in history. Within the last five years, the approach to preventing accidents has changed radically. Although the traditional approach of trying to modify human behavior to make people safer is still vital, many authorities now believe it also is important to modify the environment by redesigning products so they are less likely to cause injury. For example, new automobiles are equipped with a host of safety devices designed to reduce injuries.

The potential for saving lives by redesigning other products is enormous. Glass doors could be made of tempered safety glass, preventing 100,000 accidents a year. Studies in Seattle and Canada show that drug containers equipped with a simple safety cap, costing less than a penny each, could cut child poisoning from drugs in half—from 250,000 to 125,000 a year. A device costing $2 could virtually eliminate the injury toll from wringer washing-machine accidents, which is still shockingly high—about 100,000 a year.

Research promises a reduction in the terrible toll of death and maiming from power lawn mowers—possibly by reducing the blade speed, perfecting rubber and plastic blades, or developing new reel mowers that would be much less harmful than rotary mowers. The fruits of research also could virtually eliminate the terrifying annual rate of 150,000 burn-accident victims (mostly children) from flammable clothing. Laboratories have produced cotton and a number of synthetic fabrics that are almost impossible to ignite. Such fabrics also could be used for mattress covers, draperies, carpets, and upholstery, preventing the all-too-common smoldering fires which claim thousands of lives.

According to William V. White, executive director of the National Commission on Product Safety (which is making a thorough study of dangerous products), accidents directly related to such products could be slashed in half within the next five years through redesign.

MENTAL DISEASES

Some recent shifts in emphasis have occurred in preventing mental diseases. But mental illness is probably the most difficult of all to prevent, for the causes are complex and undefined. A multiplicity of factors—including genetic and biochemical makeup, nature of childhood upbringing, and current stresses—may all play a part in the illness of a single individual.

Perhaps one of the most important new themes in preventing mental illness is called "crisis intervention." It is known that how one handles a crisis—such as the first day in kindergarten, the death of a parent, or a crushing defeat—may determine whether one develops mental illness later or actually becomes stronger as a result of the experience. Thus, government-sponsored programs have been set up in various areas to help people cope with their crises. For example, teachers have been instructed in how to individually counsel youngsters during the first days of school. Group sessions are held to train clergymen to handle persons stricken with grief.

Crisis therapy even may have implications for preventing physical disease. Research indicates that a crisis, producing feelings of helplessness and hopelessness, actually may trigger the onset of some diseases.

New discoveries of genetic-biochemical causes of mental illness also offer vast possibilities for prevention. Certain chemicals in excess have been found in the bodies of schizophrenics and manic depressives. It is not certain whether the diseases cause the overproduction of the chemicals or vice versa. Some schizophrenics have been successfully treated with drugs. Researchers are testing the theory that compounds of the chemical element lithium can prevent the manic-depressive cycle.

There is speculation that those who are so depressed they are about to commit suicide may produce extraordinary amounts of a certain steroid. Thus a biochemical test might be able to identify potential suicides. There is some evidence, too, that alcoholism may be related to chemical or vitamin deficiencies. The disclosure that several aggressive males have an extra Y chromosome also may have implications for identifying and treating such individuals before violence erupts.

The majority of mental-retardation cases have been linked to conditions such as infections, poor nutrition, or lack of physical and emotional stimulation.

But the prevention of mental diseases is difficult to pin down. As one authority points out, "The possibilities for prevention are as vast as our understanding of nutrition, infectious diseases, biochemistry, genetics, personal environment, family dynamics, social organizations—as vast as the functioning of human beings."

DENTAL DISEASES

Progress in preventive dentistry has been great. Dr. Seymour J. Kreshover, director of the National Institute of Dental Research, predicted in June 1968 that dental decay probably will be a thing of the past within 10 years. Good oral hygiene is important, of course, but authorities are convinced that the potential for long-term prevention of dental troubles lies with chemicals which make the teeth more resistant to decay. For several years we have known that fluoridation of drinking water cuts down the formation of decay in children by one-half to two-thirds. Yet 60 percent of the population in this country is still unprotected. New experiments show that application of fluoride gels and pastes directly on the teeth also may reduce cavities by 30 to 40 percent. The fluoride preparations can be applied at home or by a dentist.

A discovery of far-reaching significance is the isolation of certain bacteria which allow plaque (gummy bacterial deposits which, if not removed, harden into tartar) to form on the teeth. Plaque is a culprit on both decay and periodontal diseases. Thus, if such bacteria can be identified and killed, the dangerous plaque cannot stick to the teeth. Recent experiments have shown that feeding caries-infected hamsters an enzyme, called dextranase, almost totally prevents the adherence of plaque, and thus the formation of decay. Similar tests are planned for humans.

Since bacteria are necessary to plaque formation, researchers also have long sought a vaccine to kill the offending bacteria, immunizing the population against dental disease.

A mass attack on many diseases at once could be launched by cleaning up our environment. Air pollution may contribute to cancer, infections, and perhaps a host of other diseases; water pollution is incriminated in infections. Additives and pesticide residues in food may cause various types of bodily harm. Especially neglected in prevention are the miserable social conditions of crowded, rat-infested slums, which contribute greatly to infant mortality and the spread of disease. Amazingly, our infant mortality rate is higher than that of a number of other Western countries.

Some physicians strongly believe there is vast, untapped potential in "secondary prevention," that is, detecting disease in the early stages when it can still be treated successfully. One possibility exists in better mass screening for a number of diseases. Cancer of the uterus, for example, has declined 50 percent in the last 27 years, mainly because of the Pap smear test which detects early cancerous changes. At a medical center in Oakland, California, about 40,000 persons a year go through a series of computerized tests for a multitude of diseases. As more sophisticated instruments of detection are perfected, secondary prevention becomes even more practical.

To advise federal officials on public health and disease prevention, the government has established a committee of leaders in health, education, labor, and industry. Among the 18 members of this advisory group is Gerald Dorman, M.D., president-elect of the American Medical Association.

Prevention obviously won't confer immortality on man. But it can lessen human suffering, and, as an ancient Greek adage puts it, accomplish the prime goal of medicine: to "help patients die young—as late as possible".

STRIKE BY HOSPITAL WORKERS IN SOUTH CAROLINA

Mr. HOLLINGS. Mr. President, during recent weeks Charleston, S.C., has experienced regrettable community difficulties concerning the strike of the hospital workers of the Medical College. Obviously, this situation has caused grave concern among the citizens of Charleston. Local and State officials involved have exerted every possible means to prevent this situation from deteriorating to a point of no return. Charleston chief of police, John Conroy, has been foremost in executing intelligent and constructive efforts to maintain respect for law and order.

On May 20, 1969, the Charleston County Council adopted a resolution commending State and local officials and agencies for their leadership and efforts in establishing community understanding, designed to establish a mutually beneficial and successful end to this matter. Although every possible means is being exerted by State and local officials to solve these problems, it is regrettable that these local problems have been compounded by certain colleagues here in the U.S. Senate in an attempt to exert their influence on a local matter. I firmly believe that we diminish respect for the U.S. Congress and local government when we support influences that detract from the respect for local government. Local representatives responsible should be petitioned in an orderly and peaceful manner.

I join the Charleston County Council in their resolution and ask unanimous consent that this resolution be printed in its entirety in the RECORD.

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

RESOLUTION BY THE COUNTY COUNCIL OF CHARLESTON, S.C.

Whereas, the Charleston community has suffered traumatic and unwarranted strife and unrest foisted on its citizens by a small group of individuals, many of whom are unrelated to this area and interested only in their own self-seeking ends; and

Whereas, this group has overtly and covertly employed any and all means to achieve such ends irrespective of the consequences to the safety, health, welfare, and convenience of our citizens; and

Whereas, the acts of defiance, destruction, and lawlessness attendant with the presence of outside influence are abhorred by the loyal and thinking citizens of our community, who, shoulder to shoulder, have built and maintained its legacy over the years as a proud, fair, peaceful, and understanding community; and

Whereas, the resolute, unerring, and unfaltering support of our Governor, the Honorable Robert E. McNair, the State Law Enforcement Division under the direction of Chief J. P. Strom, the State Highway Patrol under the direction of Captain M. W. Cantrell, the National Guard under the direction of Colonel Charles Leath, the City Police Department under the direction of Chief John F. Conroy, the County Police Department under the direction of Chief Silas B. Welch, and all other involved public and private agencies have singularly and collectively produced a type of support and protection which has sustained, and will continue to sustain, this community to a successful and beneficial end in this matter; now, therefore

Be it resolved by the County Council of Charleston County, That the Governor and all other officials and agencies enforcing the law to protect the lives and property of our citizens and to maintain our community be commended for their exemplary performance of duty; and

Be it further resolved, That community-wide appreciation and commendation be extended to the County Hospital employees who have remained on the job and those newly hired for their untiring efforts and sense of loyalty in keeping the County Hospital and Emergency Room open to the unfortunate, sick, dying, injured, and indigent in our community; and

Be it further resolved, That the County Council of Charleston County hereby commends the law abiding white and Negro citizens who, in assisting law enforcement officials and governmental agencies in maintaining peace and tranquility in our community, have suffered violation of their rights and property; and

Be it further resolved, That County Council of Charleston County shall continue to work to bring our community back to normalcy; and

Be it further resolved, That a copy of this resolution be forwarded to the Governor and all other officials and a copy published in the local press.

CHARLESTON COUNTY COUNCIL.
J. Mitchell Graham, Chairman; John F. Seignious, Vice-Chairman; Claude W. Blanchard, Jr.; Miner W. Crosby, Jr.; W. Lloyd Fleming; Robert N. King; John P. O'Keefe; James J. Price, and Richard E. Seabrook, Jr.

THE SCANDAL OF BUILDING COSTS

Mr. WILLIAMS of Delaware. Mr. President, Time magazine for May 23, 1969, contains an article entitled "The Scandal of Building Costs."

The article calls attention to the alarming rate at which building costs are skyrocketing and points up the danger to our economy unless this inflationary trend is checked. This inflation is effecting homebuilding as well as commercial construction.

Inflation today is a real danger, and it is going to take the cooperation of Government, industry, and labor if it is to be checked.

I ask unanimous consent that the article be printed in the RECORD.

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

THE SCANDAL OF BUILDING COSTS

Organized labor long ago acquired a stranglehold over the $85 billion construction industry. That power has not only led to an astronomic rise in building wages but has also enabled unions to load the nation's largest industry with archaic and inefficient methods of operation. As a result, construction costs are climbing so swiftly that they are complicating Washington's struggles to increase the supply of housing and restrain inflation. Last week George Romney, Secretary of Housing and Urban Development, challenged construction-union leaders to adopt reforms. His candor was greeted with boos, jeers and catcalls.

"I want to help you see yourselves as other see you," Romney told 3,000 delegates at a Washington conference of the A.F.L.–C.I.O. Building Trades Department. Then he reeled off the statistics of construction wage settlements which jumped from an average raise of 12.4c per hour in 1962 to 49.6c per hour last year. The unionists cheered wildly. Next the Secretary admonished them to relax apprenticeship restrictions that deny jobs to Negroes. They booed. When he urged building workers to increase their productivity, they booed again. He advised the unionists to end other practices that raise building costs. More boos.

Reddening but unruffled, Romney continued: "There is nothing more vulnerable than entrenched success. The demand for reform is growing. People are already talking about compulsory arbitration in the building trades."

LAGGING OUTPUT

Some of the reasons for such talk are obvious. The cost of housing construction jumped by 10% last year, more than the increase in any other item of family living expenses. Home-building costs went up at an annual rate of 12% during March, the latest month for which statistics have been compiled. At the same time, U.S. housing output has fallen seriously behind the nation's needs. Last year the U.S. built just under eight houses and apartments for every 1,000 people compared with 16 per 1,000 during 1950, the peak year. On a percapita basis, U.S. housing output has fallen from world leadership to a level below Western Europe, Japan and Russia.

WIDENING GAP

Including fringe benefits, the average union construction worker now gets paid $5.91 an hour; in big cities he makes more. Philadelphia carpenters recently won a 23% pay increase, to $6.85 per hour, to be followed by a further 21% raise next year. Omaha roofers will get a 57% increase over the next two years, and Miami laborers will get a 70% boost over three years. The widening gap between wage rates in construction and manufacturing increases the chances of industrial strikes. Last year construction wage settlements were more than 3½ times higher than those in oil, trucking and rubber, and five times the increases won by auto and cannery workers.

In fully unionized "contract construction"—factories, stores, high-rise apartments and highways, which account for two-thirds of the nation's annual building bill—labor takes its biggest bite. Employers have small incentive to resist union demands because they expect to pass on the entire cost to clients. Even when they try to hold the line at the bargaining table, the nation's 870,000 contractors are no match for the power of 3,000,000 building-trade workers, who are tightly organized into 10,000-odd locals by the A.F.L.–C.I.O.'s 18 craft unions. Most contractors are too small to operate efficiently and are so meagerly financed that a long strike can mean bankruptcy; striking workers merely move to high-paying jobs in other cities. Says Frank J. White Jr., executive vice president of the Associated General Contractors of Connecticut: "There is no collective bargaining in construction. They demand and we give."

CLOSED RANKS

Wages are high partly because of shortages of skilled craftsmen. Local unions deliberately restrict the number of their members. They keep tight control over apprenticeship programs (average length: four years) and force employers to recruit all their workers through union hiring halls. Unions defend their loftly pay and closed ranks by pointing to the seasonal nature of construction. Once convincing, such reasons are now losing their validity. In Chicago, for example, building-trades leaders admit that most of their members work at least 2,000 hours a year.

Another notorious source of needless construction costs is union opposition to prefabricated components. Contractors once thought that the 1959 Landrum-Griffin Act had barred such make-work practices as illegal boycotts of prefabricated parts. In a 1967 decision, however, the Supreme Court

upheld a union's right to prevent the use of pre-fitted doors in order to preserve work traditionally done at the site. The ruling has caused wide repercussions. Plumbers refused to install prefabricated heating equipment at a Ford Motor Co. project until they first dismantled and reassembled all the piping at the plant site. A federal appeals court upheld the right of Manhattan sheet-metal workers to refuse to install an air-conditioning part purchased from a Milwaukee firm. The union insisted that the part be manufactured by its own members.

Although public construction constitutes one-third of the industry's total volume, Washington for years has exerted no pressure to keep labor's power from boosting the Government's building costs. The Nixon Administration recently acted to strengthen federal mediation machinery by centralizing efforts in Washington to solve construction disputes. But many contractors dismiss the move as trivial.

POOLED PROJECTS

In an interview last week with Time Associate Editor Gurney Breckenfeld, Romney laid out the dimensions of the difficulties and proposed some remedies. Said Romney: "We have got to tackle housing's cost problems right across the board—labor, land, money and materials."

Romney has been striving to introduce reforms that will cut costs and stimulate efficiency. His most ambitious effort, started earlier this month, is an attempt to reorganize both the Government's housing program and the industry that serves it. He insists that his plan can add between 250,000 and 350,000 units a year to U.S. housing starts, which are limping along at an annual rate of 1,500,000 and have been declining for three months. Named Operation Breakthrough, the plan calls for states and cities to pool their separate, federally subsidized projects into large-scale "mass markets." The Secretary hopes to attract giant corporations into housing construction and to wring economies from volume production. Localities would have to remove building codes, zoning and other barriers that fragment today's housing market, inhibit innovations and raise prices.

A.F.L.-C.I.O. President George Meany derides "people who build houses with their mouths." "Romney," he says, "has a fixation in his mind that you can turn out houses off a factory line like you turn out cars." But factory production of houses and room-sized components is an increasingly successful way to offset rising costs—in areas where unions and local laws allow such industrial methods to be used. U.S. Steel, Boise Cascade, National Homes, Guerdon Industries, Crane Co., Borg-Warner and many other firms have entered the field with ready-to-use rooms, baths or entire house sections.

OPENING UP

A considerable overhaul of labor policies molded by the Depression of the '30s is plainly in order. The most urgent need is for the building trades to open ranks and find room for more qualified young men, particularly Negro ghetto dwellers. Toward that end, union hiring halls might be abolished by law and discriminatory apprenticeship requirements sharply reduced. Regional bargaining, such as Ohio contractors have begun, should replace local negotiating.

In many ways, labor's naked show of arrogance toward George Romney reflects a confidence that there is no limit to a contractor's ability to pass on to consumers the soaring costs of construction. Sooner rather than later, the unions may find that they are on a collision course with an aroused public.

BLACK CAPITALISM: SEED MONEY IN GEORGIA

Much as businessmen talk about the need to help the poor, ghetto betterment projects often seem to generate more rhetoric than results. "Whenever the average businessman has done something, he has done it in a condescending spirit and at a distance, not in a face-to-face partnership," says Mills B. Lane, president of the Atlanta-based Citizens & Southern National Bank. "He likes to sit around and debate, then go write a check to some agency or other."

Lane decided that his bank, the biggest in the Deep South (assets: $1.5 billion), should become deeply involved in increasing home ownership and black capitalism in deprived areas. As a first step, he devised "the Georgia Plan," which starts with local cleanup drives and leads to high-risk improvement loans.

The plan is well under way in Savannah, where 40 impoverished Negroes have been helped to buy homes and 23 have received loans to begin or expand their own businesses. The bank has also mounted cleanup campaigns in the Negro neighborhoods of Valdosta and Albany, Ga., where thousands of blacks and whites together swept up and carted away hundreds of tons of junk. When the campaign was repeated in Savannah, some 30,000 people showed up to participate. Last week Lane introduced his plan to seven other Georgia cities, including Atlanta.

DISCOVERY IN JAMAICA

Until recently, Lane, 57, was a political conservative with segregationist sympathies. His dealing with non-U.S. blacks over the last two years, when he helped organize the Jamaica Citizens Bank (49% owned by Citizens & Southern), radically changed his outlook. Back in the U.S., he drove around the slums of his native Savannah and was appalled by what he saw. "It is high time," he said, "that we get around to emphasizing what a person is, not who he is."

The Georgia Plan permits loans even to people who can offer no security at all. To circumvent banking regulations that prohibit such lending, Citizens & Southern set up a subsidiary called Community Development Corp. and capitalized it at $1,000,000. CDC approves the risky loans and advances the down payment if a customer cannot. Then Citizens & Southern steps in with the balance, and the down payment is handled as part of the total loan. Normal interest rates are charged, but the terms can be adjusted so that the borrower can meet his installments, which are usually no more than the rent he used to pay to a landlord.

NO TO WHISKY

Business loans go only to those who show an ability to manage enterprises that promise to benefit the community. Thus CDC turned down applications for liquor stores and a hippie-trinket shop. Instead, it put Savannah's first Negro used-car dealer into business and financed dry-cleaning shops, groceries, beauty parlors, even a small firm that manufactures porches for mobile homes. Thus far, $1,000,000 has been distributed in loans ranging from $2,200 to $25,000. Another $1,000,000 went to the biggest slum landlord in Savannah, a Negro. The money will pay for the renovation of dilapidated houses.

Lane is prepared to lend $15 million in the poor neighborhoods and spend $1,000,000 a year in cleanup campaigns. He also intends to expand his program far beyond that by seeking such large depositors as the Ford Foundation and converting their money into high-risk loans. "Low-income people need money," says Lane, "and the banks have got to give it to them."

CHALLENGES TO THE DRUG INDUSTRY

Mr. MAGNUSON. Mr. President, it was my honor to attend the annual meeting of the Proprietary Association 2 weeks ago. It was a pleasure to hear the incisive remarks of both industry and Government representatives. President of the association and senior vice president of Richardson-Merrill, Inc., Hermon A. High, gave a well-informed commentary on the responsibilities of and challenges to the drug industry in this time of aroused consumerism. Commissioner Herbert L. Ley, Jr., of the Food and Drug Administration, illuminated the choice of Government-industry cooperation or conflict in the matter of drug regulation. Both speeches show a concern for the public interest and a flexibility in determining how best to serve it.

I ask unanimous consent that the speeches of Mr. High and Commissioner Ley be printed in the RECORD.

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

FREEDOM'S PRICE?

(Presented at the Proprietary Association, 88th annual meeting, May 11–14, 1969, The Greenbrier, White Sulphur Springs, West Virginia, by Hermon A. High, president, the Proprietary Association, senior vice president, Richardson-Merrell, Inc.)

Ladies and Gentlemen; Distinguished Guests:

This morning will be the third, and last time that I speak to our members and guests as head of this Association. And if someone here is saying, "Enough is enough," I assure you I heartily support the thought.

I want to speak briefly on some important phases of our business life which face our industry in this "year of the question." One of these pertains to the subject of our distinguished speaker, Senator Magnuson—the continued hue and cry, more vocal every day, for increased protection of the consuming public by the Federal Government. This wave of "consumerism" is a deep, integral part of our present day-to-day life which finds our everyday world in a swirl of change—in which all business is caught up, with our industry no exception.

How much of this present consumer movement is the fault of business' past mistakes—or past abuses in the market place—be they large or small? Regardless of where the blame, if any, lies, we are face to face with the problem; and the challenges it presents both to government and to industry.

For example, some significant recent developments are: (1) the attacks on the Federal Trade Commission by a task force of young law students, and their subsequent testimony before a Senate Sub-Committee; (2) new legislation urged in the Senate for the establishment of a Department of Consumer Affairs; and (3) the recent request of the Administration to the American Bar Association asking for the formation of a committee to study the activities of the Federal Trade Commission and to make recommendations to the President.

All of this—and additional pressures—could possibly turn into the biggest anti-business show in years. What can business do to meet the challenge?

Over 10 years ago, Dr. Theodore Levitt, distinguished Harvard Business School Professor said in the "Harvard Business Review," and I quote:

"In the end, business has only two responsibilities—to obey the elementary canons of everyday face-to-face civility (honesty and good faith); and to seek material gain."

In the same publication—at a much later date—he added that a liberalized business posture can, and is, resulting from "The businessmen's recognition of the need to see the world from the consumer's viewpoint; not the producers."

Today, serious students of the consumer movement feel the consumer cause has

prospered because it represents needs generated by the realities of the modern market place. We cannot ignore, as businessmen, this process of evolution in our society. We should not look to the law; or to the legislators; alone—for law is typically the reflection of change; and only rarely the initiator. Therefore, the need of all industry is to step back and take a realistic, albeit, painful look at current trends, and then decide what efforts can be made to adjust voluntarily to these trends.

Our answer for our industry must be strict self-discipline, because only this course has the possibility—theoretical as it may seem—of avoiding *external* imposition of possibly more harsh, and certainly more distasteful discipline. The only alternative—as I see it—is a continuous rear guard action; sniping away at the most obvious administrative procedural abuses of various government agencies, while the last vestiges of our freedom of action are gradually eroded. On net balance, we must examine the proposition that by lack of self-discipline we provide ample examples of abuse of public confidence—thereby adding fuel to the fire for the activists in the consumer movement, who after all are still a small minority and must rely on more and more general public support to achieve their ends. As a wise man once said, "The surest way to defeat is to continuously run on the track of the enemy." Probably here I should ask a question—Shouldn't we quit trying to stop the flood and concentrate on building the Ark?

This association, I can assure you, is making determined efforts to improve our performance, and our image, with both Government and the public. We are attempting to anticipate the needs and demands of both—and meet them voluntarily rather than under regulatory compulsion. In the past, we have often felt that the governmental agencies have been guilty at times of what might be termed as "bureaucratic overreach"; and in such cases our logical and reasonable position has been one of strong objection, and sometimes a consequent struggle in adversary proceedings.

Let me say that we much prefer the ideal combination of rational and fair governmental action to protect consumers where the need is real; put together with the voluntary efforts of our own industry. This approach can result in greatly increased confidence of consumers in our products. And we know that nothing rings the market place cash register like confidence.

This joint approach to increase the public's confidence in our advertising has just been brought into sharper focus by the Federal Trade Commission's issuance of proposed voluntary guidelines for the advertising of over-the-counter drugs.

These proposed guidelines are receiving our concerned attention. The General Counsel's office and the Legal Departments of our member companies are carefully studying them. Formal statements will be filed with the Commission in the near future and our membership will be kept informed.

The purpose of these guides is to assist the business community in complying with the Deceptive Practices Section of the Federal Trade Commission Act as it applies to the advertising of over-the-counter drugs. The guides are not designed *to make new law, and*—when finally drawn—*will not have that effect:* Rather, they will constitute an announcement of the Commission's policy and will be directed to informing us of the Commission's interpretation of its statute as it bears upon this important facet of our business.

Our first impression of these proposals has been that a number of the guides coincide with provisions of the Association's Code of Advertising. Generally, they appear to be an earnest attempt by the Commission to bring together principles and practices involved in FTC actions over the years . . . many of which result from litigated decisions either by the Commission or by the Federal courts.

Even so, they do—to some appreciable extent—add to the "ground rules" previously established in pertinent case law.

In the case of such guidelines it appears that it may be necessary for us to ask for certain clarifications and modifications of proposed language. Furthermore, the actual deletion of any guidelines that check out as unreasonable or impractical will be *vigorously examined* with the Commission.

But, in the main, the guidelines are in harmony with this Association's principle of adherence to both the law and the spirit of the Federal Trade Commission Act and with our effort to impress this precept upon our members. So, within such framework, we will try to deal practically with these proposals.

I think I should say that it was within that framework that our Code of Advertising Practices was formulated and that, from time to time, it has been revised. We are constantly calling the Code to the attention of our members and seeking their continuing cooperation.

This is an important time to give new evidence of our industry's willingness to meet changing needs in a rapidly changing political climate. I want to call your attention specifically to the first item in the Code: "Truth in advertising should apply to the printed and spoken word, pictures with sound, and to illustrative treatment." Let me pinpoint that by emphasizing that no claim should be made for any of our products which cannot be properly substantiated.

This is essential for us to bear in mind when working with our advertising agencies in the preparation of all of our advertising—particularly, on new products, and in changing any advertising claims on older products. With the present National Academy of Sciences and National Research Council Review of the effectiveness of over-the-counter drugs "in the works"—(we understand the panels have completed reports on approximately 400 o-t-c drugs)—our individual companies must be prepared to upgrade and supplement all cinical and scientific data which form the basis for labeling and advertising claims. If any of us do not have substantial evidence now—and heaven forbid—then we should immediately set about getting it.

As to our Advertising Code, we have had reasonable success with the implementation results to date. This does not mean to imply that everything is perfect, and that room for improvement does not exist. For example, our Board just yesterday approved another implementation step as regards our complaint procedures under the Code. This new step provides that any member of the Association can complain to the proper officers of the Association regarding the advertising of another member if, in his opinion, this advertising is in possible violation of the Code. Formerly, only competitors' complaints were referable to such officers.

The President, and other Officers of this Association, are charged with the responsibility of seeing that our voluntary Code of Advertising is revised as needed; and to see that proper implementation of the Code is carried out at all times. Many difficulties are inherent in any industry code of self-regulation—but this Association is pledged to continuously exert its best efforts to make ours as workable as possible, and we are pursuing that course of action today.

Another area of great importance to our general society today—and to this industry—is safety from accidents in the homes of America. Each year millions of accidents occur in and around our homes; resulting in injuries and personal tragedies—many to small children of tender age. A large number of such accidents are due to the accidental ingestion of many types of household products; naturally, including medicines.

Regardless of causation—be it human carelessness or ignorance—there can be no question as to the need for better safety measures in the home. Numerous educational efforts on the part of industry, government, and others to get messages across to parents, and adults in general, are now underway in an effort to stimulate the intelligent use, handling and storage of all household products with a potential for harm.

One organization—the Council on Family Health—has as its sole purpose the educational guidance of mothers—as the key figure in the home—in all aspects of home safety. This Council was pioneered, and sponsored by, member companies of this Association as a public service, and you will learn more about its important contributions to home safety later on today.

We continue to cooperate with the Government and the medical profession on all aspects of the accidental ingestion of medicines problem. At the present time, a significant pilot study on the technical aspects of various types of safety closures is being conducted under the auspices of a joint committee composed of physicians, public health specialists, F.D.A. officials and industry representatives. This study is being financed by this Association, although not in any way under our direction. Favorable results influencing better safety factors are certainly hoped for as a result of this comprehensive study.

There are many other interesting projects, and aspects, of your Association's activities that I will not talk about today since the more important of these will be covered at our early morning meeting tomorrow for all active members. I urge you to be present—our Washington Staff, under the extremely capable and energetic leadership of Jim Cope, has performed superbly this past year in behalf of all of us, and tomorrow morning's meeting will be informative and very helpful to all our active member companies.

In closing, I have a few final words in answer to our question of how we retain our freedom of action in our major business activities. The cold hard fact is that we are the ones—not the administrative agencies of the Government or the Congress—who should analyze our imperfections—be willing to recognize them—and voluntarily set about to correct them.

All that this requires is that we be realistic and self-enlightened in all of our business activities that touch on the consumer's real needs in this ever-growing field of self-medication, with its important role in the over-all national health program.

If we are, in my opinion, we can be fairly judged on the record—and so judged—this industry can live with a greater degree of freedom. But if we fail to meet our responsibilities, we stand to lose our independent freedom of action—our freedom of expression in our public advertising—and face possible unreasonable and harsher governmental controls. The last thing this drug industry wants is to be regulated like a public utility, and the path to such regulation is irresponsibility on our part. I think we should say to the Government, and to the millions of consumers who use our products, that we intend to pursue proper and responsible courses of action that will win, and hold, their confidence in us. This is the price we must be willing to pay for freedom. Thank you.

Cooperation or Conflict?

(Remarks by Herbert L. Ley, Jr., M.D., Commissioner of Food and Drugs, at the annual meeting of the Proprietary Association, White Sulphur Springs, W. Va., May 12, 1969)

I am delighted to be here today. You might even say I have a proprietary interest in discussing mutual problems with you. We both

have much to gain in working out problems on a cooperative basis. And we both have much to lose if we find ourselves in a series of confrontations. The ultimate victim, of course, in the latter situation, is the people we both serve.

The Food and Drug Administration has always been committed to the concept of voluntary compliance as a prime mover in our efforts to achieve a maximum amount of protection for the American consumer.

We have long recognized our mandate not only to enforce the law, but to inform and assist the regulated industries as well.

As my predecessor, Dr. James L. Goddard, once put it, "What we are concerned with as administrators of the FDA law, is the wise and restrained use of power. This is good administration, good executive practice, good decision-making. It is more than just the procedures of enforcement."

There are those, however, who attack the concept of voluntary compliance as being unrealistic. Time has proved them wrong. As the late great Prime Minister of India, Nehru, said on December 4, 1961, to the World Council of Churches, "Most advocates of realism in this world are hopelessly unrealistic."

There is no doubt that most of you have recognized that what's good for the consumer is good for industry. I need only cite Mr. George Merck, one of the Nation's leading pharmaceutical manufacturers, who observed that, "Medicine is for the patient. It is not for the profits."

But I should like to point out that all is not beer and skittles. Despite the growing acceptance and understanding of a partnership between the FDA and industry to meet and serve the needs of the American people, there is one yardstick of error—one yardstick of how much we still must do before we can sit back and be smug. I am speaking of the amount of human error that still exists in your plants—error that results in failures as reflected in our much too large weekly recall list.

I don't want to go through a long laundry list of entries, but I will select just a few items during the first five months of this year—items such as 296,000 sodium salicylate tablets that were recalled for subpotency, 38,500 tablets of ammonium chloride that failed to meet USP dissolution standards, more than a half million cold capsules which were subpotent, and so on and so on.

The list could be as long as most speeches that begin with, "I only have a few words. . ." It is a list that should not exist. It is a list that we must join forces to eradicate. The alternative is not pleasant, as you know. A much happier option is constructive self improvement and the development and self imposition of standards by your association that would reduce the recognition of the members of your association on the FDA recall list to zero. As you know, this list is a public document but we have made no effort to give it publicity. On the basis of a recent speech by Ralph Nader, however, I would predict that it will be given much greater consumer news coverage in the future.

Another matter for our mutual attention arises from the FDA proposals based on the recommendations of the NAS/NRC efficacy review of drugs marketed between 1938, when only safety was required, and 1962, when the Kefauver-Harris amendments added the efficacy requirements to both over-the-counter and prescription drugs.

Under the Food, Drug, and Cosmetic Act, a medicine can be a "new drug" regardless of how long it has been on the market. The law says that the drug is "new" unless it is generally recognized by qualified experts as "safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling" and it has been used to a material extent and for a material time under such conditions. Regulations which we proposed last year, provide a procedural mechanism whereby firms can provide evidence that a drug is generally recognized as safe and effective.

There will, of course, be many changes other than the possible maturing of products out of the "new drug" category. Perhaps it would be well to review for you the procedures FDA has adopted for implementing the NAS/NRC recommendations because this task will certainly present one of the more important 1969 "questions" to which your program refers.

Of the roughly 3,700 drug formulations reviewed by Academy panels, about 400 are over-the-counter drugs. This does not include any so-called "me-too" preparations on the market which also will be affected by efficacy decisions.

We have completed basic work within our Bureau of Medicine on more than 200 of the reports covering over-the-counter drugs. Publication of these in the form of *Federal Register* announcements will be starting soon. Preparations which have already moved through the preliminary stage of our review include choleritics and anorectal agents; cathartics and antibiotic, antihistomic, and anti-fungal ointments; sun-screen agents; antimetic and analgesic agents; estrogen creams; iron preparations; anti-perspirants and deodorants, and anti-infective agents.

As you will recall, the Academy panels have classified drugs reviewed for efficacy into various categories—"effective," "probably effective," "possibly effective," and "ineffective." There are additional categories to cover those products that present unique problems and for drugs found ineffective as fixed combinations.

For those drugs found to be "effective," FDA's action may take the form of a simple announcement of that fact in the *Federal Register*. Needless to say, this is one area in which we can count upon industry's cooperation and concurrence.

For those drugs found "probably effective," we allow the manufacturers 12 months to provide additional data to support the claims in question. For those drugs found "possibly effective," we allow six months for the submission of additional data. For drugs ruled "ineffective," we allow 30 days for the submission of evidence to support labeling claims. This period must be added to the seven years that have elapsed since the passage of the Kefauver-Harris Amendments, which required the submission of "substantial evidence" for efficacy claims.

If manufacturers do not provide the required evidence of efficacy within the stipulated time period, FDA's next step is to initiate action to withdraw approval of the new drug application. This action, of course, also would affect any "me-too" products in the marketplace. When such action is proposed, manufacturers or other parties will have an opportunity for a public hearing if they so desire.

I am not going to tell you that you should not take full advantage of the procedures available to you in opposing any FDA action which you believe is inconsistent with the medical evidence available. But I would urge you not to use these procedures simply as a means of keeping on the market for one or two or three additional years a product which may be profitable, but which you know cannot be demonstrated to be effective for the claims made. This is one of the specific examples I had in mind in asking the question in the title of this talk: Cooperation or Conflict?

There is broad public support for the efficacy review and we have also had clear indications of impatience with any delay in putting these recommendations into practice. I do not think you would serve the best interests of your industry—and certainly not the public interest—in defending through drawn-out legal procedures any product which you know the medical evidence cannot support.

Most of the drugs included in the efficacy review, of course, fall into categories other than "ineffective." But you can anticipate that we will require labeling changes on many products and here again your willingness to work cooperatively to give your customers accurate, complete information will be tested repeatedly.

Such changes can be expected to have a significant impact on the way in which you present your products to the public. I am just as aware of that as you are. The Federal Trade Commission, which regulates the advertising of non-prescription drugs, has repeated in its newly proposed guidelines that advertising must be consistent with labeling. The FDA has established close liaison with FTC over the years and I assure you that we will cooperate fully in carrying out any labeling revisions growing out of the efficacy review. I can further assure you that the next month will reveal several major areas in which FDA–FTC cooperation will give you ample opportunity to react constructively.

The discussion of labeling brings us to another subject: implementation of the Fair Packaging and Labeling Act of 1966. As you know, we announced in March that the regulations to carry out the provisions of the Act as they affect over-the-counter drugs, cosmetics, and medical devices will become effective on December 31, 1969.

The drafting and promulgation of these regulations has been a difficult and time-consuming task. We originally had established an effective date of July 1, 1969, but because of the time required to evaluate and consider objections, we were not able to publish our decision on these until last March 6.

For this reason, we granted an additional six months so your companies and others would have time enough to bring product labels into compliance with the new requirements. There will be, no doubt, requests for extensions of time beyond the December effective date. I must tell you that we will be judging very critically the basis for such requests in view of the already postponed effective date.

We previously announced the criteria which food manufacturers would have to meet to obtain extensions for compliance with FPLA regulations. These also will apply for over-the-counter drugs. Briefly, the manufacturer must show us that he is asking for additional time because of extenuating circumstances beyond his control. If stocks of packages and labels are in compliance with the Food, Drug, and Cosmetic Act, if diligent efforts have been made to obtain packages and labeling in compliance with the new packaging regulations, if stocks presently on hand were not accumulated as the result of deliberate attempts to overstock—if all of these facts are true and the manufacturer still is unable to bring his labels into compliance by December 31, then we will give serious consideration to the reasons offered to support such an extension. But we do not anticipate that sound reasons for delay can be provided in more than a few instances. Too much time has already elapsed between the enactment of the Fair Packaging and Labeling Act and its full implementation.

There is yet another important matter which will occupy your attention in the coming months as it has occupied our attention for many months past. Many of you probably know that we are preparing revisions in Good Manufacturing Practices regulations for the drug industry. These will be published, I expect, within a few weeks.

Our goal in making these revisions is not to impose new rules on the industry simply to exercise our regulatory muscles. Rather, we want to write into the GMP regulations the results of our experience in monitoring manufacturing and quality control procedures. The GMP's are simply the rules that

must be followed to manufacture products that comply with the requirements of the Food, Drug, and Cosmetic Act.

As I said at the beginning of this talk, the FDA wants to do everything that we can to assist industry in achieving compliance with the requirements of the law and our regulations. We have no greater liking for product recalls than you do. The consumer is better protected through your prevention of errors in the plant than by our detection of errors after a product reaches the marketplace.

I do not fear conflict if conflict is necessary to carry out the consumer protection mandate which Congress has given to FDA. But I much prefer cooperation and I sincerely hope that the FDA can count on yours.

Thank you.

THE HEALTHIEST SPOT IN AMERICA

Mr. CURTIS. Mr. President, Holiday magazine for May contains an article which is of interest to everyone in the Nation. It is of particular importance to me because it involves my home county.

I refer to the article entitled "The Healthiest Spot in America." It is based on statistics and upon the research of a distinguished man who resides in a neighboring State.

I ask unanimous consent that the article be printed in the RECORD.

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

THE HEALTHIEST SPOT IN AMERICA: IS NOT THE BUSIEST, NOR THE HIPPEST, PRETTIEST OR EVEN THE PLEASANTEST PLACE; IT'S IN CENTRAL NEBRASKA, AND WHAT PEOPLE DO THERE IS LIVE LONGER THAN THE REST OF US

(By Joan Younger Dickison)

The healthiest place in the United States for a middle-aged white male is a stretch of Nebraska prairie south of the Platte River, but nobody knows why.

There amid tall, windswept grass, corn and cattle, the chances of a man's succumbing to heart disease, of being felled by a stroke, of wasting away with lung cancer or even being run over by a car between his forty-fourth and sixty-fifth birthday are about 30 percent less than they are anywhere in the United States as a whole.

It's super-super healthy in the villages and towns which lie in the valleys of Nebraska's so-called Big Blue and Little Blue rivers, but even in the bustling capital city of Lincoln (pop. 161,000) there are only half as many fatal coronaries in the adult white male population as there are in the slow-moving southern city of Augusta, Georgia (pop. 70,262). The Lincoln men are so healthy that their death rate from any cause whatsoever is only slightly higher than it is for heart and kidney disease alone in Scranton, Pennsylvania, even if Scranton is about the same size.

Any place in the Great Plains area, from Minnesota to western Texas, a man has a good chance of being around for his golden wedding anniversary, but he stands a better chance of enjoying it in this stretch of Nebraska—no matter whether he's poor or rich.

In short, south central Nebraska is a place where a man can expect to achieve his three score and ten, as the Bible says, in fine fettle and then a few happy years more.

These didactic statements, astounding and annoying although they may be to medicine men, non-Nebraskans and dissidents in general, are supported not only by government statistics run through computers but also by the careful thinking and testing of an earnest, cautious Public Health Service scholar who is a real-life middle-aged white male himself. For almost a dozen years Dr. Herbert I. Sauer has been analyzing local and national heart-disease death rates and with mounting fascination has become convinced that the geographic link with healthy longevity is genuine—and that Nebraska's forty-year-old record is its most cheerful proof.

"This is no statistical fluke," Dr. Sauer told me, generously passing out charts and reports in his office at the University of Missouri's new medical building. "We've checked the geographic variable against ethnic background, cigarette sales, in- and out-of-state migration, sex ratios, medical facilities, and we've sampled enough in depth to make sure we're not dealing with basic errors like carelessly filled out death certificates, guesses on age, inaccurate medical diagnoses, or errors in computation. Consistently, for forty years this stretch of Nebraska comes up smelling like a prairie rose."

Just what the geographic-health link is, however, remains an enigma.

"It could be something physical in the environment—some super-something in the soil, the air, the water," Sauer continued; "it could be something *not* in the environment, or it could be geocultural, that is, it could be the diet, the exercise, or the attitude towards life encouraged by the Great Plains geography in general and by this eleven-county stretch in Nebraska in particular. Or it may be a combination of things which is peculiar to this area. All we know for sure is a few things it isn't. There have been a lot of myths around for a century or more about hard water being healthier than soft—witness all the mineral salts—but we couldn't get any substantial correlations and suspended judgment. Another theory—big at Yale not long ago—was that an equable climate bred equable men, or men without hypertension, and that's obvious nonsense, for the Great Plains climate is full of extremes."

I came in late on Dr. Sauer's mystery but being something of an oddball thinker with a warm and friendly prejudice in favor of healthy middle-aged men I was involved from the moment I read his 1968 pamphlet and eager to try my luck in search of secret health agent number one. After studying the charts, the reports, and talking with Sauer and his ecological colleagues, I decided to try my own thing; a mixture of feminine intuition and on-the-spot noseyness to see if something visible in the style of Nebraskan life made it a veritable if unheralded spa of spas.

Well, now that I have been to Healthyville, I would like to be able to report that amid the tall, fragrant grass, life is tranquil and sweet, as rhythmic as nature itself, empty of strain and full of lean, strenuous men tilling the soil, herding the cattle and singing cheerfully *Oh Bury Me Not on the Lone Prairie* while back at the farmhouse their wives laugh tenderly and toss the salad greens for dinner.

But it's not that way at all.

It is true that your average Nebraskan male in the health belt rises as early as a Connecticut communter and sacks out after the late news which comes an hour earlier (at ten) out there than it does in the east. It is true that instead of driving the old bus to the station every morning, he drives the tractor or the reaper or the uphill plough around the place. It is true that instead of milling around through crowds of people he mills around among the cows or the pigs and if more than twenty people get together who are not relatives, it's either a party or a funeral. But the diet alone would drive any self-respecting cardiologist mad. These middle-aged white male Nebraskans are the heartiest eaters (no pun intended) I've ever seen, and have the sweet tooths of teenagers.

Take breakfast: fruit, eggs, hashbrowns or corncakes or both, ham or pork chops or bacon, or the works, and toast and coffee. *Plus* syrup on the corncakes, jam on the toast.

Lunch includes: thick slabs of beef or pork or ham or fried chicken, homefries or mashed-with-butter potatoes, and the vegetable in season—whipped squash when I was there since I'd just missed the sweet corn harvest. *Plus* a slice of apple pie with cheese *and*—I saw it, I ate it—cinnamon and sugar syrup overall.

Dinner alone would keep a pauper going for a week. It rolls on at six p.m. as if lunch had not been eaten a mere five hours ago: meat, two vegetables, dessert and coffee. Dessert may even be a little fancier than at lunch: one dandy new recipe for custard pudding I brought back mixes nuts, peaches, eggs, whipped cream and sugar, and is topped with gooseberry cordial.

Servings throughout are generous to the point of being startling. A real trencherman can eat a dozen ears of corn as a side dish alone.

Salad is not a staple dish in the homes. "We do eat a lot of apples though," one man told me, obviously thinking about the old adage that apples and doctors correlate in inverse ratio. Apples are sold at drugstores, at the cashiers' desks in the eating places and it is not uncommon to see a grown man walking down the street munching on a large Delicious.

The real snack of the Nebraskan day, however, is not an apple; it is a slice of pie or cake and cup of coffee taken after or during the 10 p.m. news. "It doesn't do for a man to go to bed on an empty stomach," was the dietary advice I gleaned from this experience.

What's unnerving about all this delightful eating is that it has so few bad results. Obesity is rare; while not skinny, the men are straight up and down and fit-looking and the women, although considerably more rounded than your chic New York matron, could at worst be only called plump.

There was an average amount of smoking. Even in places where there wasn't a phone booth, there were builtin cigarette machines. And the pipe clenched in the teeth etched itself into the country man's costume below a visored vinyl cap and above a blue jacket and blue Levi's.

Does the middle-aged healthbelt male drink? Some do, and some don't. There are cocktail lounges in all the hotels in Lincoln and they fill up during Walter Cronkite's news show—in full color at five-thirty CST—and empty out afterward. Bourbon is the favorite among the hard liquors but beer is more popular than anything and no one I could find had ever tried one well-advertised special: "The Black Martini—all the rage in the East." In the Czech areas beer was called *pevo* and I was told it was so well-liked that on Saturday nights some men even drank "too much for their own good."

Hunting with or without bourbon is big in Nebraska, and apparently it is how modern Nebraska man gets his exercise. The south central Nebraska farm (average size, 400 acres) hasn't been worked by hand or horse for forty years or more; this is where barbed wire was invented, bringing the doom of the cowboy round-up. It's been decades since any Nebraskan pitched hay with a fork or heaved corn with a shovel.

Hunting, however, is still strenuous stuff in the prairies. As one man said: "Hunting out here isn't like it is in the East. We don't use caddies. We track our own game and we carry it home ourselves." When I went to call on a doctor of some thirty years' experience in the area to see what he thought of hunting for health, unexpectedly, he skipped the medical and zeroed in fast on the spiritual values.

"It's our philosophy of life that supports us, not drugs or diets," he said. "We're God-fearing people, part of the Bible belt, but we're not fanatics. We believe in sharing each

other's trouble and worries, but we're also independent thinkers."

It is quite possible to reason that since religious faith plays a role in fertility rates—among the communal Hudderites of South Dakota, for instance, the birth rate is three times what it is nationally—it may play a role in disease or mortality rates.

If anything of this sort is working its magic in this bit of prairie, however, I couldn't find it. There are lots of churches in south central Nebraska—Lutheran, Catholic, Methodist, Baptist, Latter-Day Saints, Jehovah's Witnesses, Christian Scientist, Seventh-Day Adventist among others—but no one religion prevails nor does any religious practice.

No one, of course, has to attend church to share his brother's problems. There was evidence on sharing both pro and con. On the pro side: In the lobby of the Cornhusker Hotel in Lincoln there was a kindly sign declaring: "Welcome! Eat and Rest where Food is Best." In Long's Bookstore Mr. Long himself collected Nebraskiana for me. In De Witt there were four men and one expert interested in the fact that the loose fan belt on my car had knocked out the generator. Near Hastings a farmer let me wade in the Little Blue just in case it might be truly a fountain of youth. In Surprise, the cemetery caretaker directed me to the oldest part of the cemetery, carefully cutting a path through the grass for me with his rotary so that I wouldn't get my shoes dirty. And all the people in the historical museums, homes and offices I met racked their brains or their files for anything which might help to explain the mystery of their healthy longevity.

On the other hand: I eavesdropped on one drugstore conversation between a woman and her sister about a son who had turned petty thief. "I just had to tell someone," she repeated tearfully. "I'm all pent up. If anyone finds out what he's done no one will ever speak to us again." Also on each parking meter in Lincoln there is a sign in big black letters: "LOCK YOUR CAR. REMOVE THE KEYS." In the telephone directory there is a list of 259 air-raid shelters. In the newspapers there are the usual stories of murder, rape, divorces, battles and impending danger, and on the radio it was announced repeatedly that the Optimist Club met weekly. "We're a highly literate state and we get as much bad news here as any place," one woman commented, "Maybe that's what's meant by sharing."

The doctor's suggestion that independence also helped was next on the list. Since it is another hard thing to test, I got mixed results. For instance: The records show one man in three over sixty-five is still in the labor force (that is, they are drawing wages) and that only a mere handful were living on Social Security. But checking the record in the field (literally) I found that most workers weren't even covered by Social Security because they were farmers and proprietors and a lot of people were pretty sore about it. A mixture of independence and dependence was also evidenced by the generally large number of youngsters leaving the farms for the larger towns because "there was nothing to do at home." But true-blue independence perhaps can be argued only from this lonely statistic: last year twenty-four divorces took place in Nebraska after thirty-five years or more of marriage.

There was still one more suggestion of the locals to be tested: a lack of hostility. At first glance, these Nebraskans seem to be a calm sort, not very loquacious, pleasant and even somewhat easygoing. There are few protestors at the University of Nebraska, and little long hair among the boys; and no one has seized anything since the days of the Indian wars, which were, admittedly, definitely on the hostile side. There are also no racial problems; Nebraska's Negroes constitute a mere 1.5 percent of the population and only one family kept Negro slaves—indeed, there was a period when Nebraska was called the nation's "white spot." Similarly, the battle of the sexes seems muted, although there was a resistance of some heat against woman's suffrage; and the current generation gap doesn't seem to bother most people very much—indeed, they seem to like it. But there's plenty of hostile weather.

Might the geographic-health link be Nebraska's weather? The weather is unpredictable, unkind and capable of incredible extremes—from 117° in the summer to twenty-nine degrees below in the winter—and as Willa Cather, a Red Cloud, Nebraska, girl, once wrote: "Winter lasts five months and spring but one." The weather also includes the whipping wind, blazing sun, tornadoes, droughts and hailstones in the early summer—Nebraska holds the national record for the largest hailstone ever entered in the record books: one and one half pounds.

Certainly the air is as smog-free and clear as a child's eyes and it is often so quiet that as Eugene McCarthy once said, "You can hear the cattle breathe." But that is on still days and they don't come often; as likely as not the whine of the wind drowns out even one's own breathing.

Grasshoppers smothered the area in the 1880's; droughts and dust storms nearly wrecked it in the 1930's; even in a good year there are only twenty inches of rain and if it doesn't come in the spring, when it's expected, it creates—all sorts of havoc. "I guess if you really want to know what's special about Nebraska," one farmer said thoughtfully, "you have to admit it's the weather. We've got more weather than just about anybody."

Cruel weather allegedly creates stress and frustration, which in turn encourage high blood pressure and heart disease. Strong winds age the skin and dry up the body fluids and encourage respiratory disease. Studies verifying these processes have been done in all the leading hospitals. So the question becomes: why do the middle-aged white males of south central Nebraska enjoy such good health while suffering such foul weather?

"It's our stock," one sturdy Swedish giant told me, puffing on his pipe. "Everyone knows pioneer stock is good stock." The truth is, however, that some pioneers were healthy and some were not and it is difficult to track the influence of the good versus the bad through the generations which have intervened. There are a great many Swedes in the northern part of the health belt; predominantly Czechs in the south and Germans and Irish scattered throughout. There has been intermarriage between these groups, and there were also some Danes, some English, a few Italians and some Norwegians who got melted into the Nebraskan stewpot too. The result is a statistical nightmare. But as Sauer himself had told me, "A great part of the country was settled by the same ethnic groups as was this part of Nebraska and so why aren't other areas just as healthy?"

I began looking in the cemeteries to see how the settlers in this stretch of Nebraska fared in the 19th Century—when the women died before the men and nobody lived much beyond fifty. These Nebraskans were different even then. For instance, in the Methodist-Baptist cemetery near Surprise—where one local reporter claims, "No one hardly ever dies"—the first grave was dug in 1882 and there were about 100 graves in all. Yet there were so many people there who had lived more than seventy years I stopped counting them and started looking for those who lived more than ninety years. I found two: 1848–1943, and 1839–1931, plus a handful of octogenarians. In the town itself (pop. 79) there was plenty of activity among the oldsters—including twice-a-month square dances and three television channels—but they claimed it was the slow pace and the relaxed atmosphere which kept them and their parents healthy. "It's a sort of corny Shangri-la," one eighty-four-year-old man said. "But it wasn't healthy for the buffalo."

"We Surprisers die only because we stop breathing," a genial old lady added solemnly, her eyes twinkling. "Otherwise . . ." I thought about the line on an old woman's grave I'd seen: "God knows she needed the rest," and decided there were no new clues for me here or anywhere.

The healthiest place in the United States is a stretch of corn and cattle country in south central Nebraska, but nobody knows why. Including me.

NEW YORK CITY BANS DDT IN PARKS

Mr. NELSON. Mr. President, the New York Times today reported that the city's director of horticulture, Carl J. Schiff, has banned the use of DDT spraying in city parks because it is dangerous.

After a 2-year experiment in using natural pest predators such as the ladybug and the praying mantis, the city has found that biological controls are just as effective and efficient as chemical posions in controlling insects—and are of no threat to the environment and human health.

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:

USE OF DDT SPRAY IS BANNED IN PARKS AFTER 2-YEAR TEST

Carl J. Schiff, the city's Director of Horticulture, said yesterday he would no longer permit the use of DDT spraying in city parks because it was "dangerous."

He made the statement in Riverside Park, at West 72d Street and Riverside Drive, in making an appraisal of a two-year experiment with the use of such natural pest predators as the lady bug and the praying mantis.

The experiment in using biological controls instead of chemical poisons was sponsored by conservationists.

The test area approved by the city was the area of Riverside Park from 72d Street to 96th Street. No chemical pesticides have been used in this area during the two-year period, to test whether the use of ladybugs and praying mantises was as efficient in fighting harmful bugs as the use of more expensive poisonous chemical sprays.

Mr. Schiff, who said he * * * had been skeptical about the biological-control project, said he could see "the handwriting on the wall because I am almost sure the State of New York will prohibit the use of such chemical poisons as DDT."

At a recent national convention of the Audubon Society in St. Louis, Dr. Barry Commoner, director of the Center for the Biology of Natural Systems at Washington University, reported that DDT has been barred in Sweden, Michigan and Arizona.

THE ARMED SERVICES PROCUREMENT ACT OF 1947 SHOULD BE REFORMED

Mr. HART. Mr. President, I wish to invite attention to an article entitled "The Armed Services Procurement Act of 1947 Should Be Reformed," written by Robert B. Hall, and published recently in the National Contract Management Journal. Mr. Hall is Assistant for Planning, Procurement Staff, Defense Division, General Accounting Office, and was

a member of the staff which accompanied the Comptroller General of the United States, Elmer B. Staats, to the hearing on defense procurement which the Subcommittee on Antitrust and Monopoly held on June 21, 1968. Mr. Hall has informed me that the article grew out of that subcommittee hearing and that it would not have been written had the hearing not been held.

Mr. Hall received his degree of bachelor of science from the University of Louisville, later was designated C.P.A. and then attended the advanced management program of the Harvard Business School. He has been associated with the General Accounting Office for 15 years. He is a member of the Washington, D.C., chapter of the National Contract Management Association. The article was awarded first prize in the annual competition of the National Contract Management Journal.

Mr. Hall calls attention to the fact that the Armed Services Procurement Act gives primary recognition to only one method of procurement—formal advertising. But formal advertising has only limited application to defense and space activities. He points out it cannot be used for classified material, or where there are no fixed specifications, or to enlist specific sources whose existing know-how or facilities are crucial to the success of the procurement, or to obtain new knowledge or techniques in order to avoid early obsolescence, or to permit early start of procurement and great speed of delivery.

As Mr. Hall points out, his ideas are not new, since procurement literature of the past 10 to 15 years have emphasized the need for modernization of our procurement legislation. I believe Mr. Hall has performed a public service through his article. I ask unanimous consent that it be printed in the RECORD. I find his ideas stimulating, and I believe that other Senators will be challenged by a study of these ideas.

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

THE ARMED SERVICE PROCUREMENT ACT OF 1947 SHOULD BE REFORMED

(By Robert B. Hall)

(NOTE.—Robert B. Hall, Assistant for Planning, Procurement Staff, Defense Division, General Accounting Office. Mr. Hall received his degree of B.S. from the University of Louisville, later was designated CPA, and then attended the Advanced Management Program of the Harvard Business School. He has been associated with the General Accounting Office for 15 years. He is a member of the Washington Chapter, NCMA.)

The complexity of most military products is such that "formal advertisement" procedures simply cannot be made to work in the vast majority of cases. . . It is the substance, rather than the form, of competition which should be of principal concern to the Congress and the public.—Secretary of Defense Posture Statement (1970–74), dated January 15, 1969.

Formally advertised procurement pervades the whole structure of the Armed Services Procurement Act of 1947.[1] It is, in fact, mandatory and the only procurement method formally recognized in the Act. The reigning inference is that formally advertised procurement is universally applicable and the "one best way."

Footnotes at end of article.

This procurement method, most everyone will agree, is very efficient in its proper area: the buying of low-technology, standard items. It has enhanced full and free competition and has saved money for the taxpayers. But for acquiring complex products, including major weapon and space systems, it has little or no relevance.

Procurement methods (acquisition strategies) for advanced technology devices have departed markedly—of necessity—from the formal advertising method. The statute does not recognize these more relevant methods. Rather, it discriminates against them by loading on unnecesarily burdensome (and ineffectual) requirements.

Even in the minority of procurement spending where formal advertising is used, a substantial amount involves two-step procurement actions which embody competitive negotiation in the first step.

Patently, formally advertised procurement is out of touch with the real world. Regulation and practice are disjoined. Since practice must respond to fundamental changes in the environment, clearly it is the Act that should be reformed. A viable statute recognizes and deals with prevailing conditions.

The purpose of this article is to propose certain major reforms to the Act. In thrust they are not new; procurement literature of the past 10 to 15 years has emphasized the need for this kind of modernization.

The article first points out the widespread impact of this important Act on nearly all government procurement and much of industry. Next, the history of the Act is described to help explain how its relevancy has withered away. The suggested reforms, summarized immediately below, are then discussed in detail. In the conclusion, methods of bringing about and implementing the reforms are laid out.

This article does not contend that the Armed Service Procurement Act is at the root of all procurement problems. Rather, that an Act which reflects the best policy for today's needs might also improve understanding and encourage progress in other areas—a sort of chain reaction may set in.

In brief, the proposed reforms to the Act are:

1. Eliminate the fiction of formal advertising as the dominant procurement method, and the need for reciting the "17 exceptions" (it seems ludicrous to contract for 85% or more of DOD's needs on an "exception" basis).

2. Recognize acceptable procurement methods in actual use and prescribe the criteria for their application.

3. Include a statement of current congressional policy on "competition" based on a broader definition of the term, emphasizing the substance of competition rather than its precise form.

4. Clarify the "competitive range" and the parameters within which discussions should and should not be conducted—especially when factors other than price are crucial.

5. Illustrate the "other factors" and when they become more dominant than price.

6. Improve communication with the Congress concerning procurement actions and the degree and scale of competition.

7. Raise the formal advertising exemption from $2,500 (1958) to $5,000, or higher, and provide minimal policy guidance over some seven million small procurements per year.

8. Delete the stereotyped and pointless paperwork connected with preparation of "Determinations and Findings" now required when using certain exceptions to formal advertising and contract types.

THE ACT'S IMPACT

The Armed Services Procurement Act directly applies to three agencies: the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard. The procurement regulations in these three agencies are quite voluminous and implement the Act and other statutes. In the DOD, the implementing document is called the Armed Services Procurement Regulation (ASPR). NASA has the NASA procurement regulations (NASA PRs). In all other executive agencies, the Federal Procurement Regulations (FPR) govern the procurement practices. The FPR's and NASA PRs are influenced by and for the most part patterned after the Armed Services Procurement Regulation. This is understandable since the title III procurement procedure of the Federal Property and Administrative Services Act is patterned directly after (our friend) the Armed Services Procurement Act.

This means that the Armed Services Procurement Act directly or indirectly governs almost all Federal procurement, which exceeds $50 billion annually, and influences the actions of some 100,000 people in the Government who participate in the award and administration of contracts. In addition, the Act and its implementing regulations have a direct impact on thousands of private companies in virtually every major industry in the United States.

BRIEF HISTORY OF THE ACT[3]

Perhaps the history of the Armed Services Procurement Act can best be summed up as a compromise reached in 1947 between two extremes. The one extreme was the historical preference for formal advertising which existed in this country up until the time of World War II. The other extreme was the almost universal use of negotiation during World War II. This latter extreme extended to a prohibition during the war against the use of formal advertising unless the agency was especially authorized by the War Production Board.[4] The Act simply combined these two extremes and permitted the Defense Department sufficient leeway to go in either direction. The Act said nothing about obtaining competition through means other than formal advertising. Negotiation was and still is defined in the Act as "make without formal advertising."

Historical preference for formal advertising

The historical preference for formal advertising dates back to the early 1800's. A literal interpretation of the first Federal statute, in 1809, indicated that contracting officers had a choice between two equally available methods of procurement, "open purchases" or "advertising for proposals." This meant that items could be purchased in the open market in the manner of ordinary commercial transactions and negotiations used (negotiation is designed to give scope to normal purchasing practices and permits innovations in procedures).

However, in 1829 the Attorney General interpreted the original statute as requiring advertising except where public exigencies necessitated immediate contract performance. Thus, ground work was laid for using formally advertised bidding as a foundation for the competitive bidding system in the Federal Government. In 1842, a statute was passed requiring advertised bidding for stationery supplies and printing. In 1860, a landmark statute was passed requiring advertising for supplies and services by all departments of the Government. It was incorporated in 1874 in section 3709 of the Revised Statutes, and with certain exceptions continued to regulate military procurement up until World War II.

The 17 exceptions

The first legislative exceptions to formal advertising were for "public exigency" (fires and floods) and "personal services." Through the 1800's and up until World War II, eight additional exceptions were added in order to exempt procurements such as medical supplies (1845) purchases outside the United States (1845), perishable good (1847), purchases for national emergencies (1864), small purchases (1892), and a catch-all type exception (number 10) to be used where it was

deemed impractical to secure competition through formal advertising (1901) (present DOD regulations contain 17 illustrative conditions under which exception 10 may be used).

Throughout most of this period, U.S. weaponry was relatively simple and it was obtained primarily through in-house development and production—the so-called arsenal system. Also, up to this point the basic consideration in the minds of the Congress in emphasizing the formal advertising procedure had been the prevention of favoritism.

During World War II the greater part of the national defense needs were obtained from private industry through negotiation. Several lessons were learned from this wartime experience.

The first lesson was that negotiated procurement, with flexibility for bargaining contract types and terms, far from leading to higher prices or the concentration of procurement in the hands of larger and more favored producers, more often led, on the contrary, to a wider distribution of suppliers and to lower costs.

A second lesson was that the military services had demonstrated an ability to use with judgment and common sense the broad procurement powers granted.

The third lesson was that to compel a return to the inflexible procedures of formal advertising would mean that supplying the needs of the military would soon revert to a relatively small group of professional Government suppliers, with the consequent loss of know-how and industrial capacity, and of a broad mobilization base. Perhaps the outstanding lesson of the war was that industrial power is a critical factor of no less value than trained manpower and that true national defense is impossible except on the foundation of a powerful, broadly based industrial structure.[5]

World War II experience showed also that additional exceptions to the formal advertising rule were needed, and exceptions 11 through 16 were added. The new exceptions related to such things as research and development work, secret purchases, and technical equipment requiring standardization. The 17th exception simply permitted the use of negotiation where otherwise provided by law, as in the case of a 1926 Aircraft Production Act.

The 17 exceptions are so all-encompassing as to permit the use of negotiating authority under almost any conceivable circumstances. In fact, the 15th, not mentioned above, permits negotiation when advertising is unsuccessful. In order to use negotiating authority under many of the exceptions, the agency must prepare written determinations and findings. In the case of some of the exceptions, such determinations have to be made by the agency head.

Passage of the 1947 Act combined the first 10 exceptions legislated over the previous 100 years with those exceptions developed from World War II experience. The 1947 Act also unified procurement authority throughout the Department of Defense, provided small business opportunity to secure military contracts, gave finality to decisions of a department head, authorized joint procurement between the departments, and repealed archaic and unnecessary procurement statutes.[6]

Public Law 87–653 amendments

Several minor amendments and one major one have been made to the Act since 1947. The major one involved Public Law 87–653, enacted in 1962. This law, which restated the long-standing preference for formal advertising, required agency written determinations to clearly illustrate that this method could not be used when negotiating through many of the 17 exceptions. It also required the agency, when negotiating, to solicit proposals from the maximum number of qualified companies consistent with the nature and requirements of the procurement and to hold discussions with those concerns whose proposals were in a competitive range.

Additionally, where competition is lacking, Public Law 87–653 requires the agency to obtain certified cost or pricing data from the contractor and to provide rights in the contract for reducing the price if defective data was submitted and relied upon in negotiations.

Experience under the act

Twenty years of experience under the Act in DOD reveals that formally advertised procurement has ranged from a low of about 10 to a high of about 17 percent. However, a significant portion of this amount represents a two-step procurement procedure under which competitive negotiation is used in the first step to obtain acceptable technical proposals and advertised bidding is used in the second step.

The use of negotiation on the other hand, both in DOD and NASA, has become the customary way of doing business with private industry. Within the broad framework of "negotiated procurement" varying amounts of technical and price competition have been obtained over the years, and more often a combination of both. This has been averaging in DOD, according to published statistics, about one-third of all procurement. The balance, about one-half, represents single-source procurement.

In NASA, advertising accounts for about 2 percent, competitive negotiations about 65 percent and single-source procurement about 33 percent.

ACT SHOULD RECOGNIZE ACCEPTED METHODS OF PROCUREMENT AND A BROADER FRAMEWORK FOR COMPETITION

As presently written, the Act gives primary recognition to only one method of procurement—formal advertising. The general tenor of the Act is that the agency shall use the formally advertised method of procurement and that any other method of procurement is to be performed through an "exception" process. This fetish for the use of formal advertising and the resulting pressures it brings to bear can cause this method to be used in inappropriate situations. Such inappropriate use sometimes complicates the procurement, leads to protests, and in fact may endanger success of procurement actions and increase ultimate cost to the taxpayer. Furthermore, it promotes the distorted notion that anything less than a formally advertised procurement is bad per se.

Limitations of formal advertising preclude its use as a primary tool for competitive procurement

The major disadvantage of formal advertising as a primary tool for competitive procurement is its limited application to defense and space activities. It cannot be used for classified material—or where there are no fixed specifications—or to enlist specific sources whose existing know-how or facilities are crucial to the success of the procurement—or to obtain new knowledge or techniques in order to avoid early obsolescense—or to permit early start of procurement and great speed of delivery.[7]

Foundation for use has gradually disappeared. Probably the most significant factor in modern times to limiting the use of formal advertising is the fact that the very foundation for its use has gradually disappeared as it has become increasingly difficult to precisely define what is being procured. An absolute requirement for formal advertising is that the Government must be able to accurately specify its exact needs in detail so that all offerors will have a complete understanding of what is required and can compete on an equal basis. In order to be considered "responsive", each offeror's proposal must conform to these specifications in every respect. Any time that aspects of these detailed specifications are incomplete or defective, the Government is exposed to a claim from the contractor to whom the advertised contract was awarded.

The kind of technical data and manpower skills needed for great specificity in procurement did generally exist within the Government during the 1800's and early 1900's when the weapons for the national defense were less sophisticated in nature and were largely produced in-house, with the assistance of Government laboratories. During the past 40 years, however, weapons have reached a high degree of sophistication, with speed of delivery a critical factor, and there has been a trend toward almost complete reliance on industry for their development and production.

As a result, the military services are no longer able to assume responsibility for complete engineering of their equipment. This point was one among many raised by a recognized authority in connection with an evaluation of formal advertising during a congressional hearing. He observed that too many new kinds of items and vast new technologies and the need for standby manufacturing competence had brought about a military-industry partnership with the military providing funding and overall direction.

Today, in order to prepare the adequate, complete, and realistic specifications necessary for formal advertising, the Government would have to duplicate industry's engineering competence. He indicated this would be highly impractical in view of the gigantic cost of such duplication, the lack of available manpower skills, and the resultant retardation of the defense effort.[8]

Technical barriers. Even where engineering competence still exists in certain areas with varying capabilities to specify government's needs for purposes of formal advertising, other obstacles exist in the present day procurement environment.

1. The design of the item must remain stable during an extended period of time which overlaps a similar period when the Government's need for the item is sufficient to attract other companies into the field—a not too frequent occurrence in today's defense and space procurement environment.

2. The difficulty and expense, estimated at several hundred million dollars annually, of obtaining and maintaining up-to-date, unrestricted, and complete technical data and drawings.

3. The difficulty in having the government act as an intermediary in transferring technical know-how, drawings, and data to a company that has never produced the item.[9]

4. The problem of inducing contractors to submit fixed-price bids in formal advertising on untested sets of drawings and specifications when there ". . . is little or no comprehension of the pitfalls which may be hidden in the drawings and specifications".[10]

5. The questionable value of such data in view of the different manufacturing processes in industry.

Competition limited to price. Another serious problem with formal advertising is that competition is limited to price alone and procurement officials must accept the lowest (apparent) bid price—since the burden of not doing so is fraught with difficulty. There are many cases where the low bidder's capabilities are suspect on account of inadequate financing, technical ability, quality and incompetent management. However, it is difficult for a procurement official to disqualify this company because of the lack of conclusive evidence or records.[11]

In much of defense and space procurement, factors other than price play a major and sometimes a more dominant role in making competitive awards. These factors include: the past experience, ability, and reputation of the company; the quality and reliability required to be built into the product; the later cost of operating and main-

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taining it; and the life of the product itself. Injecting such considerations into the rigid advertised procurement process is difficult if not impossible.

Awards may be based on few or only one bid. Advertised procurement may also result in only a few bid responses with award made on something less than a truly competitive basis. In this connection a Rand Corporation study prepared in 1966 of formally advertised procurement showed that, of some 2300 procurements, 45 percent resulted in three bids or less, 32 percent resulted in two bids or less, and 8 percent resulted in only one bid. Rand concluded that the indiscriminate use of this method of procurement can lead to acceptance of prices higher than those desirable or obtainable.

Rigidity limits exercise of judgment. The rigid procedures built into formal advertising many years ago to avoid favoritism in the letting of contracts have also done much to limit its application in the present day procurement environment. Formal advertising is so mechanized that the buyer can exercise little judgment or responsibility or otherwise influence the contract award; whereas, major contract awards today in DOD and NASA require maximum exercise of judgment and responsibility by "professionals."

Industry, with its even greater amount of procurement than that of the Government, would naturally have the same fear of favoritism in the letting of the contract. However, ". . . the solution for business was not to retain an outmoded and impractical technique such as advertised bidding—but to improve the negotiation process by establishing a force of higher caliber personnel who were required to use judgment and accept responsibility . . ." [12]

Limits development of individual's competence. Finally, it must be observed that formal advertising is a creation of the government and that, during its 150 years' history, this method has not been adopted on any widespread basis by private industry. It was explained to a congressional committee as follows, ". . . industry seems to have learned from management research and study that the fuller utilization of the individual's competence is important. . . ." and "Industry strives to attain this by job analysis, personnel training and development, increased responsibility, improved organization, and management control techniques. The very spirit of the advertising system, with its rigidity, is in opposition to this concept. . . ." [12]

OTHER METHODS OF PROCUREMENT PLAY A MORE VITAL ROLE IN DEFENSE AND SPACE ACTIVITIES

It seems reasonable that the Armed Services Procurement Act should clearly recognize other commonly accepted methods of procurement (e.g., competitive negotiation and single-source negotiation) and prescribe general criteria for their use.[13] Competitive negotiation could be further defined in the law to distinguish between those procurements that primarily involve price competition and those that involve an overall technical and business/management competition as well, including such factors as design approach, scientific skill of personnel to be assigned to the project, facilities, cost control, past performance, and management capabilities.

These other forms of competition have been used more extensively than formal advertising and they play a more vital role in satisfying needs of the Defense Department and NASA. For example, the Act exempts the procurement of research and development from the requirement for formal advertising, yet the competition obtained in some of these procurements, particularly where source selection is being made for new weapons, is more intense than many competitions under formal advertising. The winner of these competitions may ultimately become a single-source supplier for follow-on procurement under a program lasting as long as 10 years. Under the present Act, however, these large and violent competitions are considered exceptions to the formal advertising rule.

The one basic fundamental difference between formal advertising and negotiation is that, in negotiation, the procurement official may question and explore the soundness of the proposal; whereas, in formal advertisement, the lowest bid must be accepted without discussions. Negotiation does not, as some think, necessarily imply a reduction in competition or the number of companies invited to bid. Rather:

It enables exploration of the proposers' cost data in order to eliminate unnecessary costs based on misunderstood requirements.

It elicits technical contributions to achieve a desired end result or even a sounder kind of counter-proposal.

It permits the controlling factor(s) to influence the award (i.e., technical competence, support of mobilization plans, employing existing facilities, economies of standardization).

It enables development of a more competent, more stable corps of professional procurement personnel ". . . through utilization of more individual initiative and ability and by encouraging careers for able personnel through maximizing their opportunities for contributions." [14]

One approach to spelling out criteria for selecting procurement method

It is fair to say that there is no single method of procurement in DOD and NASA, but rather several methods, each being not only acceptable, but preferred in certain circumstances. Thus, a way must be found to bridge the gap between this reality and the Armed Services Procurement Act which statutorily provides for one method—the least applicable one—while others are buried in the "exception" process.

The following illustration explores but one approach to the problem. (Other approaches would have to be considered as well, and perhaps a final solution would lie in some combination of the best parts of several.)

In the case of formally advertised procurement, there are already fairly well established criteria in procurement procedures and regulations. We know, for example, that we are generally talking about low-technology, standard items or services and that:

There must be well defined and fairly detailed specifications or purchase descriptions not restricted by security or proprietary design which permit all bidders to compete on an equal basis. (This means that the item not only must have been fully developed, but also previously manufactured in at least a comparable configuration.)

There must be a known production base that will provide a number of suppliers willing and able to compete for the item. (This means that a civilian product or conventional military item is involved.)

There must be sufficient cost experience to permit entering into a firm fixed-price contract and the selection of the successful bidder on the basis of *price alone.*

There must be sufficient time to perform the administrative procedures required for formal advertising.

There must be sufficient amount of purchase to warrant use of formal advertising (exception in law is now stated at $2500).

Professional and personal services must not be involved.

The item must not be for authorized resale (since customer preferences have to be considered here).

The item must not be of a subsistance nature (since perishable and seasonal factors generally preclude advertising).

If criteria along the lines of the above were adcpted, it could be preceded by a statement generally as follows: "All purchases of any contracts for property and services within the U.S. shall be made by formal advertising when they meet the following criteria." After including such criteria, the law could then state that: "Whenever the agency finds that one or more of the above-mentioned criteria are not present, and they cannot be satisfied by use of the two-step formal advertising procedure,[15] purchases of property and services will be made through the competitive negotiation method of procurement (as defined elsewhere in the Act)."

The competitive negotiation method would thereafter prevail and generally would involve procurement of high-technology, nonstandard items or services except where it was determined by the agency to be in the best interest of the Government to purchase the property or service from a single or sole source. Some suggested criteria for the latter would be:

A public exigency (requiring immediate contract performance) precludes soliciting other sources.

A sole source of supply or service.

A company has already established itself in a pre-eminent position and it is impracticable for reasons of time, money, and mission objectives to compete the item with other potential sources.

A follow-on procurement—unless additional capacity is needed or it is technically feasible and economically desirable to establish other sources.

Most single-source procurement would normally fall under the last-mentioned criterion, and regulations could illustrate its application. There are many reasons, as discussed in the next section, why timely and effective procurement dictates returning to an established source or to the developer of the item who would normally have been selected on a competitive basis.

Another approach suggested by S. 500

Another approach to revision of the 1947 Act can be found in one feature of a bill (S. 500) on which the Senate Armed Services Committee held extensive hearings in 1959. This bill, known as the "Saltonstall bill," provided that competitive negotiation be given equal status with formal advertising (rather than authorized through the 17 exceptions). It also provided for a third method, "negotiation," which was to continue to be authorized through the 17 exceptions. Other features of the bill were somewhat controversial at the time, and, although the bill was considered by many to be courageous and constructive in nature, it was not acted upon.[16]

One fear expressed at the hearings on S. 500 was that competitive negotiation, if given equal status under law, might replace advertised bidding in situations where this method was still appropriate. Another fear was that the minimum requirement of two proposals stated in the bill, for competitive negotiation, might become the standard and qualified companies excluded from participation in Government procurement.[17]

Some advantages of establishing acceptable methods of procurement, and criteria for their use

The use of some criteria to guide procurement personnel in selecting the most effective procurement method seems to have several advantages over the present procedure of operating principally by exceptions to one legally accepted method. One of the more important advantages would be to develop a competitive bidding system within the Federal Government not founded solely on rigid and outdated formal advertising procedures.

Another advantage, however, would be to strengthen the use of the advertised method of procurement by clearly setting out in a positive way the conditions when its use is in the best interest of the Government. In other

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words, it would help to ensure use of formal advertising in circumstances best suited for it.

Perhaps an even more important benefit would be to formally recognize the competitive negotiation method of procurement and encourage its use where formal advertising is neither practical nor feasible.

Today, almost full reliance is being placed on private industry for the development of complex military items in an environment of rapidly changing technology. A national policy reflected in law that these procurements would be awarded in fully competitive atmospheres (even though formal advertising could not be used) would ensure that industry has a clear incentive to seek out better technical and economical solutions to military requirements.

Also, in redefining accepted methods of procurement in the Act, a stigma could be removed from the use of single-source negotiation. This method may not only be the preferred one but, in fact, the only practical alternative to meeting the Government's needs under certain conditions. For example, once a company has won a major weapon system design competition, the major investment in time and money to finally get into production would ordinarily make it unbusinesslike to establish another company as a supplier unless mass production is required.

Other reasons for follow-on procurement with an already established source include (1) the need for special, otherwise unobtainable, services from the developer of the item, (2) the avoidance of unacceptable delays in the procurement, (3) the assurance of quality, maintainability, and reliability of the product (and safety of the people using it), (4) the need for absolute interchangeability of parts, and (5) the economies of standardization.

A further situation would be when one company has developed and produced an item at its own expense and the item best satisfies the Government's particular need. This recognizes another form of competition—the so-called indirect competition that takes place within industry. In this competition a particular company, rather than waiting for or relying on a Government development contract, takes the initiative to become preeminent in its field and develops a technical approach to fulfilling an agency's need. To compete this procurement with other companies would mean duplication of development and substantial delay of procurement and production—and inhibition of entrepreneurial efforts.

Elimination from the act of the 17 exceptions to formal advertising

By developing sound criteria for the use of the basic methods of procurement and various forms of competition there is serious question as to the need for and the benefits to be derived from administration of the present 17 exceptions in law. They were developed over the past 150 years as exceptions to the general rule that formal advertising was generally applicable to procurement situations. As indicated, conditions have changed and this rule is no longer applicable.

It is well known that the exceptions have forced the agencies into the use of stereotyped findings and determinations or the costly and time-consuming preparation of findings and determinations which serve no practical purpose and prolong the procurement process. It is also clear that the exceptions have been abused over the years and that the exceptions do not truly reveal the nature of the procurement situation or the extent of competition obtained.

For example, restricted advertising for unilateral small business set-asides, balance of payments situations, R&D procurements from $2500 up to $100,000 and labor surplus area awards have, at one time or another, been classified under exception 1, "national emergency, declared by the Congress or the President." The purpose of putting the many R&D awards under this exception, even though there is a separate exception for research and development work, has been to eliminate the needless paperwork otherwise required up through top secretarial levels to justify not using formal advertising.[18]

In addition, small business awards, even though the advertising is restricted to small companies, are frequently highly competitive. They could be recognized as such, rather than recorded as negotiation exceptions.

The exceptions in general, and particularly number 10 (advertised competition impracticable), cover such a wide range that the average procurement man is simply faced with the problem of choosing the right exception, and perhaps the easiest one from an administrative viewpoint, and then going through the usual stereotyped justification requirements. By creating so many of these exceptions in law, the Congress may have accomplished the one thing it sought not to do—develop an environment for noncompetitive procurement. A reappraisal of the need for the 17 exceptions seems overdue.

REPORTING TO THE CONGRESS UNDER THE ACT SHOULD BE REVISED

The agency sends reports to the Congress on the use of exceptions and the nature of the procurement actions entered into. The requirements for these reports stem from the Act or separate agreement with congressional committees. Such reporting requirements need to be revised—irrespective of other revisions made to the Armed Services Procurement Act.

Reporting requirements, especially to the Congress, build up pressure and result in establishment of goals that procurement people must meet down through the chain of command. In other words, poor reporting requirements can lead to poor procurements. At the present time, goals are used throughout the Department of Defense for formal advertising, although this method of procurement may not be the best indicator of progress for the particular items being purchased at some procurement centers. As other forms of competition and methods of procurement may be more applicable to the circumstances, poor procurement and increased cost may result.

Another reason for revising the reporting requirements is that there is widespread misunderstanding between the Congress and the agencies as to what is meant by the statistics being reported on competition. Often the agency may mean that a competitive price was established under a so-called threat of competition when only one bid was received—or that other forms of competition were present. The Congress, on the other hand, tends to construe these statistics as meaning that at least two companies and probably many more were actively contending for the contract—strictly on a price basis.

ACT IMPOSES UNNECESSARY REQUIREMENTS ON TYPES OF CONTRACTS

Present law requires the agency to make special determinations for the use of cost-plus-a-fixed-fee and incentive types of contracts, showing that these contract types are likely to be less costly or that it is impractical to procure except under such a contract type. The requirement under the Act for special determinations for use of types of contracts has, as in the case of the 17 exceptions, simply created costly and time-consuming paperwork and stereotyped comments, without serving any really useful purpose. Since these contract types cannot be used in formal advertising, the requirement to justify their use further illustrates how this method of procurement pervades the statute.

In the late 1950's the pendulum swung too far in favor of the use of cost-type contracts. More recently, the pendulum has swung the other way to fixed-price contracts, perhaps too far. These actions were influenced administratively rather than by statute.

There have been attacks from some quarters on the use of incentive-type contracts since they were first put into widespread use in the 1950's. Perhaps some of these attacks stemmed from a fear that incentive contracts were thought of as some kind of panacea. Incentive contracts have had problems—inflated target costs and some poor structuring and misapplication of performance and delivery incentives. These problems may be reduced with additional experience, guidance, and training.[19]

Certainly, no one can rationally question the objective of the incentive contract to achieve better contract performance, particularly in areas crucial to success of the procurement program. It has the further advantage over cost-type contracts of forcing the contracting parties to clearly define their objectives at the outset. A limitation placed in the Armed Services Procurement Act of 1947, in a different procurement environment and before widespread use was ever made of incentive contracts, does not seem pertinent today.

For many years regulations have prescribed considerable criteria for the use of types of contracts, and these regulations were recently refined due to concern that fixed price contracts were being overused in high risk areas. It is doubtful that legislation should cover this area except to prohibit, as it does, contract types contrary to the public interest.

RAISE THE DOLLAR AMOUNT AND PROVIDE LEGISLATIVE COVERAGE FOR SMALL PURCHASES

Current law provides exemption authority from the requirement for formal advertising of small purchases in amounts up to $2500 (advertised bidding procedures are expensive). This amount has been in law since 1958 but economic trends since then indicate that it should be at least $5000 or perhaps higher. In addition, present law contains no coverage or guidance in connection with the making of such procurements.

About 7 million of these actions take place annually in DOD alone totaling several billion dollars. To avoid misunderstandings and improve the procurement process, the Congress should consider including some general guidance in the Act dealing with these procurements. For example, the law could provide a basic policy statement on minimum and simple competitive procedures to be followed and require the agency to periodically streamline its small purchase operations based on bi- or tri-annual studies of industry practices and modern management techniques.

CLARIFICATION SHOULD BE MADE OF COMPETITIVE RANGE IN NEGOTIATED PROCUREMENT AND WHEN DISCUSSIONS ARE REQUESTED

There is some confusion as to what constitutes a competitive range under negotiated procurement, when discussions should and should not be held with those offerors within the competitive range, and how to conduct such discussions in such a way as not to violate the prohibition against auction techniques or violate another requirement to reject late or modified proposals. In these circumstances, it appears that the procurement official can do no right—or wrong.

The Act, by amendment in 1962, requires oral or written discussions with all offerors in a competitive range in negotiated procurement except where adequate competition or prior cost experience is likely to produce reasonable prices without such discussions. (This exception language in the law apparently had in mind only production contracts where prior experience would

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sometimes be available.) The exception is permitted only if offerors are notified that the award may be made without discussion.

The Act does not define a competitive range, or the factors to be considered in the range, other than price. Nor does the Act or related regulations contain criteria as to the type of areas in which oral and written discussions are expected once a competitive range has been established.

On the other side of the fence, there is an absolute prohibition in the Armed Services Procurement Regulation against using auction techniques (ASPR 3-805.1(b)). The regulation also provides that late proposals or modifications received during the negotiating process should be rejected unless they are of extreme importance to the Government or only one other proposal was received (ASPR 3-506). These provisions are designed to operate against the contractor who submits something less than an adequate proposal in order to "buy a ticket to the ball game" as well as against the contractor who at the last moment, when full competitive opportunity has been afforded slashes his price when he believes another company may be receiving the award.

In order to get the maximum benefits from competitive negotiation, but avoid undermining the competitive process, there seems to be a need for establishing basic criteria:

Clarifying the term in the Act "price and other factors considered" and the circumstances in which the "other factors" tend to dominate.

Defining a competitive range both in the early and later procurement stages.

Describing when discussions should and should not be conducted with those concerns in the competitive range.

Describing the type of areas in which discussions should be held and their extent.

For example, at some reasonable point after development and initial production, competitive range could relate primarily to price since there would normally be sufficient pricing and cost experience to either avoid discussions or confine them to price. When there is sufficient experience to permit entering into a firm fixed-price type of contract, discussions may be avoided altogether.

The lack of any discussions is not inconsistent with negotiated procurement and may at times be in the Government's best interest. It is desirable for contractors to come forth with their best prices on the basis that the lowest price may be accepted without discussions. Otherwise, contractors have been known to hold back their best prices preferring to wait until they were at the bargaining able to discuss their final offers. This sometimes leads to repetitive rounds of negotiation and the danger that auction techniques will be used or a competitor's information disclosed, both of which are unethical and prohibited.[20]

The situation is different, however, in the earlier stages of the competitive process of selecting R&D sources for new weapons or space vehicles. In such cases, factors in determining competitive range would emphasize the technical aspects but include business/management factors as well. More extensive discussions would ordinarily take place with those concerns in the final running after the field had been narrowed down and would concentrate on critical areas of the proposals.[21]

SOME THOUGHTS ON HOW TO BRING ABOUT REFORM OF THE ARMED SERVICES PROCUREMENT ACT

Defenders of the Armed Service Procurement Act say that over the years the agencies have adjusted to its provisions; that these provisions have not proved themselves inadequate; and that a new Act would bring about the loss of a body of court decisions and Comptroller General decisions interpreting the present law. It is also candidly admitted that the agency has sufficient flexibility under the present Act to conduct procurement in almost any manner it sees fit. In addition, there is an "overriding fear" that congressional review and revision of the Act would result in more restrictive legislation and, therefore, loss of existing flexibility.

Although historically the GAO has strongly supported provisions of the Act, in recent years under the present Comptroller General it has not taken an official position on the need for change. A forward step was taken in June 1968 when the Comptroller General testified before the Senate Subcommittee on Antitrust and Monopoly Legislation on "Competition In Defense Procurement". His statement to the Subcommittee recognized that three basic methods of procurement in the Defense Department had evolved over the years; namely, formal advertising, competitive negotiation, and single-source negotiation. He said, "Each of these methods, when used in appropriate situations, is an acceptable method of procurement."

To sum up, it seems clear that the Act discriminates against, and has helped to create widespread congressional and public misapprehension over perfectly normal and effective procurement methods. These methods are most widely used not only in the DOD and NASA but also in our own private lives, in commercial and industrial practice, and in nearly all advanced civilizations of the world.

To bring about reforms in the Armed Services Procurement Act that would recognize accepted methods of procurement based on a much broader definition of competition would probably require a combination of many things to happen. Some examples follow:

1. *Resolving the basic policy issue of whether the Government is going to let the "fear of favoritism," etc., be the overriding factor in dictating procurement procedures or let the needs of the procurements themselves dictate the procedures.* A policy in favor of the latter would mean relying more on professionally trained personnel (with backgrounds in engineering procurement, and logistics) and fully utilizing their backgrounds in acquiring items "competitively"—not at the lowest initial cost—but at the lowest ultimate cost including consideration of quality, simplicity of design, ease of maintenance, and operating costs over the life of the item. It would mean also relying on the integrity of procurement disciplines, the integrity of review processes, and the integrity of the people themselves to curb favoritism. To help accomplish this would probably require more visibility of contracting relationships between the military and industry and promoting the career development and professional identification of procurement personnel to a much greater extent than ever before.[22]

2. *More information needs to be furnished to the Congress in a convincing and an understandable way on DOD's current procurement practices.* When problem areas are exposed, they need to be dealt with in proper perspective. GAO can play an effective role here.

3. *More constructive industry participation at congressional hearings, particularly those involving new legislation and policy.* Since industry is so directly affected by the Government's procurement process and contracting practices its (professional) views need to be considered more often in congressional hearing.

4. *More forums for discussion among members of the legislative branch, the executive agencies, industry, and educational institutions.* An example of this would be the action of the current President of the National Contract Management Association to invite members of the GAO and others of the legislative branch into the organization as participating members.[23]

5. *More positive leadership within the agencies for change and for providing a continuing educational program for the important committees of the Congress having cognizance over procurement matters.* This includes providing in-house facilities and staff to perform this function and to conduct research and testing of new procurement techniques—and, in general making efforts to improve the procurement system.

6. *Establishing the Commission on Government Procurement.* A bill was re-introduced in the House of Representatives on January 3, 1969. It will, if it is established, provide a broad forum for considering improvements to the Armed Services Procurement Act and other procurement statutes.[24]

7. *Discussions of the benefits of competition should point out also the dangers of excessive competition*—which could weaken Government and industry (1) by wasting key national resources through oversolicitation of expensive technical proposals, (2) by encouraging buy-ins that could put a company out of business or induce it to cut corners affecting the quality or safety features of military and space equipment, (3) by eliminating needed services from the developer of the product, (4) by causing unacceptable and costly delays in procurement, and (5) by impairing the reliability of an item or the system in which it functions.

8. *Stressing on the other hand the need for optimum competition and consideration of a prequalification of bidders for high-technology items*—so that where appropriate only qualified companies will be solicited but with ample public notice and equal opportunity to become qualified.[25]

9. *Insuring the practicality and effectiveness of any proposed legislation to reform the Act* by subjecting it (1) to a trial run of several hundred procurements in each military department, the Defense Supply Agency, and NASA and (2) to intensive hearings during which the best procurement minds in Government and industry could offer suggestions and approaches.

10. *Demonstrate effective preplanning of proposed procurements in other than extremely urgent situations—particularly when establishing "new sources".* Such preplanning, among other things, would outline the strategy under which competition would be obtained initially and to the extent practicable during the life of the item. This planning document would, in effect, select from various alternatives the one which provides the most effective and practicable means of obtaining competition for the particular item under the expected procurement environment. A comprehensive Advance Procurement Planning Guide issued by the Navy in 1967 and a revised and more extensive requirement for advance procurement planning placed in the Armed Services Procurement Regulation in the same year represent major steps in this direction.

11. *Establishing separate policies and regulations applicable to substantially different procurement arenas:* Small purchases; low-technology, standard items; high technology, non-standard items.

Present statutes and their single set of implementing regulations are oriented primarily toward procurement of unsophisticated items.

In an attempt to deal with all procurement situations, the regulations have become so voluminous and complex over the years that no one procurement official, or private company (particularly a small one) can reasonably expect to be knowledgeable of them or keep up with the continuous changes. It might be much more useful to publish a separate set of regulations tailored specially to each major procurement arena: (1) small purchase operations; (2) standard

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or conventional items for which there is a civilian production base; and (3) highly sophisticated, complex hardware or weapons systems.

Also, a separate set of regulations for these three major procurement arenas would clearly illustrate that a narrowly based procurement philosophy in legislation can not serve all, or even the greater part, of defense and space procurement activities.

A subsequent article will focus on remaining provisions of the Act relating to "Truth in Negotiations". The second article will point out that the language adopted in law differed so widely from previous DOD regulations that it resulted in a new "ball game" and the need for developing a new set of rules. The article will suggest a need to examine the experience gained over the past several years under these new rules, in the most objective manner possible, with the view toward making changes that would make the law more effective, equitable, and practical in its application. Examples are:

Narrow application of the law to the general problem area that first gave rise to the DOD regulations and then legislation. In other words, confine the "Truth in Negotiation" requirements to the various *fixed-price incentive types* of contracts negotiated with *single or sole source suppliers* for *production* of non-commercial items.

Invoke the price reduction clause on a somewhat more equitable basis; that is, not merely when one element of the data submitted by the contractor is defective, but rather, only when it has been determined that such data "in total" significantly increased the price negotiated. This proposition largely avoids the offset and repricing problem simply by allowing the defective pricing determination to be made "initially" on an overall basis—or not at all. (Similar to way refunds were handled in many cases on GAO contract reports of overpricing before the law was enacted.)

FOOTNOTES

[1] Now 10 U.S.C., 2301–2314.

[2] 41 U.S.C., 251 et. seq.

[3] History based largely on series of white papers submitted in hearings by DOD officials during part I of a procurement study in 1960 by the Senate Armed Services Committee (A Study of Military Procurement Policies and Practices as Required by Section 4(a) of Public Law 86–89, Amending the Renegotiation Act of 1951).

[4] Part I (page 52) of hearings mentioned in footnote 3.

[5] "Our Legal System of Defense Procurement," by F. Trowbridge Vom Baur, formerly General Counsel of the Navy Department, a paper included in 1959 Senate Armed Services hearings on Senate bill 500 (p. 506).

[6] Navy Contract Law, Second Edition, Chapter 3, Procurement by Negotiation prepared by General Counsel of the Navy Department.

[7] Paper included in 1959 Senate Armed Services hearings on S.500 entitled "Background Leading to Present Law and Practice" by Helge Holst, then Treasurer, Arthur D. Little, Inc.

[8] "How Procurement is Accomplished Today" by B. Edelman, Western Electric Co., Inc. presented during 1959 Senate Armed Services hearings on S.500.

[9] This issue raised in a special paper prepared by G. R. Hall and R. E. Johnson of Rand Corporation entitled "Competition in the Procurement of Military Hard Goods." The paper was presented June 17, 1968, in hearings conducted by the Senate Subcommittee on Antitrust and Monopoly on "Competition in Defense Procurement". The paper pointed out that a great deal more information is needed by a new supplier than just drawings, e.g., "operation sheets and machine instructions sheets; machine-loading control data; treatment data; tools, jigs, and fixture data; product, process or assembly data; and plant layout, machine tools, and work station data. . . . To sum up, it appears that engineering drawings and specifications and underlying data rights often fail to provide access to technology sufficient to support competitive manufacturing".

[10] From statement presented by Professor Ralph C. Nash, Jr., Associate Dean, National Law Center, The George Washington University, on September 10, 1968, before the same subcommittee mentioned in footnote 9. He also said:

. . . Many experts in Government procurement will privately state that advertised procurement is not an effective way to obtain competition in these situations. However, there is a great fear of forthrightly stating this proposition before Congress because of the continual congressional statements which seem to indicate that advertised procurement is sacrosanct. It is time to recognize that Congress desires competition in the procurement process but that such competition should be obtained in the most effective way depending on the product being procured. This subcommittee would make a substantial contribution to the procurement process if it sponsored legislation which clearly stated this proposition. Open and public competition may be fine for buying pencils and paper, but it is an archaic technique for buying technical products.

[11] Paper presented at 1959 Senate Armed Services hearings on S. 500 entitled "How Procurement Is Accomplished Today" by B. Edelman, Western Electric Co., Inc.

[12] See footnote 11

[13] Statement of Robert B. Chapman, III, Executive Vice President, Aircraft Armaments, Inc., during 1959 Senate Armed Services hearings on S. 500, included the following: "It is recommended that revised legislation clearly establish the conditions under which each method of procurement is preferable, rather than state a preference for one method over the others. . . ."

"The mere recognition that there are more than two methods of procurement is not enough. To be fully recognized and accepted, legislation would be required which would establish and identify these methods—along with general criteria for their use." Views of Col. William W. Thybony, former Chairman, ASPR Committee, The Government Contractor's Communique, dated November 11, 1968.

[14] See footnote 11

[15] See discussion on this procedure in early part of article under "Experience under the Act."

[16] See "Report on Procurement of the Committee on Armed Services, United States Senate, 86th Congress, 2nd Session, Report No. 1900, additional views of Senator Saltonstall (p. 30)."

[17] For further information on this bill see "Hearings before a Subcommittee of the Committee on Armed Services, United States Senate, 86th Congress, 1st Session, on S. 500 Amending Title 10, United States Code, with respect to procurement procedures of the Armed Services." These are the richest hearings the writer was privileged to read. Yet the Senate report (identified in footnote 16), which purportedly covered hearings in both sessions, ignored these hearings completely.

[18] This was done with knowledge of the Armed Services Committees. The situation has been somewhat alleviated by amendment to the Act permitting below-secretarial delegations of determinations and findings for R&D procurements under $100,000.

[19] DOD and NASA are currently improving their incentive contracting guides.

[20] Headquarters Naval Material Command, Procurement Newsletter "Let's Discuss Discussions," by George W. Markey, Jr., Assistant to the General Counsel (March-April 1968).

[21] For further discussion, see article entitled "Government Selection of Contractors for Research and Development," by Paul A. Barron, Deputy Director of Procurement, NASA, contained in Proceedings Manual of 1968 Conference on United States Government Research and Development Contracts, November 7–8, Washington, D.C.

[22] Based on trends in industry, it appears that raising the career development level of procurement personnel and giving them wider experience, more authority, responsibility, and opportunity to make real contributions to the procurement process would probably in the long run bring about the greatest savings in Government procurement costs. DOD initiated a department-wide program in 1966.

[23] Another example would be the hearings conducted by Senator Hart on "Competition In Defense Procurement," before the Subcommittee on Antitrust and Monopoly of the Committee on Judiciary, United States Senate, 90th Congress, Second Session, June 17 and 21, and September 10, 1968.

[24] Supported by the Comptroller General in various statements presented to congressional committees. For examples, see House report No. 890, 90th Congress, 1st Session, and Comptroller General's concluding remarks in hearings referred to in footnote 23.

[25] Proposed by Professor Ralph Nash, George Washington University in a statement presented to Senate Antitrust and Monopoly Subcommittee on June 21, 1968, (hearings identified in footnote 23). Prequalification of bidders also supported by Colonel William Thybony, former Chairman, ASPR Committee.

PULITZER PRIZE WINNERS

Mr. MUSKIE. Mr. President, I invite the attention of the Senate to the recent awards of Pulitzer Prizes to American authors who have concerned themselves with the importance of our environment and our natural resources. Dr. Rene Dubos won the Pulitzer Prize for general nonfiction for his book, "So Human an Animal: How We Are Shaped by Surroundings and Events." The Subcommittee on Air and Water Pollution and the Subcommittee on Intergovernmental Relations have long had the benefit of Professor Dubos' counsel, and I am pleased to note his recognition by the Pulitzer Advisory Committee and the trustees of Columbia University.

Mr. Robert Cahn is the Washington correspondent for the Christian Science Monitor. He has had extensive experience in writing about the preservation of our natural resources, and I have just recently had the pleasure of talking with him regarding the dangers of thermal pollution. Mr. Cahn traveled across the breadth of this country and visited many of our national parks. His series of articles entitled "Will Success Spoil the National Parks?" was thoroughly absorbing. 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:

HERITAGE OF WONDER

(By Robert Cahn)

WASHINGTON, May 1, 1968.—A little more than a century ago, landscape architect Frederick Law Olmsted wrote a prophetic report about a federal area called Yosemite in California. Congress and President Lincoln had just granted California the right to preserve the scenic marvels of the area, mainly giant Sequoia trees, then being threatened by commercial exploitation.

Said Olmsted, also famed as planner of New York City's Central Park:

"It is but 16 years since the Yosemite was first seen by a white man. Several visitors

have since made a journey of several thousand miles at large cost to see it, and notwithstanding the difficulties which now interpose, hundreds resort to it annually. Before many years if proper facilities are offered, these hundreds will become thousands and in a century the whole number of visitors will be counted by the millions.

"An injury to the scenery so slight that it may be unheeded by any visitor now, will be one of deplorable magnitude when its effect upon each visitor's enjoyment is multiplied by these millions. But again, the slight harm which the few hundred visitors of this year might do, if no care were taken to prevent it, would not be slight if it should be repeated by millions. . . ."

The Olmsted prophecy of millions of visitors to Yosemite—which at the time must have seemed sheer fantasy—is today merely a routine statistic. Yosemite, now a national park, drew 2,238,000 visitors last year. Total attendance at the 32 national parks which were operational in 1968 was nearly 40 million.

But the Olmsted warning of injury to the scenery from those millions of visitors to come currently presents the half-century-old National Park Service with its greatest challenge ever: how to provide for the increase of visitors without ruining the parks and spoiling the enjoyment of those very visitors for whom they have been preserved.

Concern over the problem, however, should not obscure recognition of achievement. As the worldwide pioneer in the national-parks concept, the United States has set aside for public use some 265 natural, recreational, and historical areas totaling more than 27 million acres.

The first national park, Yellowstone, was established in 1872, when the nation was more interested in taming the wilderness than preserving it.

Hub of today's expanded park system is still the national parks themselves. For the most part they include outstanding natural features, vast primitive areas, many species of wild animals, and certain unique characteristics.

Most of the parks afford a wide variety of opportunity to visitors—back-country wilderness camping; horseback trail riding; public campgrounds; fishing; bird and animal watching; or sight-seeing from roads and lookouts. These are the purposes for which they were founded. With rare exceptions commercial development of resources and hunting are prohibited.

A 33rd national park, Guadalupe, in western Texas, has been authorized by Congress but consists of private land not yet purchased. A 34th park (Redwood, in California) and a 35th (North Cascades, in Washington) were added by Congress in 1968.

A number of the 82 national monuments almost equal the national parks. Such monuments (not to be confused with sites like the Washington Monument) are lands set aside out of the public domain which have unusual scientific, historic, or archaeological significance. They can be established by the president or by Congress. (Only Congress can authorize a national park.)

The term "recreational area" was originally given to federal water-impoundment sites such as Lake Mead. The term now applies to national seashores (such as Cape Cod and Cape Hatteras), national lakeshores, scenic riverways (Ozark), and parkways (Blue Ridge, Natchez Trace). Priority in management is given to mass recreation opportunity. Newly created recreation areas generally have been close to population centers.

Although national parks, monuments, and recreation areas often include historical points of interest, the term "historical area" applies specifically to areas preserved for their place in history.

The national-park system may receive the most publicity and have the most unique areas. But it comprises only a small part of the total recreation potential of the United States. Lands managed by the Forest Service of the U.S. Department of Agriculture have large recreation use, as do areas of the Tennessee Valley Authority, Army Corps of Engineers, and Interior Department Bureaus of Reclamation, Land Management, and Sport Fisheries and Wildlife. Every state also has numerous public and privately owned parks and recreation areas.

UNITED STATES MAY HAVE TO RESTRICT USE OF PUBLIC LANDS—I

(By Robert Cahn)

MESA VERDE NATIONAL PARK, COLO., May 1, 1968.—The bright-eyed attendant with the forest-green skirt and jaunty cap of the National Park Service sat behind a ticket table at the top of the trail leading to the Cliff Palace Indian ruin.

"Ranger-guided tours are now full," she said. Only the last tour of the day, some three hours later, was open.

She handed me a blue theater-type admission ticket with "6 p.m." stamped on it.

A month later and 1,500 miles to the east, I braked to a stop behind a line of cars winding along a tree-shrouded hillside road in the Great Smoky Mountains National Park.

Ahead—the red glow of a traffic signal.

Admission tickets? A traffic signal? In America's national parks?

Yes. And more such curbs are on the way. The era of almost unrestricted use of the parks is coming to an end.

SOME PARKS MAY CLOSE

The summer of 1968 saw a record number of visitors heading for vacation trips in 32 operational parks and 213 other operational areas in the United States national park system. Administrators who once were beating the drums for more visitors began wishing they could halt the onrush at some crowded parks.

A possible severe budget cut caused by Vietnam war expenditures also threatened drastic curtailment of park personnel. With hordes of American and foreign visitors answering the Discover America campaign, an influential member of Congress suggested it might even become necessary to temporarily close some parks.

"If sharp cuts are forced on the national parks budget and we don't have enough rangers to protect the national parks and maintain their quality, I would recommend that we close those parks with lowest priority of use," said Rep. Julia Butler Hansen (D) of Washington, chairman of the House appropriations subcommittee handling the national parks budget.

National Park Service Director George B. Hartzog Jr. admits he has a contingency plan to close certain facilities, or possibly some parks, if the money is not available to hire the extra rangers needed each year to protect the parks and take care of the summer crowds.

Traveling 20,000 miles to visit 20 key park areas during a nine-month span, I saw at first hand the effects of heavy use. I talked to park superintendents, rangers and workmen, hundreds of park visitors from all walks of life, concession operators, and concerned citizens from communities near the parks.

I heard the park's problems discussed by leaders of conservation groups and private experts on parks and recreation, officials of several federal agencies with responsibilities for outdoor recreation on public lands, and members of Congress charged with providing the ultimate determination of policy for the national parks and the money to carry it out.

I saw the crowded campgrounds and carnival atmosphere of Yosemite Valley in midsummer; the "bear jams" at Yellowstone as law-violating tourists stopped their cars to feed roadside bears—tying up traffic, endangering themselves and their children, and turning the wild animals into beggars.

At Grand Canyon in midafternoon, I saw people turned away from already full campgrounds, forced to drive on for many more miles in their quest for a night's stopping place.

On a narrow, winding highway bordering scenic Lake Crescent in Olympic National Park I saw logging trucks doing 70 miles an hour, their engines blasting the peaceful scene and terrifying park visitors.

ON THE OTHER HAND

But these examples of overuse or misuse of parks were counterbalanced by other views:

On a trail in the Olympics, not far from where the lumber trucks careened along the lakeside, I saw a couple carrying their very young twins in special back packs as the family started on a three-day hike into the famed rain forest.

I watched boys from the Detroit area discover the excitement of hiking and camping in the wilderness of Isle Royale National Park, Michigan, the only national park in the United States that hasn't a single public road.

At Yosemite, I heard an alert, enthusiastic park naturalist helping Eastern big-city visitors learn how they could take their park experience home with them. "Everything around you is transmitting beauty and change," he told them. "If your inner 'receiver' can perceive the beauty here, you can go back to the Bronx and see the beauty there."

Here at Mesa Verde, I found park officials already taking steps both to protect the unique area and to help visitors have a more deeply satisfying park experience.

The first move had been to ban the ever-bigger house trailers that were blocking the narrow, winding mountain roads and making things miserable for everyone on the hour-long drive from the park entrance to the cliff dwellings. New regulations required that trailers be left at a parking site at the entrance or at a campground nearby.

NEW RULES ADOPTED

At the most popular cliff dwellings, Balcony House and Cliff Palace, it was found that heavy use was damaging the fragile ruins. At Cliff Palace, for instance, it had been routine for rangers to begin conducted tours every 20 minutes.

Groups numbered as high as 170, which meant there were up to 500 people at a time in the dwellings. Group crowded group as ranger guides outshouted each other trying to make themselves heard.

In July, 1967, new rules went into effect. Trips took off every half-hour and were limited to 75 people. Tickets for the day's trips were given out free, first come, first served.

As soon as the day's ticket supply had gone—even if it was still only noon—visits ended for the rest of the day. No exceptions were made to expand the groups, even for visitors who had traveled long distances to experience the special wonders of Mesa Verde At Balcony House, smaller tours and a ticket system were also adopted.

Some visitors at first protested the new policy. But when park rangers explained that this was a way of saving the area for future generations, and making each trip more meaningful, they accepted it. By the end of the 1967 season, not a single written complaint had been recorded.

Mesa Verde typifies the trend from free to limited access. The trend undoubtedly has been accelerated by widespread criticism of the National Park Service for allowing the public to crowd and misuse the national parks. This year, the ax of regulation will cut much deeper.

PARKS ENFORCING CONTROLS

Among national parks imposing restrictions are:

Great Smoky Mountains: For the first

time, fees are being charged by the National Park Service for use of campgrounds. Those arriving at the park after campgrounds are full will not be allowed to park alongside the roads, nor overflow campgrounds.

Laws against feeding of bears are being strictly enforced to eliminate traffic jams along the main highway through the park. At a key road junction, the first traffic signal ever installed in a national park has reduced traffic tie-ups considerably.

Crater Lake: Park campgrounds are being operated by a concessionaire who charges a minimal rate per car. This is in addition to the park entrance fee of $1 a day (or Golden Eagle $7 passport good for a year in all parks). Other parks may soon follow with concessionaire-operated campgrounds under park service supervision. This action is being taken because of budget restrictions which have cut down park service personnel.

Everglades: Starting February, 1968, those entering the park were informed whenever the Flamingo campground—38 miles away and the only overnight camping area—was filled. The former practice of allowing overflow camping was banned completely. Most other parks have eliminated use of overflow camping areas.

Yosemite: This most crowded of all the parks (press and TV have dubbed Yosemite Valley a "slum" on holiday weekends), is undergoing more extensive changes than any other national park. Public campground capacity in the valley is being cut in half by a policy of marking out definite campsites and eliminating the former practice of allowing people to crowd together almost tent-peg to tent-peg.

The traditional nightly "firefall," in which a half-ton of campfire embers was pushed over Glacier Point to cascade through the darkness, has been snuffed out. National Park Service officials say this popular traditional event put on by Yosemite concessioner caused traffic to build up and people to accumulate in one small section, and also created an atmosphere inappropriate for a national park.

A one-way road system has been installed at the crowded end of Yosemite Valley. And concession-operated buses now operate on a loop to cut back use of automobiles.

PRESSURE OF CRITICISM

These new policy changes and others under study for problem areas within the national park system result partly from the pressure of public criticism which has caused park officials to make a massive reassessment. They are acting with the full awareness that the attempts in recent years to increase facilities to keep up with burgeoning demands have satisfied neither the users nor the critics of expanded park development.

Efforts to take care of increased numbers of visitors have brought criticism from conservationists who feel that permanent damage is being done to the nation's natural "crown jewels" by the added roads and campgrounds, buildings, and blacktop.

The conservationists argue: "Let's keep the unique natural areas of the parks for those who want to get off by themselves in the wilderness and refresh the mind and spirit away from the multitudes, attractions, and problems of the cities. The people who only want outdoor fun or a cheap camping vacation along the road should seek it in other places."

The average park sightseer or campground user might reply: "The back packers already have 95 percent of most parks for their type of use. We prefer to get our enjoyment out of seeing the wilderness from the road, or just being among the trees even when in a big public campground. What we really need are more campgrounds and more roads."

VOICES OF PROTEST HEARD

One Californian, after hearing about restrictions in campground use being planned for Yosemite, wrote an angry letter to the Park Service Director.

"Each year I look forward to spending a week in Yosemite with my trailer," he said. "And, by George, I don't want any government official telling me I can't do this."

Park officials point out that each national park has a certain "carrying capacity." Use beyond this yet-to-be-determined figure would damage either the basic resource or the aesthetic satisfaction of the visitor, or both.

But what is the carrying capacity of Yosemite National Park and how can it be measured? It may be possible to calculate that the soil at a particular campground will permit only a certain number of visitors per acre. But at what point does the intrusion of one more family in the campground, one more car on the road, one more building, or one more hiker in the wilderness lessen the quality of the park experience for an individual?

The National Park Service is sponsoring research to determine the carrying capacity for each unit in the system. So complicated is the problem and so large the lack of basic knowledge, that answers may be years away.

"We are going to develop our parks only to what each one can bear or stand," says Stewart L. Udall, whose job as Secretary of the Interior includes responsibility for the National Park Service. "If we are going to continue the present rate of population growth, we are simply going to have to have rationing of use of the parks. The country might as well face that as a fact. Our master plans for the parks are not going to include unlimited development to meet all the demands of the people."

"PARKS ARE FOR PEOPLE, BUT"—II

(NOTE.—Are America's "crown jewels" in jeopardy? The pressing question confronts national park custodians as they seek to preserve a priceless heritage for future generations.)

WASHINGTON, May 8, 1968.—In the national parks today you'll find more and better roads, intones the liquid-voiced narrator.

But the picture on the screen shows it like it sometimes was in the bustling summer of 1967—cars, camper-trucks, and giant trailer homes in a creeping, bumper-to-bumper mass.

"Camping areas have increased tremendously—one can rub elbows with countless thousands of others right on nature's doorstep," the soundtrack continues brightly.

And on the screen: tents, cars, trailers, people in a solid phalanx almost blocking out the trees.

The privately made film picturing problems of the United States national parks satirizes intentionally. Yet millions of park visitors across the nation would recognize the scenes.

"In this modern world where change is commonplace, what are the national parks doing to keep pace with change?" the screen voice asks, and answers with not so gentle irony: "Individual specimens of wild animals no longer need to be seen in the wild. They can be kept safely behind fences for the safety of visitors.

"Campgrounds can be replaced by permanent residences inside the parks to be rented by week or month.

"Unused parkland [camera shows serene untouched wilderness] will finally serve the public interest—by being converted to stores and entertainment centers and more roads.

"And we of this generation, in handing over these unique areas with their simple beauty and rustic splendor [camera shows tin cans and garbage floating down a park stream] can say with pride to the generation of tomorrow—'*This* we have done!'"

A JOLT FOR RANGERS

This telling film was made for showing exclusively to the National Park Service staff. The purpose, according to park service officials: to jolt employees into realizing the potentially devastating effects upon the parks if an unrestricted normal increase of visitors is matched by increasing the facilities to meet all the demands of park users.

Although the film undoubtedly played a useful audiovisual role, neither National Park Service director George B. Hartzog Jr. nor his staff aides need any reminders of the problems faced by the national parks. Newspapers, magazines, and TV for some time have been hammering home the problems at some of America's park areas.

Early this year a 60,000-word report by two scientists for the Conservation Foundation sharply criticized certain National Park Service policies and practices, while at the same time praising the park service for its achievements.

Elaborating on a 1964 interim report, scientists F. Fraser Darling and Noel D. Eichorn declared that too many people using the parks have already caused "ecological deterioration." They also faulted the park service for its excessive interest in showing an increase in visitor statistics each year, and for developing the parks to take care of the mass of visitors rather than conserving the unique habitats.

Conservation expert Peter Farb, writing in this newspaper, concluded that the national parks are in deep trouble. Mr. Farb charged that the present administrators of the park service "are actually encouraging an overuse, which, if continued, will see the destruction of the national parks in our time."

When he became director of the National Park Service four years ago, Mr. Hartzog strongly promoted increased use of parks. Today he no longer pushes the park service slogan of recent years—"Parks are for people." Yet he is optimistic that, despite the increasing popularity of the parks, the carrying out of some drastic new policies can prevent the ruin of these priceless natural areas.

Who will be proved right—Mr. Hartzog or his critics? Are the parks headed down-hill irretrievably? What can future generations expect to find in the scenic wonders of the national parks that have been called the nation's natural "crown jewels"?

CRIME AND POLLUTION RISE

In 20,000 miles of travel through many parts of the national park system, I discovered that every park has problems in varying degrees of seriousness.

Overcrowding does exist in the developed areas of such older national parks as Yosemite, Yellowstone, Grand Canyon, Everglades, Mesa Verde, and Mt. Rainier—but only during the peak periods of use.

Crime, while still insignificant in total amount, is growing in the national parks at double the rate of crime in American cities. Several parks are undergoing water shortages either from man's interference with the source or from too many people using the normal supply.

Park rangers are so busy with management, safety, maintenance, and traffic during peak periods that they have too little time for helping the public understand the parks.

Many visitors add to the difficulties by trying to do too much, too fast; seeking and demanding the creature comforts of home in pristine areas of nature; failing to respect the land and the wildlife or refusing to see it on its own terms.

Despite all this and more, it is only fair to say that, on the basis of my observations, the national park system appears to be in relatively good physical condition. No disaster situation is evident.

But looking ahead 10, 20, or 30 years, the story could be different indeed. The mounting pressures of use, and staggering predictions for future use, point to a crisis of decisionmaking.

If the right decisions are not made, or

are made too late, the national parks could be spoiled for both present and future generations of visitors.

The crisis of decisions involves not just old-line popular parks like Yellowstone or those like Yosemite, near urban areas. Even in new and remote areas of the national park system, the pressures of use already are forcing some difficult decisions.

VIRGIN ISLANDS "DISCOVERED"

Consider Virgin Islands National Park, for instance. Four years ago, on the second day of a Caribbean vacation, my wife and I "discovered" this national park and its delightful campground at Cinnamon Bay on St. John Island. We instantly fell in love with its quiet beauty. Finding that the concessionaire had housekeeping accommodations available, we stayed there our entire two weeks.

Park service guide Noble Samuel, a native of St. John, taught us how to snorkel and also interpreted the fantastic display of underwater life we encountered around coral reefs. Evenings we sat by a beach campfire and listened as park service naturalists unlocked the secrets of St. John's marine, animal, and plant life. We explored the island and lounged on its white sand beaches, some of the best in the world.

The open-hearted concessionaires, John and "Dib" Woodside, managed to create a homey atmosphere for the 70 of us who were occupying the tent sites and screened-in, one-room beach cottages. There was no organized entertainment, and everyone went his own way. If you didn't mind the no-see-ums (minuscule sand flies with a maxipowered bite), cooking on a barbecue grill or Coleman stove, using a kerosene lamp, and having no running hot water, it was an idyllic vacation spot.

When we returned to Cinnamon Bay last fall, everything looked unchanged. But it wasn't. At Christmas, Easter, and other popular vaction periods, accommodations were booked solid a year in advance; visitors arrived without reservations, forcing overflow camping. Too much foot traffic along the beach had caused severe erosion; the limited water supply was running dangerously low. A proposed airport for nearby St. Thomas threatened the tranquillity of the park.

As a result of these pressures, superintendent Joseph Brown faces some basic decisions:

Should Cinnamon Bay be closed for overnight use and another campsite developed up in the hills?

Should the length of camping stay be reduced? Should additional campgrounds or overnight lodging be built on other park-service-owned land on the island? Or built by private enterprise outside the park?

Cinnamon Bay illustrates the problem as a whole. On a systemwide basis, a number of decisions basic to many national parks also are demanding attention.

How many more public campgrounds or lodges should be built within the parks? Are there other solutions to the vast "housing" need?

Should there be a limit on size or number of vehicles in the parks? Should visitors be required to leave autos or trailers at the gates and travel inside on public transportation?

How much of each park should be set aside as wilderness? How much, if any, should be given over to roads, restaurants, stores, lodging, and other services for the public?

The questions may be different now from what they were when the National Park Service was founded in 1916. Yet the one underlying issue remains: preservation vs. use.

DUAL PURPOSE CONTRADICTORY

Those far-sighted men who drew up the legislation half a century ago for a national park system outlined a dual purpose: (1) to conserve the scenery, wildlife, and natural and historic objects; (2) to provide for their enjoyment in a manner that would leave them "unimpaired for the enjoyment of future generations."

Evidence exists that the politicians of that era realized the mission had a built-in contradiction. But to pass the National Parks Act of 1916 they needed the votes not only of the conservation advocates but also of those members of Congress who saw the parks as vacation resorts.

In 1916, with 356,100 visitors using 13 national parks, the conflict between use and preservation was minimal. Today, even though the park system has grown to include 34 national parks and more than 200 other areas (such as national monuments, recreation areas, and historical areas), use has far outstripped the capacity of additional facilities.

In 1967 the national-park areas alone received 39.6 million visitors, up 5 percent over 1966. And all indicators point to even heavier use in 1968 and succeeding years.

Population is increasing regularly, and so is the leisure time of Americans. Fatter pocketbooks enable wider travel. People cramped in cities surge to the countryside. Advancing transportation technology squeezes travel days into hours and makes remote areas of the country readily reachable.

It is no longer a problem the National Park Service can solve alone. Other federal agencies involved in recreation have 20 times more area than the park service.

A way must be found for the recreation areas of the other federal agencies and for those of states and cities to absorb more of the visitation pressures that now concentrate on national parks.

ROLE FOR PRIVATE ENTERPRISE

Private enterprise also will need to provide more outdoor recreation opportunity. Furthermore the park-going citizen will have to adjust to restrictions which may be placed on use of the parks and accept a greater sense of responsibility for preserving the fragile areas he uses.

If this conflict of preservation vs. use is not resolved, the one thing for which parks exist could be lost. After all, the uniqueness of a national park is its atmosphere in which a visitor can experience a sense of oneness with nature.

People commune with nature in different ways. For one it may be a hiking trip into a wilderness. For another, a short walk on a nature trail near the highway. Some feel satisfied just looking through a car window, or standing at a lookout point and taking in a magnificent vista.

However one sees a park the essential requirement for a rewarding visit is that the area be preserved so it can be appreciated.

All of the recent rumblings about crowding or abuse of the national parks may thus serve a useful purpose if they bring the issues to the surface where solutions may be reached.

CARS, CROWDS, CRIME—III

(NOTE.—City problems are spilling over into a growing number of America's national parks. Even the crime rate is rising. The dilemma for government custodians: How to cope?)

YOSEMITE NATIONAL PARK, CALIF., May 15, 1968.—"The conditions in Yosemite Valley are a national disgrace," a San Jose, Calif., man wrote in the summer of 1968 to Secretary of the Interior Stewart L. Udall.

"The extreme beauty of the place is marred by the noise and confusion of excessive motor traffic. A heavy pall of campfire smoke hangs over the campgrounds. Wild, noisy activities continue through the night."

Another critic, from Hyattsville, Md., wrote to Mr. Udall complaining that after driving 3,000 miles to visit Yosemite—"perhaps only once in our lifetime"—she and her husband had found that "it has been overrun by local hoodlums not at all interested in the natural beauty or phenomena of the park."

To Secretary Udall, National Park Service Director George M. Hartzog Jr., and rangers at an increasing number of parks, these and other letters or verbal complaints point up a growing dilemma: how to cope with the problems of the city now spilling over to many of the national parks?

THREE C'S RELATED

The most pressing problems are what might be called the three "C's"—cars, crowds, and crime. They are, of course, related. The cars, trailers, camper vehicles, and even motorcycles, have enabled people to escape the cities in large numbers on weekends or vacations. Yet the capacity of roads, campgrounds, lodging, food, and other services has not kept pace with the burgeoning demand.

The result: Crowds and congestion. During much of the summer, Old Faithful and Canyon Village in Wyoming's Yellowstone, Yosemite Valley in California, Grand Canyon Village in Arizona, the main highway through the Great Smoky Mountains National Park in Tennessee and North Carolina, Paradise Valley at Mount Rainier in Washington, and many other areas teem with people, cars, trailers, and campmobiles.

Along with the crowds, crime has come to the parks. It is not yet as dangerous a situation as in some cities. But park officials view the upsurge with alarm.

CRIME UP 67 PERCENT

In 1967 serious crimes in national parks rose 67 percent compared with a 16 percent crime rate increase in U.S. cities.

Park crime included:

Safe-cracking jobs in the Grand Canyon, Glacier Park in Montana, and Aztec Ruins National Monument in New Mexico, and an armed robbery at Glacier Park Lodge. A high-ranking lieutenant of La Cosa Nostra was arrested in Hot Springs National Park in Arkansas and charged with attempted bribery. Thefts from cars increased 330 percent at Kentucky's Mammoth Caves National Park, and such thefts have become a big problem at many parks.

Vandalism was reported throughout the system. Trees, rocks, and cliffs were defaced. Signs were damaged or stolen, public facilities damaged. At Petrified Forest National Park in Arizona, 361 people were caught trying to leave the park with a total of 2,177 pounds of stolen artifacts. In 93 of the cases, formal charges were made and convictions obtained.

At California's Sequoia National Park, after 37 years of unlocked doors, the concession operator had to order locks for cabins.

Use of narcotics caused trouble among student employees and visitors at Yosemite, Glacier, Grand Canyon, and the Grand Tetons in Wyoming.

Poaching of wildlife was reported at many parks and was especially serious at Wind Cave (South Dakota) and Everglades (Florida).

The crime rise, the overcrowding, the traffic jams do not constitute a present crisis. They are exceptions to the generally serene atmosphere to be found in the national parks.

Only 1 out of every 5,700 visitors is affected by crime. Crowding is a more prevalent problem, but is experienced mostly on holiday weekends or at the peak of the season and in certain sections of the parks. The danger lies in what the present trends indicate for the future.

When the topic arises of urban conditions in the national parks, the example usually cited is Yosemite. Yosemite is not typical of the parks I saw in 20,000 miles of travel through parts of the national park system. Because of its special characteristics, it is a hotbed of all the problems experienced piecemeal in some other parks.

Yosemite, lying within a day's drive of

Los Angeles and San Francisco, gets heavy weekend and vacation use from residents of those megalopolitan areas. Its magnificent waterfalls, sheer rock walls, alpine lakes and meadows, and giant Sequoia trees have made it a touring must for foreign as well as out-of-state American visitors. But they have a hard time finding space among the two million Californians who crowd the park each year, some of them coming every year or even several times a year (85 percent of all visitors are from California).

The park's magnificent "back country" still has its pristine wilderness intact, although the best campsites along the trails or beside the mountain lake now fill up by early afternoon.

In a summer visit to Yosemite, however, I found that 95 percent of park visitors prefer to squeeze into the narrow (seven-square-mile) Yosemite Valley, which contains only 1 percent of the total park area.

Everywhere in the campground, village, and lodging areas it was people, cars, trailers, camper vehicles, tents, cabins, sleeping bags—and more people.

THEY HAVE A GOOD TIME

Visitors queued up outside the cafeteria. Barefoot, ragtag hippies congregated around an outdoor eating concession. A dress shop's summer clearance sale attracted clusters of women. A public lounge hall was filled with teen-agers and some older folks playing cards, oblivious to the glories of nature all around them.

"Outrageous," say conservationist critics who hear about Yosemite or see its crowds on television during a holiday newscast showing the park at its worst. "Take the honky-tonk atmosphere out of the national parks," say those who go to the parks and find the development overly commercial and out of place for a national park.

Yet there is another side. Any observer who looks around even in Yosemite Valley sees that most of the people are enjoying their stay. Those in the campgrounds have only to walk a few yards from any crowded area to enjoy some of the most beautiful scenery in the world.

"We came here because of the crowd," commented undismayed Joseph Dioege. He and his family were relaxing in front of a campfire in a densely crowded campground. With Mrs. Dioege and five of their six children, he had come from Canoga Park, Calif., where he works for an aircraft company. "We can do our primitive camping later when the children are grown. But this is what they want—to have other youngsters around and things to do."

HIPPIE'S VIEW: "IT'S REAL"

One afternoon at Yosemite I talked with a group of hippies—about 20 of the 100 or so who had left their Haight-Ashbury haunts for a summer in the park.

"Why are you here?" I asked.

Bill, a 16-year-old from Georgia, replied: "There are no real values left in society. We come here because it is beautiful, it is real."

Jack, a handsome, unshaven youth from Canada, said: "Here, I don't need LSD to turn me on. I can get the same feeling from seeing the beauty of the mountains and the cliffs and the trees."

Park officials at Yosemite say that many visitors are shocked and bothered by the presence of the hippies with their strange mode of living and slovenly dress. But they, too, have a right to be in the park unless they break the law.

Then there are the problems of young folks of both sexes camping together.

"How do you know which ones are married and which aren't?" asked one park ranger. "We can't do anything about it if their parents let them come up here without chaperones."

A special report on the Yosemite crime problem made by three police experts also placed the blame on parents.

"From the growing number of unsupervised juveniles visiting the park, one conjectures that some parents must imagine the park is as a safe, federal nursery school where rangers act as baby-sitters," the report said.

PATROL RANGERS CALLED IN

The citylike problems created by the crowds in Yosemite Valley during the peak of the 1967 summer season required pulling in most of the patrol rangers from the back country. Twice, specially trained park police from the Washington area had to be flown to the park to assist in crime control. Twenty arrests were made for narcotics violations—four times more than in the previous five years combined.

Much of the crime is committed by petty thieves who find park conditions ideal for stealing from cars and campsites.

"We have thousands of people in an unfamiliar environment doing unfamiliar things," a park official told me. "An unshaven man in midafternoon carrying a bundle of clothes is a normal sight in a campground. He may have just stolen the clothes, but no one would suspect it."

Criminals also know that Yosemite and other parks are short of help. Exit gates are unmanned much of the time, so getaways are easy even when crimes are reported.

LAW ENFORCEMENT CRITICIZED

Park officials say that the hippies in 1967 proved far less troublesome than motorcycle gangs and rowdy juveniles who invaded Yosemite Valley in large groups during 1965 and 1966.

The entire law-enforcement system in national parks—which most officials agree is archaic—is in need of overhauling. Many park rangers, with the responsibility for making arrests, have not received adequate police training. And justice is dispensed with little uniformity by park commissioners or the nearest United States district commissioner.

In Grand Teton National Park, a park seasonal ranger, acting on a tip, barged in on two college youths sleeping in a tent. One of the youths admitted he had taken a small amount of LSD two days earlier (which in itself was not illegal) and even showed the ranger where he kept another capsule of LSD.

Hoping to make an example of the youth, the seasonal ranger, a law-school student during most of the year, arrested the two 19-year-olds for "disorderly conduct." The U.S. District Commissioner in Jackson, Wyo., ordered them placed in a county jail cell along with drunks and common criminals. The youth who had admitted taking the LSD was fined $500 by the district commissioner and sentenced to the maximum six months in jail. Five days later, when the youth's parents arrived in Jackson and made a protest, the sentence was reduced to five days and $100.

CONVICTION REVERSED

The case was appealed to the federal district court of Wyoming, where the conviction was quickly reversed.

There are no easy answers to the citylike problems of the parks today. The park service experimented with several restrictions in the summer of 1968, including reduction of the number of vehicles and tents allowed in Yosemite Valley campgrounds and making a one-way loop road system in the most heavily used end of the valley.

Additional ideas being considered for Yosemite and other crowded parks include shorter camping stays, higher fees, and a reservation system. Spreading the use of the parks by having more visitation in spring and fall would, in theory, reduce congestion greatly. But no one knows how to get millions of Americans to shift their traditional vacation plans.

More campgrounds and developed areas could be constructed in park sections now unused. But such extensions are opposed by conservationists and others who want to maintain as much of the park as possible in its original condition.

Establishment of slow-speed roads, charges for camping, and other regulations may eliminate some of the people who now go to a national park just because it's there. Many of these visitors do not really care whether they visit a national park as long as their recreation needs are met.

RESTRAINTS OPPOSED

These people might be satisfied at state or city parks, private campgrounds or recreation spots, or in other federal areas. California state parks already are so crowded that a reservation system was started in 1968.

Some National Park Service officials balk at restraints that would keep the average sightseer out of the park. The parks, they argue, are supported by all the people. And the park service cannot close the gates to "nonbelievers," who may really need the park more than the wilderness buffs. Coming even as sightseers, they may learn how the wonders of nature refresh the inner man.

That ideal is fine, agree the conservationists. They they add a sizable "but": The park service had better find a way of putting it into practice that won't violate the mandate of Congress back in 1916—to preserve the park areas for future generations.

"PARKINSON'S LAW" IN THE PARKS—IV

(NOTE.—The National Park Service has found itself with an uncomfortable equation: Every increase in visitor capacity is outmatched by increase in use. It's a case of access vs. excess, with conflicts of interests and pressures—and some hard decisions due.)

ISLE ROYALE, MICH., May 22, 1968.—Something is missing from this idyllic, water-bound national park in the upper reaches of Lake Superior.

About 700 moose live on 45-mile-long Isle Royale, 15 miles from the nearest mainland shore. There are also 25 wolves (almost never seen) as well as assorted birds and small animals—and the fish that swim in surrounding waters.

The park also has amenities for human visitors: 2 rustic lodges, 88 camping shelters, and 115 miles of hiking trails.

But by contrast with all other United States national parks, Isle Royale definitely lacks two inevitable conveniences of the combustion age:

Cars.

And roads.

If you want to come to Isle Royale, you must travel by boat or chartered plane. Once here, if you want to get from Rock Harbor at the east end of the park island to Windigo at the west end, you must go by motorboat, canoe, or foot. Those who hike the Greenstone Ridge Trail running the length of the island are entitled to wear a blue-and-white shoulder patch to prove they've done it.

CANOES REPLACE CARS

The roadlessness of Isle Royale not only makes this park distinctive, but it sets the tone of the entire island. The people I saw getting off the National Park Service boat from the mainland had packs, sleeping bags, canoes, and groceries, ready to go off to the trails and shelters for a weekend or week-long experience with nature.

Elsewhere in the national park system the pattern is quite different. In the rest of my 20,000-mile swing through major park areas, I found that the majority of visitors regard roads and motor vehicles as a boon.

On the weekend I visited Yellowstone in Wyoming, the road alongside Old Faithful geyser was one continuous traffic jam "Bear jams" occurred every mile or so as cars stopped right in the road for occupants to feed the bears or take pictures. Trailer homes

and camper vehicles crowded together in an overflow area resembling a supermarket parking lot on Saturday morning.

Similar situations prevailed elsewhere.

California's Yosemite Valley suffered traffic jams, the roar of motorcycles, the chug of trailer generators, and smog caused by vehicle fumes plus campfire smoke.

BUMPER-TO-BUMPER TRAFFIC

One campground in the Great Smoky Mountains National Park in North Carolina and Tennessee was almost filled by a mobile-home club of retired people from all parts of the United States. They had chosen this public area as their rendezvous spot.

Traffic on U.S. 441, running 34 miles across the Great Smoky Park, was almost bumper to bumper on a Sunday afternoon. Visitors traveling just for the scenery had to endure the push of high-speed drivers using the road only as the shortest distance between points in Tennessee and North Carolina.

On U.S. 101 inside Washington State's Olympic National Park, I saw heavily loaded lumber trucks speed along the side of scenic Lake Crescent at 70 m.p.h., occasionally forcing park visitors onto the shoulders of the narrow two-lane road.

A survey of 17 National Park Service areas in 1967 showed that camper-trucks and mobile homes accounted for more than 50 percent of vehicles using national-park camping facilities. The increase of vehicles produces a demand for more and bigger roads and for added natural areas to be turned into campsites. That means more gas stations, grocery stores, coin laundries, cafeterias, and trailer hookups.

The result is escalation à la Parkinson—for every increase in capacity an even greater increase in use.

Conservation groups have for years been demanding an end to new road construction within the parks and a limitation on campsites and other tourist-serving facilities.

The National Park Service has been caught between pressures to conserve the natural areas and to make them available for more visitors.

From 1956 to '66, during the Mission 66 development program, the "parks are for people" concept seemed to be winning out. A change in policy, however, is beginning to emerge now.

Following a task-force study of park roads, their use, and other transportation possibilities, Park Service Director George B. Hartzog, Jr. and Interior Secretary Stewart L. Udall approved a revolutionary new set of road standards.

ROAD POLICY OUTLINED

The road-policy statement says that the national parks "stand today at the same crossroads as do the American cities—some of which seem on the verge of choking on their automobiles. Just as noise, congestion, and pollution threaten the quality of urban life, they have begun to erode the quality of the park experience."

The national parks can no longer accommodate every person who wants to drive an automobile without restriction unless an open-end road-construction program is carried out, the statement adds. And an open-end road program is not favored.

"Inevitably, if the park experience is to maintain its distinctive quality," the statement continues, "the numbers of people, their methods of access and circulation, will necessarily have to be more closely controlled."

Specifically, the new policy advocates that:

Park roads should not be links of the federal network.

The National Park Service must not be obligated to construct roads, or to manage traffic, in order that new kinds of mobile camping vehicles be accommodated. The development of parking areas for trailers at park entrances, and the exclusion of vehicles from park roads not capable of handling them, are appropriate solutions.

Faced with a choice of creating a severe road scar in order to bring visitors close to a point of interest, or requiring visitors to walk a considerable distance, or considering an alternate transportation system, the decision should be against the road.

Research be conducted and high priority given to pilot programs seeking other transportation systems more appropriate than roads—tramways, monorails, rail conveyer systems, helicopters, and hydrofoils.

Long stretches of straight roads in parks should be avoided, and they should not be designed simply to link points of interest. Every park road should, to the extent possible, take maximum advantage of scenic and interpretive values and constitute an enjoyable and informative experience in itself.

Speed limits can be reduced, roads converted into one-way systems, service roads be made into one-way nature roads, or autos limited to certain portions of a park and replaced by bus, minitrain, or other transportation.

EARLY HIGHWAYS ENCOURAGED

Implementing some of these changes may cause severe adjustments for many citizens accustomed to easy road access to the national parks. By a significant coincidence, the national-park concept reached its development stage about the same time as the automobile, and they have grown simultaneously.

Secretary Udall and Parks Director Hartzog are in the midst of an administrative battle now with the Department of Transportation on the problem of through highways inside the parks. Mr. Udall wants existing U.S. highways in the parks to be stripped of their designation as federal highways. And he has requested that other routes be designated or constructed so the parks can be bypassed by through traffic.

Mr. Hartzog is entangled in a bureaucratic tussle with the Bureau of Public Roads over his attempt to cancel, defer, or change some roads previously approved and now in the design stage. He wants low-speed, narrow, scenic roads instead of straight, wide roads the BPR people say are necessary for safety considerations.

"We have been building roads so visitors can drive 45 to 65 miles an hour," says Mr. Hartzog. "I don't think you can have a qaulity park experience at that speed.

"The parks are not crowded with people, but with autos," he adds. "We hope to demonstrate that by slow speeds, one-way motor nature roads, interpretive signs, and short walks from road turnouts, there is an experience beyond the road for the average visitor."

Secretary Udall says the nation should have "a series of scenic parkways like the Blue Ridge for people who don't want to get out of their automobiles except maybe at an overlook. But the big national parks should be dedicated to the idea of getting people out of their automobiles."

Although obstacles confront the park service in effecting new policies, Mr. Hartzog already has taken some action.

To relieve traffic congestion in Yosemite Valley, the service is experimenting with a one-way road system in the most crowded part of the valley, and the park concessionaire is providing bus service.

At Colorado's Mesa Verde National Park, Mr. Hartzog has canceled a contract for a high-quality road to Wetherill Mesa, an area of newly excavated cliff ruins due to open soon. After a personal inspection of the site, he decided in favor of having the public use a narrow, winding old fire road to the mesa. It will be improved slightly and covered, not with blacktop, but with a composition that blends with the setting.

PEOPLE WELCOME, CARS NOT

No automobiles will be allowed on the mesa overlooking the cliff-ruin site. Cars will be parked at a central location far back from the rim, near a visitor center and small food concession. Visitors will either hike the half mile to the rim, or be taken part way by small minitrains.

"I don't want automobile noise or gasoline fumes or any dust detracting from this experience," Mr. Hartzog said during an inspection trip as he looked out at the cliff dwellings from which the Indians had mysteriously departed 700 years ago.

"Those who come to Wetherill may have to work for it a bit, rather than driving right up to the rim in a car," he added. But it will be worth it to see it in as quiet and inspirational an atmosphere as possible."

The whole question of new modes of transport is at the moment highly controversial, both among the public and within the National Park Service.

Howard Stricklin, superintendent of Grand Canyon National Park in Arizona, would like to have several tramways going down into the canyon to give visitors a breathtaking and educational trip. But Mr. Hartzog has ruled that the tramway proposal not be included in the park's master plan for the future.

TRAMWAY DEBATE

Mr. Hartzog believes that in some parks, however, tramways or other types of transport may be the best solution to future problems of access within parks.

Anthony Wayne Smith, president of the National Parks Association, disagrees.

"We are opposed to tramways because they would be mechanical intrusions into areas which ought to be kept in their natural state," Mr. Smith says.

But Joseph W. Penfold, conservation director of the Izaak Walton League, advocates seeking ways to apply new transportation technologies in the parks. He even suggests that at Yellowstone, a monorail system might be preferable to expanding the major road network.

These controversies seem less important today than the overall objectives as put forth in the new road policy statement:

"The single abiding purpose of national parks is to bring man and his environment into closer harmony. It is therefore the quality of the park experience—and not the statistics of travel—which must be the primary concern."

Conservation groups which in the past have criticized the park service for being too interested in the statistics, in trying to get more people to the parks, will be watching to see that the park service lives up to the noble purpose embodied in its new road policy.

HOW MUCH SHOULD WE TAME THE WILD PLACES?—V

(NOTE.—A century ago, America was conquering its wide-open spaces. Today, it is trying to preserve them. Result: a ceaseless struggle between forces determined to save the wilderness areas and those bent on making them more accessible to more people.)

DERRICK KNOB, TENN., May 29, 1969.—As we relaxed around the campfire after an all-day backpack trip to Derrick Knob in the Great Smoky Mountains National Park, I asked my fellow hikers:

"Why are you here?"

What was it that made this group of 20 Smoky Mountain Hiking Club members leave the comforts of home to tote a 30-pound pack alongside a rushing creek for eight hours, cook a meal of dehydrated or canned food, and sleep on the hard ground?

"I love the quiet here and getting away from city noises and smells," said Ruth Young. A secretary five days a week, Miss Young is captive to canned music all day at one of the Atomic Energy Commission plants

in Oak Ridge, Tenn. "I enjoy sleeping among the rustling leaves and hearing the mountain streams," she said. "When leaves fall at home it means something to clean up."

Ernest Wroblewski, also from Oak Ridge, had been trying along the way to interpret nature to his 11-year-old son Tommy.

"What we learn from things like the seeds and the turning of the leaves helps man to understand his universe," Mr. Wroblewski said. "If we get a lesson from the world of nature on how to survive, we can apply this to our own future."

Leroy G. Fox, a chemical engineer from Knoxville, said the wilderness was to him a "humbling experience." Mechanical engineer Ray Payne, from Oak Ridge, said the hikes offered a physical challenge, the satisfaction of accomplishment, of finding out what you can do.

"The Bible says people went into the mountains for inspiration," said O. K. Sergeant of Oak Ridge. "And so do we."

INSTANT RELEASE

Mr. Sergeant, president of the hiking club, invited me on the two-day outing so I could see the kind of national park experience he believes is missed by the vast majority of visitors who get their impressions out of a car window, from a crowded highway overlook, or at an equally crowded campground.

No doubt about it. I felt an instant release from the pressures of civilization once we started up the side of Sams Creek, crossed and recrossed the creek, accompanied by nature's gentle sounds—birds and squirrels and the wind. And at the top, hiking along the Appalachian Trail, we saw the bright colors of autumn splashed on the neighboring hillsides.

Yet the wilderness experience has its drawbacks, especially to this tenderfoot who had not carried a backpack since the wartime training days of the early 1940s. And I did not sleep too well under the stars after hearing some rustling near my sleeping bag and having to chase away a black bear which had come too close for comfort.

Those who make the effort to get away from the roads and commercial developments to enjoy nature on its own terms feel very strongly that every square foot of wilderness area in the Great Smokies park should be preserved. They are equally opposed to opening the national parks and other natural areas to more extensive tourist facilities.

The ageless Smokies typify strikingly the wilderness terrains over which opposing forces wage a ceaseless battle—attempting to exert pressure on the public, on Congress, and on the National Park Service.

HIGHWAY OPPOSED

As we hiked along the Appalachian Trail toward Clingmans Dome, "Sarge" Sergeant pointed out the area where the National Park Service had proposed building a transmountain road across this park which straddles the Tennessee-North Carolina border.

The Smoky Mountains Hiking Club, the Wilderness Society, the Sierra Club, and conservationists throughout the nation flooded Congress, the Secretary of the Interior, and the President with mail opposing this road. It would scar the countryside, they charged, and would ruin for all time a priceless wilderness area.

The hiking club even staged a protest hike, with 600 people, ranging in age from 7 to 81, walking through part of the area. And 300 witnesses testified at two public hearings, a heavy majority of them arguing against the road and for additional park acreage to be set aside exclusively as wilderness area.

The National Park Service had offered to build the transmountain road to fulfill a previous legal commitment to citizens on the North Carolina side of the park. Park Service officials also contended that the road was needed to relieve the congestion on the single existing highway across the park.

Conservationists countered that the traffic problem could be solved without building a road that would destroy wilderness areas and detract from the very things which attract the tourists in the first place.

The nationwide pressures of the conservationists far outweighed the pressure by the businessmen of the small towns in North Carolina and Tennessee who were backing the road. Secretary of the Interior Stewart L. Udall decided in December, 1967, that it would not be built.

The intensity and strength of the campaign against the transmountain road disclosed the extent to which public opinion regarding wilderness has shifted over the years.

A century ago the great push was toward conquest of the wilderness. This has been replaced by demand for protection of what wilderness remains. The demand is not just from those who use the wilderness. They are far outnumbered by millions of urban Americans who may never venture into the wilds themselves but who feel a responsibility or a need for knowing that wilderness still exists "out there."

This groundswell of popular support, molded into a national political force by such organizations as the Wilderness Society, the Sierra Club, and the National Parks Association, was largely responsible for passage of Wilderness Act of 1964. The landmark act provided for designation by Congress of sections of federal lands to be kept forever in a wild state.

WILDERNESS DEFINED

Official wilderness designation includes much more than just large stands of virgin timber. Wilderness is "an area of undeveloped federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural condition. . . ."

The Wilderness Act brings both benefits and difficulties to the National Park Service. It will give added protection to national parks and monuments against threats such as the recent proposals for power dams on the Colorado River which would have backed up water into Grand Canyon.

But, concomitantly with outlining wilderness areas, the act also requires the park service to specify exact boundaries of acreage in the parks to be kept free of roads, campgrounds, and all other development for all time to come.

In most national parks, roads or mass-use facilities take up less than 5 percent of the total park area, although campgrounds or lodges often are in several sections of a park. Park service management of the rest of the park is stricter than that of any other government agency with responsibilities for wilderness land. The park service does not allow campgrounds or roads in its back country. It prohibits mining, logging, grazing, hunting, or water development.

National Park Service Director George B. Hartzog Jr. is required under the Wilderness Act to determine that areas left out of wilderness classification will be sufficient for all possible future demands of an ever-increasing visitation load.

Use of national parks has doubled in the last 12 years. Most visitors want to be able to see the wilderness from a road, without actually going into the back country. Hence the questions: Should additional roads or campgrounds or lodges be built for tomorrow's visitors? And can all of the visitor needs of the future be met within the corridors of development kept out of wilderness classification?

CONSERVATIONISTS SPEAK OUT

At the first series of local public hearings on specific park areas to be included as wilderness, the park service ran into severe opposition from organized conservationists over the amount of acreage to be set aside as wilderness.

At hearings on the Great Smoky Mountains National Park, the Wilderness Society and other conservation groups suggested preserving 30 percent more area than the 350,000 acres in the park service proposal. Park service plans for additional campgrounds, added scenic motor-nature trails, buffer or "threshold" areas around existing roads, and a rustic hiker's overnight lodge were all opposed by conservationists.

For Lassen Volcanic National Park in California, the park service proposed setting aside 49,800 acres as wilderness. At the public hearing the Wilderness Society spoke out for twice that amount. In a revised plan recently submitted to Congress, the park service increased its wilderness proposal to 73,333 acres. But it still left large sections—up to a mile or more on either side of the park roads—as threshold areas, instead of having the wilderness boundary go right up to the road's edge, as demanded by conservationists.

Mr. Hartzog believes that threshold areas adjoining existing roads, or those set aside to provide space for one-way, motor-nature trails, are needed to give park visitors who may be planning only to drive through a park the opportunity to explore the mood and temper of the wild country. Once the visitor samples it, he may have the desire to return for a hiking trip into the wilderness.

"You can't just order a visitor to get out of his car," says the national parks director. "You have to entice him out of his car. We may be able to show, through motor-nature trails, short nature walks, lookouts, outdoor exhibits, or other methods of interpretation, the meaning of wilderness and what it can offer."

Most conservation groups disagree with this wilderness threshold concept.

"Apparently the newcomer is expected to explore the mood and the temper of the wilderness from the cushioned seat of his air-conditioned car, or at worst, from the uncushioned seat of a picnic table within a few feet of a road," comments Stewart M. Brandborg, executive director of the Wilderness Society.

ENCROACHMENTS SEEN

"Also, a motor-nature trail can't be a trail if a car can go on it," Mr. Brandborg adds. "While there may be merit in getting people out of cars to walk a few yards, I don't see that motor-nature trails justify the exclusive use of hundreds of thousands of acres of wilderness.

"The only effective buffer zone must be within the wilderness area boundaries. Anything left out ultimately will be put to some other conflicting use despite the best intentions of today's administrators, who promise to protect it under the wilderness threshold concept."

Members of Congress, beset by pressures both from conservationists and from constituents who want parks made more accessible, also have definite views on these issues.

"I supported the wilderness bill," says Rep. Roy A. Taylor (D) of North Carolina, chairman of the House interior subcommittee on parks and recreation. "But the national parks also have got to be made to serve all the people. I don't buy the concept that we should build roads only to the end of a park and then have people walk. The walkers are being heard from a lot more than the car riders. We are paying too much attention to vocal minorities. The parks should be developed to meet the needs of all users."

Congress eventually will hold hearings on all park wilderness plans and then make the final decision as to which areas should be held forever inviolate as wilderness and which should be left for roads and other developments.

If the soundings taken as I traveled

through national parks in recent months are a true indicator, the enthusiasm and dedication of those who hike the back country will carry the day in assuring that adequate amounts of wilderness are preserved.

I recall meeting a young couple, Mr. and Mrs. Robert Reischke, on a trail in Olympic National Park. Vacationing from their studies at Central College of Washington, the Reischkes were heading up the trail toward Mt. Olympus and the high divide on an eight-day pack trip. Betty Reischke, from nearby Tacoma, had hiked in the Olympics since she was 12, and was introducing her North Dakotan husband to its natural glories.

"Write in your article," she said, "that they should leave the wilderness areas for backpackers like us, and not put a lot of roads in the parks."

O.K., Betty, it is written. Now it's up to Congress.

PEOPLE VERSUS LIFE—VI

(NOTE.—A raft down the Snake River is a fine way to get close to Wyoming's Grand Teton National Park. But how much more human traffic can course the river without disturbing the birds and animals that live there? The threat here and in other national parks has officials concerned.)

GRAND TETON NATIONAL PARK, WYO., June 5, 1968.—"Please keep your voices down. We are coming to an area where some bald eagles nest in a cottonwood tree."

Frank Ewing, our guide on this float trip at dawn on the Snake River, skillfully poled the small rubber raft around a bend, avoiding the protruding gnawed logs of a beaver dam on the bank.

A short distance from the river we saw the nest high in a cottonwood tree. But no eagles.

Current swept us around another bend. Frank put a finger to his lips and pointed to a high cottonwood snag. Sitting on a jagged top, perfectly still, was a baby eagle, gazing into the sunrise.

It was a moment to frame forever in memory. Early morning mist rose from the river. The snow-patched Grand Teton range towered in the background, just emerging into light. And a rare wild bird in his native habitat, content to watch us curiously—as long as we kept our distance.

As we drifted downstream, scene after scene of native wildlife unfolded in the valley of the spectacular Jackson Hole country. We passed within 25 feet of a cow moose and her calf, munching their morning meal of young willow twigs by the river bank . . . then two bull moose . . . and in the distance, leaving a tree to soar into the sky as we approached, the mother—or father—of our baby-eagle . . . in a little side slough, a blue heron, motionless, beak down, fishing . . . a half dozen young American mergansers skittering past the raft, going upstream.

So it was for 10 miles, silence unbroken except by rushing water, blowing leaves and the gentle sounds of the morning.

And then . . . people.

Almost with a shock, after seeing nothing but scenic beauty and wildlife for three hours, we heard the sound of cars and looked up to see the 20-foot-high garish Indian-tepee facade of a highway chuck-wagon restaurant. The float trip was over and we were back to the sights and noise of civilization.

That afternoon we stood on the bank and in the space of a few minutes watched four large rafts coming down the river. In each raft about 20 adults and children crowded together.

The thought came to mind: It's a great way to see a park. But how much human traffic could the wildlife absorb without ill effects?

Mr. Ewing, Yale-trained biologist turned commercial river boatman, asserted that the river can't take much more. Sure, he could profit from added business if greater numbers of people wanted boat rides. But he knew and loved the river and the wildlife. And he is afraid of what might happen.

"Three years ago there were only four raft operators," he said. "Now there are 18, and there's no end in sight. Some of the operators have half a dozen large rafts, each making two or more trips a day. And there are private rafts and canoes which stop to let off the people. They often frighten the animals or birds while trying to get pictures.

"My concern is for the ecology of the river. The game we saw today don't stay if the river is overused by people. Or the wildlife will stay away from the river banks where they would normally feed."

WHO COMES FIRST?

National Park Service officials agree. Some reduction has already been noted in the number of wildlife to be seen from Snake River. It is suspected the invasion of people may have caused this decline. But what of the future? Almost 25,000 people went on raft trips in 1967, a 45 percent increase over 1966. If this rate of increase were to continue unchecked, that stretch of river could see a million people a season by 1977.

Because the Snake River is under state rather than federal control in this area, the park service cannot at present limit the number of raft operators as long as they comply with regulations and obtain a special use permit. Park officials, however, are hoping some method can be found to regulate use of the river.

The problem at Grand Teton is repeated in one way or another at almost every national park in the United States: wildlife vs. people. Whose rights are preeminent when the goal of having people use the park and see the animals and birds clashes with the mission of preserving the wildlife in their native habitat?

One of the most urgent situations facing the park service concerns the safety of back-country campers in Glacier National Park. After two 19-year-old girls were killed by grizzly bears in separate incidents on the same night in August, 1967, some citizens wrote to the park service suggesting that all grizzlies in the park (there are about 100) be eliminated. Most letter writers, however, urged saving the grizzlies.

A grizzly bear attack on a human is rare. With 15,643,361 recorded visitors in the previous 56 years of Glacier Park's existence, only 11 persons are known to have been injured by grizzly bears. None of these injuries was fatal. Normally the grizzly avoids humans unless provoked or surprised. Grizzlies that become obstreperous and threaten visitors are hunted down and trapped or destroyed by park rangers. Four grizzlies—two of them believed to have been the ones involved in the August tragedies—were destroyed immediately after the attacks on the girls.

This year the park is intensifying precautions to prevent the recurrence of attacks. Group hiking rather than hiking alone is strongly encouraged. The use of wrist bells or other noisemaking devices by hikers is being advocated on the premise that this will reduce the possibility of surprising grizzlies.

GARBAGE RULES TIGHTENED

Certain trails or back-country areas may be closed to travel for periods of time if a troublesome bear has been frequenting these areas—until the bear has been eliminated. Plastic bags are being given all back-country hikers with strict orders that they carry out with them all unburnable garbage and containers. And the park service has supplied the Granite Park Chalet concessionaire a larger incinerator in which to burn wet garbage. Officials believe the bear involved in one of the fatal accidents was en route to a garbage area near where one of the girls was sleeping.

Early in 1968 a visiting Canadian schoolteacher saw a grizzly sow and her cub near a road, and approached them to take pictures. When the cub became frightened, the mother charged the photographer, inflicting some injuries.

The visitor told park service rangers that because we was to blame for the incident, he did not want the bear to be punished. The park authorities, considering the cub's need for its mother, agreed that no action should be taken against the grizzly.

Another species—the black bear—creates a different kind of problem at several parks, especially at Yellowstone.

"Enjoy them at a distance," warned the flyer I received on entering Yellowstone. The handout, given to visitors at all parks where bears are present, depicts a cute cub bear in a begging pose, and a mother bear wearing a menacing scowl. The text says that the bears are dangerous, that it is against park regulations to feed or molest them, that car windows should be shut when bears are near, and that cars are not to be stopped on the roadway.

During three days in Yellowstone, I saw hundreds of visitors ignoring the warning. It was hard to drive more than 10 minutes without encountering a "bear jam."

Traffic backed up on the highway is almost a certain sign that several cars have stopped—sometimes in the middle of the road—because a bear has ambled into view along the shoulder of the road. Many of the bears have become veteran panhandlers, have staked out territories and keep regular roadside hours.

I saw one father, camera in hand, encouraging his young daughter to get closer to a small bear to feed it some cookies. Fortunately, the child was afraid and kept her distance. Other parents were allowing their children to reach out of open windows and tease the bears with food, closing the windows at the last minute just before the bear tried to reach into the car.

ATMOSPHERE DISRUPTED

The park rangers I talked with at Yellowstone said the situation is bad for bears and for people. It creates an unnatural atmosphere. The wild bear is reduced from a majestic independent creature stalking the country for natural food to a disreputable beggar, living off handouts and spending most of the day along the roadside.

Bear feeding is dangerous. Out of 91 known cases of injuries inflicted by bears in national parks in 1967, 61 were reported at Yellowstone. Most of the incidents occurred along highways.

And "bear jams" completely disrupt the movement of traffic throughout the park.

Although short-lived attempts have been made in the past to get the bears off the highway, the "bear jam" is practically an institution now at Yellowstone. Effective control measures would take more manpower than is available at present. It would also cause a wave of protests from visitors if bears could not be seen on a drive through the park, even if the bears are upside down in a garbage can. So the National Park Service chooses, for the time being, to give only lip service to enforcement of the regulation banning bear feeding at Yellowstone.

The limited numbers of rangers now on highway patrol do break up bear jams they see and warn visitors who break the law. Any ranger could easily issue a dozen citations a day and prefer charges which would be heard by the United States commissioner assigned to the park. But in all of 1967, only 13 arrests were made at Yellowstone for bear molesting or feeding. And the fines were small—averaging $10 per conviction.

FEEDING BAN ENFORCED

"We should warn them at the gate that they will be arrested for feeding bears," one ranger told me. "If we enforced it with stiff

fines the word would soon get out. If we also chased the bears away from the roads, the bears undoubtedly would intrude on campgrounds for a while. We might even have to destroy some of the troublesome ones. But gradually, if bears were deprived of handouts and if all garbage cans were made bearproof, the animals would be forced to seek their natural foods which are just as abundant today as they were before man came on the scene."

In Great Smoky Mountains National Park in Tennessee and North Carolina, I found Superintendent George W. Fry in the midst of an all-out campaign to enforce the regulation against bear-feeding. Added ranger patrols on the highways and more warning signs for tourists are the chief tools in the campaign.

In three days at Yellowstone, of the park's 500 black bears, I must have seen 50 along the roadside. At the Smokies in a similar period of time, I saw along the well-patrolled highways only three or four of the park's 300 black bears.

In some parks poaching is the people versus animal problem. Stealthy killing of alligators in the boondocks of the Everglades National Park in Florida takes more than 50 of the rare 'gators each year.

Poachers, usually sneaking into back roads at night, illegally shoot elk, deer, and buffalo in Wind Cave (South Dakota) National Park, bears and deer in Great Smokies, and even wolves at Alaska's Mt. McKinley. A recent added problem has been the use of snowmobiles to poach elk at Glacier Park, Montana.

PREDATORS ELIMINATED

Most of the wolves, cougars, and many similar predators have already been eliminated from national parks. Usually this was done by ranchers when the animals left the protection of the parks, although in the early days of the National Park Service, wolves, coyotes, and cougars were destroyed to make parks safer for people.

Today, the underlying philosophy of the park service regarding wildlife is that the public has a right to view it, but, as far as is possible, on the animals' terms. National parks are not zoos. Fences or cages are forbidden, except in a few rare cases to keep buffalo from developed areas.

Park service officials realize that, for many visitors, seeing wildlife may be the most important part of a park tour. Thus a current objective is to find ways of working out the people-animal relationship on a compromise basis.

Projects being planned to achieve this include:

Overlooks and turnouts near areas frequented by wildlife, one-way motor-nature trails, guided caravans, on old roads, or organized hikes into back-country, wilderness. A few observation blinds may be tried.

Neil J. Reid, chief of the wildlife branch of the National Park Service, points out one major difficulty to be overcome if most tourists are to see or hear wildlife.

"The height of the daily activity of wildlife does not coincide with our activity peaks," notes Mr. Reid. "The wild animals and birds are most active during the evening, when people are having dinner, or before the alarm goes off in the morning.

"Except," he adds, "for the black bears at Yellowstone."

A TASK AS BIG AS ALL OUTDOORS—VII

(NOTE.—"A national park should represent a vignette of primitive America." That's what the Advisory Board on Wildlife Management declared in a special report to Secretary of the Interior Stewart L. Udall. Easier said than done. And—as a Monitor reporter discovered—highly controversial.)

SEQUOIA NATIONAL PARK, CALIF., June 12, 1969.—Until I saw what was going on in a magnificent stand of 2,000-year-old giant sequoia trees, I always had thought that fire was the worst thing that could happen in a forest.

Yet here were grown men involved in setting fires right among these largest growing things in the world. I was ready to call for Smokey the Bear.

These same men were talking about "managing the resources." My whole house of cards about what should and should not be done in a national park was tumbling down. Shouldn't the parks be left "unimpaired for future generations"?

That was the trouble, explained my guide for the afternoon, San Jose State College scientist Howard Shellhammer, as we walked in a remote area of the park among these 250-foot-tall Sequoia Gigantea (a sister species to the even taller but slimmer Sequoia Sempervirens, or coast redwoods).

"Before these groves were given the protection of man when the park was established 77 years ago, the giant sequoia trees survived lightning fires about every 15 years," Dr. Shellhammer said. "This flushed out the underfoliage.

FIRE STUDIED AS TOOL

"Now the undergrowth is so thick that if a fire should start, it might become so intense that it would penetrate the insulating nature of the bark. It could become a crown fire and sweep the trees that have withstood natural fires for all these hundreds and thousands of years."

Most of the giant sequoia trees in the area showed blackened places on their bark, evidence of fires in earlier years.

Each summer, for the past five years, four San Jose State College scientists, led by Dr. Richard J. Hartesveldt, have been conducting a broad study of the effects of fire as a management tool, not only on the giant sequoias, but on the plant and animal life of the area.

Low, carefully controlled ground fires have been set, or the undergrowth cleared by bulldozers, on several small plots where the absence of fire for many years had allowed white fir, incense cedar, and other shade-tolerant trees to grow up among the giant sequoias.

In addition to the fire danger, the undergrowth had prevented sequois seeds from reaching the bare mineral soil they needed to survive. The thick stands of smaller trees had shut off what sunlight there was from sequoia seedlings that did get started.

In one of the fire-cleared areas amid a grove of nine towering sequoias, I saw hundreds of small stakes in the ground.

Dr. Shellhammer stooped down to show me a second-year-growth seedling almost a foot tall.

"I feel like these are my children," he said. "If they get too much sun they scald and die. Too little, and they won't grow."

About 6,000 seedlings had sprouted the first year after the controlled burn, and several hundred of these survived the second year. The scientists are hopeful they may soon have enough evidence to push for major controlled burning in other sequoia groves in the park and in adjacent Kings Canyon National Park.

NATURAL FIRES TO BURN?

Back in Washington a short time later, a National Park Service official told me the service hoped to put into effect a policy for many parks that when natural fires occur, they will be allowed to burn within predesignated fire-management units.

"Nobody has any trouble with this policy—philosophically," one top park service official said. "But when it comes down to giving the orders to let it burn. . . ."

In Everglades National Park, Florida, controlled burning already is being conducted extensively in the pinelands to reduce unnatural competition from hardwoods. The "managed" fires take the place of natural fires which, in the years before park protection, kept the hardwoods under control.

Controlled burning is only one of a variety of techniques available to the park service in following a policy suggested five years ago by a blue-ribbon private panel on wildlife management.

PRIMITIVE VIEW BLURRED

"A national park should represent a vignette of primitive America," concluded the report of the Advisory Board on Wildlife Management submitted to Secretary of the Interior Stewart L. Udall.

Prior to becoming national parks, most park areas have gone through periods of indiscriminate logging, burning, livestock grazing, hunting, and predator control, the report said. Then these areas entered the park system and shifted abruptly to a regime of being unnaturally protected. Add the factor of human use—clearing areas for roads and campgrounds—and the plants and animals that survived in the park often did not represent primitive America.

The board recommended that the animal and plant life within each park should be maintained, or where necessary restored, "as nearly as possible in the condition that prevailed when the area was first visited by white man."

Easier said than done. And highly controversial.

For instance, imagine the howl from ranchers—who have over the years killed off the predators which, they say, attack their livestock—if the National Park Service tried to reintroduce wolves and cougars into parks adjoining their ranches.

The elk-control problem in Yellowstone National Park, Wyoming, arouses the anger of hunters each winter.

In 1961, the presence of 10,000 elk in the northern herd of Yellowstone, twice the capacity of the range, was causing extensive damage to the plant life and was depriving other animals of food. Buffalo, moose, mule deer, and antelope compete with the elk for available food.

Not enough of the elk went outside the park in winter, as their ancestors had, to become targets for hunters. (This is the preferred method for eliminating the surplus.) Live trapping was unsatisfactory and too expensive. So the National Park Service entered on a "direct control" program, as a last resort to effect the required reduction.

INDIANS GET MEAT

Direct control is a euphemism for shooting the elk. The shooting was done in sub-zero weather by park personnel who then distributed the meat among Indian communities in the area. More than 4,000 elk were disposed of during the winter of 1961–62, resulting in vigorous protests from Wyoming hunters demanding the right to participate in the reduction.

Western sportsmen also demanded that more of the excess elk be trapped and given to other states to stock suitable elk ranges for hunting. But trapping that many animals takes more money ($100 an animal) and more manpower than is available.

The 1961–62 reduction program was not a permanent solution. Each year the number of animals added to the herd has exceeded the number trapped inside Yellowstone or taken by hunters outside the park. It has thus been necessary to continue a limited amount of liquidation. As a result pressures have mounted to permit hunting in the park.

HIGHWAYS DISCOURAGED

In keeping with laws establishing the parks, hunting is prohibited in all but one of the 32 national parks. It is allowed only in Grand Teton National Park, Wyoming, in a very limited way (and under the guise of elk reduction), as part of a political concession.

The advisory board's wildlife management proposals of 1962 also had strong recommen-

dations in another controversial area—the overcrowding of man's "range."

The whole effect of maintaining or creating the mood of "wild America" can be lost, the report said, if the parks are overdeveloped for motorized travel.

Their solution: Ration the tourists rather than expand the roads.

Secretary Udall's wildlife advisory board also urged elimination in the national parks of mass recreation facilities such as golf courses (at California's Yosemite), ski lifts, motorboat marinas, "and other extraneous developments which completely contradict the management goal."

PROTECTIVE EFFECTS STUDIED

Although most of the board's suggestions were welcomed by officials, many of the proposals have not yet been implemented. One of the biggest obstacles to restoring primitive conditions is lack of basic knowledge of the effects of the years of overprotection. Also, techniques need to be developed to restore natural conditions.

The meager programs for basic research recently have been expanded somewhat. And in 1967, Dr. A. Starker Leopold, chairman of the advisory board, was appointed chief scientist for the National Park Service, on a part-time basis.

Much additional information is required to determine the needs of the ecosystems of each park, or even the larger area surrounding the park which is part of the ecosystem. An ecosystem is the community of plants and animals (including man) together with the environment that controls them. It is continually changing, never static.

Cutting off fresh water (by another federal agency) from the Everglades National Park is threatening to change the entire ecosystem of the park. Removal of predators and blocking of migration routes with man-made developments have contributed to the Yellowstone elk problem.

In the Virgin Islands National Park on St. John Island, man brought in the mongoose to eliminate rats. But mongooses are day creatures; rats nocturnal. And now the ecosystem has been upset because both species thrive, with the mongoose doing unlooked for damage by eating the eggs of birds and eliminating some species of native lizards.

When hiking along the Appalachian Trail in the Great Smoky Mountains National Park, I literally stumbled upon another resources management problem—a pig hole. European wild pigs, not native to America and not having enough natural enemies to keep them in check, have dug deep wallows along trails and in many places of the park.

RESTORATION EXAMINED

There are other examples of nonnative animals which many people believe should be removed from the parks where they are "unnatural" but by now permanent residents. These include the burro in Big Bend National Park, Texas, Death Valley National Monument, California, and the Grand Canyon; the goat in Hawaii's Volcanoes and Haleakala National Parks; and the wild horse in Theodore Roosevelt National Memorial Park, North Dakota.

A counterproblem is how to restore the native species where they no longer exist—the wolf in Yellowstone, kit fox in Badlands National Monument, South Dakota, the Bighorn Sheep in Theodore Roosevelt Park.

Intrusions of man in many parks have forced wild animals from their accustomed feeding spots, or made beggars out of bears and deer. And, as discussed earlier, the absence of natural fire has actually endangered the park-protected giant sequoias and disturbed their regeneration process.

HABITAT EMPHASIZED

"We make a mistake in thinking we can preserve living things," says Lyle H. McDowell, chief of the National Park Service branch of resources management. "We can't. What we can do instead is to perpetuate by preserving the habitat that makes these things possible.

"We try to save giant sequoia trees in one area of California," he adds, "or a certain number of redwoods in another section. But if we save these redwoods and do not consider the entire habitat, it is possible that our protectionist policy might disturb the ecosystem and eventually ruin the forest.

"We have been unable to project our thinking beyond our own lifespan," says Mr. McDowell. "Removing trees or inducing a controlled burn to eliminate unnatural competition that is impeding the perpetuation of the giant sequoia, might leave a scar. But the scars won't be there in 500 years.

"It is not enough just to think about the next 10 years, or the next generation even. We have to be concerned about what the people in the 50th generation are going to see.

"Why do people go to national parks?" Mr. McDowell asks, and then answers: "Because of the resources. So we are going to have to become resource conscious, first and last."

OF POLITICS AND PARKS—VIII

(NOTE.—Conflicting interests traditionally have surrounded efforts to establish U.S. national parks. California's majestic redwoods stirred one of the longest and bitterest of such controveries.)

WASHINGTON, June 19, 1968.—"Apparently there is only one consensus . . . at least 95 percent of the people from whom we have heard want a national redwood park."

Rep. Wayne N. Aspinall paused a moment, looking out from the curved dais. In the audience government officials, lumber company presidents, conservation leaders, and assorted lobbyists waited to present their views at the final set of "Redwood National Park" hearings of the House interior subcommittee on parks and recreation.

"I would say, though," continued the veteran chairman of the full House Interior Committee, "that at least 50 percent of the people want a redwood park at the expense of the other person, or the other group, or the other area."

After three days and more than 100,000 words of testimony, the record clearly showed the extent to which politics and parks have become entwined.

Cabinet Secretaries Stewart L. Udall of the Department of the Interior and Orville L. Freeman of the Agriculture Department both spoke in favor of the park but sharply disagreed with each other on a key provision of a bill already passed by the Senate. This provision—to trade prime redwood-bearing land owned by the Department of Agriculture's Forest Service to private lumber companies in exchange for company-owned redwood land to be included in the Interior Department's national park—would lower the purchase price of the park by about $40 million and also appease local critics.

Secretary Udall testified that he was against such a land trade "in principle." But if it was a case of the trade or no park at all, he (and the administration) would accept it. Secretary Freeman spoke heatedly against the trade, and said he, too, was speaking for the administration.

REAGAN APPROVAL SEEN

A spokesman for the State of California testified that Gov. Ronald Reagan now favored turning over some of the state redwood parks to help form the new national park, but that the State Legislature would have to decide the matter. This magnanimity was accompanied by hints that the state expected the federal government to make certain Defense Department ocean beach land in southern California available for state recreation use.

Executives of the four lumber companies with major redwood holdings in the proposed national park area were called ensemble to the witness table. Each had a different proposal for areas to be included in the park. And each offered to cooperate in making some of its redwood land available provided that the Forest Service land trade was completed.

Finally, leaders from the Sierra Club, the Wilderness Society, the National Park Association, and other conservation groups made their pitches. They, too, all had their own plans for the amount of redwood land to be set aside and boundaries of the park.

Most argued for a much larger park than provided in the Senate bill, which, in turn, was larger than the bill submitted by an economy-minded administration. And these spokesmen asserted that there is a need for a national park to preserve the best of the virgin redwood groves that have managed to survive but might soon fall before the saw.

Last August I revisited the northern California redwood country and found the citizens greatly concerned about the proposed park. Opponents distributed campaign-type buttons reading: "Don't 'Park' My Job"; park advocates offered "Don't Pulp Our Parks" buttons. Residents of Humboldt and Del Norte Counties feared loss of industry, jobs, and tax revenue if timberlands were taken out of use and not replaced with other federally owned redwood-bearing land.

FORESTS STRIPPED

Going through the redwood country, I saw effects of the half century of delay in establishing a "Redwood National Park." Time after time groves of towering trees were interrupted by large denuded areas where clear-cutting practices of lumber companies over the decades had swept through acres of once majestic Sequoia Sempervirens—the coast redwoods that grow more than 350 feet high.

One afternoon I drove into Jedediah Smith Redwoods State Park, which probably will become a part of the national park. The approach along rustic, narrow, dusty Howland Hill Road is spectacular, with the redwood trees so close they almost scrape the car.

But when a turnoff took us into Stout Grove the scene was the most awe-inspiring of anything I have ever witnessed in thousands of miles of travels throughout the nation.

No human architect could duplicate such a setting: the redwoods rising into the sky, just close enough to each other to allow shafts of late afternoon light to stream into the grove . . . almost utter stillness except for a few distant bird calls . . . green ferns . . . some alders dwarfed by the redwoods . . . paths winding through the grove . . . one immense tree stretched out horizontally just as it had been felled by wind years ago.

In these moments at Stout Grove it was quite clear why they call the oldest and biggest of these stately wonders "cathedral" trees, and why so many people have worked so hard to save the redwoods.

The Save-the-Redwoods League has raised $12.5 million since 1918 to purchase outstanding redwood forests and groves, and the state of California has matched these funds to provide a number of redwoods state parks. The combined efforts of conservation groups finally prevailed to convince Congress to authorize a large redwood national park.

PRESSURE GROUPS FORM

Over the years, a growing array of political forces has become involved in proposals to establish new national parks and in policies adopted to develop and manage national park areas.

In some cases, mining, lumber, grazing, and hydroelectric power interests have opposed "locking up" of resources by the strict preservation code of the national parks.

Hunters—barred from national parks—always form a highly vocal opposition to new parks.

Government agencies such as the Forest Service (which has lost much land to national parks), and the Bureau of Reclama-

tion and the Army Corps of Engineers (which seek to put dams and water projects in parks) have built up strong alliances with Congress or industry and frequently feud with the National Park Service.

An influence more powerful in the past than at present is the concession operator. In early days, business interests were courted to build lodges and develop conveniences for tourists, and the concessionaires had a great deal to say about policy in specific parks. At present, concessionaires are consulted in regard to development of master plans for each park but do not exert much influence.

Homeowners in or near a proposed national park ordinarily seek to block the proposal. Tourist-oriented businesses in the towns or along the highways nearby are usually park advocates.

The makeup of Congress or the administration is basic in every national park issue. Rarely can a park be established without the support of members of Congress from the state or district.

At the same time, one of the inevitable political realities is that a member of Congress who is a key figure on a powerful committee or is an influential voice in the Senate or House can push through a park for his area while other possibly more worthy park projects are left in limbo.

The balance of power in the conflicts between park protectionists and resource exploiters has completely changed over the past half century—from Hetch Hetchy to the Grand Canyon dams and the redwoods fights.

YOSEMITE DAM BUILT

A proposal at the turn of the century to build a dam in the Yosemite National Park wilderness at Hetch Hetchy to carry water to San Francisco was fought by park pioneer John Muir, the Sierra Club, and conservationists throughout the United States. Favoring the dam were Secretary of the Interior Franklin K. Lane (who had been San Francisco city attorney) and Gifford Pinchot (a great practical conservationist but never a friend of national parks). The bill finally passed Congress in 1913 and the dam was built.

In those days, the conservationists were few, mostly the individuals who backpacked or rode horseback through the wilderness. And Hetch Hetchy was the last dam ever authorized in a national park, although there have been many close calls over the past half century.

The recent battle to put two dams on the Colorado River near Grand Canyon National Park as part of the Central Arizona Project showed the turnabout of political power. Both dams would have affected the river, and one dam would have backed water into the canyon.

Led by the Sierra Club, conservation groups mobilized citizen support from millions of Americans who may never have seen Grand Canyon, but who now are aware of the importance of preserving the irreplaceable natural resources. So great was this citizen pressure that Secretary Udall was forced to reverse his original position of support for the dams and to seek a compromise. The bill passed by Congress in September, 1968, authorizing the Arizona Project, had specific safeguards prohibiting the building of dams.

Conservation groups now exert a good deal of influence. Those concerned most directly with national park problems—the National Parks Association, Wilderness Society, and Sierra Club—have a total membership in excess of 150,000.

On a given issue, they can obtain cooperation from many other groups such as the League of Women Voters, the Izaak Walton League of America, and the National Wildlife Federation. All of these groups have offices in Washington, some of them heavily staffed.

The Wilderness Society, for instance, has about 1,300 "leaders" in communities all over the nation. If an issue is coming up in Congress, these leaders are provided with information, pro and con. The leaders at the community level then try to interest other citizens in letting their own views on the issue be known to members of Congress or public officials.

Although the forces of conservation have been growing in influence, they have lost many of their park crusades. For instance, protests did not prevent the building of Glen Canyon Dam on the Colorado, which will back water up under Rainbow Bridge National Monument.

In Indiana, conservationists won a late and hollow victory after most of the state's delegations to Congress, steel companies, and other industry had fought an "Indiana Dunes National Park" for 50 years. By the time a small Indiana Dunes National Lakeshore could be authorized in 1966, steel companies had purchased and leveled the best dunes. The area that remained was far below national park system standards.

COMPROMISES ACCEPTED

In some cases the National Park Service and conservation leaders had to compromise park principles in order to get parks established. For more than a decade, ranchers and hunters fought the addition of Jackson Hole lands to Grand Teton National Park. Legislation finally passed in 1950 permits deputizing a select group of Wyoming hunters each year to shoot elk in the park, ostensibly in the cause of reducing the overabundant supply.

In today's complicated political atmosphere, National Park Service Director George B. Hartzog Jr. spends a major share of his time dealing with Congress, testifying at hearings, or figuring out what to do about the 90 major pieces of legislation affecting the national park system which were before Congress in 1968.

A lawyer by training and a career park service official, Mr. Hartzog is highly respected by members of Congress. Some of his critics in conservation circles, however, charge that he is too much of a wheeler-dealer and backroom operator.

"Sure he's an operator," says one park service official. "But that's how conservation is made these days—not by ecologists alone. On some things we have to compromise."

Some conservation leaders I talked with said privately they think Mr. Hartzog is dedicated to the national park ideals—preserving the areas in their pristine state. Yet they criticize him for what they say is too great an emphasis on trying to provide for needs of mounting numbers of visitors.

DUAL ROLE JUGGLED

Mr. Hartzog admits he is walking a tightrope between what he sees as his responsibility to the average American to have the opportunity to visit national parks, and the time-honored requirement of keeping parks "unimpaired for the enjoyment of future generations." He also knows he cannot make policy in a vacuum. Congress is always looking over his shoulder, sometimes saying, "Don't build more roads or lodges"; at other times saying, "Don't give in to the backpackers by locking up the parks for just the few."

The hard-working director (he puts in 14 hours a day or more on the job and visits park areas on most weekends) seems to enjoy the political maneuvering.

"All decisions made in a political environment are ultimately going to be validated or rejected by the public," Mr. Hartzog says philosophically. "When an administrator in government gets reversed, it is because somewhere along the line you failed to have your action accepted by the people. And it is the people that are going to reverse you, although it may be in the person of a congressman or a Cabinet secretary."

THE ROCKY ROAD TO PARK EXPANSION—IX

(NOTE.—President Johnson has proposed that the U.S. national park system be completed by 1972, 100th anniversary of Yellowstone, the first park. But lack of funds plus opposition from various sources to any new park make achievement of this goal highly unlikely even in a decade.)

ADIRONDACK MOUNTAINS, N.Y., June 26, 1968—We followed the graded road through the scenic foothills of the Adirondack state park. Trees on either side were defaced with no-trespassing signs.

Then a large sign: "Elk Lake Lodge, private park, all persons are warned against hunting, fishing, or camping hereon or trespassing for these purposes without express permission from the owner. Violators will be prosecuted."

Not easily intimidated, we pressed on. A few yards up the road, we encountered another sign, pointing to a trail: "Forest Fire Tower, Boreas Mt. Public Welcome. New York Conservation Department."

Funny way to run a public state park. Were we legal or illegal?

If our purpose was hiking, we soon learned, we could follow the trail along New York State lands. But Elk Lake itself—a picturesque jewel in the wilderness—and all the access points to it, were on private property, open only to paying guests.

NATIONAL PARK URGED

And that, we discovered, was one of the chief reasons that Laurance S. Rockefeller and others were advocating the establishment of a national park here. The proposed park constitutes the largest wild area still available east of the Mississippi.

Today, 76 years after New York created Adirondack state park, only 40 percent of the land within the boundary has been acquired for public use. The rest is private. Much of the best wilderness is owned by clubs as well as by lumber companies, real-estate developers, and other commercial interests.

The state-owned wilderness lands in the state park are protected by a "forever wild" constitutional provision that requires Legislature and citizens to approve any change in use. But private lands are gradually being lost to real-estate development and other commercial activity.

HIKERS DIVIDED

In my visit to the Adirondacks area I discovered the issue divides even those using the hiking trails.

"I'm in favor of making a national park here and keeping the land from being commercially developed," said Alfred Bender, from Long Island, whom I met on the Mt. Marcy trail. "Some of the lakes we used to visit already have been ruined," he added.

"The federal government louses up everything," said Marvin Samansky of New York City, another hiker on the Mt. Marcy trail. "The national park might be good in that it would let a lot more people come. But I'm selfish. If the National Park Service took it over they might put roads in and people would be driving all through it."

It is unfortunate that the National Park Service, in need of additional area to take care of future demands, suffers from its blurred image among some citizens. These citizens think it devotes too much attention to providing roads, campgrounds, commercial development, and mass recreational attractions such as beaches and scenic parkways.

This view of the park service was perhaps encouraged by Mission 66, with its annual ballyhoo about increased visitation and all the road improvements, new visitor centers, and other construction over the 10-year program which ended in 1966. And the recent outburst of articles and TV programs depicting the slumlike conditions in Yosemite Val-

ley have spread the idea that all parks are overcrowded.

California, the most populous state, has four national parks and eight national monuments with just over 3 million acres; New York, a close second in population, has no national parks and no national monuments with natural areas.

Laurance Rockefeller, the conservation-minded one of the famous brothers, seeks to remedy this imbalance. He helped finance a study in which three experts came up with a plan to establish a 1.72 million-acre Adirondack Mountains National Park. It would include most of the present state park, but would have the advantage of stimulating the purchase and preservation along with it of the private lands within the park.

A national park in this area would also be within a one-day drive for one-fourth of the nation's population.

The New York State Conservation Department, which supervises the forest-preserve lands within the state park, strongly opposes a national park. Chief among its arguments are that the proposed park would disorganize the timber industry, would shut off an area of 1.7 million acres to thousands of hunters who generate $4 million a year in business, and would have an adverse effect on the state's water resources.

Gov. Nelson A. Rockefeller has ducked the issue for the time being, referring it to a study group that is to report back to him in April, 1969. The National Park Service is withholding its own analysis on the issue.

Current policies of the National Park Service are swinging away from new roads and increases in park commercial development, although the increasing number of Americans wanting to visit the parks brings new pressure each year to add to campgrounds, roads, and service facilities.

NEW PARKS SCARCE

The National Park Service hopes to acquire additional areas to meet the demands of present and future generations. The federal government also is seeking to help states obtain new park sites before all the prime land goes under the bulldozer or blacktop.

In his 1966 conservation message to Congress, President Johnson asked that the national park system be completed by 1972, the 100th anniversary of the world's first national park, Yellowstone. But no one has ever defined what a "complete" system should include. Furthermore, lack of funds plus opposition from many sides to each new park proposal make it highly unlikely that the park system will be completed even in a decade.

Until 1968 only two entirely new national parks have been established in the last two decades—Virgin Islands in 1956 and Canyonlands in Utah in 1964. Virgin Islands was entirely a gift from Laurance Rockefeller. Canyonlands was acquired from public domain and state lands.

A 33rd national park, Guadalupe, in Texas, was authorized in 1966, but does not yet have enough area to be legally established and available for visitors. More than 90 percent of the projected park was private property; Congress so far has appropriated only enough money to purchase one-fifth of it.

REDWOOD PARK ADDED

A Redwood National Park in northern California has just been authorized by Congress and will become the 34th national park. It is expected to be operational in about two years. North Cascades National Park in northern Washington state was also authorized as park No. 35, along with the adjoining Ross Lake and Lake Chelan National Recreation Areas. This complex of rugged alplike mountain ranges, glaciers, valleys, and lakes near the Canadian border is already 99 percent in federal ownership. Some campgrounds, roads, and trails already have been built by the forest service, which previously owned most of the land.

PURCHASE PRECEDENT SET

Establishment of a new park area is far more complicated now than in 1872, when Congress could carve Yellowstone out of the abundant public domain and declare it a national park. In the ensuing 90 years other parkland was added to the national park system through transfers from federal agencies or gifts from states, individuals, or philanthropic organizations.

But until 1961, Congress refused to establish any new parks (other than historic sites) which require federal funds for purchase of the basic units. In that year Congress authorized $16 million from general funds to buy privately owned land for the new Cape Cod National Seashore, and thereby gave its blessing to the use of tax funds to buy new parks.

What will be next? The National Park Service has a number of areas under study, and bills have been introduced in Congress for some of them. Much of the area needed for new parks is in private hands and its purchase will require sizable federal funding.

Also, the park service estimates it will take (at present prices) $155 million just to acquire the private lands still to be purchased in park areas that have been authorized since 1961.

Congress this year also expanded the Land and Water Conservation Fund to authorize an additional $100 million a year or more out of continental shelf oil revenues to be used for the purchase of new federal and state park and recreation areas.

This provision greatly enhances the prospects for new national parks.

RELUCTANCE LIKELY

However, Congress and the administration will be reluctant to commit money for parks until the Vietnam war costs recede. Furthermore, proposed park areas still must get sufficient backing from Congress and conservation groups to offset the customary opposition of those who, for one reason or another, are against park expansions.

In the populous northeastern section of the nation, which now has but one national park (Acadia in Maine), the only remaining area considered large enough and of park quality is the Adirondacks. Most of the best potential areas are in the West.

Following are some possibilities for new parks and the prospects for their establishment. Those marked (A) have been studied by the National Park Service and approved by the Secretary of Interior's Advisory Board on National Parks.

Alaska—Glacier Bay National Park (A): Redesignate national monument and terminate mining in the area. Glacier Bay would be larger than Yellowstone, now the largest national park. Glacier Bay has spectacular glaciers coming down to the ocean, breathtaking mountain ranges, and rare wildlife species. Prospects—fair.

Alaska—Katmai National Park: The park proposal would redesignate the present national monument, home of the world's largest bear, the brown Kodiak bear, and unique Valley of Ten Thousand Smokes, scene of the violent eruption of 1912. The area is almost entirely wilderness and would become the largest park in the national park system. Prospects—good, once studies have been made.

Arizona—Sonoran Desert National Park: The plan would enlarge present Organ Pipe Cactus National Monument and add most of the Cabeza Prieta federal game range to make a 1,242,000-acre park, all out of federally owned land. Legislation has been introduced in Congress. The area has the last sizable expanse of Sonoran type vegetation in the nation, and is a sanctuary for rare desert bighorn sheep. Prospects—fair.

California—Channel Islands National Park (A): The proposal, introduced in this session by three California congressmen, would greatly enlarge the present national monument consisting of Santa Barbara and Anacapa Islands. It would add San Miguel Island (now under the Navy), as well as Santa Cruz and Santa Rosa Islands (now privately owned). These five islands exhibit a unique combination of islands, seashore, and related marine values resulting from a million-year isolation from the mainland, and include sea elephants, fur seals, sea lions, great rookeries of nesting sea birds and significant geological structures. Prospects—fair.

California—Death Valley National Park (A): Another redesignation of a national monument, with mining to be abolished. Prospects—long delay.

Hawaii—Kauai National Park (A): This park would be in the northwestern portion of the island of Kauai, and would contain such outstanding features as the Na Pali Cliffs, Haena and Barking Sands undeveloped beaches, Alakai Swamp, Waimea Canyon (the Grand Canyon of Hawaii)—all in an area in which rainfall varies from 20 inches to 500 inches a year. Much of the land now is owned by the state. Legislation has not yet been introduced, and there is strong state and local opposition. Prospects—long delay.

Minnesota—Voyageurs National Park (A): This 103,000-acre park on the Canadian border is in an outstanding setting of lakes and wilderness, and would include a 40-mile portion of the route of the voyageurs—the intrepid 18th-century fur traders who opened up America between the Great Lakes and the Rockies. Half of the land would have to come from a lumber company which opposes the park unless other lands are obtained in a trade. Cost of the park—$20 million for the private lands—is also a major problem. Prospects—fair.

Nevada—Great Basin National Park (A): This proposed area would preserve a remarkable cross section of plant and animal life, extending from the desert floor through five life zones to the 13,063-foot Wheeler Peak. The basin contains 14 mountain peaks with an elevation greater than 10,000 feet, the Lehman Caves National Monument, Lexington Arch which spans an opening higher than a four-story building, and five alpine lakes—all within an otherwise arid region. Prospects—poor.

New Mexico—Valle Grande-Bandelier National Park (A): This would combine Valle Grande, one of the greatest collapsed volcanic summits in the world, with Bandelier National Monument and its Indian ruins. Prospects—poor.

Oklahoma or Kansas—Prairie National Park: This park would preserve in its natural state a typical example of prairie, with its bird life, flowers, and sweep of grasslands, and would give the opportunity to show the meaning of prairie and the part it played in the development of the country. Prospects—poor.

OTHER AREAS UNDER STUDY

Natural areas having the best opportunity of being added to the park system as national monuments include: Big Thicket, Texas; Biscayne, Florida; Congaree Forest, South Carolina; Florissant Fossil Beds, Colorado; Fossil Butte, Wyoming; Great Salt Lake, Utah; Cape Fear, North Carolina; Hualapai, Arizona; and Fahkahatchee Strand Florida.

National seashores or lakeshores being considered for establishment include: Cumberland Island, Georgia; Oregon Dunes; Gulf Islands, Florida and Louisiana; Canaveral, Florida; Sleeping Bear Dunes, Michigan; Apostle Island, Wisconsin; Guam (in the Pacific); and Sandy Hook, New Jersey.

National scenic rivers being considered include: Buffalo River, Arkansas; St. Croix, Minnesota and Wisconsin; Potomac, Maryland and Virginia; Suwannee, Georgia and Florida; Wolf, Wisconsin; and a section of

the upper Missouri River in Montana to be designated the Lewis and Clark national scenic river.

PRIVATE POCKETS IN PUBLIC PARKS—X

(NOTE.—Only seven national parks in the United States are completely in public ownership. Privately owned "inholdings" exist in all the other parks and in many national monuments.)

OLYMPIC NATIONAL PARK, WASH., July 3, 1968.—This 896,000-acre park in and around Washington's rugged Olympic mountains has two distinctions.

It contains some of America's most magnificent scenery and wilderness—snow-capped mountains, rain forests, dense stands of giant Douglas fir, alpine lakes, and miles of primitive ocean beach.

It also contains 550 pockets of private property—6,416 acres divided into more than 1,200 tracts.

National Park Service Director George B. Hartzog Jr. says these pockets of private property—which the service calls "inholdings"—are a threat to the integrity of the park.

For example, an abandoned, half-burned sawmill and a collection of ramshackle cottages desecrate the view in one area. In another, a landowner is believed to be planning to sell to real-estate subdividers property in the heart of the park's winter elk range.

Other national parks also have inholding problems, some of them extensive. Actually, only seven national parks are completely in public ownership. When a national park is established, legally defined park boundaries almost always include some private property.

PROPERTY VALUES SKYROCKET

"Inholdings are a major problem," according to Mr. Hartzog. "It's like the worm in the apple. They may not take up much of the total park area. But they tend to cluster around the prime scenic attractions or along natural access routes, where they are seen by millions of visitors."

"On private lands within parks you will find lumber yards, pig farms, gravel pits, logging operations, and sheep and cattle ranches," he says. "Plus power plants and mine shafts, auto junk yards, garbage dumps, private plane landing strips, and proliferating residential subdivisions."

In the 68 national parks and monuments designated as natural areas, private owners hold less than 300,000 of the total 23 million acres. But, Mr. Hartzog points out, current inholdings cover twice as much land as is now developed for public use (roads, campgrounds, lodges, stores, etc.) and which absorbs the brunt of visitation.

All of the inholdings in natural areas could have been purchased in 1961 for $59 million. Due to rising land values, these same inholdings would now require $143 million for purchase, an increase of 142 percent in seven years.

Driving along U.S. 101 at the edge of Olympic National Park one day last summer, I noticed a small sign.

"Elwa campsites for sale," it read. "Three miles on right."

Following a tree-lined road alongside the peaceful Elwa River, I came upon the 30-acre subdivision right in the heart of the park. Dirt roads had been bulldozed out of the timber grove, and 50 or more small lots (a tenth of an acre each) were staked out in blocks, side by side and back to back, city-housing-tract style.

On each lot was a sign: "$2,500. $300 Down. $25 a month." Nowhere was there a mention of the fact that the development is in a flood plain on which the Elwa River frequently overflows, and that no houses can be built there—the lots are only for trailers, camper vehicles, and tents.

SPECIFIC EXAMPLES CITED

In another area even deeper into the park I ran across a rundown resort, complete with shabby cottages, tennis courts, a pool, and a small lodge. This was Sol Duc Hot Springs, a major thorn in the park's side until Congress finally appropriated enough money for its purchase by the National Park Service two years ago.

The selling price was $880,000 for the 320-acre resort, more than 3½ times the appraisal obtained by the government five years earlier.

In the southern end of the park, alongside the Quinault River, I saw an 875-acre tract which constitutes Olympic National Park's biggest inholding problem. Park service officials have heard that the owner is ready to sell to real-estate developers and the National Park Service may have to take condemnation proceedings to prevent the land from being subdivided.

The park service succeeded in purchasing three inholdings in the last year; but because of subdivision sales, the number of individual private owners in the park increased from 426 to 550.

A thousand miles south of Olympic Park, the inholding situation at Yosemite National Park confronts park officials with difficult problems. Yosemite's privately owned area is relatively small—720 acres (plus 1,728 acres owned by the City of San Francisco). The troublesome part is that almost all of the 559 owners of private tracts are grouped into three communities.

The most severe problems come from the Wawona area along the south fork of the Merced River.

This already developed section could support camp grounds and visitor facilities for thousands of visitors a year—thus relieving the pressure from overcrowded Yosemite Valley. On homesteaded land acquired before the national park existed, a hodge-podge village has grown up with all the problems of a small town.

The 390 privately owned acres are divided into 458 private tracts. Seventy people live there permanently, and about 1,200 people can sleep at Wawona village each night in the summer.

I saw motels and trailer courts, old cottages, modern $60,000 homes, and others under construction.

In one new development, small lots are being sold for from $5,000 to $10,000; "cottages" being built on them start at $16,000.

In addition to other inholdings problems, park service personnel must spend an enormous amount of time investigating vandalism and domestic squabbles, issuing building permits, watching for fire hazards, and checking on sanitation. (No sewage system exists, and there is real danger of polluting the south fork of the Merced River, which is used by thousands of park visitors each year at a public campground a few miles downstream.)

"The government shouldn't be providing summer homes for a few people within a national park," commented one park official.

The park service has tried to buy up tracts in Wawona village when they come on the market. It now owns 250 acres of the 640-acre Wawona section, as well as the once-luxurious Wawona Hotel (with golf course, tennis courts, and swimming pool). But the history of land acquisition has been one long, sad story after another.

The classic example is a tract of 163 acres, near Wawona, purchased in 1948 for $2,550 by a Mrs. Adeline Udell at a county tax sale. The land, on a very steep hillside, has been logged over and was swept by fire in 1951. The park service started negotiations in 1951 for the purchase of the tract, which was then appraised at $14,500.

Mrs. Udell turned down a park service offer of $15,000. In 1956, she gave the park service an option to buy the land for $20,000. But Washington officials decided they could only spend $15,500. By 1959, the asking price had gone up to $25,000, and the land was appraised at $27,500.

While the park service was still considering it, three men purchased the property in 1961 for $25,000, and later formed the Juniper Land company. The park service offered $31,500 for the land in 1964. The owners rejected it.

The Yosemite National Park superintendent, fearing subdivision, asked his superiors in Washington to start condemnation proceedings. Nothing happened. The park service, in 1965, offered $175,000 for the land. The offer was not accepted.

One summer day in 1965, while Yosemite rangers watched helplessly, bulldozers started tearing up the hillside, crisscrossing it with roads, staking out 123 quarter-acre lots, many of which had slopes too steep for building.

Shortly afterward the government filed condemnation proceedings, took title to the land, and the owners went to court seeking a higher payment than the government appraisal of $175,000. When the case finally came to trial late this June, the Juniper Land Company asked $800,000. A jury awarded them $265,000.

One more inholding has been reduced. But every day, as hundreds of visitors stand at 6,800-foot-high Wawona Point, one of the famous scenic overlooks in the park, their view of mountains and valley is blemished by the ugly, bulldozed scar on the hillside 2,800 feet below.

QUICK-BUCK OPERATORS

Far across the continent in Florida, Everglades National Park holds the dubious distinction of having the largest amount of privately owned land—70,468 acres—within a national park perimeter. In testimony last March before a House appropriations subcommittee, Mr. Hartzog cited the Everglades as an acute example of the inholdings problem.

"In the Taylor Slough—a biological resource of enormous significance—quick-buck operators moved in with bulldozers to create primitive roads so they can peddle 'waterfront' lots," Mr. Hartzog told the subcommittee.

"Farther north, in the labyrinth country of the park, similar real-estate promotions threaten the proposed Inland Wilderness Waterway from Flamingo to the Ten Thousand Islands area. The potential damage from these activities is incalculable."

Besides the inholdings in the older established areas, park service officials face a related problem—the need to purchase private land within the many new national parks, seashores, lakeshores, and scenic riverways that have been authorized since 1961.

Congress considers these private ownerships even more troublesome, especially as land values escalate.

Shortly after Point Reyes National Seashore in California was authorized in 1962, Congress appropriated $14 million to buy the 53,000 acres of private land within park boundaries. Today the $14 million has been spent purchasing 28,312 acres. At present prices, it would take another $45 million to buy the rest.

In Guadalupe Mountains National Park, Texas, the nation's 33rd national park, only 14,000 acres have been purchased out of the 71,886 acres of private land within the park boundaries. The authorizing legislation provides that the park cannot be opened until all the private land is purchased.

Indiana Dunes National Lakeshore, authorized in 1966 after a half-century struggle, is still far from becoming operational. The park service has been granted funds to

acquire only 100 of the 8,721 acres of privately owned land.

As of the end of the 1968 fiscal year (June 30, 1968), it would have taken $155 million to buy up all the remaining private land within the park service areas that have been authorized since 1961.

Most of the money to purchase these lands—and lands needed for new areas such as the Redwood and North Cascades National Parks—will come from the federal share of an expanded Land and Water Conservation Fund, using offshore oil revenues, a proposal initiated by Sen. Henry M. Jackson (D) of Washington, chairman of the Senate Interior Committee.

Also in the new Land and Water Fund Act are concepts that were sponsored by Senator Jackson, other conservation-minded congressmen, and the National Park Service to make use of additional methods for speeding up acquisition of lands or preventing private property intrusions in park areas.

One method is the outright purchase of scenic easements to prevent uses by the owner that would interfere with park values.

Another is sellback or leaseback. The park service would buy the private property, then sell or lease it back to the previous owners, or another party after writing into the contract the necessary protection to prevent changes in use of the property that might be adverse to park interests.

In addition, the Land and Water Fund will authorize federal agencies (mainly the park service) to spend $30 million a year for the next two years to acquire key tracts which suddenly become available. And the parks director will have $500,000 to use for taking two-year options on private parks lands which come on the market. These fiscal shortcuts may prevent land prices from soaring during customary legislative delays in the authorization and appropriation process.

LAND-ACQUISITION POLICY

National Park Service policy on land acquisition is often misunderstood. After Mr. Hartzog had requested funds of Congress to buy up all inholdings, a Richmond, Va., newspaper called the parks director an "ogre" who deprives private landowners of their property rights.

In an editorial titled, "Phooey to George B. Hartzog," the paper called him a federal bureaucrat "who, on the pretext of necessity, argues for the diminution of the people's liberty."

Actually, basic park service policy on land acquisition provides that those owning homes within park boundaries may keep their property as long as they do not put the land to some new use which would be detrimental to the park, or except where the private property prevents necessary development of the park for public use. Condemnation proceedings are a last resort. In many of the new areas, the authorizing legislation provides that even those who sell their homes to the park service, can live in them for a period of years or during their lifetime, but cannot leave them to heirs.

"I don't advocate throwing out the family that wants to live the rest of their lives on the property they own in a park," says Mr. Hartzog. "But we can't tolerate the subdividers and the land speculators who are trying to take advantage of the increased value of land after it comes into the national park system."

RECREATION AREAS: A NEW DIMENSION—XI

(NOTE.—Park officials ponder how to reconcile new policies with old concepts. Demands for recreational facilities increase. But too much emphasis on water skiing and beach buggies could ruin the idea of a park area as a place for quietly communing with nature.)

CAPE COD NATIONAL SEASHORE, MASS., July 10, 1968.—At this comparatively new area of the United States national park system, a visitor can take a ranger-guided nature hike in the sand dunes, walking along some of the marshes, beaches, and woods that so enthralled Henry David Thoreau a century ago.

Or the visitor can drive a "beach buggy" across the dunes, fish from the public beaches, swim in the Atlantic, hunt deer (in season), and cycle along bicycle trails near the ocean.

In short, the Cape Cod National Seashore attracts both those who seek active physical recreation and those who seek to commune with nature.

And thereby hangs a problem for the National Park Service: how to fit time-honored park service conservation policies to a new concept of areas managed primarily for the beach-and-outdoor "physical" recreation needs of nearby urban masses.

Most of the new park areas (other than historic sites) authorized by Congress in the Kennedy and Johnson administrations have been national seashores, lakeshores, and recreation areas close to large urban centers. Each was selected for a special feature—for the most part proximity to a seashore, large lake, or reservoir.

These areas do not need to have the unique scenic elements required of a national park (although many do possess great unusual natural values). And activities banned in national parks—such as hunting, commercial logging, spectator sports, use of houseboats—are allowed at some of the recreation sites.

The predominant requirement is that the area offer visitors an active recreation experience which transcends that normally associated with parks provided by state and local governments. The area also should be adequate for interstate or regional use.

The new national recreation sites meet a need for many Americans unable to travel long distances to national parks (most of which are in the West), or who really seek a beach or active recreation type of outing. In theory (though not yet borne out in practice), the new areas should relieve congestion in crowded national parks.

One negative factor is that the increased emphasis on physical recreation and the expansion of the Blue Ridge and Natchez Trace Parkways (which receive one-tenth of the total use for the more than 250 park service areas) have drained needed personnel from the purely nature parks. Much of the manpower previously applied to protecting resources or interpreting natural values in national parks and national monuments must now be devoted to such services as lifeguard duty and highway or boating control.

Another difficulty is confusion within the park service and among the public as to where the National Park Service is headed.

"We are beginning to color our whole national park system with the introduction of more and more of these recreation areas," comments author Freeman Tilden, an authority on the national park system. "I'm not against recreation areas. They are needed. But if people get oriented to the physical recreation concept of national parks, and not to the view of the parks as places where they find their relationship with nature, it could be disastrous to the best use of national parks."

PRESERVATION ALWAYS A TASK

An even more pressing problem is preservation of the outstanding natural resources that exist in some of the recreation areas. Developing a site for extended mass recreation may destroy or damage much of what makes the area worthwhile.

Cape Cod is a classic example of the good and the bad, the promise and the problems of a national park service recreation area.

Most of the "lower" cape from the elbow at Chatham to Provincetown still has uncluttered marshes, ponds, and beeches, birds and bogs for the avid follower of Thoreau. This is due in part to the establishment of the Cape Cod National Seashore.

Protections were written into the Cape Cod authorization law of 1961. The Secretary of the Interior could allow development of portions of the seashore for swimming, hunting, fishing, etc.—recreation needs of the city dwellers—but not at the expense of the unique flora and fauna.

It is too early to pass judgment on the Cape Cod National Seashore. The park service development program so far has been minimal. More than half of the private land within the boundaries has yet to be acquired. And the masses from the cities have been slow to invade.

In a visit to Cape Cod, however, I found park service officials facing the same problems that confront their colleagues in national park system areas around the United State. It was a time of decisionmaking, of placing limitations on use before it was too late.

Beach buggies and dune buggies were tearing plant cover off the sand dunes, bulldozers were carving out added beach facilities, and blacktop was being poured for parking areas. One of Thoreau's choice spots now sported a black-topped bicycle trail. New roads were being plotted to the beaches.

By themselves, these activities appeared to be reasonable and in keeping with the primary mission of the national seashore. They would allow millions of visitors to enjoy recreation opportunities in areas previously inaccessible.

But, ask the conservationists, what price is being paid in permanent destruction of the natural values?

Take the beach-buggy problem. These "over-sand" vehicles are allowed on the beaches when used for fishing. But owners have adapted jeeps or other types of transport into camping vehicles. They bring their families for vacations right on the dunes. And every day of such use impairs the beach vegetation and opens the way for erosion. Also, having no sanitation facilities, the beaches are beginning to evidence a pollution problem.

This year, a new rule has gone into effect at this national seashore; it limits use of any one spot to 72 hours, to eliminate permanent summer camps. New "over-sand" routes have been staked out, and beach or sand buggies are allowed only along those routes. Also closer supervision insures that all vehicles staying overnight carry self-contained sanitation facilities.

No new public campgrounds have been allowed in the Cape Cod seashore. The four privately owned campgrounds outside park borders are filled to capacity during the entire season.

DECISION FACED IN DELAWARE

With use of the area expected to rise dramatically when the four-lane, Mid-Cape Highway is extended to the lower cape, authorities will have to decide soon whether to provide park service campgrounds within the park area or possibly establish a large camping facility on the mainland at the base of the cape.

The park service faces another basic planning decision at its newest recreation area in the East, the Delaware Gap Recreation Area voted by Congress in 1965. Situated on the Pennsylvania-New Jersey border straddling the Delaware River, the area puts 47,- acres of land and a narrow 37-mile lake within easy reach of 30 million people in the New York-Philadelphia sector.

Delaware Gap is not ready for use because Congress has not appropriated funds to buy enough of the privately owned lands to establish a park entity. But when the land is purchased, the park service will have to decide what types of recreation to develop.

National Park Service director George B. Hartzog Jr. is struggling with this question

as the area's master plan lies on his desk awaiting approval.

"There is a great demand for camping," Mr. Hartzog told me. "But I'm not going to cover that 47,000 acres with campgrounds just to satisfy demand. We have to be selective. Maybe we should rule out public campgrounds, and place our emphasis entirely on organized youth camping at a few places. We could let private enterprise or other agencies of government provide overnight accommodations outside the park."

Another type of problem affects Fire Island National Seashore. The new area, authorized in 1964 on the small barrier island near New York City, has yet to acquire enough land to become a cohesive unit. And every year pressures are exerted to have a road built along the island's 32-mile length. Such a road, linking bridges at either end of the island, would ruin the area's natural quality, although it would substitute a highway of great scenic value.

The two largest recreation areas in the national park system are in the West—using the reservoirs behind Colorado River dams at Boulder City, Nev., and Page, Ariz.

The 1.9-million-acre Lake Mead National Recreation Area draws heavily from Los Angeles area residents, who take the 300-mile travel distance in typical California stride.

More than 4 million visitors used Lake Mead in 1967, enjoying the boating, fishing, and water-skiing. But this huge influx overtaxed camp sites and facilities and caused noticeable—though not dangerous—pollution.

The 1.1-million-acre Glen Canyon National Recreation Area in Arizona and Utah has opened up to boat travel some of the most beautiful wild country in the West. Ardent conservationists feel, however, that the wilderness quality was lost forever when Glen Canyon Dam was built and the waters backed up to form Lake Powell along what was once 186 miles of wild Colorado River and hundreds of picturesque side canyons.

The questions now are: How much development should be allowed in the way of campgrounds, or botels or boat marinas? How much will the new fad of houseboats on the lake contribute to further loss of wilderness value? And, what, if anything, could or should be done about the expanding recreation?

At Glen Canyon I learned from superintendent William Briggle that the use explosion had occurred in the last five years—from 9,000 visitors in 1962 to 390,000 in 1967.

Traveling by boat over part of Lake Powell, I noticed few other craft on the vast lake. When National Park Service guide, naturalist Norman W. Salisbury, said we could find visitors camping at any of the hundreds of canyons shooting off from the lake, I picked one at random and challenged him to produce.

As our boat plied Rock Creek Canyon, its towering walls alternately narrowed and expanded; its sandstone cliffs were sometimes close enough to touch. After two miles, naturalist Salisbury was about to admit defeat when the canyon suddenly widened into a box end.

On the shallow beach—two boats and two tents.

The Emmet Lowry and John Hiserodt families from Redlands, Calif., on vacation miles away from the sounds and sights of their city, were having what was to them a wilderness experience. They were camping out, cooking meals over a campfire, taking hikes, and exploring other canyons by boat. Their children, in addition to swimming and exploring, were doing some water-skiing.

VIEWS OF WILDERNESS DIFFER

Water-skiing is allowed, of course, in a recreation area. But the very mention of it brings shudders to conservationists who recall Glen Canyon as the great wilderness explored on foot and by raft by John Wesley Powell and left in its wild natural state until Lake Powell was formed.

Lake Powell National Recreation Area also brings cheers or tears—depending on one's viewpoint—for making Rainbow Bridge National Monument accessible to recreationists.

Until the lake was formed, this famed natural arch—309 feet high and 278 feet across—was seen only by a few hardy persons willing to ride the wild Colorado and hike up a canyon, or else come down 14- or 24-mile trails. Now Lake Powell backs up to within a mile of the arch, and tourist boats arrive daily from Wahweap near Glen Canyon Dam. Last year, Rainbow Bridge had 22,000 visitors.

On my visit to Rainbow Bridge, I noted a marked difference in the ways a visitor can approach this world-famous natural wonder. One way is to arrive by sightseeing tour boat, hurry over the one-mile trail gulping down a sandwich, have a two-minute glimpse of the monument, and scurry back down the boat landing.

Another way, as evidenced by farmer Herman Beebe and his wife Gretchen, from Center Point, Iowa, is to pack-in by horseback the 24 miles from Navajo Mountain.

"I've wanted to come here for 20 years—it's been a dream of mine," Mrs. Beebe told me. "This year when we had planned it, I knew it was possible to come by boat. But we decided to make it the difficult way. They say these things mean more when you work for them. It was really worth it to see it this way."

"ALL MANKIND HAS A STAKE"—XII

(NOTE.—Far-seeing conservationists more and more are viewing national parks as treasurers for all peoples. A proposed world-heritage trust would stimulate preservation of "superb natural and scenic areas and historic sites for . . . the entire world community.")

GRAND CANYON NATIONAL PARK, ARIZ., July 17, 1968.—"It is truly magnificent," a tall, gracious visitor from Bombay commented one day in the fall of 1967 as he looked into the Grand Canyon.

"But . . ."

The visitor paused as he gazed from the south rim into the yawning, mile-deep chasm carved by nature's forces millions of years ago. His deep-set eyes absorbed the shadings of red, yellow, and blue as the late afternoon clouds sent shadows running across the buttes and spires inside the canyon.

"When your Congress provided that natural areas like this should be maintained unimpaired for future generations of Americans, that was just the first step," he continued. "The Grand Canyon is more than American—it should be preserved for all the world."

Zafar Futehally is honorary secretary of the Bombay Natural History Society and a leader in the movement to emphasize international values of parks of all nations. Mr. Futehally had come to the United States with 34 other representatives from 25 countries. Grand Canyon National Park was the final stop in a four-week course in administration of national parks and conservation areas.

OLD CONCEPT STRETCHED

The concept of each country's international responsibility for preserving its unique natural wonders adds a new dimension to the conservation concepts of many Americans. The time-honored United States viewpoint was perhaps best set forth by the nation's foremost conservation president, Theodore Roosevelt.

"Leave it as it is," said President Roosevelt when he first viewed the Grand Canyon in 1903. "You cannot improve on it. The ages have been at work on it, and man can only mar it. What you can do is to keep it for your children, your children's children, and for all who come after you as one of the great sights which every American . . . can see."

Mr. Futehally and other internationally minded conservationists recognize the effects of the transportation and communications revolutions of the 20th century. The world has shrunk. Millions of foreigners now have heard about and seen pictures and even television views of the Grand Canyon or the Florida Everglades National Parks.

TOURISTS CRISSCROSS

Each year, thousands come to the United States to visit these and other scenic spots. So do thousands of Americans travel to such outstanding areas as Iguassú Falls (Argentina-Brazil), or to the volcanic cone of Japan's Mt. Fuji, or the spectacular wildlife display of Kenya's Amboseli-Masai game reserve in the shadow of Mt. Kilimanjaro.

Areas of this caliber, unique in the world, should thus be given priority for preservation, says Mr. Futehally. But in the press of competing national demands, the high-sounding principles of conservation do not always win out over the pressures for industrial, agricultural, or commercial and urban development.

Mr. Futehally was too polite to mention specifics. But it is no secret that two of America's greatest natural attractions, the Grand Canyon and Everglades National Park, have in the past few years narrowly escaped extensive man-caused interference. And they may be threatened again.

WILDLIFE DECLINES

In Everglades National Park, a series of flood-control gates and canals constructed by the United States Army Corps of Engineers interfered seriously with the normal flow of water into the Everglades. The adverse effects on the park were intensified during a period of severe drought. Water that normally would have gone into the Everglades park even in the drought years went instead to southern Florida cities and farms, or was discharged directly into the ocean.

Much of the park's wildlife suffered. Reproduction of wading birds declined drastically, the total dropping from 1.5 million in the 1930's to less than 50,000 today. It is also estimated that the number of alligators has declined 95 percent since the 1920's. This reflects the delicate relationship between the amount of water and the abundance of plants and animals on which the birds and alligators depend. (Part of the alligator loss has been due to poaching.)

After complaints from conservationists and the National Park Service, the Corps of Engineers and the Central and South Florida Flood Control District said they would give the Everglades park additional water. Although the park has sufficient water this year, the future is clouded. The Corps of Engineers failed to put in writing the terms of an oral agreement by which they were to guarantee 315,000-acre-feet of water a year to the park, regardless of the increasing domestic demands in Florida. The next drought might cause severe damage to Everglades Park plantlife and wildlife.

CANYON DAM DEFEATED

Two years ago, Grand Canyon National Park became caught in the cross fire of legislation which would have permitted a large hydroelectric dam on the Colorado River just below the park. Areas in the canyon's depths, set aside for their scenic grandeur, would have been flooded as the river backed up behind the dam.

Conservation groups battled the supporters of the dam and forced Congress to listen. At present, the advocates of the dam have lost out, although they have not given up the fight.

For Mr. Futehally and the other participants in the third international course, the pressures of overdevelopment and overcrowding of park areas are not yet imminent dangers in most of their countries. But such pressures can be expected in the future. The great need today is for these countries to set aside more park or conservation areas, to provide money for management and protection of the parks and wildlife reserves, and to encourage their citizens to use them.

The participants in this course, and those from 15 other countries taking part in each of the courses held in 1965 and 1966, readily admit their admiration for the United States in pioneering the development of the national parks concept. They are also impressed with the National Park Service's administration of American parks, the planning done for the future, and the quality of interpretive facilities available to the visitor.

LESSONS INCORPORATED

They do not agree that the policies of the park service would necessarily be suited to their particular needs (or that these policies are always best for the United States itself). However, the best of the principles learned in visits to the United States, or at these international courses, are being incorporated in to the planning of other nations as they develop their parks and conservancy reserves.

In these courses, the National Park Service does not try to hide its own shortcomings. It hopes, in exposing these visitors to the good and the bad, to help them to avoid mistakes in their own programs.

The park and conservation experts from abroad are generally amazed at the amount of public land the United States has set aside for its national park system and the dedication to conservation principles by park rangers and most officials in the National Park Service.

Many countries over the years have asked help from the United States in planning their own national parks or setting up national park and reserves systems. In the past 10 years the United States National Park Service has sent advisers to more than 25 countries. In the last two years, American advisers have been in Turkey, Jordan, Ethiopia, Tanzania, Colombia, Argentina, Peru, Venezuela, Australia, and Thailand. More than 50 countries have recently sent experts to the United States seeking information and guidance in working out park problems.

PRIVATE GROUPS HELP

The private sector, through American groups such as the African Wildlife Leadership Foundation, the Conservation Foundation, and the New York Zoological Society, has also assisted a number of countries with national park development and wildlife preservation, chiefly in Africa and Latin America.

The United States also realizes it can learn much from other countries.

The Belgian Congo for many years used its four national parks as laboratories for ecological studies. The present national governments of the two Congos are maintaining these parks effectively, but with less emphasis on basic scientific research.

England in its nature reserves, Poland and Argentina in their national parks, and Germany with its naturschutzparks also do far more basic scientific research than the United States does in its national parks system.

NATIONS COOPERATE

Most science research in U.S. parks has been oriented to specific problems instead of to basic ecological research.

Several African countries, especially Uganda, Kenya, Zambia, and Tanzania, have developed extensive conservation education programs which allow schoolchildren to visit the parks in organized groups.

Countries with common boundaries have in many cases cooperated to establish parks; free sharing of facilities and mutual planning still lies in the future.

Uganda and the Congo have founded national parks on their respective sides of Lake Edward on their common boundary. In the past (but not currently) Zambia and Rhodesia cooperated with parks alongside Victoria Falls. Poland and Czechoslovakia have parks on both sides of the Pieniny River and the Tatra Mountains. Argentina and Brazil have adjacent parks at Iguassú Falls.

In 1932, the United States and Canada decided to set up a Waterton-Glacier International Peace Park on the border shared by the two parks. But for all practical purposes, Canada's Waterton Lakes National Park and the United States' Glacier National Park have been completely separate.

North America's first truly international park was established in 1964. It is on Campobello Island, N.B. There Canada and the United States share the administration and development of Roosevelt Campobello International Park at the side of the summer home of President Franklin D. Roosevelt.

JOINT UNITED STATES-MEXICAN PARK

The United States-Mexican border at El Paso is the site of the latest international effort. Mexico has recently completed a pavilion, visitor center, and small park on its side of the Chamizal in Ciudad Juarez. The National Park Service will soon build a half-million dollar visitor center and small park on its side of the border.

The International Union for Conservation of Nature and Natural Resources (IUCN) is a strong advocate of boundary-sharing parks to act as a force for peace.

"It is high time that conservation comes to the aid of politicians in bringing nations together," says Mr. Futehally, who is an IUCN board member.

Plans are under way for a second world conference on national parks, to be held in 1972 at Yellowstone National Park in Wyoming. This will be part of the commemoration of the 100th anniversary of the national park concept, which originated in 1872 with the establishment of Yellowstone as the world's first national park. The first world conference on national parks, held in Seattle in 1962, was attended by 145 delegates from 63 countries.

The keynote speaker, U.S. Secretary of the Interior Stewart L. Udall, called for "a common market of conservation knowledge" and commended the conference for striking "a wholesome note of sanity in a troubled world.

"It is a sign that men are questioning the false gods of materialism and are coming to realize that the natural world lies at the very center of an environment that is both life giving and life promoting," he said. "There is hope in this meeting . . . that the values of the spirit are reasserting their primacy—and this in turn gives fresh hope in other vital areas of human endeavor."

WORLD TRUST PROPOSED

In 1965, at the White House conference on international cooperation, one of the major recommendations was establishment of a world heritage trust to encourage preservation of areas such as the Grand Canyon and the Everglades, the Serengeti Plains in Tanzania, Angel Falls in Venezuela, Mt. Everest in Nepal and Tibet, and spectacular animal species.

The proposed trust, the recommendation states, "would be responsible to the world community for the stimulation of international cooperative efforts to identify, establish, develop, and manage the world's superb natural and scenic areas and historic sites for the present and future benefit of the entire world citizenry."

Last year in Amsterdam at the International Congress on Nature and Man, Russell E. Train, president of the Conservation Foundation, urged implementation of the world heritage trust through the activities of the United Nations Educational, Scientific, and Cultural Organization.

Mr. Train said the protection of significant areas is not just a matter of local or even national concern. In his words:

"All mankind has a stake in such areas. . . . The time has come when this principle must be established at the highest level of international affairs and made the subject of priority action by governments and peoples, individually and collectively.

"The question is no longer whether we can afford to undertake such a program. We cannot afford not to."

WHAT IS A PARK EXPERIENCE?—XIII

(NOTE.—Throughout 20,000 miles of travel and many interviews, a Monitor writer sought answers to this deep yet simple question. He discovered that the experience can be "a wordless awareness," a feeling of oneness with nature, a sense of self-discovery as "part of the whole of living creatures, a part of life's beauty.")

WASHINGTON, July 24, 1968.—When national park service people try to explain the ultimate benefits to be gained from a national-park visit, they inevitably use the phrase "a quality park experience"—or sometimes just "a park experience."

Just what is this "park experience"? During 20,000 miles of travel through park-service areas, I sought the answer.

"Everything around us is transmitting beauty," said David D. Condon, 34-year veteran of the service. We were hiking along May Lake Trail in Yosemite National Park one afternoon late last summer.

"Coming in contact with the goldenrod, the deer, the giant sequoia, we are better able to understand that there is some force, some unseen plan to this whole universe," he continued. "We are having an experience with eternity. And if we can perceive the beauty here, that ability can enrich our lives no matter where we are, and we can see beauty better than before we had the park experience."

That was one answer.

Looking through the visitor register a few weeks later at Anhinga Trail in Everglades National Park I found another equally eloquent in its way.

In the column set aside for "comments," a mother had carefully penciled:

"Margaret saw her alligator."

For Margaret that was probably as fine a park experience as anyone could ask.

The phenomenon is hard to define. It is often a wordless awareness. Sometimes we park visitors do not even realize it is happening.

"One may lack words to express the impact of beauty, but no one who has felt it remains untouched. It is renewal, enlargement, intensification," wrote conservationist-author Bernard de Voto.

It is, perhaps, easier to explain what a park experience is not.

Rep. John P. Saylor of Pennsylvania, who has gone camping with his family at national parks for more than 25 years, likes to tell of the time at Yellowstone when a man, trailing a wife and three small children, rushed to the rim of Old Faithful geyser.

"How long before it will go off?" the man asked.

Mr. Saylor looked at his watch. "About 40 minutes," he replied.

"Come on kids, we can't wait," the man answered, herding the youngsters and his wife into the car with a New York license plate.

"And to think that those people had driven clear across the country," laments Mr. Saylor.

EXPERIENCE ENVISIONED

His concept of a national-park experience includes a place to relax and "untense," the Congressman says.

"You can't appreciate what is there if you're looking at your watch or thinking about all your problems. You have to forget time and realize that you're there to observe something that the Almighty has created. It is unusual. So see it and enjoy it. But also see the bigger picture."

Many people go to the national parks looking for the wrong things and thereby miss their park experience.

"National parks are not cozy roadside tourist attractions, designed to satisfy the curiosity of mankind in padded comfort," says Mrs. Gale Koschmann Zimmer, a naturalist at Everglades National Park.

Mrs. Zimmer believes one of the big problems for the future is to explain to visitors before they come to a park what it's like. If they want to look at safe captive animals, they had better see them at a zoo; if they want to swim and water-ski, play ball or take sunbaths, they should go to a city park or public beach. Says Mrs. Zimmer:

"I think we betray the ideal behind the whole national-park system if we try to plane down all the rough spots, shoot all the touchy animals, fence off all the cliffs, and offer the visitor a national-park scene in the safe comfort of his own living room. With Thoreau, I'd like to know 'an entire heaven and an entire earth,' and I think basically our natural national parks should offer an entire heaven and an entire earth."

RUGGED PHYSICIST HIKING

On the Appalachian Trail, at Double Spring shelter in Great Smoky Mountains National Park, I met space scientist Daniel Hale from Huntsville, Ala. This rugged physicist, who has been to the antarctic twice and the North Pole area once, and is helping to plan the Mars mission, had been hiking alone for two days from the summit at Clingmans Dome, down to Forney Creek, and now back up to the summit again. The satisfaction of roaming the wilderness alone was written on his countenance and in his bearing.

To the wilderness hiker, solitude is the only way to get a real park experience. But who can say that the man or woman who looks out on nature's majesty from a highway turnout, or stops to listen to the birds or walk in the pines a few yards from a lodge or public campground, may not be getting just as much or more fulfillment from the park?

My own impressions of national parks over the past 20 years have been based mostly on ventures close to roads and lodges. Yet I have never been disappointed in the quality of my park experiences.

It would be hard to duplicate the inspiration I felt one November day many years ago at the Grand Canyon rim as I watched snowflakes paint a cover of white on the buttes and mesas below. Or the sense of oneness with nature that came to me as I stood beside a little lake in Everglades National Park before dawn and watched the blackness on either side dissolve into mangroves, and the seemingly empty mangroves gradually reveal their night visitors, a score of snowy egrets which, one after another, rustled into view midst the foliage, stretched their wings and flapped gracefully away into the dawn.

I asked Secretary of the Interior Stewart L. Udall what he thought a national-park "experience" should be.

"It isn't enough just to see majestic scenes, to watch Old Faithful erupt, or to see some other wonder of nature," he replied. "Our job ought to be to help visitors get an appreciation of the importance of nature, how its system works, and how it affects their lives. They should leave with a new insight, a new set of 'eyes' as it were."

From George B. Hartzog Jr., park-service director, came this answer:

"A park experience means different things to different people in different places. Each area is unique. A certain historical area may give the visitor a sense of his place in the stream of humankind. A natural area can give one a new perspective on the place you have in this God-given web of life. It is re-creative, refreshing."

Sharon Francis, writer, wilderness adventurer, and currently White House staff assistant for beautification, says the national park experience "is one in which all the facilities are stretched. One comes down from the peaks with capacities expanded, feelings aware! Best of all, one breaks free of the cocoon of man-made gadgets and comforts with which we envelope ourselves in civilization and forges, in the wilds, a reassuring self-sufficiency."

TILDEN'S BOOK NOTED

Author Freeman Tilden, who has been visiting and writing about national parks for a quarter of a century, says that parks are a place where individuals can find themselves a part of the whole of living creatures, a part of life's beauty.

"Beauty is the individual's shock, his apprehension, his discovery," Mr. Tilden writes in a small book called "Interpreting Our Heritage." "What he discovers is more than what he sees or hears. He has discovered something of himself, hitherto unrealized. . . .

"Sometimes we think, in our egotism, that nature has provided these beauties as a special act on our behalf. If I may be allowed a harmless bit of fantasy, I shall imagine a conversation you might have with Nature on this point. After hearing you patiently on the subject of Beauty, Nature would perhaps say something like this:

"I see the source of your error. It derives from your very limited knowledge. You are thinking that I have a Department of Beauty —that I deal with beauty as one of my activities. Really, I do not *intend* beauty. I *am* beauty, I am beauty and many other things, such as you are trying to express by your abstractions like Order, Harmony, Truth, Love. What you see in my scenic manifestations is the glamour behind which lies an Absolute Beauty of which I myself am an expressive part. You do not understand? Naturally, it is difficult. But you are trying: I do like *that* in you, little man.

"No, we can only shadowly comprehend, and perhaps the mystery will always tantalize us. But, fortunately for our spiritual welfare, we live with the Fact. And this fact is, that in the presence of unsullied, unexploited, 'raw' nature, we are lifted to a height beyond ourselves. . . . We grow in dimension and capacity."

A LOOK AT TOMORROW'S PARKS—XIV

(NOTE.—Federal and state officials are formulating recreational-development plans for the vast Yellowstone-Grand Tetons area. It's part of a major new approach, as the National Park Service seeks to revise its blueprints in the light of present conditions and expected future needs.)

WASHINGTON, July 31, 1968.—In a map-and-chart-filled Denver office last summer, 10 National Park Service officials and consultants sat around a paper-strewn table. Their task: to come up with a master plan for the kinds of national parks Yellowstone and Grand Teton should be 10 to 20 years from now, or even up to the year 2000.

At these two essentially automobile-access parks, the roads, campgrounds, and lodges are crowded all summer, at times past capacity. And within a few years, tourists arriving at nearby airports in 500-passenger jets will compound the problem.

So the experts asked themselves some hard questions:

Should lodges, campgrounds, and roads be expanded to keep up with the expected deluge of tourists? Or should all new lodging and camping facilities be kept outside the park? Should private vehicles be barred altogether within the parks and be replaced by public transportation?

How can more visitors be attracted away from roads and encouraged to venture into the back country? How can more people be accommodated off-season, especially in winter?

How can wildlife be protected from people-intrusion? How can people see more wildlife safely? Will increasing water pollution force a limitation on use of Yellowstone Park?

FINAL PLANS SHAPE UP

A few weeks later, supervisors of national forests and representatives of other federal and state agencies having recreation facilities or potential near Yellowstone and Grand Teton met with the park-service planning team. At this meeting, they worked out a basic agreement on a coordinated plan for Yellowstone area regional development.

It is appropriate that Yellowstone, set aside in 1872 as the world's first national park, should also be the springboard for a new look into what the next century holds for national parks.

Although parks traditionally have had "master plans" to guide their development, today the National Park Service is revising all park plans.

Wherever possible, regional planning is being considered. Officials agree that park service problems no longer can be worked out nor can the people's recreation demands be met within the confines of the national park system. The 32 operating national parks are only part of the overall national recreation picture. The planners say their use must be coordinated with other federal, state, and local recreation planning and with greatly expanded recreation opportunity provided through private enterprise.

A VISIT IN 1984

Let's look ahead to about 1984—not in Orwellian style, but as some park planners visualize the possibilities.

Let's imagine that Mr. and Mrs. George Norton of Camden, N.J., and their two teenagers are about to make that long-awaited automobile trip to see some of the national parks. In December they go to the nearest big-city national visitor center, in Philadelphia. There they get booklets and borrow home-play television tapes describing several parks. At the visitor center, they learn that if they know the exact date they will be in Yellowstone, advance reservations can be made (by computer) for a two-day stay at a campground, or for en route stops at state campgrounds or private motels or campgrounds.

The Nortons, who prefer a less rigid schedule, elect to go without reservations in June to Yellowstone and other western national parks. When they arrive in Billings, Mont. (160 miles from Yellowstone), they head for the regional visitor center. An information guide checks a computer and advises them that Yellowstone is full for the next two days. But they can be booked to visit and stay at the Gallatin National Forest the next day, at Red Rock Lake National Wildlife Refuge the second day, and then into a commercial motel in West Yellowstone.

As the Nortons approach West Yellowstone, they tune their car radio to a special wave length. Out of the wide-open spaces comes the voice of a national park naturalist, identifying the trees, mountains, and wildlife they are seeing, and describing what lies ahead in the park.

Because only cars with advance reservations for the few public campgrounds are allowed in the park, the Nortons arrange for a Yellowstone tour in an electric-powered, open-air minibus. They walk the final quarter mile to Old Faithful Geyser because all roads and parking areas were moved away from the fringes of the geyser back in 1971.

BEARS FORSAKE ROADSIDES

At a road turnout in Hayden Valley, a park service naturalist gives them information about the buffalo and moose grazing in a field nearby. He explains the ecology of the area—how each plant or animal (including man) fits into a total environmental order. Before returning to West Yellowstone for the night, the Nortons visit Yellowstone Falls and the canyon area and also see other geysers.

The next day the minibus takes them to the starting point of a seven-mile hike to Hart Lake. On the hike they see several black bears. (Strict enforcement of "no feeding" rules has forced panhandling bears to forsake roadsides and look for natural foods.) The Nortons spend their last night at a wilderness camp (food, bedding, and primitive facilities provided) at Hart Lake. Then on to another park.

That's how it *might* be in 1984.

Meanwhile, back in 1968, a good many matters require immediate attention.

Most important, to many observers, is the need for a clearly defined and workable national recreation policy. The present policy is an often conflicting hodgepodge. The Bureau of Outdoor Recreation has just published a report listing 263 separate federal recreation programs supervised by 57 agencies in nine Cabinet departments and 36 independent agencies, advisory boards, commissions, and councils. Many of the agencies are in open competition with one another.

SOME INTERAGENCY FEUDING

The Agriculture Department's Forest Service and the Interior Department's National Park Service have been feuding recently over loss of Forest Service land for Cascades National Park and over a proposed highway to be built through a part of Sequoia National Park into Forest Service land at Mineral King, Calif. (to serve a proposed Walt Disney ski resort development).

The Army Corps of Engineers and the Bureau of Reclamation are continuously proposing projects of various sorts that affect natural resources. The Army engineers also defied the administration and all other federal agencies involved in recreation by opposing the $7 "Golden Eagle passport," because they did not want admission fees collected at their reservoirs.

Other differences arise regularly between the Bureau of Public Roads and a number of federal and state recreation agencies over location and width of roads through wilderness or scenic areas.

A few of the interagency disputes are finally settled by the President or Congress; most get resolved by the Bureau of the Budget. Fortunately for conservationists, deputy budget director Philip S. Hughes, the adjudicator of disputes in the executive arena, is himself a dedicated conservationist who tries to preserve both interdepartmental relations and natural values.

PRESIDENT'S COUNCIL

The President's Council on Recreation and Natural Beauty is supposed to provide leadership in setting national recreation policy. On the council are the Secretaries of Interior, Agriculture, Defense, Commerce, Housing and Urban Development, Health, Education, and Welfare, and Transportation. But in the past six years, only two major disputes have been put on its agenda; both were settled before the council met. It meets very infrequently and the Cabinet members usually send deputies.

The Citizens Advisory Committee on Recreation and Natural Beauty in its 1967 annual report suggested that the President's council "could offer a forum in which a broad approach to the national interest could be taken without regard to historic jurisdictional jealousies and commitments to policies which may no longer be relevant."

The 1968 citizens-committee report stated: "There is still no force in the federal government which can be brought to bear on environmental problems no matter where they occur."

EFFECTIVENESS QUESTIONED

Appointment in 1968 of the Vice-President to head the President's council may help the situation. But at the first meeting called by Vice-President Hubert H. Humhprey, only one Cabinet member showed up, and he arrived in mid-meeting.

Laurance S. Rockefeller, chairman of the citizens advisory committee and one of the nation's leaders in the effort to preserve natural values, doubts that the President's council ever could exercise the authority it needs in order to become effective.

Mr. Rockefeller holds that power should be vested in a commission established "to coordinate all elements of recreation and conservation in our society. It should have equal representation from Congress, the executive departments, and outstanding citizens."

The Bureau of Outdoor Recreation, directed by Dr. Edward C. Crafts, is currently completing a five-year effort to develop a nationwide plan for recreation. Congress hobbled the agency in the beginning by placing it in one department (Interior) and by giving it the power only to "promote coordination" of federal plans and activities related to outdoor recreation, instead of the power to "coordinate" such plans.

When the Bureau of Outdoor Recreation's nationwide plan is finished, it will offer guidelines for national recreation policy. Because of the restraints placed on the agency, the plan will not be effective unless backed by presidential and congressional action.

As previous articles in this series have indicated, the basic problem facing the National Park Service is how to cope with the increasing pressures for greater use without destroying the resources and without lowering the quality of the visit.

In 1916 with only 350,000 people visiting the then 13 national parks, the object was to attract enough additional visitors to convince Congress that the areas were worth preserving or developing. A half-century later: 40 million people visit 32 operating national parks. Both population and use of parks continue to escalate. The options are: to create more national parks; provide more federal and state recreation areas to ease pressure on the national park system; expand facilities such as campgrounds and lodges at the expense of certain natural values; place restrictions on use; or a combination of these solutions.

NEW FACILITIES TO BE BASIC

Director Hartzog says that park service plans contain no increase in capacity of overnight lodging in the major crowded parks. The emphasis on whatever new facilities are needed will be on the basic side—cafeterias, snack bars, and mountain-type chalets with primitive facilities. Mr. Hartzog also hopes to start a system of youth hostels in national parks.

One of the great needs of the future is for development by the private sector of campgrounds, lodges, and motels on the fringes of national parks. At present, one of the obstacles to private development is government competition. A family can visit a national park for $1 a day; or it can spend an entire summer touring national parks at a total outlay of $7 for a "Golden Eagle" permit—less than the cost of one night at a motel. The park service is experimenting with fees for public campgrounds (to be run by concessionaires), in addition to entrance fees or a Golden Eagle passport.

Lumber and mining companies with big holdings near western national parks may in the future enter the recreation business on a large scale.

CITY ACCENT EXPECTED

Regional planning for recreation also will have to include more extensive state and city development of parks and recreation, especially in making more recreation areas available close to cities. Money now is available from the Land and Water Conservation Fund to aid states. A diversified nationwide recreation capability is needed to give people more choices of places to go for the specific type of outdoor activity they desire.

Most criticism of the National Park Service comes from conservationists who desire greater restrictions on mass access to the parks to ensure preservation of the resources. Some critics, however, think that more should be done to help the average park user.

"A balance has to be achieved between preservation and use," says Deputy Budget Director Hughes. "It wouldn't be good if the park service concentrates just on preservation. The system has to accommodate a large number of people who just want to see parks from the roads."

WIDER PENETRATION URGED

Laurance Rockefeller maintains that no harm would be done by opening up a little more of some of the large parks to access by the average tourist. "People are trapped in the same areas of Yellowstone that were available almost a century ago," he says.

Rep. Wayne N. Aspinall (D) of Colorado, chairman of the House Interior Committee, points out another need: to curb the taking over of choice national park camping spots weekend after weekend by people living nearby.

"These parks belong to the people," Mr. Aspinall told me. "They don't belong only to the people who live closest to them."

In my visits to park areas it became obvious that many of the people most in need of the values that can be obtained from a national park visit—such as big-city ghetto residents and other low-income families—appeared to be absent.

QUESTION POSED

The question came to mind:

Is affluent America doing as much as it should to make the inspirational values of parks more available to those now left out? The answer to such a question may also help decide the kind of national park system America has by the year 2000.

The ultimate answer rests not with Congress or the National Park Service, but with all the people. Their national parks—a unique American contribution—have played a relevant role in developing the kind of nation that exists today. By the way they live, the values they cherish, and the way they treat each other as well as their great resources—in all these ways Americans will decide the kinds of parks they will have tomorrow.

HOW WOULD YOU RUN THE NATIONAL PARKS?—XV

WASHINGTON, August 7, 1968.—"We hear plenty from the conservation groups about what is wrong with our policies," said a National Park Service official. "But we rarely hear from the general public, the average park users, except when they've received bad service at a concession restaurant in a park, or been bothered by a noisy campground neighbor."

The park service has been unable to conduct public-opinion surveys of those who use national parks. Thus officials often have less information than needed to do the necessary long-range planning.

[To help fill this need, and to give readers of this series an opportunity to express their views, key topics were presented in a full-page questionnaire.

[Readers could mark a √ in the squares that most nearly conformed to their ideas of how the park service should handle a particular situation. If no single statement fully expressed their view on a subject, they could mark more than one square in each category. The questionnaire also provided space for additional comments. A summary and analysis of reader opinions concluded the series.]

The following categories were included in the questionnaire:

1. Overcrowding. Although less than 5 percent of each park is used for tourist conveniences, some national parks, such as Yosemite, Yellowstone, Grand Canyon, and the Everglades, are jammed with visitors in developed areas during most of the tourist season. To relieve overcrowding, the park service should:

A. Build more campgrounds, lodges, and roads to take care of more people. ☐

B. Start a reservation system for campgrounds. ☐

C. Limit the stay in a campground to the number of days it takes to see the major attractions, with a maximum of 3 days. ☐

D. Reserve most of the campground space and visitor facilities for those who live more than 200 miles away. ☐

E. Take all campgrounds out of the parks and encourage development of private areas or use of national forests on the park fringes. ☐

F. Establish a limit for entrance to each park, much as you would for a theater. When a certain capacity is reached, a park would be closed and reopened only to fill vacancies. ☐

G. Increase camping fees and entrance fees. ☐

H. Leave things as they are. ☐

2. Services and attractions. Park users, planners and some conservation groups disagree over what kind of accommodations, services, and recreation attractions should be provided in national parks. The park service should:

A. Provide for additional low-cost overnight lodging facilities with the help of government subsidies if necessary. ☐

B. Provide for more visitor services such as stores, restaurants, coin laundries, etc. ☐

C. Allow more entertainment such as concerts, movies, organized recreation, conventions, and special events. ☐

D. Reinstate the nightly firefall at Yosemite Valley that was stopped this year. ☐

E. Limit expansion of park or concession services to the basic needs of those who can be accommodated without overcrowding. ☐

F. Prohibit any entertainment that would tend to attract visitors to a central location. ☐

3. Roads. The present road system in many national parks is not capable of taking care of increasing numbers of visitors, and some roads are not wide enough for trailers. Also, some U.S. highways go through sections of national parks. I believe:

A. Absolutely no more new roads should be built in national parks. ☐

B. Any roads built should be of the primitive scenic type—narrow, low speed, and following rivers and the natural terrain. ☐

C. Interstate and other U.S. highways should be allowed to pass through national parks, with turnouts provided so that cross-country travelers can have easy access to parks. ☐

D. All U.S. highways should be removed from parks. Until this can be accomplished, fees should be charged on these roads to discourage through traffic. ☐

E. New transportation techniques, such as aerial tramways, rapid-transit systems, helicopters, monorails, and air-cushion systems, should be adopted for travel inside national parks. ☐

F. All automobiles should be left out of crowded parks, and minibuses or other types of public transportation be provided. ☐

G. A maximum speed limit of 35 m.p.h. should be the law in national parks, with lower limits on narrower roads. ☐

4. Roadside bears. Some people say it is disgraceful to make beggars of the black bears that roam the roadsides at Yellowstone National Park waiting for handouts from tourists. Others say that seeing these bears and their cute cubs along the highways is one of the highlights of a park visit. Feeding bears is against park regulations and also dangerous. The park service should:

A. Leave the situation as it is. The visitors enjoy seeing the bears. ☐

B. Trap bears that have taken up residence in unnatural environments of highways and campgrounds and restore them to their natural habitats (even though this would mean many visitors might not see a bear); take away unnatural food sources by enforcing rules against feeding bears and by more frequent garbage pickups. ☐

C. Provide access points and lookouts where bears and other wildlife might be seen. Conduct prebreakfast and dinnertime ranger-guided tours to see wildlife at the best viewing hours. ☐

5. Grizzly bears. Two young women were fatally mauled by grizzly bears at Glacier National Park last year. The park service should:

A. Eliminate grizzlies from all national parks. ☐

B. Leave things as they are. Grizzlies have as much right to be in Glacier as do humans. ☐

C. Prohibit hikers from using parts of the park known to be inhabited by grizzlies. ☐

D. Eliminate all refuse dumps (which attract bears) from chalets, lodges, and back-country campsites. ☐

6. Wilderness. Large portions of most national parks will soon be designated by Congress as wilderness areas, to be preserved for all time from building of roads, lodges, or permanent structures and from mechanical intrusions. But there is disagreement over how much of a park should be set aside and what should be allowed in wilderness areas. I believe:

A. All of the present wilderness-type area in a park should be preserved; there should be no additional development at all on these lands; and wilderness should extend to the edge of roads. ☐

B. There should be a buffer area of at least one-quarter of a mile between roads or permanent buildings and the wilderness areas. ☐

C. When designating wilderness areas, the park service should set aside sufficient land to provide for future developments such as new campgrounds, motor-nature trails, or self-guided nature trails. ☐

D. In places of exceptional scenic beauty which are inaccessible except to experienced mountaineers or by several-day hikes, aerial tramways should be built to allow more people to share these vistas, or to be used as starting points for hikes in the midst of wilderness country. ☐

E. Sufficient area should be left out of wilderness designation in order to permit a few small, primitive chalet-type lodges and youth hostels. ☐

7. Government and private sector. Some people feel that the federal government is in unfair competition with private individuals in the field of recreation because such low fees are charged at campgrounds. (Most parks have only $1 a day entry fee, and a $7 annual Golden Eagle permit allows visitors to spend an entire summer camping in parks.) The government should:

A. Raise the Golden Eagle fee to $25. ☐

B. Charge nightly rates for use of public campgrounds in parks, in addition to the Golden Eagle fee. ☐

C. Turn campgrounds over to concessionaires for management and allow them to charge appropriate camping fee. ☐

D. Enter into partnership agreements with private companies and/or individuals to build public campgrounds and motels on the fringe of park areas. ☐

8. Balances of nature Among the traditional purposes of national parks are providing habitats for all native animals and maintaining the animals in a completely wild state for public enjoyment. Parks are not large enough, however, to provide all the necessities of life for some wildlife species such as elk, deer, and the large predators such as wolves and mountain lions. Some animal populations have become too large; others have disappeared. The National Park Service should:

A. Let nature take its course. If a species cannot adapt to modern conditions, there is very little man can do to save it. ☐

B. Remove excess elk (by trapping or shooting) when they exceed the capacity of the range. ☐

C. Provide food for the important species of wildlife, such as elk, moose, bison, and bighorn sheep, so that these populations can be maintained at the highest levels possible. ☐

D. Determine what human influences are causing wildlife problems, and develop park-management programs designed to offset man's adverse impact. ☐

E. Eliminate nonnative plants and animals from park areas. ☐

F. Restore wolves, cougars, bears, and coyotes to park areas where they once were native. ☐

9. Visitor-use information.

A. Within the last year our family has visited one ☐ two ☐ three or more ☐ national parks.

B. We stayed one day ☐ two days ☐ three or more days. ☐

C. We camped overnight in public campgrounds accessible by road ☐; packed into primitive back-country camps ☐; stayed at lodges ☐; stayed outside the park. ☐

D. We traveled by automobile ☐; camper vehicle ☐; trailer ☐; public transportation. ☐

E. We visited no national parks. ☐

10. Other comments:_____

THE PARK SERVICE SHOULD—XVI

(NOTE.—On Aug. 7, 1968, the Monitor invited readers to comment on key issues confronting the U.S. national parks. More than 2,000 replied. Here is a summary of the results.)

WASHINGTON, September 16, 1968.—"How would you run the national parks?"

[The Christian Science Monitor posed this question to its readers at the close of its comprehensive series on the national parks. Within a month after the installment (chapter 15 of this booklet) appeared, the Monitor had received more than 2,000 completed questionnaires.]

Answers and comments poured in from all parts of the United States, from Europe, even from five GIs in Vietnam. Those responding ranged in age from a 16-year-old to a Neenah (Wis.) octogenarian who said he still enjoys going into the national parks "with sleeping bag and tent."

These and other readers—2,192 in all—made it clear that they want their national parks preserved, even at the cost of personal sacrifice or limitations on park use. And they want the quality of a park experience improved for all visitors. They expressed strong support for measures that would:

Drastically limit stays in park campgrounds, and charge for their use (in addition to entrance fees).

Provide only narrow, scenic-type roads, with a maximum speed limit of 35 miles per hour.

Ban automobiles from the parks entirely, and provide forms of public transportation.

Some questionnaires had answer boxes checked in red and black: Husbands and wives who could not agree used ink of different colors. A reader in Mansfield, Pa., noted that answers on his questionnaire represented views of 18 families who reached a consensus after a three-hour campfire discussion while on a National Campers and Hikers Association outing.

The questionnaire was not designed as a balanced statistical sample. Yet National Park Service officials and several private conservation leaders who have seen the results

agree that the answers and suggestions of Monitor readers contain a wealth of material for careful study and analysis in considering future park policies.

A total of 1,548 of those submitting questionnaires said they had visited at least one national park during the past year. Most others said they had visited parks in previous years, and planned more visits.

While the vast majority appeared to be advocates of wilderness preservation, they did not seek to exclude those who see the parks via roads, campgrounds, or lodges.

Park service officials and conservation leaders said the replies seemed to represent a wide variety of park users and potential users. Some readers urged providing for those not able to take long hikes into wilderness areas. Others suggested finding ways to aid urban minority groups, especially those who might not have financial means or transportation to visit the parks.

"We do not yet need a single inflexible policy for all parks and recreation areas, but one that adjusts to demands," commented A. H. Gibson of Midland, Mich.

A number of readers suggested greater orientation and education for park users.

"Require campers and backpackers to pass a test to obtain a license for camping without despoiling the scenery," commented Mrs. Charles A. Eldon, of Los Altos, Calif.

"Government itself should devote more time to informing the public about problems of the parks while people are at the parks—people will understand these problems if shown while they are there," wrote Miss Vera K. Kuehne, of Manchester, Mo.

"Something similar to the colonial Williamsburg orientation film could be done in each national park to put a person in the right frame of mind for what he is to see," stated Mrs. Colson E. Carr of Alexandria Bay, N.Y. "And it should be run not once a night, but continuously."

According to National Park Service Director George B. Hartzog Jr., the number of questionnaires received made it the largest public survey conducted on national park policy.

"The answers show a sensitivity to the values that are preserved in the national park system, and that visitors are looking for a quality park experience," Mr. Hartzog said.

"And the results are evidence the people know that in order to experience it they may have to accept some regulation of their freedom to use it."

Survey results "indicate strong support for a park-management policy highly protective of the wild areas and the native wildlife," commented Anthony Wayne Smith, president of the National Parks Association.

"The readers also approve of the solution of the problem of overcrowding through dispersing facilities into the surrounding public lands and even farther out into privately owned lands in the general region of parks."

Stewart M. Brandborg, executive director of the Wilderness Society, believes the results show that "the people, given decisions among alternatives, are far out in front of the average government land manager who resigns himself to the invasion by a flood of humanity that could destroy the natural areas."

Readers had been encouraged in the instructions to mark more than one square in each category if no single statement fully expressed their views on a subject. Most took advantage of the suggestion. Many went even further and amended our statements to reflect their own opinions more exactly.

The column for comments frequently overflowed onto additional sheets or letters. One reader, Mrs. George E. Lien of Port Washington, N.Y., sent a five-page, single-spaced typewritten letter brimming with useful ideas gained from her family's recent 9,000-mile tour of national parks.

Following is a subject-by-subject resumé of survey results and selected comments. Numbers represent the total of options checked by readers (many of whom chose several options).

1. OVERCROWDING

The park service should:

A. Build more campgrounds, lodges, and roads to take care of more people, 402.

B. Start a reservation system for campgrounds, 823.

C. Limit the stay in a campground to the number of days it takes to see the major attractions, with a maximum of three days, 950.

D. Reserve most of the campground space and visitor facilities for those who live more than 200 miles away, 387.

E. Take all campgrounds out of the parks and encourage development of private areas or use of national forests on the park fringes, 759.

F. Establish a limit for entrance to each park, much as you would for a theater. When a certain capacity is reached, a park would be closed and reopened only to fill vacancies, 801.

G. Increase camping fees and entrance fees, 404.

H. Leave things as they are, 42.

Readers were especially selective on this subject. In Part A, many agreed on the need to build more campgrounds but crossed out "lodges" and "roads." In Part C, many suggested a limit on stays of 1, 5, or 10 days. Some readers, in checking Part E, deleted the first clause about campgrounds.

Four of the five choices involving restrictions received heavy votes. Readers' endorsement of a reservation system surprised some park officials who have been hesitant about starting such a system in crowded campgrounds.

Several readers noted that the best solution to overcrowding of parks was population control.

Mrs. Bradley Folsom of Hingham, Mass., suggested that "it might be feasible in the future to try a staggered method of vacations so that everyone would not be visiting the areas in July and August, especially if schools were to extend the school year."

Mrs. Florence Radzinski of Montecito, Calif., criticized the park service for mistakenly posting "Valley Camp Sites Full" signs at the Yosemite Park entrance. She added: "My husband and I, much to our delight, found many empty camp sites. We felt sorry for those who might have turned away at the main gate because of the sign. Better communication within the park system is needed."

One advocate of more campground and lodge development stated the park service should be ashamed of "boasting that 98 percent of Yellowstone is undeveloped."

A reader in Arlington Heights, Ill., was very much against having reservations systems in national or state parks. "The parks belong to all the people and should be on a first-come, first-served basis," the reader stated.

Dr. G. B. Moment of Goucher College in Baltimore pointed out the problem of a reservation system: Cancellations and the vicissitudes of travel often delay arrivals.

A California man offered an example of why stricter limitations are needed for campground use: "The campers next to us were set up for a six-week stay with three tents and a large 'lounging' area. They lived in a town 50 miles away and were enjoying a practically 'free' vacation—and had been doing so for years!"

2. SERVICES AND ATTRACTION

The park service should:

A. Provide for additional low-cost overnight lodging facilities with the help of government subsidies if necessary, 304.

B. Provide for more visitor services such as stores, restaurants, coin laundries, etc., 132.

C. Allow more entertainment such as concerts, movies, organized recreation, conventions, and special events, 49.

D. Reinstate the nightly firefall at Yosemite Valley that was stopped this year, 399.

E. Limit expansion of park or concession services to the basic needs of those who can be accommodated without overcrowding, 1,844.

F. Prohibit any entertainment that would tend to attract visitors to a central location, 1,005.

The views expressed on this subject contradict the common assumption that American travelers insist on "creature comforts" above all else. Only 6 percent of all those replying wanted more visitor services inside parks, and 84 percent would accept limiting the expansion of services to cover "basic needs." A number of readers favored low-cost lodging, but did not approve of government subsidies.

Some readers reacted vigorously against Part C, writing in "No! No! No!" to the idea of more organized recreation in the parks.

"Entertainment is not necessary—the park itself is the purpose of its being," commented E. E. Parsons, of Winslow, Ariz.

A reader in Playa Del Rey, Calif., noted at the end of Part F, ". . . but nature talks are O.K." Several others commended the park service interpretive program.

3. ROADS

I believe:

A. Absolutely no more new roads should be built in national parks, 486.

B. Any roads built should be of the primitive scenic type narrow, low speed, and following rivers and the natural terrain, 1,407.

C. Interstate and other U.S. highways should be allowed to pass through national parks, with turnouts provided so that cross-country travelers can have easy access to parks, 233.

D. All U.S. highways should be removed from parks. Until this can be accomplished, fees should be charged on these roads to discourage through traffic, 946.

E. New transportation techniques, such as aerial tramways, rapid-transit systems, helicopters, monorails, and air-cushion systems, should be adopted for travel inside national parks, 292.

F. All automobiles should be left out of crowded parks, and minibuses or other types of public transportation be provided, 642.

G. A maximum speed limit of 35 m.p.h. should be the law in national parks, with lower limits on narrower roads, 1,204.

Park service officials expressed satisfaction with the evidence of support for scenic roads and low speed limits in parks. The park service advocates this position, but it is opposed by the Bureau of Public Roads, which wants, for safety factors, to build wide, high-speed highways in parks.

"Visitors can't enjoy the parks if they can't see them, so they should slow down to the point where they can see them," said park director Hartzog. "If people are in too big a hurry, they should take some other route and come back to the parks when they have sufficient time."

Mr. Hartzog was encouraged by the large number of readers who voted to leave all automobiles out of crowded parks. Plans are being considered to carry out such a system at some parks.

"More people are traveling in camp trailers, so the parks should provide more connections for electricity, water, and sewage," commented Lt. Col. and Mrs. E. L. Massie, Eglin Air Force Base, Fla. A man on Bainbridge Island, Wash., suggested widening current roads for trailers and more traffic.

But Mr. and Mrs. Channing P. Newell of Grossmont, Calif., had a different view. "Visitors to the parks should expect to leave their

mobile houses, so-called 'campers,' and house trailers outside the parks," wrote the Newells.

"The National Park Service could not and should not be expected to supply space, sanctuary, and facilities for such cumbersome personal paraphernalia.

A New Yorker suggested that when there are U.S. highways within parks, "the toll should be so high that one would think twice before using the highway just to get somewhere fast."

Some readers urged a total banning of motorcycles, "tote-goats," and trail bikes from all trails in parks.

Mrs. Sydney H. Baylor of Johnson, Vt., noted that "it is evident the vandalism in parks is restricted to those areas where automobiles are permitted. Very seldom is anything destroyed along the foot trails."

4. ROADSIDE BEARS

The park service should:

A. Leave the situation as it is. The visitors enjoy seeing the bears, 272.

B. Trap bears that have taken up residence in unnatural environments of highways and campgrounds and restore them to their natural habitats (even though this would mean many visitors might not see a bear); take away unnatural food sources by enforcing rules against feeding bears and by more frequent garbage pickups, 1,003.

C. Provide access points and lookouts where bears and other wildlife might be seen. Conduct prebreakfast and dinnertime ranger-guided tours to see wildlife at the best viewing hours, 1,570.

Another statistic that went contrary to many officials' previous theories was the one showing large support for eliminating the roadside food-begging bears at Yellowstone. Park officials always have assumed that visitors' desire to see bears along the roads was greater than any opposition to the practice.

A number of readers wanted stricter penalties for disturbing wildlife at Yellowstone and in other parks. They also urged giving more publicity to the dangers from bear feeding and to the fact that it is illegal. Fines would be levied against offenders.

Commented Miss La Verne Joiner Jackson of Palo Alto, Calif.: "It is the observing of the animals in their natural environment which brings the thrill, not disobeying the law."

Equally cogent was the terse statement of Mrs. Mary Carr Scales of Orinda, Calif.: "Teach people, not bears."

5. GRIZZLY BEARS

The park service should:

A. Eliminate grizzlies from all national parks, 104.

B. Leave things as they are. Grizzlies have as much right to be in Glacier as do humans, 873.

C. Prohibit hikers from using parts of the park known to be inhabited by grizzlies, 935.

D. Eliminate all refuse dumps (which attract bears) from chalets, lodges, and back-country campsites, 1,558.

Despite two fatal attacks on campers by grizzly bears last year at Glacier National Park, few survey participants suggested elimination of bears from the parks.

A resident of Ann Arbor, Mich., stated that although he once had been mauled by a grizzly bear, he still believes that grizzlies have the right to be in parks.

A Harvard University student commented that part of a park might be set aside for camping and part for the original animals, "perhaps closed off to people for safety and welfare of both."

The grizzly presents one of the most difficult of all problems for park officials. Elimination of refuse dumps used by bears and complete incineration of garbage might drive some bears into campgrounds. At Glacier, certain back-country trails frequented by grizzlies have been closed this summer for short periods of time. Much research on grizzly habits is needed, say park officials.

6. WILDERNESS

A. All of the present wilderness-type area in a park should be preserved; there should be no additional development at all on these lands; and wilderness should extend to the edge of roads, 1,033.

B. There should be a buffer area of at least one-quarter of a mile between roads or permanent buildings and the wilderness areas, 531.

C. When designating wilderness areas, the park service should set aside sufficient land to provide for future developments such as new campgrounds, motor nature trails, or self-guided nature trails, 727.

D. In places of exceptional scenic beauty which are inaccessible except to experienced mountaineers or by several-day hikes, aerial tramways should be built to allow more people to share these vistas, or to be used as starting points for hikes in the midst of wilderness country, 540.

E. Sufficient area should be left out of wilderness designation in order to permit a few small, primitive chalet-type lodges and youth hostels, 840.

Replies on this subject provided a wide range of opinion, although most readers desired preservation of all the present wilderness-type area in a park.

The question of extending the wilderness provoked conflicting replies.

"The theory of saving millions of acres for a few hardy hikers is wrong," said a correspondent from Florence, Ore.

Commented David Lassiter, Isle of Palms, S.C.: "The parks are practically 'sacred' areas, and should be preserved 'as is' as much as possible. Leave the wilderness areas 'wild.' Let private enterprise provide the necessary concessions, entertainment, and other public facilities outside the parks."

The subject of aerial tramways or other mechanized means of access into inaccessible areas also evoked spirited comment. Advocates, however, usually added an "if."

"I favor 6 D only if it can be shown that such tramways would not disturb the surroundings," footnoted D. M. Weible of Sherman Oaks, Calif.

Miss Rita E. Owen of Washington commented: "I would personally like to travel over parks by monorail; but only if a magic wand could be waved, and the monorail dismantled, or disintegrated, immediately afterward."

Several readers suggested that elderly people should have the benefit of lodges and tramways. "We should not be afraid of them, but resort more to aerial lifts, etc., where rugged terrain makes road-building expensive," said Perry J. Brown of St. Paul, Minn.

The idea of providing small, primitive chalet-type lodges and youth hostels in wild areas draw many favorable comments.

7. CHARGES

The government should:

A. Raise the Golden Eagle fee to $25, 533.

B. Charge nightly rates for use of public campgrounds in parks, in addition to the Golden Eagle fee, 897.

C. Turn campgrounds over to concessionaires for management and allow them to charge appropriate camping fees, 81.

D. Enter into partnership agreements with private companies and/or individuals to build public campgrounds and motels on the fringe of park areas, 946.

A theme running through many comments and substantiated by the results of the questionnaire is the large number of visitors willing to pay fees higher than the present $7 Golden Eagle permit, which covers a full year's visits to the national parks. Some people felt the Golden Eagle permit should cost more than $7, but not as high as $25.

On the other hand many opposed fees that were too high for the average individual.

"Relatively low cost makes national park camping very desirable for large families on low budgets," wrote a Claremont, Calif., reader.

A comment from Alamogordo, N.M., read: "During our stays in the parks we met many students, teachers, foreign students, etc., who were truly enjoying the parks and probably could not afford higher fees."

"We cannot now afford travel to national parks," commented a man in Lansing, Mich. "But it's nice to think that they will be there if ever we can."

Concern was expressed for the urban poor.

Henry Abarbanel of Princeton University commented: "Visiting national parks and monuments is primarily a white persons' adventure. The park service should bring the parks to the attention of poor people and ghetto dwellers and, if possible, organize and help fund visits of these citizens to their parks."

"The outdoors does not belong to the middle class," added a man from New York City.

Mr. and Mrs. Ralph C. Morse of Rockton, Ill., suggested there be a minimum fee for a three-night campground stay, together with a limitation on the Golden Eagle permit allowing no more than a 10-day stay in each park.

"A visitor would be both encouraged to stay at a campsite long enough to fully appreciate the glories all around him, and yet be forced to move on after a reasonable length of time to provide room for others," wrote the Morses.

Another version of this idea came from a Hagerstown, Md., reader: "Entrance fees should be high. If a person hurries through the park using its roads only as a scenic highway, no refund. If he stays a sufficient time to enjoy the park, most of the entrance fee is refunded on exit. If he overstays—no refund."

Many readers opposed turning over campgrounds to concessionaires for management and charging of fees. Readers felt this would result in crowded, dirty, and overpriced campgrounds.

Park director Hartzog said that, because of a shortage of personnel, the park service is planning to turn some campgrounds over to concessionaires to "operate" and to perform the actual maintenance work. But the park service will continue to set high maintenance standards, determine the rates, design the campgrounds, and rehabilitate them every few years. Rangers and naturalists also will remain to help visitors.

8. BALANCES OF NATURE

The park service should:

A. Let nature take its course. If a species cannot adapt to modern conditions, there is very little man can do to save it, 119.

B. Remove excess elk (by trapping or shooting) when they exceed the capacity of the range, 807.

C. Provide food for the important species of wildlife, such as elk, moose, bison, and bighorn sheep, so that these populations can be maintained at the highest levels possible, 670.

D. Determine what human influences are causing wildlife problems, and develop park-management programs designed to offset man's adverse impact, 1,878.

E. Eliminate nonnative plants and animals from park areas, 356.

F. Restore wolves, cougars, bears, and coyotes to park areas where they once were native, 708.

Park officials and conservation leaders expressed surprise at most readers' evident awareness of the complicated problems of maintaining wildlife in the parks. Eighty-six percent of those responding wanted the park

service to develop management programs designed to offset man's adverse impact.

Also unexpected was the large number choosing the option of restoring predators to parks where they once were native. However, some readers objected specifically to reinstating wolves.

Doug Roberts of Pullman, Wash., advocated that the park service purchase more winter range to help with the wildlife food problem.

9. VISITOR INFORMATION

A. Within the past year 497 families reported visiting one park; 413 visited two parks; 638 visited three or more.

B. Replies showed that 392 families stayed one day; 317 stayed two days; 762 stayed three or more days.

C. For accommodations, 698 families camped overnight in public campgrounds accessible by road; 333 packed into primitive back-country camps; 372 stayed at lodges; 443 stayed outside the park.

D. For transportation to parks, 1,235 families traveled by automobile; 130 by camper vehicle; 155 by trailer; 77 by public tranpsortation.

E. Of those answering the questionnaire, 541 said they had visited no national park in the past year.

That 60 percent of readers taking part in the survey had camped either in public campgrounds or the back-country was of great interest to park officials and conservation leaders as possibly indicating a trend away from use of lodges and motel accommodations inside the parks.

Another result of significance is that 638 of the 1,548 readers whose families had visited the parks stayed three or more days. This will be helpful to the park service in making planning decisions.

"I am single, in the Army, and in Vietnam, so I can't answer No. 9," wrote 1st Lt. L. J. Pryor. "However," he added, "I hope some day to use the parks a great deal."

Many reader comments showed acute awareness that preservation of parks and conservation values requires continued citizen participation in making policy.

"We need a land ethic," wrote Joseph Papa of Los Gatos, Calif. "We need more leadership in government. I notice none of the candidates seem to be addressing the issue."

"I saved all the national parks articles in the series and wrote to my congressman, giving my sentiments," said Guy W. Griffith of Richmond, Va.

"The National Park Service is doing a good job but can do better if it is better informed on what people want," commented Emanuel Fritz of Berkeley, Calif.

Other comments pointed to the need for citizens to treat the parks and wildlife, as well as other visitors, with respect and consideration.

Mrs. Lewis F. Smith of Cheshire, Conn., wrote that "there are few places left where we can enjoy nature's beauty without man's ruining it with his noise and refuse. I guess we will have to change the people to make the parks better."

A reader in Salt Lake City noted: "Educate the public as to: (1) what to expect in the park; (2) how to conduct themselves regarding their fellow man, the wildlife, and premises; (3) obey the golden rule of life."

Roy H. Hessen, director of People for Conservation, a citizen organization in Merrick, N.Y., said that the Monitor park series had prompted his group to draft a series of policy proposals for improvement of national parks, and to send the proposals to the National Park Service.

Summed up Mrs. Edward E. Eschenroeder of Largo, Fla.: "The most important thing is the realization that we the people have a responsibility if the privilege of using our parks is to be continued."

NATIONAL COMMISSION ON PRODUCT SAFETY

Mr. MAGNUSON. Mr. President, because of our great interest in all phases of consumer protection I am particularly pleased that the National Commission on Product Safety, under the extremely able chairmanship of Arnold B. Elkind, is meeting with favorable response. The interest shown by industry and the press in the aims of this Commission indicates an awareness of the need for a comprehensive report on product safety.

Just last Sunday, for the Washington Post, Morton Mintz wrote an excellent article describing the work of the Commission. The following day, May 12, for the Wall Street Journal, Ronald Shafer wrote an in-depth story outlining the Commission's work to date.

The resolution I submitted in the 90th Congress, in which I was joined by the ranking minority member of the Commerce Committee (Mr. COTTON) was responsible for the establishment of this Commission. In a year's time the Commission has proved itself as a strong force in consumer protection. Its Executive Director, William V. White, has put his long experience in the field of public safety to excellent use for this Commission. The seven appointed Commissioners have proved themselves sincerely dedicated to probing the problems of safety for the consumer.

Mr. President, I ask unanimous consent that the newspaper articles be printed in the RECORD:

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

[From the Washington (D.C.) Post, May 11, 1969]

PRODUCT SAFETY GAINS IMPETUS

(By Morton Mintz)

Concerned about the massive annual toll of thousands of deaths and millions of injuries in American households, Congress in late 1967 recognized a new human "right"—the right of the consumer "to be protected against unreasonable risk of bodily harm from products purchased on the open market for the use of himself and his family."

The declaration is in the preamble of an unprecedented joint resolution that established the National Commission on Product Safety and directed it to "conduct a comprehensive study" and file a report with Congress and the President.

The commission—a seven-member group headed by Arnold B. Elkind, a New York trial lawyer—probably will not complete the report until the fall of 1970.

But the supreme issue emerged early in a series of hearings the commission has held since last October in New York, Boston, Washington and Chicago; and it has the potential to bring about radical changes in society.

Basically, the issue is whether manufacturers will continue to have exclusive power over standards that apply to a vast variety of products—floor furnaces with grilles that burn toddlers, toys that cut them, wringer washers that mangle hands, electric steam vaporizers that scald infants, power lawn mowers that throw stones, football helmets that do not prevent brain concussions, and appliances, toys, hospital diagnostic equipment and charcoal igniters that electrocute.

But if voluntary standards are to be abandoned, what is to replace them?

Is it desirable, practical or even possible to require that every product must be subjected to Government premarketing clearance for safety, as medicines have been since 1938?

SYSTEM ON TRIAL

At this point, what appears to be certain is that the commission will recommend fundamental changes and that even if the Government should reject particular recommendations of the commission, it will not allow the present situation to continue.

For one thing, the issue is not bogged down in partisan politics. The father of the 1967 congressional resolution is a Democrat—Sen. Warren G. Magnuson (Wash.), chairman of the Senate Commerce Committee. But he had the full support of the ranking minority member of the committee, Sen. Norris Cotton (N.H.). And the resolution passed the House and Senate without dissent.

Some assumed that evolution away from the voluntary system would be slowed by the Nixon Administration. But at a commission hearing in Chicago on May 1, Virginia H. Knauer, the President's special assistant for consumer affairs, discouraged such a notion.

"The development of comprehensive safety standards is the key to this problem of product safety," she testified, adding flatly that the voluntary system "is on trial."

Whether we will have "governmentally mandated or voluntarily adopted safety standards is, at this time, problematical," Mrs. Knauer said. "However, a comprehensive system of safety standards is certainly inevitable, if the consumer is to be properly protected against the production of hazardous products."

This was a candid recognition of growing public awareness that protection against avoidable hazards is not adequately provided by old doctrines and comforting presumptions.

Consider the case of a particular model of electric steam vaporizer, a device that often is left in a room with infants. The infants could tip this model over with only two pounds of force—sometimes by becoming entangled in its cord—and thus drench themselves with scalding water.

Caveat emptor did not protect them. Neither did the seals of approval showing compliance with the voluntary standards of Underwriters' Laboratories, the Good Housekeeping Institute and Parents' Magazine. Nor was there protection in claims in ads and the instruction booklet that the device was "tip-proof," "practically foolproof" and "safe."

There was no protection, either, in the presumption that self-interest and brisk competition motivate manufacturers to produce safe products; styling and advertising commonly ring up more sales than safety.

Are lawsuits—which can only compensate a victim, not prevent marketing of unsafe products—an effective restraint? And what about recall of products found to be defective?

Lawsuits generally are brought only for the most serious injuries. In a single typical case, law professor F. Reed Dickerson of Indiana University told the commission, "the cost of consultants and expert witnesses runs from $500 to $2000, deposition costs from $300 to $400, physicians from $200 to $300 a day and visual aids about $100." If the case is expected to go to trial, a lawyer would have to figure on recovering at least $10,000 to make taking the case worthwhile, he said.

In the case of the vaporizer, Hankscraft Model 202–A, the manufacturer, the Hankscraft Co. of Reedsburg, Wis., has acknowledged that it knew of 16 cases of injury in the years 1955–60. Although four of these cases led to lawsuits, the firm continued to sell the 202–A. No recall was instituted—just as no recalls of defective cars were undertaken until a law was passed.

As of last February, when the 202-A was still on sale, more than 100 suits—40 of them involving explosions—were pending against Hankscraft.

SERVING HUMAN VALUES

The spreading habit of questioning society's values also is a factor in prospects for consumer protection.

Consumer advocate Ralph Nader, for example, told the commission that the number of hospital patients annually electrocuted by faulty equipment while receiving "routine diagnostic tests" or treatment—an estimated 1200—is "five times the total death toll in all the riots in all our cities in the last three years."

The commission also heard from a man who once—as assistant general counsel for science and technology in the Commerce Department—helped to draft standards for brake fluid, among other things.

The witness, Gordon A. Christenson, now associate professor of law at the University of Oklahoma, said that the "central concern many of us have—from . . . Nader to Kenneth Galbraith to Herbert Marcuse and the SDS and even to former President Eisenhower—(is) that our technological culture is inhumane." He continued:

"What has this to do with standards-making? Plenty, for the standards-making processes, whether voluntary or mandatory, are the only means I know of by which to begin the painful task of humanizing our productive capacity."

MANY LACK STANDARDS

The commission's hearings have shown that the voluntary system has worked poorly.

Of the 250 categories of products being studied, there are no standards at all for 69. Standards often take years to come into being, reflect the lowest common denominator and cannot be enforced. The Outdoor Power Equipment Institute sells its seal to makers of rotary lawnmowers that do not meet Institute standards.

In her testimony in Chicago, Mrs. Knauer, the White House aide, said flatly that some existing standards "are inadequate or outdated."

The obstacles posed by the voluntary approach often cannot be overcome even when a substantial proportion of manufacturers of a particular type of product have the best of intentions.

Unsafe glass doors for household use, for example, have caused an estimated 100,000 injuries a year, some of them fatal. The victims have been mainly children, who run into them. The principal trade group involved, the Architectural Aluminum Manufacturers Association, refused until recently to adopt a voluntary standard for members to use tempered safety glass.

Even after the Association finally reversed its position to require use of safety glazing by its 200 member firms, which produce 80 per cent of the aluminum glass sliding doors sold in the United States, it had no control over the remaining 20 per cent of companies in the industry, which could—and did—underbid by using cheap glass.

To make use of safety glazing universal, the support of the Federal Housing Administration and the National Association of Home Builders was essential. This support was denied until heat was generated by a hearing of the National Commission on Product Safety in February; then the FHA decided to make safety glass a requirement in construction of homes that receive FHA financing and the NAHB went along.

Sometimes a standard is developed, is resolutely maintained in the face of evidence that it won't work, and serves to stifle innovation.

Take the case of gas-fired floor furnaces, of which there are about four million, mainly in temperate climates.

Public health specialists found that little children were toddling, crawling or walking onto scorching grille surfaces and being seriously burned at the rate of at least 60,000 a year.

The American Gas Association held that nothing could be done beyond applying its standard, which allowed a temperature an inch above the grille of 350 degrees in excess of room temperature—although a one-second exposure to 158 degrees can produce a second-degree burn.

Working on a three-week, $800, nonprofit contract let by the staff of the National Commission on Product Safety, a small Baltimore firm, Wiener Associates, devised several ways to eliminate the hazard. The simplest and cheapest was to put a loosely woven fiberglass mat on the grille.

The Gas Association is now reviewing the Weiner recommendations, but a spokesman had testified that the industry "simply did not know of any technology and apparently couldn't think of any; and didn't perhaps have enough incentive."

A similar apathy was shown by a witness after the Commission, at a hearing in Boston, saw demonstrations of toys that can inflict savage injuries. The National Safety Council, said Richard J. Manuell, its child safety consultant, is "quite satisfied" with the toy industry's safety record. In addition, he commented, "A child has to experience some minor injuries, some experience of trauma, in order to learn."

THE UL SEAL

The history of safety-release devices for those washing machines that use electric wringers—about 14 million of them are still in use, and 379,000 were made last year—illustrates the agonizing delays that frequently precede adoption of a voluntary safety standard.

The first report in medical literature on injuries to persons who get fingers, hands, other parts of their bodies or articles of clothing caught between the revolving rollers was published in 1938. An "instructive release," which stops the rollers when the victim pulls back and which added $1 to $3 to the cost of manufacture, became available in the late 1940s.

But a voluntary standard did not take effect until last October. Meanwhile, about 200,000 persons a year, half of them children, were being injured.

In some situations, the problem is entirely one of imports. Several years ago, for example, American makers of spectacle frames stopped using celulose nitrate, which is a component of some explosives. But frames made of this substance, which bursts into flame at the touch of a lighted match or cigarette lighter, are imported into the United States at the rate of 250,000 a month.

One of the most troubling areas of evidence put before the Safety Commission concerned Underwriters' Laboratories, the private and prestigious nonprofit testing organization whose seal long has been taken as an assurance of safety from fire, shock and other injury. The UL seal is on about 500 different types of products made by more than 13,000 different companies, which in 1968 attached more than one billion UL seals.

UL's testing system has two "very serious defects," Chairman Paul Rand Dixon of the Federal Trade Commission said in a letter to the Safety Commission last June.

First, Dixon said, is UL's "inability to compel" submission for testing of all electrical products, including a large number of foreign-made electrical appliances. The second defect is UL's "inability to enforce its standards to the point of prohibiting unapproved appliances and devices from appearing on the market," Dixon said.

"Analysis of the 1966 UL records reveals that 24 per cent of new submittals failed to comply initially with the standards and that only 7 per cent of these were subsequently corrected," Dixon said. "Of those not corrected many were already on the market and were not thereafter removed."

The FTC chairman cited three additional factors that "work to render the UL operations less effective: undue industry influence" based on UL's complete reliance on fees from companies that use its services, "pirating of the use of the UL seal" and failure of large segments of the public to recognize the significance of the UL seal (which is sometimes put in an obscure place, anyway).

"In addition, UL tests only the finished product and does not examine its components," Dixon said. He pointed out that 100,000 UL-approved color television sets with defective tubes that allowed emission of excessive radiation "passed onto the consumer market without UL detection."

In Safety Commission hearings, witnesses have started fires and demonstrated other hazards with numerous UL-approved items, including a child's electric oven with an interior shelf that heated up to 600 degrees and a charcoal igniter with a design defect that could electrocute the user.

Many cases of UL-approved products that fail to meet UL standards have been reported by the magazine Consumer Reports, which often has found such standards inadequate to begin with.

Mrs. Knauer, President Nixon's adviser, told the commission of "my hope" that the affected industries will solve the problem "rather than await a legislatively imposed solution resulting from inaction."

But members of the commission privately express doubt, based on the evidence they have seen, that it is possible for business acting alone to solve the problem.

Already, the commission, in an interim report in February, has urged enactments of emergency amendments to the Child Protection Act of 1966 to curb an annual accident toll among children under 15 estimated at 15,000 deaths and 17 million injuries serious enough to restrict normal activity or require medical attention.

LEGISLATION LIKELY

The amendments would empower the Food and Drug Administration to ban articles posing hazards for children "associated with sharp or protruding edges, fragmentation, explosion, strangulation, suffocation, asphyxiation, electric shock, heated surfaces and unextinguishable flames."

Since the recommendation was made, legislation to carry it out has been endorsed by the Administration and introduced in the House and Senate. Chances for passage this year appear favorable.

As for the longer-range problem of standards, one solution under consideration within the commission would follow the pattern of some relatively new amendments to the Flammable Fabrics Act. Under this system, the Public Health Service keeps watch for flame injuries related to textile products. If any are identified, PHS at once notifies the Department of Commerce, which then determines whether to use its power to tighten existing safety standards or develop initial safety standards.

In other words, the Flammable Fabrics Act lets the Government move in when a hazard has been shown to exist and the industry has failed to correct it.

Applied to consumer products across the board, such legislation might spur industry groups—whose technical competence may well be invaluable—to act so as to minimize the possibility of Federal intervention.

Other approaches being considered by some members of the Safety Commission include governmental clearance in advance for safety of all products involving new technology as well as procedures under which any member of the public could challenge the adequacy of a voluntary safety standard or initiate

proceedings for noncompliance with standards.

[From the Wall Street Journal, May 12, 1969]

NEW AGENCY STRIVES TO MAKE LIFE SAFER IN AND AROUND HOME: IT PERSUADES, FORCES FIRMS TO ALTER DANGEROUS GOODS; TOYS AMONG 260 TARGETS

(By Ronald G. Shafer)

When a Pennsylvania housewife reached for some towels in her new stove's storage drawer, she got more than she expected. The drawer, which wasn't properly insulated, was red-hot, and she suffered second-degree burns on her hands.

A freak mishap? Perhaps. Nobody knows the exact scope of accidents caused by household products or how the causes stack up statistically. That's why Congress created the National Commission on Product Safety a year and a half ago. Now, after nearly a year's delay, the commission has begun the first comprehensive investigation of the hazards of household products. The Pennsylvania woman's nasty surprise is among the problems it has turned up so far.

When its survey is completed, probably in about a year, the seven-man commission will make recommendations to President Nixon and to Congress. But the agency has decided that consumers shouldn't have to wait for new safety efforts until all the statistics are in.

"We've rejected the numbers game. You can meet some problems without waiting for X number of people to be knocked off," says Arnold B. Elkind, a New York lawyer who is the commission's chairman.

PERSUASION AND COMPULSION

Through publicity and persuasion, the commission already has prompted several voluntary changes to eliminate apparent safety defects. The stove with the hot drawer was voluntarily redesigned by the manufacturer. Appliance makers have agreed to install door latches inside freezers to prevent entrapment of children. The American Gas Association will consider revising standards for gas-fired floor furnaces, which can cause burns.

In a few instances, the commission is turning to compulsion. The Federal Housing Administration has agreed to require nonshattering safety glass in sliding glass doors and glass panels of FHA-approved homes. The commission is seeking Federal legislation to ban the sale of toys with electrical, mechanical or excessive-heat hazards, and the chances of Congressional action appear strong.

Some commission members seem surprised by the cooperation received so far. "We've discovered it isn't too difficult to initiate changes," says Mr. Elkind. Thus far the general emphasis on prompt but voluntary safety action has won praise from consumer and business groups.

Some businessmen, fearful of a "witch hunt," were "concerned at first that the commission might come up with a lot of recommendations without getting the facts," says a woman at the Chamber of Commerce. But, to date, it has acted responsibly, she says.

"A HEAVY IMPACT"

"So far, it has been a good commission," says Erma Angevine, director of Consumer Federation of America, a coalition of 126 consumer groups.

But Consumers Union, publisher of Consumer's Report magazine, while applauding the commission's child protection amendment would prefer that the toys be required to be tested before being marketed. And many businessmen remain worried that the commission's actions may sooner or later cost them money.

A major public relations firm has told its clients that the commission's "early gropings indicate a heavy eventual impact on product safety, business costs, market competition and consumer relationships." The private memo cautions: "Obviously a balance must be struck between a desired safety level and the costs for achieving this, not only for the businessman who makes products, but also for the consumers—who in the final analysis pay the bill through their product purchases."

The safety commission is charged by Congress with identifying risks of household products and suggesting ways to protect consumers. It also is to study the effectiveness of current industry self-regulation and of present Federal, state and local consumer-protection laws. Basically, the commission's job is "to determine the who, what, where, when and how of it all insofar as accidental injuries and deaths are concerned," says William V. White, its executive director.

TWENTY MILLION INJURIES

The agency has a staff of about 30 and a $2 million budget for two years. Even so, its work is cut out for it. The U.S. Public Health Service estimates there are 20 million injuries and 18,000 deaths in and around U.S. homes each year. The commission will concentrate its probe on the safety of more than 260 products ranging from stoves, refrigerators and TV sets to power mowers, electric blankets and eyeglasses.

The safety of stepladders, wringer washing machines and eyeglass frames came under scrutiny recently at public hearings by the commission in Chicago. One witness, James E. O'Neil of the National Society for Prevention of Blindness, testified that many imported eyeglass frames are made of cellulose nitrate, a highly inflammable ingredient of some explosives. He told of a 69-year-old Ann Arbor, Mich., woman who died in a fire after her cigarette lighter ignited her eyeglass frame.

At the hearing, Mrs. Virginia Knauer, President Nixon's consumer affairs adviser, made her first official appearance and pleased Chairman Elkind with her tough talk. Among other things, she urged "a comprehensive system of safety standards" and "a system of identification, recall or correction of hazardous products."

If it's to finish its assignment, the commission probably will need more time. Its two-year study was to have ended this November. But the seven commissioners weren't appointed until last May, and the agency didn't get operating funds until last October. A bill just passed by the Senate would extend the commission's life to June of 1970, and the House is expected to pass it as well.

THREE TASK FORCES

The commission has divided its staff into three task forces to dig out facts on causes of household accidents, the adequacy of industry's safety standards and testing, and the effectiveness of consumer protection laws. One task force recently completed a survey in which 85,000 doctors were asked to report for a two-week period details of all cases involving injuries related to household products.

"This is the first time anyone has attempted to obtain, on a large scale, actual numbers of product-related accidents," says Dr. Samuel Southard, a pediatrician who heads the task force. Returns haven't been completely tabulated yet, but Dr. Southard expects to get reports from doctors on about 50,000 accident cases. The group also plans to survey 5,500 hospitals.

The seven commissioners, who continue to hold their regular jobs as well, take part in public hearings that are held about every other month. They receive $100 a day when they work. Besides Chairman Elkind, they are:

Emory J. Crofoot, senior deputy city attorney, Portland, Ore.; Henry Aaron Hill, president, Riverside Research Laboratory, Haverhill, Mass.; Sidney Margolius, consumer columnist for union publications; Michael Pertschuk, general counsel of the Senate Commerce Committee; Hugh L. Ray, director of the merchandise development and testing laboratory for Sears Roebuck & Co., and Dana Young, senior vice president of Southwest Research Institute in San Antonio.

In terms of accident prevention, the commission's major achievement to date probably is the new FHA requirement for architectural safety glass. The Public Health Service estimates that 100,000 persons are injured annually in homes when they crash into window glass, which often shatters into large, jagged pieces. At public hearings last January in Washington, the safety commission was told of several cases in which children were killed when they ran into closed, clear-glass doors that appeared to be open.

BLAMING BUREAUCRACY

Safety glass that crumbles into small fragments on impact has been available for some time. But it has been almost ignored by home builders because of lack of such a requirement by the FHA. At the hearing, the FHA was sharply criticized by the angered safety commissioners when an official defended the housing agency's position due to a lack of evidence of injuries from regular glass and the higher cost of up to $20 per installation for safety glass.

The FHA's position, fumed Commissioner Crofoot, was "probably bureaucracy as bad as I have ever seen it or heard it." The FHA subsequently switched its stand, and the move was officially supported by the National Association of Home Builders.

The commission's other major action has been its proposal to seek a new child-protection law. Going beyond an existing statute that bars sale of children's articles and toys made of toxic or flammable materials, the new law would apply to such dangers as explosion, strangulation, electrocution and cutting by sharp edges.

The proposed law stems from hearings in which the commission was shown dangerous toys purchased off store shelves. At recent Senate hearings, Chairman Elkind demonstrated some of them. One was a "Little Lady" stove which, when plugged in, heats to up to 300 degrees on the outside metal. Another was an infant's rattle that easily comes apart to expose three-inch spikes. Of special concern was a baby's crib with a lid; several babies have been strangled when their heads were caught between the lid and the crib's top rail, Mr. Elkind said.

The bill has been backed, with some reservations, by the toy manufacturers. In addition, it has drawn support from the Nixon Administration. Patricia Hitt, an HEW assistant secretary specializing in consumer protection, released a statement strongly supporting the proposed amendment.

The commission's final recommendations, still many months away, could range anywhere from proposals for more Federal consumer protection laws to suggestions for improved consumer education. It's known that some members are concerned about apparent weaknesses in industry's arrangements for recalling hazardous products and its ways of setting safety standards. There's a feeling, too, that there should be some sort of permanent product-safety watchdog similar to the commission.

THE INDIVIDUAL IN THE AREA OF FORESTRY

Mr. BROOKE. Mr. President, anyone who has visited the beautiful Berkshires of western Massachusetts cannot come away without a lasting impression of the magnificence of this sylvan countryside. These rolling hills and mountains are a

natural resource of which all Americans can be proud.

Unlike our great national forests of the West and the South, nearly all of the land comprising the Berkshires is in the hands of private owners, many of whom wish no more than a sanctuary from the more densely populated areas of the Northeast. Thus conservation and preservation of their beauty depends to a large extent upon the individual efforts of the area landowners.

Much attention has been devoted to the functions and responsibilities of both industry and government in sound practices of conservation. On the other hand, perhaps too little concentration has been devoted to the role of the individual, especially in such areas as forestry. Jeremiah J. Mahoney has pointed out in an article appearing in this morning's Wall Street Journal that many landowners seek to leave every tree on their land untouched in the erroneous belief that this is the soundest method of conservation. The result is often quite the opposite—upper growth of the trees becomes so dense that the lifegiving sunlight needed to maintain the undergrowth is shut off and this lower vegetation dies out. By not utilizing sound selective cutting practices long employed in State and National forests and on all timber company lands, the individual forest owner may actually be damaging the woods, he is trying so carefully to preserve.

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:

SHOULD THE WOODSMAN SPARE THAT TREE? NO, SAY NEW ENGLANDERS

(By Jeremiah J. Mahoney)

The New England countryside is among the most beautiful in the world. The gentle hills rise into rounded mountains. Glistening streams tumble down the rocks, then meander noiselessly through open fields. Deer lope through the meadows and graze at the roadsides. It is the land of Robert Frost and Henry David Thoreau.

It is also, increasingly, the retreat for harried city dwellers, who come to forget the jostling and the shouting of Monday through Friday. They come to unwind, to ponder and to breathe. They marvel at the natural beauty, and they wouldn't dream of changing it by cutting even one tree.

But, unknowingly, they are ruining the forests.

"Trees need to be cut on a selective basis to maintain a healthy forest and abundant wildlife," says William P. MacConnell, a professor in the forestry department at the University of Massachusetts in Amherst. Boston's Federal Reserve Bank, which reviewed the problem a while back, warned: "A forest allowed to grow and mature without any timber cutting becomes a biological desert."

If trees aren't thinned out, a thick canopy is built up that shuts off the sunlight, says Robert Eisenmenger, a forestry expert and economist at the Boston Reserve Bank. This prevents the growth of the low-level vegetation that wildlife needs for food and the underbrush that wild things need for nests and for camouflage.

"Deer, rabbit, grouse, pheasant and even the songbirds find it tough to live in this kind of environment," says Mr. Eisenmenger.

There wasn't much of a problem until the city folk started buying up the land. The natives would periodically log their forests. For one thing, they knew it was necessary. For another, they needed the money the trees would bring. (Though the money isn't much. At today's prices, a light cutting of mature trees brings only $30 an acre. And the cutting shouldn't be done more often than once every 10 years, experts say.)

THE NATIVES LOSE CONTROL

But the natives are no longer in control. One survey in western Massachusetts found that local farmers now own only about 13% of the area's wooded acreage. The rest has been sold to outsiders seeking weekend and vacation spots. "It's the affluent society—the increase in second-home owners" that's causing the problem, says the university's Mr. MacConnell.

The survey, in western Massachusetts heavily forested Berkshire County, found that only a fifth of the land owners had ever sold any timber.

The main reason the trees aren't cut is that the city people are just dumb in matters of forestry. Also, says Philip Ahern, executive director of the Berkshire County Industrial Development Commission, it's difficult to communicate with these land owners since their residences are scattered and they spend most of their time elsewhere. He adds, "A lot of the woodlot owners are people who just like to look at the trees. They feel guilty if one is cut down."

Even when told that their forests should be logged, some of the so-called summer people demur. "I enjoy walking in the woods and seeing the foliage, and I don't want to take a chance the land would be spoiled by cutting," says Raymond B. Seymour, a New York lawyer who has a summer place on 140 acres near Lenox, Mass., in the Berkshires. Besides, he says, "I wouldn't want the people across the valley to cut their trees and spoil my view, and I suppose they feel the same way about my land."

Other land owners just don't know how to go about cutting timber. "We considered it," says Dikran P. Donchian, a marketing official for Lever Bros. in New York who owns 40 acres near Lenox. "But we didn't know what to do. We didn't want the land slaughtered, and there was the problem of finding someone you have confidence in to supervise the cutting."

COMPETITION AMONG THE TREES

That is a problem, but foresters say the alternative—not cutting—is worse. They say it not only is bad for the wildlife but also is bad for the trees themselves. In uncut forests, they say, the trees compete with each other for growing space and sunlight. "If you don't thin them out, you wind up with two stunted trees instead of one healthy one," says one New England forester.

John J. Kelly, president of a logging company in Pittsfield, Mass., says that where fields aren't logged "trash trees"—aspen or gray birch—tend to crowd out the oaks, maples, pines and spruces. He adds, "Trees are like any other crop. They have to be harvested or they get old and die."

Natives say the problem is likely to get worse before it gets better. They point to the steady influx of city dwellers to New England. Though the natives tend to scoff at these people, they're not entirely unhappy. The city folks are willing to pay well for land. A real estate agent in the village of Goffstown, N.H., says he recently sold some land for $125 an acre, 10 times what it would have brought a decade ago.

An agent in Lenox, Mass., says prices there also have risen rapidly. "We can sell land on the telephone, sight unseen," he says.

THE PESTICIDE PERIL—XI

Mr. NELSON. Mr. President, last week a neurophysiologist from the Albert Einstein College of Medicine in New York City announced that DDT is unique among poisons because its effects are irreversible.

Testifying during hearings before the Wisconsin State Department of Natural Resources on a petition filed by various citizens groups to ban DDT, Dr. Alan Steinbach likened the effect of DDT to that of poisonous spiders or local anesthetics such as novocaine in that it disrupts the passage of an impulse along a nerve. However, whereas the effects of the other toxins wear off, DDT appears to be irreversible.

In laboratory experiments on insects and shellfish, DDT caused tremors and death or an inability to make a desired motion.

Additional testimony was heard from Dr. George Wallace, a Michigan State University ornithologist who described the decimation of robins on the East Lansing campus as a result of the school's use of DDT against Dutch elm disease.

In 1954 the school started spraying trees with DDT. Just a year later Dr. Wallace began noticing robins "quivering uncontrollably" and then dying. Chemical analysis found that virtually all of the dead birds had "lethal amounts" of DDT in their brains, Dr. Wallace reported.

Although the school stopped spraying with DDT in 1962, Dr. Wallace said that robins are still dying, probably because of the persistence of the pesticide in the environment.

The hearings in Madison, Wis., which began in December 1968, and closed last Wednesday after 27 days of testimony, have focused nationwide attention on the potential threat of DDT to our environment and our health. Dr. Steinbach and Dr. Wallace were just two of the many scientists, biologists, ecologists, and conservationists whose testimony confirmed the warnings that continued use of persistent, toxic pesticides will contaminate the total environment causing irreparable pollution of the land, air, and water, and compromising living creatures, including man.

I ask unanimous consent that articles published in three Wisconsin newspapers, the Milwaukee Journal, the Milwaukee Sentinel, and the Capital Times, describing the testimony of Dr. Steinbach and Dr. Wallace, be printed in the RECORD.

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

[From the Milwaukee (Wis.) Journal]

DDT PERMANENTLY INJURES LAB ANIMALS, HEARING TOLD

(By Whitney Gould)

DDT has irreversible effects on the nervous systems of experimental animals a neurophysiologist told the state Natural Resources Department Monday.

In the first day of rebuttal testimony for petitioners for a ban on DDT in Wisconsin, Dr. Alan B. Steinbach, a researcher at the Albert Einstein College of Medicine in New York, told how DDT disrupts the passage of an impulse along a nerve.

Steinbach outlined experiments, some going back as far as 1946, on cockroaches, lobsters, and frogs.

Given to cockroaches at low concentrations, the scientists said, DDT produces "re-

petitive firing" in the nerves: one impulse invokes a "volley of messages," rather than just one. The cockroach as a result, becomes disoriented, suffers tremors, and eventual death.

In other animals studied, the pesticide seems to prevent nerves from recovering their chemical balance once they have carried an impulse, he indicated. The nerve's sodium channels seem to be "gummed open" for a long time.

"DDT," Steinbach concluded, "once applied, doesn't come off. As far as our experiments are concerned at least, it is not reversible."

The researcher noted that the long-lasting effects of the pesticide, which is stored in animal fat, make it unique among toxic chemicals. Many other—local anesthetics, belladonna, some animal venoms—have reversible effects.

Some of the pesticide's effects may be "sub-noticeable," Steinbach added—that is, not readily detectable.

An illustration of how DDT can act as a nerve poison in nature was also given Monday by a Michigan State University ornithologist, Dr. George Wallace, who told of the decimation of robins on the East Lansing campus as a result of the school's use of DDT against Dutch elm disease.

The campus first began spraying its trees with DDT, Wallace recalled, in 1954. In 1955, he said, he began to notice robins quivering uncontrollably, and emitting "a rather pitiful sound."

"I watched hundreds of the birds die on my office floor," he said.

Chemical analysis found that virtually all of the dead birds had "lethal amounts" of DDT (50 parts-per-million or more) in their brains, he reported.

The campus stopped spraying with DDT in 1962, but the robins are still dying, Wallace noted, probably because they pick up the persistent pesticide in the soil and in earthworms. He said that only 12 robins were counted on the campus this spring, "on an area that supported 700 before."

Methoxychlor, another pesticide, has been used on the campus for the past several years. Asked whether that chemical could produce the type of robin tremors ascribed to DDT, Wallace said he had never seen a bird die from methoxychlor. That pesticide, he noted, however, is difficult to recover from the bodies of warm-blooded animals.

Some diseases also produce tremors in birds, Wallace acknowledged, but the robins were found with their wings folded between their legs and their bodies—a position that usually indicates DDT poisoning, the zoology professor stressed.

Steinbach, whose testimony followed Wallace's, said that Wallace's observations on the East Lansing robins "could definitely be accounted for" on the basis of DDTs known effects on the nervous system.

The DDT hearings were begun last December at the request of two state conservation groups, the Wisconsin Izaak Walton League and the Citizens Natural Resources Association, who have sought to show that the pesticide is contaminating state waters.

Chemical industry witnesses wound up their defense of DDT last week; the petitioners' rebuttal is expected to continue through this week.

[From the Milwaukee (Wis.) Sentinel]

EFFECTS OF DDT ON NERVES CITED

(By Quincy Dadisman)

MADISON, WIS.—A neurophysiologist from the Albert Einstein college of medicine in New York city said here Monday that DDT is unique among poisons because its effects are irreversible.

Alan Steinbach, a researhcer who specializes in neurology, testified as opponents of the pesticide opened their rebuttal at a natural resources department hearing on a petition calling for banning DDT in Wisconsin.

Steinbach traced the ways nerves work, telling how passage of sodium or potassium ions through "channels" in a membrane causes a batterylike action that produces an electric current.

TRACES DDT EFFECTS

Ordinarily, he said, the channels open when something stimulates the nerve, the current is produced and then the channels close again ready for a new impulse.

DDT, he said, causes some of the sodium channels to remain open for longer than is normal, slowing response of the nerve if a new stimulus is received.

So far as he knows, he said, the effect of DDT cannot be reversed, "unlike other toxins." The effects could be so small that they are unnoticeable, or so serious as to cause tremors or paralysis in some animals, he said. The length of time the channels are kept open, he said, is probably a result of the high solubility of DDT in lipid (fat) tissues and its low solubility in water.

He described nerves as a "bilaminate structure," composed of outer and inner layers of protein sandwiching a lipid layer.

The effect of DDT on the nerves, Steinbach said, is much like that of poisonous spiders or shellfish, curare or local anesthetics such as novocaine. It differs in being irreversible, he said, while the effects of the other toxins wear off.

The effect of DDT on nerves, he said, is most like that of beratrine, the active element in belladonna, a drug often used as a heart stimulant and in treating some eye disorders.

PROCESS "COMPLICATED"

The effects of belladonna, however, wear off after a time.

Study of the process is complicated, Steinbach said, by the fact that the "gumming open" of the sodium passages is not an immediate result of DDT poisoning of the nerve, but shows up only after the nerve is stimulated and the channels open naturally.

A practical description of DDT poisoining was given by George Wallace, a zoologist and ornithologist at Michigan State university, East Lansing, Mich.

Wallace told how the numbers of robins on the campus at the school had dropped off since DDT was first used for control of dutch elm disease in 1954.

In 1955, he said, he began to see robins suffering from tremors—uncontrolled shaking of their wings and legs.

ROBIN DEATHS STUDIED

He said MSU was co-operating in a study of robin deaths as a result of tree spraying, and "hundreds of robins have died on the floor" of his office after being brought to the school by individuals who found them ailing on the grounds.

He said dead robins were autopsied and tissue from their brains, breast, muscle, liver, hearts and gonads (sex organs) was analyzed for pesticide residues.

He said no correlation was found in any of the analyses for DDT levels except in brain tissue, where most birds showed levels of 50 parts per million or more of DDT.

UNUSUAL EFFECT NOTED

He said several bird diseases, Newcastle disease, avian encephalitis and wry neck, would cause similar symptoms, although tests on many of the birds had ruled them out. DDT poisoning caused birds to die with their wings held in an unusual position between their legs, he said.

Robins can accumulate a lethal dose of DDT six or seven years after it is last used for tree spraying, he said, and the robins which show up on the campus each spring are yearlings, moving into an area where older robins have been killed off.

[From the Milwaukee (Wis.) Journal, May 20, 1969]

DDT TERMED HARMFUL TO ANIMALS' NERVOUS SYSTEMS

(By Richard C. Kienitz)

MADISON, WIS.—DDT has the same effect on the nervous systems of shellfish, amphibians and animals as curare, novocaine, black widow spider venom and other toxins, a New York neurophysiologist said here Monday.

Alan B. Steinbach of Albert Einstein school of medicine said the big difference was that in demonstrated periods of time the DDT effect was irreversible.

The noticeable effect from these toxicants, he said, is tremors and death or an inability to make a desired motion (sort of paralysis).

Since DDT does not seem to turn off, it can easily have what could be called subnoticeable effects, he added.

In some cases, like experiments in cockroaches, Steinbach said, the blockages caused repeated firings of impulses that exhausted the victim to death. In others, it caused failures or delays of the impulses to trigger normal actions.

While experiments had not been performed on man because of the tininess of his nerve fibers, he said, the difference of effect should not be different between higher mammals and amphibians, like frogs.

Steinbach testified as the second rebuttal witness for the anti-DDT forces at a natural resources department hearing on whether DDT can be banned under Wisconsin water law.

Monday was the 25th day of the hearing being held on a petition for a declaratory ruling made by the Citizens Natural Resources association.

Earlier, zoologist George J. Wallace of Michigan State university testified that after DDT was sprayed at the MSU campus for Dutch elm disease control, the number of robins counted in May dropped to 20 or fewer compared with 700 in 1954.

Even six years after use of DDT was stopped, he said, three-fourths of the new robins that came in spring were dead by the end of April and all gone by the end of June.

He said that when the deaths first began, people brought birds to his department, some dead and some making pitiful yipping sounds and having tremors. They usually died in a few hours.

In 99.5% of 200 robins and 216 other birds studied, Wallace said, DDT was found in their brains, breast muscles, liver, testes or ovaries. As a control, he said, robins taken from a DDT free sanctuary had none at all.

THE TRANSPACIFIC ROUTE CASE

Mr. MAGNUSON. Mr. President, in an expression of great concern, the members of the legislature from my State recently voiced their concern on the matter of the transpacific route case.

In a joint memorial to the President and Congress, the Washington State Legislature has urged reconsideration of the decision which eliminated from consideration, competitive air service between Seattle/Tacoma and Tokyo—a route the transportation authorities agree is the most direct and economical between the U.S. mainland and the Orient.

Mr. President, I ask unanimous consent that House Joint Memorial 21 of

the Washington State Legislature be printed in the RECORD.

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

HOUSE JOINT MEMORIAL 21

To the Honorable Richard M. Nixon, President of the United States, the Department of Transportation and the Civil Aeronautics Board:

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

Whereas, The Pacific Northwest Ports of Puget Sound, State of Washington have been historically closer to the Orient over great circle routings than any other United States ports in the contiguous forty-eight states; and

Whereas, The Seattle-Tacoma International Airport now shares this unique position as an aerial port for movement of passengers and cargo; and

Whereas, Air passenger transportation has already largely replaced sea transportation and air cargo and air mail transportation is growing faster than any other segment of the explosive air transportation industry; and

Whereas, The potential for air transportation of passengers and mail and cargo between the United States and the Orient is virtually untapped and will undergo unprecedented long range growth and development, by the most conservative predictions; and

Whereas, Air transportation is undergoing rapid technological change which now as never before and in the future will encourage passenger, mail and cargo transportation over the shortest, most economical, great circle distance between the major aerial ports of the United States mainland and the Orient; and

Whereas, President Nixon recently recommended that the Civil Aeronautics Board eliminate from consideration competitive air service between Seattle/Tacoma and Tokyo, the shortest and most direct route linking major cities on the United States mainland with the Orient;

Now, therefore, your Memorialists respectfully pray that franchises for both United States domestic and foreign-flag carriers will be approved and issued to promote the greatest possible competition over over the shortest, most economical route for passengers, mail and cargo between the United States mainland and the Orient. This is the route between Seattle-Tacoma International Airport and Tokyo, Japan and other major oriental air gateways.

Be it resolved, That copies of this memorial be transmitted to Richard M. Nixon, President of the United States, John Volpe, Secretary of Transportation, the Members of the Civil Aeronautics Board and each member of Congress from the State of Washington.

WILLIAM H. BROWN III, NEW CHAIRMAN OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, "CAME UP THE HARD WAY"

Mr. SCHWEIKER. Mr. President, on May 5, the Senate confirmed President Nixon's appointment of William Hill Brown III, of Philadelphia, to be a member of the Equal Employment Opportunity Commission. Following this action, President Nixon promptly named Mr. Brown to be Chairman of the Commission.

As one who was happy to help sponsor Mr. Brown before the Committee on Labor and Public Welfare and before the Senate, I am extremely pleased with this high caliber Federal appointment. We in Pennsylvania can be proud of Mr. Brown as a fellow Pennsylvanian, and the entire Nation can look forward, I know, to his strong leadership in the fight for equal opportunity in employment.

Because Mr. Brown himself "came up the hard way," because he has known poverty and discrimination first hand, we can expect him to pursue his duties with particular commitment and vigor.

A background profile of Mr. Brown, which describes in some detail the barriers of discrimination he has had to face in the past, appeared in the Philadelphia Inquirer on May 11, written by Jerome Cahill of the newspaper's Washington Bureau. In view of Mr. Brown's appointment to lead the Equal Employment Opportunity Commission, I know that Senators will find this profile extremely enlightening and relevant. I ask unanimous consent that it be printed in the RECORD.

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

WILLIAM BROWN FOUND SUCCESS THE HARD WAY

(By Jerome S. Cahill)

WASHINGTON, May 10.—William Hill Brown 3d, President Nixon's new chairman of the Equal Employment Opportunity Commission, came up the hard way.

The slender 41-year-old attorney grew up on the edge of poverty in West Philadelphia three decades ago, one of six children of a Negro elevator operator who had to hold down two jobs to provide for his family.

While other kids in the neighborhood romped and played, Bill Brown peddled magazines door-to-door to help make ends meet. In high school, he clerked at the corner drugstore. In college he drove a cab and delivered mail.

OWN WAR WON

Today, Bill Brown has won his own private poverty war. He is the $38,000-a-year head of the Federal Government's program to achieve fair hiring practices.

Unlike some others who have risen from austere origins, Brown does not belittle his Philadelphia experiences. In fact, he believes they may provide him with the extra dimension needed to do the kind of job he wants to do as EEOC chairman—a job in which he hopes he and every other American can take pride.

Brown explained the values he places on the past in an interview in his carpeted 12th floor office just west of the White House. Large glass windows behind him provided a panoramic view of the Potomac and the distant hills of Virginia.

UNDERSTANDING GAINED

"I think growing up in West Philadelphia as I did has given me a greater awareness and understanding of the problems of the poor, something I personally experienced so vividly so many times," he said.

"As for discrimination, today it has become a very sophisticated thing, not as open and blatant as it used to be, and therefore many people lacking sensitivity to the problem would fail to see it. I think I have that sensitivity."

The EEOC chairman is the eldest son of William Hill Brown 2d, who came to Philadelphia more than 40 years ago from the Eastern Shore of Maryland, and the former Ethel Washington, whose Philadelphia roots go back several generations.

Brown's father is an elevator starter at Wanamakers, the center city department store where he got his first job and where he has been employed continuously except for a period of defense work during the Second World War.

MAGAZINE TRADE

Brown was born at the family home at 5832 Haverford ave., and this was home base for the magazine route he undertook as soon as he was old enough to do his bit for the family. The big seller in those days was Bernard McFadden's Liberty magazine, and you got to keep five cents for each issue you sold, Brown recalls.

During his years at Central High School, Brown clerked at Doc Gibson's drug store at 43d and Fairmount. He confesses to having been "just fair" at school work.

When he was a senior at Central, Brown decided to apply for the Navy's V–12 program of pilot training even though his counselor advised him that the Navy would not accept Negroes. He passed a battery of 30 examinations only to be told he had failed to pass the last exam—a "psychological" test.

"That was one of the first things that brought discrimination home to me. I wanted no part of the Navy after that," Brown said.

The Air Force, which signed him to a three-year enlistment in 1946, didn't prove to be much better. The services were still segregated then, and the attitudes of officers reflected the policy.

"When I was interviewed for Officer Candidate School a Southern colonel asked me if it was fair that I should become an officer when it took him so many years to become one," said Brown.

"In those days I was kind of flip. I wasn't thinking too clearly. I replied that some people are able to do in a few months what it takes others years to accomplish."

Brown didn't get the OCS appointment. And although he qualified for specialized training in any of the Air Force schools, he was told that only three schools were open to Negroes—cook, clerk and automechanic.

He became a mechanic and as a corporal headed the motor pool at an air ammunition depot on Guam. His promotion to sergeant somehow never came through but three months before his enlistment was up, he was notified he could go to OCS if he agreed to enlist for three more years.

Brown took his discharge instead, considerably embittered by his experience.

After graduation from Temple University in 1952, he enrolled at the University of Pennsylvania Law School, driving a cab at night and working in the Post Office to supplement his GI bill of Rights grant.

He was married while still in school to the former Sonya Brown, of Atlantic City (they have a teenage daughter), and in 1956 joined the law firm of Norris, Green, Harris and Higginbotham as a trial attorney.

The Higginbotham in the firm is judge of and under his tutelage Brown found himself involved in a number of civil rights cases, including the litigation in the early 1960s to force restaurants on U.S. Route 40 in Maryland to serve all races. The restaurants had created an international flap by refusing to serve Black African diplomats traveling between New York and Washington.

Brown was the managing partner of his firm, with a record of having handled more than a thousand trials, when he became deputy district attorney of Philadelphia last year.

Brown was approved by the Senate last Monday and was sworn in at the White House the following day, with President Nixon looking on.

EEOC has been criticized by conservatives led by Dirksen for alleged "harassment" of businessmen, but Brown disagrees with that allegation. He wants to strengthen the commission by giving the panel a larger investigatory staff and legal power to order firms not to discriminate.

The record of his nomination hearing contains this exchange with Sen. Edward M.

Kennedy (D., Mass.), assistant majority leader and one of the Congressional Democrats who have been critical of the Nixon Administration's civil rights effort.

Q. Are you prepared to stand up to any challenges aimed at weakening the EEOC or its important programs?

A. Yes. I am dedicated to both the spirit and the concept of the work of EEOC and would resist any challenges aimed at weakening this agency or its programs and continue to do everything possible to accelerate the ends of justice.

He is optimistic that Congress will vote to strengthen EEOC this year because there is a growing awareness on the part of the public of the need for effective measures to meet the nation's race problem.

"More and more people are beginning to realize that employment is the key," he said. "They are aware of the widening gap between the races and that only a concerted effort through the job sector will close it."

THE HAZARDS OF SMOKING

Mr. MAGNUSON. Mr. President, statistics about smoking are one thing, but the experience of a doctor involved in treating cancer is quite another. Dr. Willard F. Goff of Seattle has written me a very disturbing letter; it is one that all teenagers should read. I ask unanimous consent that it be printed in the RECORD.

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

SEATTLE, WASH., *May 13, 1969.*

Hon. WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR MR. MAGNUSON: As a physician, I am very much disturbed by the fact that our government is somewhat reluctant to take adequate steps to warn our citizens, and particularly our young people, of the hazards of smoking.

As a throat surgeon, it has been my unpleasant duty over the past 30 years to treat over 100 patients with cancer of the voice box. Well over 75% of these patients were long time smokers. Teen-agers should be informed by official sources in our government that smoking is dangerous and its cumulative effects may not show up until middle life, when the damage has already been done.

Far too many people needlessly have to sacrifice their larynges or lungs when an ounce of prevention would have saved a pound of cure. The individual who has undergone a surgical removal of the larynx has to reorient his entire life, i.e., learning to communicate, to breathe through his neck, and frequently to change his occupation.

I urge you as a leader in our government to exert greater pressure in passing stronger bills with teeth in them to discourage young and old alike from starting the tobacco habit.

Very sincerely yours

WILLARD F. GOFF, M.D.

WILLIAMS PEERLESS AS A WATCHDOG

Mr. GRIFFIN. Mr. President, the Washington Star recently paid high tribute to the extremely able Senator from Delaware (Mr. WILLIAMS). Characterizing this remarkable Senator as unchallenged "when it comes to integrity, persistence, and the ability to root out waste and corruption," the Star took note of what his colleagues have known for quite some time; namely that JOHN WILLIAMS is an exceptional Senator.

Mr. President, I ask unanimous consent that the article, written by Paul Hope, of the Washington Star, be printed in the RECORD.

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

WILLIAMS PEERLESS AS A WATCHDOG

(By Paul Hope)

Sen. John J. Williams is, by virtue of the alphabet, at the bottom when the roll is called on the Senate floor. But when the roll of the Senate great is called up yonder, the soft-spoken chicken-feed merchant will be near the top of the list.

There have been great orators in the Senate, but Williams is not one of them. There have been great intellects, but this simple, homey man from Delaware would not claim to be one of them, either.

But when it comes to integrity, persistence and ability to root out waste and corruption, Williams is unchallenged.

In a city where a jackass mentality is not uncommon, Williams' possession of an uncommonly large amount of horse sense has stood out.

It was with a sense of loss that senators arose on the floor the other day to take cognizance of Williams' 65th birthday (on May 17), for Williams has said he's getting too old to serve and plans to retire when his term is up at the end of 1970.

The details of Williams' accomplishments need no recounting. His pursuit of wrongdoers—from bribe takers in the Internal Revenue Service to the free-wheeling Senate aide, Bobby Baker—is well known. His pursuit of wasteful government spending is less well known to the public, but it is recognized by his colleagues and others who follow government.

Said Senate Republican Leader Everett M. Dirksen of the work Williams has done as senior Republican on the Finance Committee:

"I should observe that he has faithfully done his homework in a field which is abstruse at times and which others do not freely like to tackle, and that is the question of ceilings on expenditures, ceilings on employment, fair and equitable tax systems and all the other things to which a person can give a lifetime of attention without also being encumbered with any other public responsibility."

Senate Democratic Leader Mike Mansfield called Williams a "giant" whose place will be hard to fill.

"I must say, speaking non partisanly, that I am not happy that the senator has seen fit not to run for re-election," said Mansfield.

Senate Republican Whip Hugh Scott called him the "watchdog" of government, not only of the other branches but of the legislative branch in which he serves—"a watchdog with teeth, I might add."

"It would be difficult," said Wyoming Republican Sen. Clifford P. Hansen, "for anyone to attempt to put a dollar sign on the contributions John Williams has made through his never-ending search for an end to wastefulness and graft and for economy, or to assess how much he has contributed to this country."

Democrat Russell B. Long of Louisiana, chairman of the Finance Committee, said that Williams "has failed to convince me . . . that he is doing the nation a favor by insisting on retiring . . ."

And Sen. William Proxmire, Wisconsin Democrat, said he hoped "this remarkable man will reconsider his decision to retire."

But Williams, who believes that no man should serve in the legislative or judicial branches of government beyond the age of 70 (he would be nearly 72 at the end of another term), says there's no room for argument about his decision.

"I am a firm believer that a man should live by the rules he lays down for others," he said. But he said that while his decision to leave the Senate is final, it does not mean he is retiring from an active interest in public affairs.

He recalled that before he was elected to the Senate in 1946, he and his brothers had an active business career together for 24 years. When he leaves the Senate, he will have served 24 years there.

"I am going to start one more career," he said, "I shall not go into details now, but I plan on one more career of 24 years of active duty, following which, and only then, will I retire and take life easy."

Those who have watched Williams at work in Washington know he will never take life easy.

THE ROLE OF NEWSPAPERS IN OUR SOCIETY

Mr. RIBICOFF. Mr. President, Charles Towne, assistant managing editor of the Hartford Courant, of Hartford, Conn., recently gave a thought-provoking speech concerning the role of newspapers in our society and the responsibilities of those who read them. These days the media are constantly being challenged to communicate effectively developments as they take place. Charles Towne is well qualified from experience and ability to assess specifically the functions of newspapers and their impact on our daily lives.

I ask unanimous consent that the speech be printed in the RECORD.

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

JUST WHAT ARE NEWSPAPERS TRYING TO DO?

One of the minor conceits of life is to put a title on a talk. Sometimes the title is much better than the talk itself. Or else the talk has precious little to do with the title. But at this hour of the day, maybe I can get away with it.

My title is a question: Just what are we trying to do?—we, of course, being the newspapers. Well, we wonder about that ourselves.

This is not self-impeachment. When we wonder about what we are doing, it's done positively. It's self-appraisal, not doubt.

And I'd say it's time for many newspaper readers—perhaps you—to wonder in the same manner about your posture—possibly to stop regarding a newspaper simply as a cheap source of entertainment—a time-passer—or as an easy, painless way to feel constantly superior because the paper daily depicts so much that is defective.

This is wasteful and self-deluding. Certainly a newspaper has a higher purpose and use than that.

To answer my own question—what are newspapers trying to do—I'd like to talk about three things:

One—What should you expect of a newspaper?

Two—What is your responsibility as a reader?

And finally—How well are we both doing?

In between, I'd like to say a word or two about clubs. And I have in mind two kinds of clubs—the kind you belong to, and the kind you swing when you mean business.

I'm not an apologist for newspapers. A newspaper—just by being one—justifies its form and function. At the same time, I am appalled by some of the sick things reported in newspapers. And it's getting worse, not better. But keep this in mind—this doesn't have to be. Human sensibilities, I'm sure, won't endure such assaults forever. I'll come back to this.

All right. So what is a newspaper's job, what is your job, and how well are we both doing at our respective chores?

Fundamentally, a newspaper's job is to provide information, instruction, and—as a sort of bonus—entertainment.

All this should be accurate, complete, and in good taste. That's our job. When I get to yours, you'll find it infinitely more exacting, time-consuming, and difficult. Frustration-wise, we're about even.

Our main job is to keep you informed—whether you like it or not. And I submit that being adequately and accurately informed is the foremost need of anyone who attaches worthwhile values to himself and to society.

I know that statistics are unwelcome calories in a talk, but these are good figures, and shouldn't be at all out of place in this gathering.

In a year, The Courant puts about 27,000 pages into your home. On these pages—and I'm skipping the comics—we put well over a hundred million words to keep you informed. That would make about 1,700 good-sized books. And regarding smudgy newsprint, believe me, we *are* trying to direct all this vital information to your mind only, and not waste it on your hands and best linen.

I don't want to alarm you—or precipitate any garden club movement against us—but the fact is, to provide the wood pulp for the paper we used last year, somebody had to cut down 332,000 trees. Those trees deserve a better fate than some readers accord them.

Perhaps some of you are mothers of morning newspaper carriers. You might derive some needed strength from the knowledge there are now 3,300 wonderful mothers like you in the same boat—helping us get The Courant and all those trees delivered each morning. And by each morning, I mean seven days a week. We don't go for that "Never on Saturday" routine—although we won't mind if others continue to abjure.

That reminds me. Another Sunday paper has cropped up around here. If it survives, the Boy Scout paper drives in these parts will be truly staggering. The country, by the way, now has 574 Sunday papers and 1,749 dailies to read.

Now, that's a lot of newspapers, but the job is big: We are trying to tell 200 million people every day where they and their neighbors have been—where they are now—and where they appear to be going—and at the same time give you similar intelligence about at least 3½ billion other people around the world.

Over the years, we've been called many things. One I can mention.

A newspaper has been described as a mirror reflecting the image of society. Disparagers would have you believe the newspaper mirror is like a funhouse mirror, throwing back a distorted, grotesque image of your world.

It may be grotesque but it is not distorted. Newspapers value integrity, honesty, fairness, decency. They give you the picture in faithful detail. If it offends, don't break the looking glass. Instead, demand that society—the world—get a new form and face.

Some people just don't want to be reminded—as newspapers make it a point to remind you—that we still breed and develop monsters, and what's worse, they appear as human as you—until they strike.

Fortunately—and for some time now—newspapers have been leading people through—and perhaps out from—the badlands of disease, poverty, discrimination—and just because these areas are no longer uncharted, they are less fearsome than before.

This is what you should expect from your newspaper.

No good newspaper serves up blood, sex, and matters profane merely to get readers. That kind of reader can find plenty of source material these days without newspapers adding to the supply gratuitously.

The reader we try to cultivate—and keep—is well enough adjusted to receive and accommodate a full dose of what the world is like—its good and its bad—what is hopeful and what's hopeless.

Our favorite reader doesn't see a world full of saints because he chooses to block out the sinners. Actually, we have it officially now there are even fewer saints than we thought.

Our favorite reader may even conclude that the world is getting top-heavy with sinners, and try to do something about it.

A newspaper never omits facts deliberately to slant or distort a report, or to cheat a reader out of desired or desirable information. No, I'll take that back. We do cheat on occasion—like when a young girl wins a beauty contest, and we deliberately leave out her address so some lout won't be able to call her up and make obscene remarks.

Newspapers exist for the public—for you, and to a large extent at your bidding and pleasure. No newspaper ever became great by serving only special interests; on the contrary, it would quickly fail.

Newspapers, generally speaking, are old, and the fact they have thrived over the years must mean we're doing more than just something right—we must be doing a lot of things right. And speaking of old papers, it's no secret The Courant will be 205 years old come October.

We've catered all this time to what man once optimistically called the gentler sex. You may have heard of it. Our pre-mini preoccupation is one of the things we've done right. A hundred years ago we ran a regular column called Letters from the Ladies. After the first few letters, it was deemed advisable to start the column with a statement that The Couran assumed no responsibiliy for the opinions advanced. Just something else we did right—finally.

And it so happens that exactly 50 years ago today—on May 12th, 1919—about 200 women met at the Hartford YWCA—they met in the evening in those days—and they formed the Hartford Business and Professional Woman's Club. I mention this to show The Courant is no Johnny Come Lately in the women's club field. In reporting that meeting, we devoted a good part of column 2 on page 6 to the hopes and aspirations of the new women's club. And to its first fight. Even before the meeting started, the group squared off into two factions—one wanted a membership fee of $3 and the other insisted it be at least $10. We gave the hassle considerable space, but somehow we never did get around to telling who won.

On the same day—50 years ago—we reported the Garden Club of Hartford had been admitted to the Garden Club of America. I tell you, we covered club news in those days.

We still value club news. For instance, when we print a three-column picture of a club event or club personalities, it takes at least 15 inches of space—which is more space than we devote sometimes to Vietnam or to the Congress of the United States.

All my newspaper career I've dealt with publicity chairmen—I still retreat strategically. Every organization has a publicity chairman. None ever has a news chairman. I once asked a club president why and got this memorable answer: What in the world would a news chairman do? Fairness compels me to add—the remark came from a man.

Hand in hand with publicity chairmen go scrapbooks. Now, I've never comprehended the exalted nature of scrapbooks. A scrap very often is something rejected for some fault or imperfection, or discarded because no one has any use for it. I'd rather not believe that newspaper items qualify on those terms.

Some years ago, a newspaper editor was asked to judge club scrapbooks in a statewide contest. He told me afterwards there were two things he'd never understand: Number one, how did the publicity chairmen get so much stuff in the papers, especially his, and number two, why didn't someone try to hide—at least from him—the fact that scrapbook decorations counted heavily in the judging—almost as much as the contents.

There is a serious—and practical—side to all of this. I think you would be the first to agree—in fact you demonstrate—that no one should be content today merely to coast. So much lies ahead and a lifetime is so short a time in which to gain some uphill ground toward our many goals. Probably never before has so much depended upon steady plodding toward higher plateaus—ideally with lots of company, alone if need be.

To this end, may I suggest a guideline or two which I think would help clubs like yours and newspapers like mine to build better communities—better human relations—a better world even.

It's a simple suggestion. When you have something you think should be put in the paper, ask yourself: Is this something I would be interested in if I were not connected with it?

Put another way: Is this something your contemporaries generally could be equally interested in and proud of?

If this test were followed, two things would happen. Items of obvious limited interest would be reduced, and second, the caliber of club items would immediately improve—club items would become truly news. Suddenly, there would be news chairmen. We could retire the publicity chairmen.

There could be further benefits. Honest self-appraisal would determine whether the so-called publicity was merely self-serving, and of no consequence to others. If everything seemed to sag or flutter into this narrow frame, an organization could well be shamed into revising and expanding its objectives and contributions—to make itself worthy of the word organization.

In short, if all organizations devoted their energies to activities of wide benefit and interest—measured by the simple test of who cares or so what—more things that need doing would begin getting done.

Incidentally, I'd like to tell you one reason why we're particularly partial to women at The Courant—beyond the evidence at hand. I'm going to reach back a few years—actually, into the 18th Century.

The Courant in those days had a paper mill in East Hartford, and in 1778, it burned. We suspect the Tories set fire to it, but we haven't proved that yet.

At any rate, our publisher 191 years ago went to the State Legislature and persuaded the lawmakers to authorize a lottery for The Courant's benefit, so we could rebuild the mill—6,000 tickets at $6 apiece; $5,000 for the mill and $31,000 for prizes.

Only a woman could have pulled off that stunt. Our publisher was Hannah Bunce Watson, the young widow of our second publisher, Ebenezer Watson.

This mill, by the way, gave us what we call our Blue Period. We used rag paper in those days, and when someone dumped a load of blue denims into the mill, the batch of paper came out with a blue tinge. We haven't yet mustered up the gall to claim we were the first paper to use color.

I might add here too that women publishers are not as rare as you would expect. And the job seems to agree with them. One was a publisher for 51 years and lived to be 103—she died just recently—in Kendallville, Indiana.

Separate worlds—man's and woman's—are now officially things of the past. The Minneapolis Star has a full-time girl reporter covering big league baseball, all four feet 11 inches of her. And in Hamilton, Ontario, the editor of the Women's Page is a man. I don't know precisely what kind of training this

calls for, but I do know that before he took over the Women's Pages, he covered football.

My digression ends here.

Perhaps I generalize too much about what newspapers do. If so, it's because what we print is obvious; the underlying spirit is not so obvious.

The newspaper per se—its news columns and advertising—is tangible enough—especially when you're picking it up all over the house. Normally, its standards are apparent to the discerning reader. Its quality is less easy to assay. Newspaper quality is comparative—between one paper and another. It varies, you might say, in direct relationship to the quality of its readers or the community it serves.

What isn't so apparent is what motivates dedicated newspaper people—the thing that keep standards and quality high. Only our news type is made of lead, not our ideals. These are as precious as any perfect achievement—like being always right, always fair, always decent, always honest—the emphasis being on the impossible always. But the ideal keeps us trying to make it as nearly always as humanly possible.

I once got even more pretentious about newspaper ideals. I quoted O. Henry who had written something like: He who aims at the sun will never reach his mark, yet he will always shoot higher than he who aims at a bush.

For my purpose, this seemed quite appropriate—at least until a scholar—but no gentleman—shot me down. He quoted a much more prestigious source. Euripides, I was told flat out in public meeting, got this off: Slight not what's near through aiming at what's far.

Lately, I've been saying only that we write about everything under the sun, and beat a lot of bushes doing it.

Be that as it may, in deference to Euripides and other classic considerations, we do give you tangibles—significant information about health, religion, education, finance, women's clubs. We tell you what your government is doing at all levels, and take you—kicking sometimes—to the trouble spots of the world.

We keep you informed about business, industry and labor, and give you an embarrassing amount of impertinent information about the celebrities of our time.

We promote the arts and puff along after the sciences. We offer suggestions for recreation and leisure and tips for efficient living. We tell you who has died—who has been married—and then help you check off the babies.

And lest you get the fatal idea that all is sweetness and light. we also give you accounts of things that scare you and turn your stomach—as they should.

The series of articles we ran recently on the use of drugs in school circles shows what a newspaper does over and above reporting daily happenings. I hope you were interested in these revelations—and concerned. Perhaps you'd like to know how it came about.

It started with a baby sitter. One of our town correspondents discovered that her baby sitter was using marijuana. The town reporter—besides trying to give her sitter some motherly advice—also saw a story possibility. How many other kids in town were also fooling around with drugs? She asked the baby sitter to find out. The girl came back with a figure of 82.

The reporter then wrote up what she had learned, and turned it in to her editor. But The Courant thought—why limit this to one town—let's widen out and see what is going on around here with teen-agers and drugs.

A city staff reporter was given the assignment. First, he went to the State Police and asked what towns had problems with teenagers using drugs. The answer: You name it, it's got it.

We consulted with the police and others, and drew up a list of 12 towns in the Hartford area—your towns. We also compiled a list of control questions so that comparable data could be developed in each town.

The reporter then went into each of the 12 communities. He talked with parents and police, and more importantly, with officials or group leaders considered to have the closest contact with youth.

He found more closed mouths than open arms. Prying the lid off Pandora's Box doesn't win popularity contests.

The reporter spent more than a month winning confidences and checking information. He talked with 60 or more persons—including a number of youngsters who were actually using some form of drugs or narcotics.

We didn't foresee his toughest problem—how not to get emotionally involved in the situation. One police officer told the reporter: I've yet to see a dope user who wasn't the nicest person you'd ever want to meet. The policeman cautioned, however, that once you let this feeling influence you, you can't get tough enough really to help him.

Naturally, we react sympathetically when somebody is sick or helpless. A reporter's unique problem—in all cases—is to prevent sympathy from washing out what has to be a dispassionate, almost stern approach and attitude.

The drug articles did create a wave. They focused attention on something which had gone unnoticed and unchecked for far too long. Among other things we turned up—parental ignorance and disinterest were factors in many cases. The kids just got an extra bang out of leaving pills and what they call grass—marijuana—around the house—with mama and papa blissfully unaware of what was being flaunted in front of them.

A woman called the reporter after the series ended and asked: What are you going to do now? She insisted that since we had uncovered the mess, we had to clean it up. The reporter was not flattered. He invited her to come to The Courant with some friends to try to plan some action. We never heard from her again. And we are sorry we didn't.

Why are we sorry? One reason is a dead youth. The wave we created just didn't rise high enough to put him on safe ground. He went from glue sniffing to more powerful hallucinogens, took a bad trip and never came back. Now his family knows it was no phase he was going through—it was his life, and it ended with a bullet at age 16.

It is with this kind of reporting that we try to stir community action. Newspapers search out and dramatize countless needs which cry for action—whether it be remedial, protective, progressive, or compassionate—and if action is not forthcoming, the blame is on your head. We've told you what is going on. That is our job.

We have just printed a series of articles on the violence and disruption on American campuses. One of the writers—not ours, we bought this material—one of the writers visited more than 100 colleges and universities in the past four years. We believe in this kind of investigation. The articles told you that the campus will never be the same, and that not all the ferment is due to radicals. You were told that many student leaders are demanding only that higher education try harder to help students find real values in an increasingly technocratic society.

Do you fault them for this—or do you support them? Newspapers try to give you facts upon which you can make an intelligent judgment. This is our thing.

It's not enough to match wits with Ann Landers, or to find pride and self-satisfaction by comparing our privileged selves with the less favored. As citizens and as human beings, we have no right to relax while we can still see before us—unsolved—the problems of the ghettos, air pollution, water pollution, employment, housing, transportation, taxes, and as always—war, and the threat of annihilation.

It's a painful, frightening list to contemplate—the things that need doing—but self-induced and self-serving tranquility cannot be tolerated, and newspapers will continue to prod and goad with the prickly facts.

What are your responsibilities as a reader?

A good answer to that would be: Exactly what is incumbent upon you as a wife—mother—citizen—and human being.

It boils down to concern, and hopefully—involvement. But when we come to concern and involvement, most find it easier to meet personal and family obligations than to be a 24-hour-a-day citizen and year-round human being—and to meet the demands of both.

As wives and mothers, you don't slight or slough off any family responsibility. You try to face and fulfill every family need—real or imagined. Your concern is natural and your involvement inescapable.

Not so as a citizen and human being. Here you can pick and choose your areas of concern and involvement. Or choose not to pick any at all. Newspapers provide plenty of pickings—the choosing is up to you.

Certainly the serious content of a newspaper warrants more than token scanning. When you're going through your paper and see something you feel is not right, try to feel personally responsible for it. Maybe you are.

If I could be so presumptuous as to propose three new R's, I would suggest: Read—reflect—and relate. I know Ann Landers is part of the paper, but we go to a lot of trouble and expense to give her column some company. Some of it is important.

It should be read, reflected upon and related to, and unless this is done, the newspaper reader is a dropout in the world of reality—just as surely and perhaps more finally a dropout than some of those strange, pathetic individuals our habits and detachments seem lately to have spawned.

In a lighter vein, I would like to tell you what else we have to put up with when it comes to readers. It has a moral and the moral is: It's not enough to read. Comprehend.

Last February, we ran a story in the Women's Section of the Sunday paper which must have been well-received by scores and scores of women—with one exception I'll tell you about. The story—some of you may recall it—was about a marvelous concoction called a Hair Care Cocktail.

Now, the article went to great lengths to explain that you can't get that all-important body into the hair by any means except from within. You can't rinse it on and you can't spray it on. It's strictly an internal process. Hence, what better than a cocktail—a Hair Care Cocktail.

The ingredients may have proved a letdown for some. Things like skim milk, gelatin, a little sesame oil, and honey or molasses. If you could swallow it, the mixture was supposed to combat hair dryness with Vitamin B, calcium, protein, fatty acids, things like that.

All this was carefully explained, and can you imagine the consternation of one of the girls in our Women's Department when she picked up the phone a couple of days later, and a woman's voice screamed at her: Look, darling, I've got this gunk all over my head. What do I do now?

Maybe I should add a fourth R to my list: Read, reflect, relate and rinse.

A hundred years ago, Disraeli told a critic: It's easier to be critical than to be correct. A newspaperman could well have said it first. Nonetheless, newspapers welcome—I could say pugnaciously welcome—all kinds of criticism, right or wrong, fair or unfair.

Criticism tells us we are at least getting through to somebody, even though one of us needs straightening out. One reason criticism is important to us is told in an axiom of our business. We say: We can make

tomorrow's paper better only if we are discontent with today's.

Perhaps, from your viewpoint, we dwell too much on food, fashions, and furnishings—the three F's—women's features, we call them. If you think so, say so—suggest other areas of interest. Speak up.

Your Mrs. Walter Magee did. She took a stand as president of the General Federation of Women's Clubs. She let it be known that women are interested in things far beyond the three F's—things equally important in the lives of their families, their communities, and their country. She was taking a newspaper to task because it devoted a quarter of a page to a cherry pie.

Mrs. Magee also took a swing at newspapers that give more attention to a bakeoff contest than to community improvement programs in which 12,000 women's clubs do impossible things. Then the coup de gras: She threw in that the country now has 7 million more women voters than male voters. I must say I still don't know whom she was aiming at with that one.

If you know about meaningful situations and facts we seem to have neglected, tell us about them. Most likely we don't know about them. A newspaper gets its information from people, and from people only. And no one knows everything all the time. It follows that the perfect article—from which nothing can be subtracted and to which nothing can be added—will never be written. For information—for facts—for news—we depend upon you—apparently more than you know.

My final question: How are we both doing—how are we responding to the problems and needs of society?

Between you and me, I think the newspapers are doing the better job—if only for the reason our job is easier than yours.

Newspapers can only tell you what is going on, and can lead you only as far as you want or permit yourself to be led. It is your job—it is your responsibility, the general public's—to fortify and preserve what is good, and to correct what is wrong. Newspapers cannot do this by themselves. We can only report what is done and what is not done. We cannot make things happen, not really. We can only tell you what does happen and what has not happened.

Authority, toughness, and being right count today. Maybe we both have to get tougher, be right more often, and speak as though we mean it.

I was walking through Bushnell Park the other day and saw a teacher leading a bunch of youngsters toward the State Capitol. A few of them started cutting up near the fountain. The teacher could have said: Will you please stop that. He didn't. He yelled: Knock it off right now. They did knock it off, right then. He was right, he was tough, and he spoke with authority.

I mentioned club swinging. You should swing one. That's your job. That's what aroused public opinion really is: A substantial number of citizens swinging the club of angry or enlightened concern at whatever has to be controlled, curtailed, contained, or—as in so many cases—knocked out of existence.

If you are right, and you are tough, then we can speak with authority.

To sum up, I said that we don't print all the news all the time, and never can. In a world of variables, perfection is a goal, not a product. But—if not perfect—what we do print is—at all times—our best judgment of what is significant, what is interesting, what is acceptable in a mature society.

I said that the sick things reported by newspapers are abominable, and I said they do not have to prevail forever. I did not say, nor did I mean, that we are wrong to print such accounts. On the contrary, we are uncontradictably right.

Whatever undermines and weakens our society—be it sick mind or sick spirit—it must be held under the public's nose until the public reacts—and acts.

Evil must be recognized, isolated, discussed and eradicated. We cannot live serenely inside a comfortable cocoon and expect that all the bad things outside will vanish. What will disappear will be our own bright dreams.

We just have to continue to face up to what we are—and be thankful there are newspapers that won't let us foolishly bask in unearned complacency just because our own lives seem secure. We just have to keep trying to become better citizens and better human beings—year by year—generation after generation.

So you see—to talk about newspapers and what they are trying to do, is, in effect, to cover the world and all of mankind—present, past and future. This can't be done at a coffee hour—or ever.

Nonetheless, I hope I have given you some concept of how newspapers and newspaper people try—day after day after day—to do more than just follow an impossible dream—but rather to help meet that endless challenge of divergencies and inertia—and to maintain faith that an informed society will someday find the way that is right—for all.

CLARIFICATION OF AMERICAN STAND ON HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, as Americans, all of us can point with pride to the achievements of our Nation in the struggle to reach the goal of equal human rights for all people. The United States has established a tradition as being the country where all men can come and enjoy their basic rights as free men in a free society.

But how do the millions of our fellow human beings who have never enjoyed the privileges of an American, who have never had the opportunity to live in a free society and participate in free debate, but who are aware that the United States has failed to ratify many of the human rights conventions, view the American position on this issue? Because of this the professed American commitment to human rights may appear to be an empty pledge?

It is vital, therefore, that the Senate act now to rectify any misunderstanding of our position that could occur by ratifying the remaining human rights conventions.

The conventions that at this date remain unratified are the United Nations Convention on Forced Labor, on Political Rights for Women, and on Genocide. Nothing in any of these conventions is objectionable to our longstanding commitments to human rights. The United States abhors forced labor and our own labor organizations were instrumental in the investigations which led to the Convention on Forced Labor. Women in the United States enjoy equal political rights and the ratification of this convention would be in keeping with American ideals. Our Nation, like most others, stands diametrically opposed to the crime of genocide, and we should demonstrate this by ratifying the Convention on Genocide.

It is time for the U.S. Senate to clarify the position our Nation holds on the issue of human rights.

OUR PERILOUS WORLD

Mr. ERVIN. Mr. President, on May 24, 1969, I had the honor of speaking at the commissioning of the U.S.S. *Durham* at the Norfolk Naval Shipyard in Portsmouth, Va. At that time, I made a speech entitled "Our Perilous World."

I ask unanimous consent that the text of the speech be printed in the RECORD.

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

OUR PERILOUS WORLD

We gather to commission the USS *Durham* (LKA–114), an attack cargo ship, which has a length of 575 feet and 6 inches, a beam of 82 feet and a full load displacement of 18,600 tons, and which will be manned by 25 officers and 311 men.

This is the second ship of the Fleet to bear the name of the City and County of Durham. The first *Durham* was a freighter manned and operated by the Navy on a bare ship charter basis during the First World War to transport supplies to the Army in Europe.

The USS *Durham*, which we commission today, is constructed to transport and unload landing craft, combat vehicles, and cargo in direct support of an amphibious assault. Helicopters will increase her flexibility and speed her combat cargo to troops engaged in "over the beach" operations.

We salute the *Durham's* Commanding Officer, Captain John D. Stensrud, and her gallant crew and congratulate them, the Navy, and the Nation on their being assigned to go down to the sea in such a beautiful ship.

The *Durham* is now joining the Navy whose valorous officers and men in times past have made possible the proud boast that America is the land of the free and the home of the brave.

As this event is occurring, let us face with forthrightness the perilous state of the world and the threat which it poses to America. Let us also ponder what America must do to surmount and overcome this threat and preserve her freedom.

Two powerful nations, Russia and Red China, whose people are numbered by the hundreds of millions and whose armies are the largest on earth, are ruled by Communism, which is bent upon extinguishing the lights of liberty throughout the earth and enslaving mankind.

If there be those who doubt the validity of this statement, let them observe the liberty-loving peoples of Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, and Rumania, who are held captive behind the Iron Curtain.

One of the countries ruled by Communism, Russia, already possesses nuclear weapons of devastating power, and the other, Red China, is on the verge of acquiring them.

For these reasons, America will have to live in a world beset by perils as long as Russia and China harbor the Communistic dream of world conquest. This being so, the crucial question of our generation is how can America meet and surmount the perils which confront her. I submit she must do three things.

1. America must keep her heart in courage.
2. America must keep her heart in patience.
3. America must lift up her hand in strength.

I shall not elaborate upon the proposition that America must keep her heart in courage. A wise commentator, the late Elmer Davis, said all that needs to be said on this subject when he declared that America "will remain the land of the free only so long as it is the home of the brave."

The perils which confront our country will exist as long as Communism dreams of world conquest. Consequently, America must keep its heart in patience as well as in courage until Communism relinquishes this dream.

It will not be easy for America to do this. We are an impatient people, who demand immediate solutions of our problems, no matter how difficult and enduring they may be. Besides, many of us are prone to ignore or rationalize unpleasant realities rather than

to face them with forthrightness and fortitude. Moreover, the hunger for peace in our time, which sent Chamberlain to Munich and our world to its present unhappy state, still tempts multitudes to conjure up Utopias and fantasies.

These weaknesses enhance the danger that our nation may not heed the warning given it by Benjamin Franklin, the wisest of all Americans, when he said: "Let us beware of being lulled into a dangerous security."

If she is to avoid being lulled into a dangerous security and survive in freedom the perils which beset her, America must have the patient fortitude to face with forthrightness these unpleasant realities:

1. The day has not yet arrived when the nations of earth are willing to beat their swords into plowshares and their spears into pruning hooks.

2. Even a peace-loving nation cannot live in peace unless it pleases its wicked neighbor.

3. God grants freedom only to those who love it and have the hardihood to guard and defend it.

It is impossible to overmagnify the danger arising out of our proneness to rationalize rather than to face forthrightly unpleasant realities.

Nowadays some men in positions of authority rationalize in this fashion: War is irrational. Hence, it is not intelligent for us to think that the men in the Kremlin would precipitate a war in which Russia might be virtually destroyed.

It would be well for them to remember the rationalizations made by some Americans when Hitler was climbing to power in Germany. They rationalized at that time in this manner: It is not rational to think that the Germans would entrust an irrational man like Hitler with powers of leadership or that an irrational man like Hitler would be so irrational as to provoke a world war even if the Germans were so irrational as to entrust him with powers of leadership.

Despite these rationalizations, history records in letters of blood that these irrationalities came to pass and that in consequence the corpses of untold millions of men, women, and children were prematurely buried in untimely graves.

After all, it is not what Americans think, but what the men in the Kremlin and the men in Peking think which makes our world so insecure.

Despite the irrationality of war, mankind has expended a major part of his energy, his time, his treasure, and his blood in waging war. And although our country is a peace-loving nation, every generation of Americans has been compelled to go to war. Indeed, America has spent 33 years of its relatively short existence fighting eight wars and 619,553 Americans have died in wars during the past 52 years. It is worthy of note that thousands of those who died in Korea and South Vietnam have been slain by bullets donated by Russia for that purpose to our enemies.

At the present moment, many persons in authority clamor against the proposal that we deploy an ABM system to protect our retaliatory missiles ffrom destruction by Russian SS–9 missiles. They say, in substance, that unless we leave our retaliatory missiles unprotected, Russia will escalate its production of destructive weapons and refuse to negotiate an enforceable arms-limitation agreement with us.

Like other rationalizations, this rationalization refrains from recognizing unpleasant realities. It ignores the unpleasant reality that Russia has already accelerated its production of destructive weapons to such an extent that it has achieved virtual parity with us. It also ignores the unpleasant reality that since the end of the Second World War, American negotiators have met with Russian negotiators hundreds of times and that Russia has consistently refused to negotiate an enforceable arms-limitation agreement with us.

Let us pray for peace, let us work for peace, let us negotiate for peace; but let us beware of being lulled into a dangerous security by either the stratagems of our potential enemies or our own rationalizations.

America must keep its heart in courage and patience. It must also be prepared at all times to lift up its hand in strength.

By this I mean that America must maintain sufficient military might to deter any aggression or to defeat any aggressor in case aggression comes.

It will not be easy to keep America militarily strong. This is true because our people may weary of the tremendous expense which an adequate national defense entails and those in charge of our foreign policy may be beguiled into making an unrealistic and unenforceable arms agreement with those bent upon enslaving the world.

It is to be noted that already some persons in positions of authority insist on the curtailment of defense expenditures in order that our country may be able to finance welfare programs, some of which, I regret to say, are so designed or administered as to reward the indolent for their indolence.

Those who decry the high cost of an adequate national defense should remember that freedom is not free. It was purchased for us at a great price. If we wish to preserve its blessings for ourselves and our posterity, we must pay the cost of so doing, no matter how great it may be. When all is said, General MacArthur was right when he declared: "The inescapable price of liberty is an ability to preserve it from destruction."

I claim no originality in asserting that if she is to survive our perilous age in freedom, America must keep her heart in courage and patience and lift up her hand in strength.

All history proclaims that this is the only way in which free men can keep their freedom in a perilous world.

When the German armies drove the valiant, but ill-trained British force known as Kitchener's Mob back to the British Channel in the early days of the First World War and despair settled upon Britain, Rudyard Kipling enshrined this truth in one of the great poems of history—the poem entitled "For All We Have and Are." This poem inspired the British people to forget their despair and carry on. Let me quote it:

"For all we have and are,
For all our children's fate,
Stand up and take the war.
The Hun is at the gate!
Our world has passed away,
In wantonness o'erthrown.
There is nothing left to-day
But steel and fire and stone!

"Though all we knew depart,
The old Commandments stand:—
'In courage keep your heart,
In strength lift up your hand.'

"Once more we hear the word
That sickened earth of old:—
'No law except the Sword
Unsheathed and uncontrolled.'
Once more it knits mankind,
Once more the nations go
To meet and break and bind
A crazed and driven foe.

"Comfort, content, delight,
The ages' slo-bought gain,
They shrivelled in a night.
Only ourselves remain
To face the naked days
In silent fortitude,
Through perils and dismays
Renewed and re-renewed.

"Though all we made depart,
The old Commandments stand:—
'In patience keep your heart,
In strength lift up your hand.'

"No easy hope or lies
Shall bring us to our goal,
But iron sacrifice
Of body, will, and soul.
There is but one task for all—
One life for each to give.
What stands if Freedom fall?
Who dies if England live?"

America must keep her heart in courage and patience and lift up her hand in strength. It is the only way to ensure her survival in these perilous days.

NEBRASKA CITY MARKS ARBOR DAY CELEBRATION

Mr. HRUSKA. Mr. President, each year since coming to Congress, it has been my custom to address a few brief remarks to the subject of Arbor Day, one of Nebraska's most notable holidays. This follows the practice of the late Representative J. Hyde Sweet, of Nebraska City.

Nebraska City, as many Senators know, was also the home of the Nation's third Secretary of Agriculture, J. Sterling Morton, the founder of Arbor Day. It is at his home, Arbor Lodge, now a State park, that Arbor Day ceremonies are held each year.

The present Secretary of Agriculture, Hon. Clifford M. Hardin, who is also a Nebraskan, had hoped to be present at this year's observance in order to salute his illustrious predecessor's many contributions to our Nation and our State, which is sometimes called the Tree Planters' State.

Since Secretary Hardin could not attend, he sent as his representative yet another distinguished Nebraskan, Hon. William E. Galbraith, Deputy Under Secretary of Agriculture and a former National Commander of the American Legion.

Mr. Galbraith's message was both timely and meaningful. I ask unanimous consent to have it printed in the RECORD, together with two news articles about this year's Arbor Day celebration from the Nebraska City News-Press, the paper owned and edited for so many years by J. Hyde Sweet and now in the capable hands of his son, Arthur Sweet.

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

COMMENTS DELIVERED BY WILLIAM EUGENE GALBRAITH, DEPUTY UNDER SECRETARY FOR CONGRESSIONAL RELATIONS, AT THE ARBOR DAY CELEBRATION, NEBRASKA CITY, NEBR., MAY 4, 1969

I must convey the regrets of Secretary of Agriculture Clifford Hardin at being unable to participate in this Arbor Day celebration. But he, like the third Secretary of Agriculture, Nebraska's famous editor-conservationist, Julius Sterling Morton, is with us at least in spirit. If it weren't for Secretary Morton's support of tree planting on the plains, we wouldn't be here today. His efforts led to the establishment of Arbor Day, first observed right here on April 10, 1872.

Just as Morton felt an obligation in his day to preserve the United States against erosion by man and the elements, we have an obligation today to protect and improve the nation on a much broader scale.

America's citizens must work to keep the country strong so that rural and urban forces may cooperate to build the kind of life we used to enjoy.

We need to restore a sense of community life to replace the inherent indifference of suburban development. We must replace urban ghettos with sane and secure neighborhoods. We must make the farm and countryside economically attractive and economically feasible for bright American youth whose talents are tapped by bidders with more to offer financially than those in agriculture.

But these hopes lie in achieving peace as soon as possible—peace not bought at the expense of national honor—peace that will allow the resources of war to be turned to constructive domestic purposes.

I would caution Americans not to listen to those who would sell our strength to accomplish a pointless peace . . . a tenuous prosperity without promise for a better life for all Americans in the years to come.

We don't want another war large or small if we can avoid it through a nation prepared and a people largely united behind the major issues of defense and international policy. One such issue is of course the antiballistic missile system, an expensive, but I believe necessary component for national preparedness, and a major deterrent to our future involvement in hot wars. In advocating this national course of action, I do not claim to be an expert on ABM's, but neither do the system's opponents.

I look at the issue merely as a man who does not buy automobile insurance because I expect a car to hit me. I buy it because it will give me some measure of protection in the event one does.

Unfortunately the establishment of a lasting and just peace offers us no real alternatives to a militarily strong nation. Had we been strong enough in the past, I believe that World War II and the Korean and Vietnamese wars could have been prevented.

Of one thing I am confident, a lasting peace will assure us of more options at home—one of the most important being a wider selection as to where we can afford to work and live. We do not enjoy that option now according to a recent survey conducted by the International Research Associates for the National Rural Electric Cooperative Association.

According to that survey, only 15 percent of the people in the United States want to live in big cities, another 53 percent would prefer small towns and some 29 percent liked rural areas best (three percent didn't know or had no preference).

Recent editions of both Fortune magazine and The Wall Street Journal have reported an increasing reluctance on the part of management personnel to move to New York City.

Neil Ulman reported in The Wall Street Journal:

"Indeed, as urban problems worsen and costs rise in relation to the rest of the country, big-city companies with management outposts around the nation face an agonizing paradox: Never has the American business executive been so mobile; and never has he been so reluctant to move to headquarters."

He reported, too, that an increasing number of big city executives and professional men want "out" even at lower pay.

We must create, through education, new jobs which will enable people to live in rural America. Many industries are taking the initiative already in turning to new areas such as smaller towns and communities throughout the country as sites for expansion. And this industrial expansion to the countryside comes none too soon.

Today many counties have fewer people than at the end of World War I.

Shortly thereafter, the first census (conducted in 1920) showed that the country had become predominantly urban by a slim margin of 2 percent.

Of course, the rural population has been increasing in absolute numbers ever since, until 1966 when it leveled off at 57,606,000 people or 29.2 percent of the population.

This migration has left a substantial imbalance in population density across the nation. Our metropolitan areas now take up 30,000 square miles, less than two percent of the total land area of the country.

The intensity of problems created by rural out-migration, of course, differ widely between one region and another. Regions of heaviest decline during the 1950s and early 1960s include the interior coastal plain of the lower south from Georgia through Texas and the continuous area of the Great Plains. Meanwhile, populations in many other rural areas were increasing while their farm populations and traditional rural primary industries declined simultaneously. In both situations the agricultural population suffered setbacks.

I am a firm believer that we can correct the economic and environmental problems that have arisen in conjunction with these imbalances of opportunity and population between rural and urban areas. But we will have to work. We cannot depend on the job being done by legislators, who are already plagued with problems of many other kinds.

Most of the answers will eventually evolve from enlightened state and local leadership—leadership with the intellectual grasp, the individual initiative and the driving self-interest to solve one problem at a time in one place for one community of Americans. As the sum is the total of its parts, this grassroots approach is the major hope for solving the great national problems that face all of us today.

[From the Nebraska City News-Press, May 5, 1969]

ARBOR DAY IS BIG SUCCESS, WEATHER FINE

All over until the first weekend in May, 1970.

The Arbor Day celebration planned for many months by Co-chairmen Vern Livingston and Mr. and Mrs. Gerald Livingston and their committees, is finished for another year. Nebraska City is a little bit tired, a little bit relieved and highly pleased with successful holiday.

The weather Sunday was made to order for a celebration. The sun slipped behind clouds occasionally, but in general it was a bright, blue-skied, beautiful day.

Kids of all ages gathered along the streets Sunday afternoon to watch the parade, one of the largest ever staged here. Saddle clubs, clowns, bands, floats, cars and other units provided variety.

The best of the lot, in the opinion of judges Mrs. Dwaine Ross, Mrs. Chester Loofe and Robert McConnelee, was the float designed by the Nebraska City Jaycees and local Applegrowers. It featured a large red apple, which opened to reveal Linnea Beason, Miss Nebraska City. The float proclaimed that Linnea is "the apple of our eye."

The largest group to participate in the parade was, as usual, the Tangier Shrine. The numerous units included several shriners.

Police Chief Clarence Iversen's order of no parking on Central Avenue during the parade was not heeded. But despite this, parade units made their way, including an airplane towed on Central.

VFW Commander Bill Rivett said veterans were overwhelmed with the attendance at the Saturday night barbecue at the Ponda Rosa and with the family picnic for VFW members and families at the Rivett home following the Sunday parade.

Approximately 800 persons were served at the $1 barbecue at the Ponda Rosa. Music was by the J-Bees of Nebraska City.

One hundred forty were served Sunday at the picnic at the Rivett home.

Scimitar Shriners hosted about 300 Shriners and families at a barbecue at American Meter grounds Sunday after the parade.

Ralph Leckenby, Nebraska City, won the TV set at the barbecue.

Among the weekend visitors were Mr. and Mrs. Everett Gibbs, Grand Island; their daughter Debra and granddaughter, Erica Struebing.

One of the popular visitors at the fly-in was 77-year-old "Handy" Andy Strahm, Bern, Kans., who has made the flights to Nebraska City an annual event.

Strahm landed his Luscombe smoothly on the asphalt strip, taxied off the runway, shut off the engine, stepped from the cockpit and stood on his head . . . "makes you feel good," he said.

Strahm began flying in 1924. He built his first airplane.

[From the Nebraska City News-Press, May 5, 1969]

AMERICA'S FIRST HOPE IS PEACE, SPEAKER SAYS

America's citizens must work to keep the country strong, and when that aim is accomplished, rural and urban forces should cooperate to build again the life we used to enjoy, the 1969 Arbor Day speaker said Sunday.

William Galbraith, deputy undersecretary for congressional relations of the U.S. Department of Agriculture and former national commander of the American Legion, addressed the crowd gathered near the east portico of Arbor Lodge mansion.

He said that the first hope of this country is for peace, and added that some governmental leaders are beginning to indicate that negotiations with the North Vietnamese may soon be possible.

Galbraith backed the proposed antiballistic missile system, however, by advocating strong defenses as conducive to peace. He said that he is not an expert on weapons, but went on to say that many of the ABM's opponents are not, either.

"Don't listen again to those who would sell our strength," he said, remarking that perhaps World War II and the Korean and Vietnamese wars could have been prevented if the United States had been militarily strong.

"I don't have automobile insurance because I expect a car to hit me," he said. "I have it for protection in the possibility that one does."

Galbraith said that, in addition, to working toward peace, we must strive for a better life for the country's citizens. He cited a survey which indicated that 56 per cent of the people polled do not wish to live in the highly urban society which is evolving in the United States. He said only 15 per cent of those in cities chose to live there because they wanted that type of life.

The speaker said we must create, through education, new jobs which will enable people to live in rural America. He said that many industries are now turning to new areas such as the smaller towns and communities of the country.

"We will all have to work," he said. "We cannot depend on the job being done by legislators, who are already plagued with problems of many other kinds."

Galbraith expressed the regrets of Secretary of Agriculture Clifford Hardin at being unable to participate in the Arbor Day celebration. "I think that the third secretary of agriculture (J. Sterling Morton) is with us, at least in spirit," he added.

Following the speech and the group singing of "God Bless America," trees were dedicated to Mort Porter, 1969 Arbor Day honoree, and the late Grant McNeel, former superintendent of Arbor Lodge.

McNeel's sons, Richard and Oliver, were here from Denver, Colorado, for the event.

Porter greeted the crowd assembled for the program as "tree-planters all." He said he has been inspired by Arbor Lodge and the trees in the orchards and views them as

living proof of the rewards of planting trees.

Porter paraphrased Joyce Kilmer's poem by saying, "Honors are given to fools like me, but only God can make a tree."

Vern Livingston, Arbor Day co-chairman, introduced the honoree. He said that the tree planted in Porter's honor will grow and remain at Arbor Lodge for all to see and remember.

Governor Norbert Tiemann, a college classmate of Porter and Galbraith, referred to Arbor Day as "Nebraska's official salute to spring."

He said that J. Sterling Morton created an attitude toward conservation which we must continue. He cited Arbor Lodge as an example of conservation of a heritage and added that more and more people will continue to use this facility, a fact which was emphasized by the constant stream of people walking behind the speakers to enter the mansion.

Jack Mullen, master of ceremonies, read a letter from Rep. Robert Denney. He also introduced special guests on the portico and in the crowd and recognized past honorees Grove Porter and Morton Steinhart.

Nebraska City Mayor Robert McKissick welcomed guests to the city and presented a painting of Arbor Lodge to Mayor Glen Zajicek of Wilber, the "sister city." The painting was done by Mary Obbink.

Anne Davis Lauritzen, Ak-Sar-Ben queen, presented the Ak-Sar-Ben award for the best parade entry to the Jaycees and the apple growers. It was accepted by Dan Duimstra and president Herm Royer.

The program began with a concert by the Nebraska City Senior High band. The colors were presented by the American Legion color guard and the National Anthem was played.

The invocation was given by the Rev. Victor Ireland, pastor of the First United Methodist church.

A solo, "The Hills of Home," was sung by Austin Wirth, accompanied by his daughter, Janet Huss. He also led the group singing.

Music by the Syracuse High girls octet was canceled due to illness.

DECADE OF OCEAN EXPLORATION

Mr. MAGNUSON. Mr. President, on May 8, I introduced Senate Concurrent Resolution 23, to express the sense of Congress that the United States participate in an International Decade of Ocean Exploration during the 1970's, which would include, first, an expanded national program of exploration in waters close to the shores of the United States; second, intensified exploration activities in waters more distant from the United States; and, third, accelerated development of the capabilities of the United States to explore the oceans and particularly the training and education of needed scientists, engineers, and technicians.

My distinguished colleagues, the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), and the Senator from Rhode Island (Mr. PELL), are cosponsors of this concurrent resolution.

During the 90th Congress an identical Senate concurrent resolution was introduced and approved by the Senate, but was not acted on by the House of Representatives.

When, in March 1968, the International Decade of Ocean Exploration was first proposed, the National Council on Marine Resources and Engineering Development contracted for the National Academy of Sciences and National Academy of Engineering to conduct a study of the scientific and engineering aspect of U.S. participation in the proposed decade. This was done. A joint steering committee was formed by the two academies.

Dr. Warren S. Wooster, of the Scripps Institution of Oceanography, and president of the Scientific Committee on Oceanic Research of the International Council of Scientific Unions, was appointed chairman, and William E. Shoupp, vice president of the Westinghouse Electric Corp., Pittsburgh, Pa., vice chairman.

A number of distinguished scientists and marine engineers were named to the committee, and many others participated in working groups or panels assigned to different phases of program planning.

The study has now been completed and is being jointly issued by the National Academy of Sciences and National Academy of Engineering under the title: "An Oceanic Quest."

The 115-page report includes chapters on geology, geophysics, and nonliving resources; biology and living resources; physics and environmental prediction; geochemistry and environmental change; a summary with major recommendations, and a prolog.

Mr. President, I ask unanimous consent that excerpts from this prolog, which outline the views of the two academies on the objectives of the decade be printed in the RECORD.

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

INTERNATIONAL DECADE OF OCEAN EXPLORATION

An International Decade of Ocean Exploration has been proposed for the 1970's to give new impetus to those studies that will enable man to realize more effectively the promise of the sea. This report examines the possible scientific and engineering content of such a Decade, particularly with regard to U.S. participation, and considers the potential benefits resulting therefrom. At the same time, some thought has been given to the capabilities required and the constraints to be overcome in order to achieve the desired goals.

DISTINGUISHING FEATURES OF THE DECADE

The term "International Decade of Ocean Exploration" can be interpreted very broadly. Thus the Steering Committee gave early consideration to the features that could serve to distinguish programs of the Decade from the whole of ocean science and engineering. A broad statement of the basic objectives of the Decade was developed, as follows:

To achieve more comprehensive knowledge of ocean characteristics and their changes and more profound understanding of oceanic processes for the purpose of more effective utilization of the ocean and its resources.

The emphasis on utilization was considered of primary importance. In contrast to the total spectrum of oceanography and ocean engineering, the principal focus of Decade activities would be on exploration effort in support of such objectives as (a) increased net yield from ocean resources (b) prediction and enhanced control of natural phenomena, and (c) improved quality of the marine environment. Thus Decade investigations should be identifiably relevant to some aspect of ocean utilization.

The word "exploration" has a number of meanings, extending from broad reconnaissance to detailed prospecting. Exploration effort of the IDOE should include the scientific and engineering research and development required to improve the description of the ocean, its boundaries, and its contents, and to understand the processes that have led to the observed conditions and that may cause further changes in those conditions.

Of all the ocean investigations that will contribute in some way to enhanced utilization, we believe that those involving cooperation among investigators in this country and abroad are particularly appropriate for the Decade. Decade programs would often be of long-term and continuing nature, would require the facilities of several groups, and would be directed toward objectives of widespread, rather than local or special, interest. It is anticipated that these programs within the United States may be cooperatively implemented both by government agencies (federal and state) and by private facilities (academic and industrial).

As the title suggests, international cooperation will be of particular importance. Such cooperation has long been a characteristic of oceanography, for reasons described in the following paragraph (from "International Ocean Affairs" published by the Scientific Committee on Oceanic Research in 1967).

The world ocean covers 71% of the earth's surface. Most countries have sea coasts and make some use of the sea, although national jurisdiction extends over only a small fraction of the ocean's area; the remainder is common property.* The waters of the world ocean and their contents intermingle without serious restraint. Many oceanic processes are of large scale and are driven by forces of planetary dimension. The organisms inhabiting the sea are influenced by these processes and forces, and their distribution, abundance and behaviour are often influenced by events occurring far beyond the territorial limits recognized by man.

Most international cooperative investigations have consisted of a set of national programs suitably modified and coordinated to achieve international objectives. The Decade is envisioned as a period of intensified collaborative planning, development of national capabilities, and execution of national and international programs. This report gives principal attention to the development of U.S. programs that could contribute to the Decade. Integration of these programs and those of other countries into a comprehensive international program was not discussed in detail, but has been left for consideration by appropriate international bodies. It is hoped that this report will be a useful contribution to those discussions.

In the light of the goals and features discussed above, there appear to be important aspects of ocean research and development that lie outside the framework of the Decade. For example, some aspects of theoretical and experimental research, or the development and application of specific exploitation techniques, may not be appropriate. Some oceanographic research of an academic nature and certain mission-oriented programs of government and industry will not fit logically into the Decade. For example, the National Council on Marine Resources and Engineering Development has estimated that only about 30 percent of the present U.S. federal marine science budget (as defined by the Council) is designated for programs related to ocean exploration. In a sense, all investigations in the ocean will contribute to the goals of the Decade, but in order for it to be successful, a definite set of programs must be determined. The distinguishing features discussed above should help in defining this set.

The term "Decade" can be understood in a general way to mean the 1970's. Inception of the programs must await completion of planning and the availability of adequate facilities and funds. Formal completion of the

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*Or belongs to no one—Ed.

Decade might be scheduled for early in the 1980's. Achievement of the long-term goals may require continuing investigations and adjustments in specific programs during or following the Decade as the effect of these investigations on economic and social uses becomes apparent.

USES OF THE OCEAN

Among the ways in which man uses the ocean, the following activities should be included:

Use of living resources; use of mineral resources (including production of oil, gas,* and freshwater); shipping and navigation; establishment and protection of coastal works; siting and maintenance of cables, pipelines, and tunnels; disposal of wastes; forecasting of oceanic and atmospheric conditions: warnings and forecasting of storm surges and tsunamis; extraction of tidal and thermal energy; recreation; and national and collective security.

Each of these activities can benefit, to a greater or lesser extent, from the results of appropriate investigations envisioned for the Decade. In the long run, standards of living should rise with the greater availability of protein foodstuffs at lower costs throughout the world. The aggregate supply of energy-producing resources will be greater as a result of offshore production. Other resources, both mineral and organic, presumably lie on the continental shelves and in the deep ocean; geological and geophysical reconnaissance is necessary for the development of orderly programs of detailed exploration and exploitation. A basis of scientific and engineering in formation is required for conservation and management and for iternational agreements dealing with the ocean and its resources.

Increased use of the ocean and its resources may tend to exacerbate the already existing potential for conflict among maritime nations. Such conflicts usually cannot be resolved exclusively on technical grounds. Yet there is a significant component of a technical nature. For example, fishing disputes frequently arise from lack of biological knowledge of the resource being exploited. Jurisdictional disputes over the resources of the sea floor may be due in part to inadequate scientific and engineering information. It is hoped that Decade programs will make an important contribution to the diminution of international tensions as they relate to ocean problems.

With regard to both the extractive and the nonextractive uses of the ocean, Decade investigations should result in improved prediction of environmental conditions and may lead toward eventual modification or at least limited control of these conditions. Better forecasts can reduce losses of life and property, permit more effective planning, and increase the efficiency and convenience of operations at sea. An understanding of the consequences of intervention in the marine environment should reduce deleterious effects or facilitate exploitation of potentially beneficial effects.

Despite their focus on utilization, the objectives of the Decade are related to exploration and knowledge rather than to the development of techniques for the large-scale exploitation of ocean resources. From an economic point of view, application of this knowldege should provide a basis for greater output, lower costs, and improvement in the organization of production and use. Anticipated benefits are long-term in nature, and justification of the Decade goes beyond immediate economic returns.

It should be recognized that there are legal, economic, and social aspects to enhanced utilization of the ocean and that these aspects must also be investigated if the benefits of the Decade are to be attained. Therefore, appropriate proposals of this sort are included in this report.

* For simplicity we include oil and gas among the "mineral" resources though strict use of this term includes only the inorganic materials.

OBJECTIVES OF NATIONAL PARTICIPATION IN THE DECADE

The objectives of any nation participating in the Decade could be summarized as follows:

1. To benefit directly the growth of the national economy.

2. To obtain information required for management and conservation of resources, for improving the effectiveness of nonextractive uses; for prediction, control, and improvement of the marine environment; and for the making of sound political, legal, and socioeconomic decisions related thereto.

3. To provide the technical basis for the reduction of international conflicts in the ocean.

4. To benefit directly the economies and populations of developing countries.

5. To increase knowledge and understanding of the ocean.

6. To expand the technical resource base (manpower, facilities, and technology) for future ocean research and utilization.

The United States is already extensively engaged in the development of ocean resources, both in local waters and in many other parts of the world ocean. U.S. private interests are investing large sums in exploration and drilling for oil, in capital and labor in the fisheries, in coastal development, in marine transportation, and in other uses of the ocean. The government is also incurring large expenses in connection with utilization of the ocean and its resources. At the same time, significant revenues are accruing as a result of these activities. Over the past 20 years, income to the U.S. Treasury collected as bonuses, rentals, and royalties on offshore oil and gas leases exceeded $3 billion. Royalties alone in 1968 were nearly $200 million. Large amounts were also paid to several coastal states. Investigations such as those proposed for the Decade are necessary for the rationalization, protection, and extension of investment opportunities for capital both off our own coasts and elsewhere in the world.

LAOS

Mr. YOUNG of Ohio. Mr. President, our generals and industrialists with huge defense contracts are apparently bent on extending the immoral, undeclared war we have been waging in South Vietnam and Laos. American planes have been flying sometimes as many as 300 missions a day over that small Asiatic nation. Also, American taxpayers have been financing the 75,000-man Laotian army. About 90 percent of the 2,300,000 citizens of Laos are illiterate. This distressing fact indicates that American money could be used for better things than guns.

Americans should know one interesting fact about the struggle in Laos: The current ruler, Prince Souvanna Phouma, is anti-Communist. The nominal head of the opposing Communist forces is Prince Souphanouvong, Phouma's younger half-brother. The United States can ill-afford to enter into what is, in great part, a family squabble. Furthermore, of more than 30 countries I have visited in Asia, Africa, Europe, and South America, Laos appeared the most underdeveloped. It is not worth the life of one American youngster.

CONSUMER BOYCOTT OF TABLE GRAPES

Mr. MONDALE. Mr. President, thousands of individuals and organizations across the Nation have announced support for the consumer boycott of table grapes, and for the goals and objectives of the United Farm Workers Organizing Committee, AFL–CIO—UFWOC—which is calling for the boycott.

It is important to understand that the boycott has been called only after UFWOC has exhausted every other possible avenue to peacefully resolve their dispute with the grape growers. No other method remains for farmworkers to express themselves in the tradition of nonviolence they profess.

No reasonable person looks forward to a boycott, or a strike, or a picket line. Strikes and boycotts are costly; and costly to all parties involved.

The strike is costly to the farmworkers. They are not middle- and upper-class Americans who have the opportunity to work regularly. Farmworkers are on the bottom rung of the economic ladder.

Growers suffer economic hardships from the boycott: sales are down, shipments are reduced, prices are cut. The entire agricultural economy including the transportation industry, wholesale and retail businesses, and the consumer are adversely affected.

Furthermore, and unfortunately, those that do support the boycott run the risk of being attacked and slandered by persons that label the consumer boycott as unlawful secondary activity, laden with violence, and denying free choice. These charges are not supported by the facts. The boycott involves the exercise of free speech, the use of the primary consumer product boycott, and peaceful, nonviolent appeals. These methods are part of our Nation's democratic tradition and are oft used as avenues to social change. I, for one, will not forsake my belief in justice and equality for farmworkers in the face of the half-truths and innuendoes that distort, misrepresent, and malign the farmworkers' primary objective.

Why then, support a consumer boycott of table grapes?

I support the grape boycott because I firmly believe that human dignity, and the guarantee by contract of improved living and working conditions through collective bargaining, are goals worth pursuing.

The grape boycott serves as an effective device for explaining the just cause of the farmworkers, and the continued resistance of the growers. It is the kind of economic weapon that can permit us, as citizens, to tell growers that we repudiate their failure to recognize the worth and dignity of human beings, and that we look with scorn on their failure to bargain with the farmworkers as men.

That the union has exhausted all the possible avenues in its nonviolent, direct action appeal for dignity and respect from California growers of table grapes is a matter of public record:

The union has informed the table grape growers of its majority representative status among the growers' employees,

but the employers have refused to recognize the union.

The union has, in the past, requested growers that third parties—clergymen, professors, industrialists—conduct secret ballot election to determine the choice of their employees, but the employers have refused to discuss the matter. The union has overwhelmingly won every election conducted in the wine grape industry, and the bargaining relationship has been described by many wine grape growers with contracts as "remarkably good."

The union has requested coverage of the agriculture industry under the National Labor Relations Act, but the table grape growers have consistently opposed such coverage.

The union has successfully enlisted the support of thousands of individuals, political leaders and parties, local governments, and church groups—but the growers have ignored their pleas for understanding. The growers have resorted to misleading and untruthful statements, and tried to impose unacceptable conclusions on the public through an extensive and costly newspaper, radio, and television campaign.

The union has called strikes at actual work sites, but the growers have succeeded in bringing in thousands of strikebreakers, and local courts, dominated by conservative interests, have quickly and devastatingly enjoined the union's activities.

The union's position as a majority representative of farmworkers has been met not with grower recognition, but with the formation and domination by growers of a company union which only recently was exposed in sworn affidavits to the Labor Department.

In short, the union's dedication to nonviolent, direct action as a tactic to obtain human dignity and collective bargaining agreements has been met not in a spirit of conciliation and mediation, but instead by hard, cold, blind resistance.

I support the boycott because it is one way to let the growers know that American citizens will not remain silent or inactive when our fellow human beings are deprived and ignored.

I want our Nation's farmworkers to know that I understand their struggle for dignity, respect, and their fair share of power. They have been left deprived, desperate, frustrated, and powerless: Deprived of any political power; deprived of any economic power; deprived of cultural identity or pride; deprived of the right and the opportunity to express their point of view; and, deprived of everything that most Americans take for granted.

The consumer boycott of table grapes is one effective way of guaranteeing migrant and seasonal farmworkers the power to speak for themselves. In the final analysis, solutions to their problems depend on their ability to gain the fair share of power that has been denied to them for so long. Our primary responsibility is to free the people from the institutions that perpetuate powerlessness. I support the strike and the table grape boycott because I think it is one way to bring about that freedom.

The energy and dedication extended to this boycott will bring the powerlessness that the migratory farmworkers and the rural poor face to the attention and the conscience of the American people.

The boycott will show America the injustice suffered by her hardest working, yet lowest paid, citizens. The tragic reality of powerlessness must be told honestly and forthrightly, and then, and only then, will we hear the public clamor that says, "Stop, we have done enough damage."

As Cesar Chavez has said:

> The consumer boycott is the only open door in the dark corridor of nothingness down which farmworkers have had to walk for so many years. It is a gate of hope through which they expect to find the sunlight of a better life for themselves and their families. To get from where they are to where they want to be, they must go together. They must organize, and for workers that means to unionize . . . The workers had the choice between crawling and striking. They say they will no longer be the last vestige of the crawling American. They struck.

I am supporting that strike by boycotting table grapes.

STENNIS PROMOTES EFFICIENCY IN MILITARY BUDGET

Mr. PROXMIRE. Mr. President, the New York Times of Sunday, May 25, 1969, contains an interesting and highly significant report of the efforts of the distinguished chairman of the Committee on Armed Services (Mr. STENNIS) to require a much closer analysis of the military budget, especially with regard to the procurement of major weapons systems, than we have had in the past.

The article relates:

> An agreement has been worked out with the Defense Department under which the subcommittee will receive detailed reports every three months on 31 weapon projects that comprise more than 50% of defense procurement and research and development. Procurement amounts to $24 billion of the budget, and research and development another $8 billion.
>
> Mutually agreed upon starting points on the originally estimated cost, technical performance and development and production schedules for each project are being established. The subcommittee staff will monitor the programs by comparing the quarterly reports against these original bases to detect cost escalation, decline in technical performance and schedule slowdowns.
>
> If there is any major program change between the quarterly reporting periods, the Defense Department has agreed to notify the subcommittee immediately.
>
> The subcommittee hopes that the timeliness of the information will enable it to force corrective action before major damage occurs.

Mr. President, this action by the Armed Services Committee is highly welcome. It is precisely the kind of more careful monitoring of defense spending that the Subcommittee on Economy in Government, of the Joint Economic Committee, calls for in a report to be issued today and which I intend to place in full in the RECORD.

The excellent work of the Committee on Armed Services should be supplemented, as our report recommends, with far more comprehensive and systematic reports by the General Accounting Office. The independence and expertise of the GAO makes such regular and complete reports most desirable. In addition, the Department of Defense should collect complete data on both prime contracting and subcontracting. The department should require contractors to keep books and records on firm fixed price contracts showing the costs of manufacturing all components in accordance with uniform accounting standards. Congress should make the submission of cost and pricing data mandatory under the Truth in Negotiating Act except when competitive bidding has been formally advertised. At present, the GAO has found that the full costs are not available in 90 percent of procurement.

I ask unanimous consent that the New York Times article, reporting on the recent actions of the Preparedness Subcommittee of the Armed Services Committee, be printed in the RECORD.

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

[From the New York Times, May 25, 1969]

CLOSER STUDY SET FOR ARMS BUDGET: STENNIS CREATES SYSTEM TO PROMOTE COST EFFICIENCY

(By Neil Sheehan)

WASHINGTON, May 24.—Senator John Stennis, Democrat of Mississippi, has created new machinery to provide his Senate Armed Services Committee with a much more detailed examination of the military budget and major weapons programs.

The Senator, informed sources say, set up the system because of a desire to force the military establishment to adopt better management techniques and also in response to the growing antimilitary sentiment in Congress.

The closer scrutiny of the current $80-billion budget does not imply any wish by Mr. Stennis to make the kind of amputative cuts in defense spending the antagonists of the armed services desire. They contend that drastic surgery is necessary to channel more resources into domestic problems, especially those of the cities.

FOR NEW PROJECTS

On the contrary, the Senator has always believed that powerful armed forces are necessary for the nation's security and he wants to keep them powerful. He favors large new * * * billion project to build an advanced intercontinental nuclear bomber, officially known as AMSA for Advanced Manned Strategic Aircraft.

Mr. Stennis, a 67-year-old former Mississippi judge, is a conscientious man who dislikes waste that can be avoided by more efficient spending techniques. He is also not averse to questioning military judgment occasionally. He is currently expressing reservations over the effectiveness of a multibillion-dollar Air Force plan for an advanced defense system against Soviet nuclear bombers, called AWACS for Airborne Warning and Control System.

And he knows, the sources say, that in the sour atmosphere of military fallibility generated by the Vietnam war, he will have to be well armed to defend the military spending authorization bill he brings to the floor this summer after the committee hearings. The relative ease with which his predecessor as committee chairman, Senator Richard B. Russell of Georgia, shepherded such bills through the Senate is considerd a casualty of the war.

"GOOD HARD LOOK"

"This year we've got to take a good hard look at everything," one source said. "When you get to the floor you've got to know what you're talking about."

The new examination system consists essentially in converting the Senate Preparedness Investigation Subcommittee, the chairmanship of which Mr. Stennis retained after he took over the Armed Services Committee in January, into an analytical and investigating arm of the main committee.

In previous years the subcommittee operated more or less independently, looking into the adequacy of the logistics support given the troops in Vietnam and the combat readiness of the Strategic Reserve in the United States as well as the forces in Europe and South Korea.

Now the subcommittee is concentrating on the military budget itself and the most important individual weapons programs. Two cost analysts from the General Accounting Office, the Congressional watchdog agency, have been added to the six-man subcommittee staff.

EVERY 3 MONTHS

An agreement has been worked out with the Defense Department under which the subcommittee will receive detailed reports every three months on 31 weapon projects that comprise more than 50 per cent of defense procurement and research and development. Procurement now amounts to $24-billion of the budget and research and development another $8-billion.

Mutually agreed upon starting points on the originally estimated cost, technical performance and development and production schedules for each project are being established. The subcommittee staff will monitor the programs by comparing the quarterly reports against these original bases to detect cost escalation, decline in technical performance and schedule showdowns.

If there is any major program change between the quarterly reporting periods, the Defense Department has agreed to notify the subcommittee immediately.

The subcommittee hopes that the timeliness of the information will enable it to force corrective action before major damage occurs.

The 31 programs include the Navy's $3-billion to $4-billion new destroyer construction project, the $12-billion AMSA, the $5.2-billion C-5A jet transport program, the Navy's $1-billion nuclear aircraft carrier project, the Army's cain battle tank-70 project and the Air Force's multibillion-dollar plan for an advanced jet fighter called the F-15.

YOUTH—OUR LAST, BEST BRIDGE

Mr. DODD. Mr. President, I invite the attention of Senators to a report to Urban America recently issued by Mr. Lelan F. Sillin, president of Northeast Utilities, Hartford, Conn. It is concerned with the development of youth programs under Youth Organizations United—Y.O.U.

The report is both inspiring and discouraging.

On the one hand, it reflects the high achievements in both creativity and effectiveness attained by various youth projects around the country. It illustrates the successful efforts of the private sector in antipoverty programs. It points to conclusive proof that "self-help" is far more than a deluded ideal of the middle- and upper-classes.

At the same time, however, the obstacles which Y.O.U. now faces point out the severe limitations with which all too many of our antipoverty efforts are confronted: bureaucratic delays, adverse publicity, and insufficient funds.

I believe that Y.O.U.'s activities can be highly instrumental in alleviating some of the pressures created by the "Generation Gap" and urban poverty. I, therefore, urge Senators to take note of this fine program, and to give it their full support, should the opportunity arise.

I congratulate Mr. Sillin and all of his associates in Y.O.U. upon compiling a perceptive and concise statement, and upon the fine work which they have undertaken.

Because the text of this report contains such a significant message, I ask unanimous consent that it be printed in the RECORD.

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

WHAT IS OUR ANSWER TO ANGELO GONZALEZ?—A REPORT ON THE PROMISE—AND THE NEEDS—OF A NATIONWIDE YOUTH MOVEMENT IN THE URBAN GHETTOS

(By Lelan F. Sillin, Jr., member, Board of Trustees Urban America Inc., president, Northeast Utilities, Urban America Inc.)

INTRODUCTION

What you are about to read began as a routine report by one Urban America trustee to his fellow members of the board. It became more important than that, because the subject of the report is hope—hope that none of us can afford to see extinguished.

At Urban America's 1968 annual meeting in Detroit, we had as guests members of former gangs from cities around the country which had, pridefully and spontaneously, turned themselves into constructive self-help groups working to improve their neighborhoods. The young men and women were a revelation. We decided on the spot to see how Urban America could help them help themselves. Lelan F. Sillin Jr., president of Northeast Utilities, agreed to act as chairman of a board committee to see what we might do, and the end result was a six-month program (later extended to eight) in which Urban America attempted to be a broker between the youth groups and the resources they need.

Lee Sillin put a great deal more than time into the program. He became deeply involved with what the groups were trying to do, and his concern deepened with his involvement. As he points out in this report, there is a great deal at stake in the youth movement—and a real prospect that the groups and their national coordinating office, Youth Organizations United, will fail for lack of support. I will leave it to him to explain why, and what this failure could mean, not just for the youths, but for all of us.

A few years ago, a gang called the Dragons terrorized Manhattan's Lower East Side. Now the Dragons have changed their name to the Real Great Society and are operating an amazing range of service programs in their community, financed in part by their own business enterprises. Thugs United in New Orleans is now Thugs United, Inc., not as dramatic a change of name, but also signifying that what was once a gang of minority youth—with all the violence that implies—is now a self-help corporation.

The same thing is happening across the country. Some 350 former gangs, involving perhaps 300,000 ghetto youth, have gone, as they say, "conservative"—have turned from crime, from killing, to community service and bootstrap business enterprise. They have their own national organization, called Youth Organizations United. *And they have done it all themselves.*

No government program, no private agency, can claim this transition as an accomplishment. Some have helped by providing money and, just as important, technical assistance and advice. But the change was the idea of these young people themselves. It was spontaneous and it has spread. It is their movement. They intend to keep it that way.

Consider what this means. The members of these gangs-turned-groups are, in every sense, the hard core. They are 16 to 25 years old; black, Chinese- and Japanese-American, Puerto Rican, Mexican-American, Indian. They are the dropouts, those whom society has deemed least likely to succeed, those best represented in the crime statistics and the records of arrests in civil disorders. They live with poverty, decay, narcotics, all the hustles of the ghetto street. They are, to put it simply, the most volatile single segment of our society.

Yet they have decided to work within that society, to try to change it from within. Make no mistake about their motivation. Few of them have been reached by oratory: They remain skeptical about society's promises. They are abrasive, outspoken, aggressive in their pride. They still dress like gang members and talk in obscenities. But they have decided, for now, that maybe they can get more for themselves and their communities by working inside the system rather than tearing it down.

They have to prove it, constantly, on the street. They have to deliver. If they are impatient, it is because their constituents are more impatient. There is an enormous tug-of-war going on for the allegiance of ghetto youth, and the groups are in the middle of it. Theirs are the strongest voices being raised against rebellion, far stronger than any outsider's could be.

The leadership of the youth groups is tough, intelligent, dedicated, and would make excellent revolutionaries. Instead, they are directing their talents to build their communities. But their belief in our democratic and capitalistic system is under constant challenge by others who advocate destruction of our society. They must show progress to be listened to. If they fail, the burning will begin again. That is a fact, not a threat.

Right now the odds are probably in the direction of failure. We have been working with these groups, and with Youth Organizations United (YOU), for eight months, trying to bring them together with the resources they need. The response has been inadequate. As this is written YOU does not have the money to meet its payroll. Frankly I do not quite understand how we have let its need—and our opportunity—go by.

I do know what the consequences of failure can be. The lesson will be clear to the young people: Society responds only to threats. Their disillusionment could be tragically destructive.

This report is at once an introduction to the inner-city youth movement, a plea for help, and a warning. These groups need us, not to tell them what to do—they are experts on that—but to suggest how they can do it, and help start them toward their goal of self-sufficiency. But we need them far more. We are, at this moment, two societies, drawing ever further apart in our experiences and perceptions of American life. The youth groups may be our last, best bridge.

GOING CONSERVATIVE

Any representative of the larger society brings hundreds of years of baggage with him when he first confronts one of the groups. Therefore, he will be tried and tested endlessly to see if he is real. It is not an easy process to go through, but the rewards can be great. The hope, the force, the fiber of these young pople are something to experience.

Words and pictures cannot take the place of this experience; on paper, the vitality is diluted. This report cannot take the place of involvement. All it can attempt to do is describe how the groups are going about the difficult, always tenuous process of trying to play a new and constructive role in their communities.

For the Vice Lords, it began on a summer night in their Chicago ghetto turf. They are now the Conservative Vice Lords Inc., with a membership of 10,000. One of their leaders, Bobby Gore, describes how it happened:

"As a gang, we ruled the streets of Lawndale. Cars were stocked with shotguns, young men were mauled in street battles, and many were arrested and sent to jail. But now that's over, and though many fellows are restless, most are looking for a chance to make it without fighting, stealing, or throwing Molotov cocktails.

"We began to become a conservative club one evening when we were sitting around—some of the young fellows sipping wine, some pitching pennies, others getting their heads together in secret. About eight leaders from different sets were together at one of our usual hangouts. We were talking about our past activities and close calls with death and how the chances of being maimed for life came so close. We were interrupted by one of the younger fellows who was in the secret talking crowd. He told us he wanted to take about 50 fellows later that night to make a fall. We asked him why and who he wanted to fall on; had anyone misused him. His reply was we, the older lords, including the fellows who were in jail, had made a name and they wanted to keep it alive. He also mentioned that we hadn't made a fall in so many months. Then the rest of his group joined in. They told us they wanted to be like us. They wanted to take up where we left off. Their intentions were to hurt anyone or everyone who walked the streets that night. The things they were planning to do were the things we had been talking about—about how restless they were and they had to have something to do with themselves.

"We sat up all night. We told them how we saw people die, people begging not to be hit anymore with a baseball bat or a chain, how guys got cut up, how the people and police would hate their guts, and how they may very well be the ones who get killed.

"You would be surprised at the words these young men said. They said, well we got to have something to do. We can't get jobs, we're too old to go back to school, and we're too big to play games. What else is there to do?

"We, the leaders, then called a meeting of younger fellows. We told them we knew how they felt because this same feeling was how we got into trouble. We told them we didn't want them to get hurt or to hurt anyone and we would try to find something for them to do. Most of them wanted jobs; some wished they could get back in school; others didn't care what they got—they were just tired of the same old routine.

"As Conservative Vice Lords we cannot turn our backs on our people. If we don't listen, who else can they turn to? We are the last place they look for help. With the burden of these kids on our backs, we had to turn conservative."

When a gang like the Vice Lords goes conservative, it seldom changes structure. The leadership simply takes on new titles: In one group, the first runner became president of the corporation, the second runner became first vice president, the war chief became program director, and the war lord took charge of public relations.

What does change are the activities. Typically, the gangs-turned-groups operate in two ways: They take on direct service programs in the community, and try to support them through profit-making ventures. They may need outside financial help at the beginning, but their goal is to make everything they do self-supported. It is an ambitious goal, in the context of ghetto poverty, but some of the older and larger groups are close to achieving it.

In Philadelphia, for example, the 11,000-member Young Great Society bought five old school buses. With them it runs excursions, for profit, to Atlantic City and elsewhere and has contracted with the Board of Education and University of Pennsylvania to transport students. It uses the money and the buses to take neighborhood children to recreation areas.

The Young Great Society also operates a halfway house for boys from problem homes, a tutorial program, a day-care center for working mothers, and, in conjunction with two Philadelphia hospitals, an alcoholic and narcotics center which currently treats 80 patients a week. With Philadelphia General Hospital and the University of Pennsylvania Hospital, it also operates a general health center serving 250 patients a week. Each year it has given emergency fuel, heat, and financial help to more than 600 families.

These activities are beginning to be supported by profits from The Young Great Society's holding company, Mantua Enterprises Inc., formed two years ago and named for the former gang's West Philadelphia turf. It manufactures pillows, blankets, window casements, and electrical parts. Mantua now has a contract with a major corporation to produce camera parts, and is arranging the gradual acquisition, over a five-year period, of a plant manufacturing electric circuit boards.

The group's for-profit activities, of course, also serve a training function. The Young Great Society has been involved in housing rehabilitation for such groups as the Urban Missioner's Fund of the Episcopal Diocese of Pennsylvania and Philadelphia Friends Housing Inc., through which its members learned plumbing, carpentry, drafting, and other construction skills. From this activity grew the more ambitious concept of turning one street in the neighborhood into a "model block." Working with the local Urban Coalition, the group proceeded to line up the help it needed to make the concept reality. Philadelphia Gas Works put up "front money" for purchase of the 27 properties, planning, and consultant fees. University of Pennsylvania offered to train members of the group in real estate and mortgage finance. Several Urban Coalition member firms are interested in locating branches in the model block and using Young Great Society members as personnel and managers.

The Young Great Society has entered into partnership with a registered architect who has done the site plans and working drawings for the model block and will be involved in future projects. Members of the group will work in the firm as part-time draftsmen and apprentices. The work of rehabilitation will be done by 25 members now enrolled in a vocational program cosponsored by the Urban Coalition; each is a pre-apprentice in one of the building trades and, while working, is required to attend classes on housing rehabilitation and get his high school diploma. Eventually the 25 will be the core of a Young Great Society contracting firm.

Thus, the model block project will yield more than 27 rehabilitated houses. While revitalizing part of the community, physically and economically, it also will provide Young Great Society members with jobs, training—and futures.

This sense of future also is evident in the youth groups' emphasis on education. In New York City, the Real Great Society established the "University of the Streets" and in the first year registered 1,600 students in classes ranging from English and mathematics to art and the theory of jazz. The teachers are volunteers, sometimes no older than the students, and the classes often meet in their apartments or offices.

The Way in Minneapolis operates the Chain Gang Laboratory School for 75 problem children. Its principle is "everyone a teacher, everyone a student": A youngster with sixth-grade ability in arithmetic teaches another on the second-grade level, and is paid for his teaching time. Parents of the students also are brought in as teachers, both to involve them in their children's education and expand their own. All teaching is on a one-to-one basis; each student has his own individual curriculum, related closely to the situation of his life. Teaching methods are flexible: In English and mathematics, lessons are fitted to popular songs and dances.

Tutors and big brothers to the students are a team of "floating workers." All have had their own problems as dropouts and delinquents. They can speak with an authority no truant officer could match. An insurance executive who worked with a group on a similar project spoke of the impact the young people can have on each other: "They know how to reach one another. They always use themselves as examples. When they see a kid using dope, they say, 'Look, I've used it and I know. Do you want to go through what I did?' "

Perhaps the most significant by-product of the youth groups' activities is pride, in self and in community. The Conservative Vice Lords operate a "soul shop" called the African Lion that manufactures clothing and jewelry. Warren V. Gilmore, then a member of the Lords and now president of YOU, described the shop's opening:

"Some women in the neighborhood made beautiful drapes which covered the windows of a storefront completely. Inside, we were working like mad remodeling. Each day people walking by would become more and more curious, peeking in the window to see if they could see what was happening. One day, just an hour before rush hour—we drew the drapes—and in the windows were all kinds of tropical trees, rhododendron, a fish tank, and wild grass. The people were amazed. The kids would pack the window every day coming and going to school. Nothing beautiful, nothing first-class like this had ever happened in the ghetto, and what made it most important was that it was done by the people themselves."

Neighborhood residents quickly began coming around to the shop to do more than buy. A newspaper was started there, and later an art instruction and exhibit center called "Art & Soul." The African Lion became the focus of community pride, a symbol of success in a neighborhood where there are few.

The groups also have impact on the community as a whole by trying to bridge the gap between the ghetto and the "outside world." As one of their first programs, the Mission Rebels in San Francisco established an "Institute to Educate the Establishment." The institute consisted of seminars between members of the Rebels and representatives of business, labor, schools, the police, and social agencies. Said one manufacturer about the early meetings: "We gathered together with box lunches and sat around on wooden benches. There was some abuse, a lot of bitter exchange, but we all learned something."

In February of 1969, the Conservative Vice Lords held an open house for the police. Their invitation went like this:

"DEAR LT. BUCKNEY: The Conservative Vice Lords are holding an open house for policemen, only, on Wednesday, February 26, 1969. There has been many misunderstandings between police and the community, and as a group once identified with gang activity, we have had confrontations with the police which at times we caused but which at other times were provoked by the police. . . .

"During the past year, Conservative Vice Lords Inc. has developed many new programs in Lawndale: Teen Town, The African Lion, Art & Soul, the House of Lords, summer beautification, and a Tenants Rights Action Group. Throughout this period, we have enjoyed open communication with some policemen while with others there has been mutual fear and suspicion.

"Many police cars cruise through our

neighborhoods and peer into the windows of our programs. Perhaps these policemen do not feel they would be welcome if they simply came in to see what was happening. Therefore, in the hope of changing attitudes and developing understanding on the street, we are inviting the police department to visit our programs."

During that day, police officers walked inside their beat, looked at the Lords' projects, shot pool with them, and talked.

In the summer and fall of 1968, members of The Way in Minneapolis made over a thousand speeches to black and white audiences to create better understanding. It launched VISTA–MC—a reverse Vista program "to educate the middle class"—with the aid of 150 young people from the American Friends Service Committee. Five cities since have asked The Way for help in designing similar programs.

TO KEEP HOPE ALIVE

It would be gratifying to report that the groups and activities described above are the rule. They are not. They are the solidly established exceptions who have succeeded in getting the help they need to help themselves. Most YOU member groups have not been so successful. They are struggling to stay alive—to stay "conservative."

YOU itself was formed out of this struggle. It was created in spring of 1968 at a meeting of 50 youth groups in East St. Louis. The groups realized they needed a national organization to act as a channel of support, to bring their movement to national attention, to be a vehicle for exchanging ideas, programs, information about what works and what doesn't. "We needed to show each other that we weren't alone," said one leader, "that there were brothers trying to do the same thing all over the United States."

YOU described the groups' needs—and its own functions, present and potential, in a recent report:

"We need to develop a system whereby youth groups can exchange skills, ideas, sources of resources, techniques for running programs, and insights and perceptions. We are all isolated—unable to effectively teach and learn from each other.

"We need to develop the capacity to train ourselves. Our leadership is strong, but a leader of a youth group is not necessarily able to run a business without the necessary training. Also, our young brothers and sisters have to be trained in bookkeeping, cash flow, etc. The same applies to many areas.

"We need to be able to provide our membership with skilled technical assistance for their programs and ideas of education, social and economic development. Our membership should have available as capable sources of advice and consultants as anyone else. YOU needs to be able to provide this.

"We need to expand our membership. The more youth we can serve, the more they can serve each other and their communities. By being together, by working for things that will improve the lives of the poor, we will have an effective and positive effect on our communities.

"YOU needs to promote and help members organize activities which will link them up with the mainstream of American life. We must promote the establishment of business, education, and training which will lead to good and dignified jobs, and a sense of optimism and pride.

"YOU also has a role to play in the white community, in the suburbs, in bureaucracies, in the corporations, in the state capitols, the city halls, the Congress, and the White House. We can do the job and we have already been asked to educate those in power about our communities and our culture of the inner-cities, the reservations, and the dusty towns of the Southwest. It's a two-way street. If society is to survive, the power structure needs to understand the needs of the haves, the have-nots, the young and the old. We in YOU can do our part."

Urban America's efforts to assist the youth movement began with individual groups but soon focused on YOU. The program staff—James Goodell, an architect and planner, and George Washington Jr., president of the United Council of Dignity in San Francisco—worked tirelessly to make contact with businesses, foundations, and government agencies on behalf of YOU and its member groups. (I also want to express my personal gratitude to Schuler Meyer, president of the Edwin Gould Foundation for Children, who was a real partner in the effort.) We realized that without a strong national organization, the movement would falter and perhaps fail. A few of the larger individual groups would continue on their own momentum; most of the others probably would wither for lack of direction and support.

At the time that Urban America became involved, in June of 1968, YOU's prospects seemed good. Its leaders had been invited to Washington to negotiate a grant with a consortium of federal agencies. But as the negotiations neared completion, a controversial series of hearings were held on Chicago's Blackstone Rangers—not a YOU member—and everything came to a halt.

In the past six months YOU leaders have taken part in more than 175 meetings with potential sources of funding, describing what they are doing and hope to do. The money these meetings yielded is now nearly gone. YOU President Warren V. Gilmore describes the current situation:

"YOU has been in one continual funding crisis since the day it was formed. We have literally lived from one interim grant to the next. We have spent at least three-fourths of our time in talking with businessmen, foundations, national organizations, and the federal government, telling about YOU, hearing that they were very interested, and in several cases virtually being assured that funds would be forthcoming. Yet here we sit, not knowing where the next payroll is coming from.

"You might wonder how YOU, whose purpose is to work as a service organization to the groups, can maintain its local constituency and make it grow even though we can't begin to operate the programs that they need. The answer is that YOU is theirs. It's the only thing that gives them identity. We probably can't hold their hopes much longer. The brothers and sisters will wait only so long.

"Just remember, if YOU is choked off at the top, nothing like it will take its place. See, YOU walks a tightrope between the pentup frustrations and the hopes of the kids and the establishment. The younger brothers and sisters have drawn the line. If they, their groups, and YOU fail, the frustrations will be unleashed. That's no good for anyone."

Like the individual youth groups, YOU is determined to become self-sufficient—if it can get the initial funding to stay alive. In April of 1969, YOU formed General Metropolitan Communications Corporation (Genmetro) as its profit-making arm, initially financed by a fully subscribed offering of preferred stock. Genmetro's focus will be information distribution and marketing. Already a major national manufacturer of consumer products has contracted with Genmetro to distribute samples of its products and to perform market surveys in 12 major cities. Genmetro, in turn, will contract with local groups to carry out the work. Part of the profits will go to the groups and part to YOU.

The manufacturer came to YOU and Genmetro not only to help, but because it felt they could do a job. And they can: Nobody knows or can move in the inner-city better than these young people. They are, in effect, the best consultants or contractors we can find; they are the professionals in ghetto problems.

How can we help at this point? One way is to use the services of Genmetro and the individual groups. Another is to provide YOU with the initial operating funds it needs. Still another is to offer, through YOU, technical assistance and expertise. Whatever the means you choose, I can promise that the deeper the involvement the more satisfying, and revealing, you will find the experience to be.

Let me close by telling you something of what you will find. You will meet, first of all, suspicion, cynicism, even anger. The young people will test your motives. They want no part of paternalism; no "do-gooders" need apply.

You will find that they know exactly what they want to accomplish in their communities, and have a hard-edged determination to do it. You may find that, while they are verbal, even articulate, there are large gaps in their knowledge of how to go about achieving their objectives. "The youth groups I have been working with have a great deal to learn," a lawyer from Louisiana said. "The leaders are very fine and completely straight. But the kids are reluctant to admit ignorance about basic management." Finding and filling such gaps is, in part, what you are there for.

You will come to see the special kind of reliability that comes with the discipline the groups have known as gangs. They see that promises are kept. "We don't have any lateness or absentee problems with 12th and Oxford people," said a Philadelphia business executive. "The group has a lot of pride, and they oversee their own men. When you have an organizational structure as well defined as a former gang, it's an excellent way to channel energy. When we can get someone sponsored by 12th and Oxford, we know what we are dealing with."

And you will find that the situation, in the ghetto, is more desperate than you thought. "Working with the Real Great Society has been an education," a New York insurance man said. "I have been involved in the urban scene intimately at least for the last five or six years. But before this I didn't realize how deep-rooted the problems are."

The youth movement is operating at the core of these problems. All of us are offered many ways to help find solutions. It is my conviction that none is more central, none more direct, than involvement in the youth group movement. Whether the youth of the ghetto make it will determine whether our cities, and thus our society, make it.

They say it best. This is Warren Gilmore on the movement's future: "It is a fact that YOU today stands as a shell filled only with promise. Nonetheless, it is one nationally based organization of poor youth. No other has been formed, and if YOU is unsuccessful, it is unlikely that another will take its place.

"Whether we can succeed is obviously a gamble. We think, in the course of history, this is a unique time for action in support of YOU—in support of the present youth that we represent and, more importantly, the much larger number of additional youth who could become a part of us."

They are waiting. What will be our answer?

RESIGNATION OF LEE WHITE AS CHAIRMAN AND MEMBER OF THE FEDERAL POWER COMMISSION

Mr. MAGNUSON. Mr. President, last week, quietly, one of the Nation's most dedicated and spirited public servants announced that he is stepping down from his office. It was characteristic of Lee White, Chairman of the Federal Power

Commission, that he seized the initiative in resigning in order to afford President Nixon "the broadest latitude in selecting a new Chairman," although his term would not have expired before 1970.

He may have been one of the softest spoken agency heads in Washington, but the regulatory stick which he wielded on behalf of consumers of electric power and gas energy in this country was firm. His vision of the role of the Power Commission and the needs of the Nation which it serves was broad, bold, and farsighted.

In leaving last week, he issued a call for bringing the electric power industry into the 20th century, for developing new mechanisms for balancing the growing demands for electric energy with the increasing concern for the despoilation and degradation of the environment, and he warned us that time is short.

In his Government career to date, Lee White served the best men of both parties, first as Senate aide to Senator John F. Kennedy, then with the distinguished Senator from Kentucky, Mr. COOPER, and later, on President Kennedy's White House staff and as a key adviser and troubleshooter for President Johnson. I wish him well and express the wish that his retirement from public life will be short-lived.

I urge his successor, John Nassikas, whom we know well and have worked with when he was minority counsel of the Committee on Commerce, to heed the words of his predecessor and to follow the courses which he charted.

I ask unanimous consent that an article and an editorial about Lee White be printed in the RECORD.

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

[From the Washington Post, May 18, 1969]

LAST NEW FRONTIER MAN OUT

(By Richard Halloran)

Lee C. White, who resigned last week as chairman of the Federal Power Commission, is the last of President Kennedy's New Frontiersmen to leave a major public office here.

When White went to the White House staff in 1961, after working on the Kennedy Senate staff and then for Sen. John Sherman Cooper (R-Ky.), on the Hill among his early tasks was resolving a dispute over who would be chairman of the FPC.

The issue arose because the FPC statutes are not clear. They say that the chairman shall be appointed by and serve at the pleasure of the president—but they don't say which President.

President Eisenhower had appointed Jerome Kuykendall as chairman with a term to expire in June, 1962. President Kennedy named Joseph P. Swidler as a commissioner and made known his intention to name him as chairman.

But Kuykendall balked and declined to submit his resignation, saying he had legal advice showing that he could remain chairman. A compromise, in which White had a hand in working out, averted a legal controversy. Swidler became chairman and Kuykendall remained on the five-man commission.

White, in his letter of resignation to President Nixon last week, recalled the incident and pointed out that the issue was never actually resolved.

The outgoing chairman took up the question he first met eight years ago and addressed himself to finding a clear solution. He told the President that, "legal questions to one side, the relationship between the Administration and the independent regulatory agencies requires the best possible personal relationship between the President and the chairmen."

"Although the Executive should not and, within my personal experience, has not interfered in the quasi-judicial responsibilities of the regulatory agencies, there are many legitimate areas in which liaison is essential: the budgetary process, development of legislative proposals, and matters relating to the administration of the agency," White wrote.

"Because of these views," he said, "I believe it appropriate and desirable for me to submit my resignation from the Commission to provide you with the broadest latitude in selecting a new chairman."

White further said that the Federal Power Act should be amended to make the right of the president to designate a chairman "absolutely clear." He said that he would write to the chairman of the Senate Commerce Committee and the House Committee on Interstate and Foreign Commerce "recommending enactment of clarifying language."

White is the second chairman of a regulatory agency to resign since the new Administration took office. Manuel F. Cohen, former chairman of the Securities and Exchange Commission, resigned in February and has entered private law practice here. Whether chairmen of other agencies will do the same remains to be seen.

In his letter to President Nixon, a speech to a meeting of investment analysts, and an interview last week, White stressed a single theme as he looked to the future.

This is the need to "harmonize" the need for more electrical generating plants and transmission lines and natural gas pipelines to meet increasing demands for energy, on one hand; and the rising concern for the nation's environment, the pollution of air and water, the scarring of the countryside, on the other.

He said that "increasing pressures are preventing things from being done in power." He pointed to cities where electrical plants can't burn certain fuels, communities that refuse to allow new plants to be built, conservationists that oppose new transmission lines or hydroelectric dams.

He said that if the problem is not solved, the nation could be faced with an inadequate supply of electric energy. "We have grown up in this country assuming there will be energy at the flick of a switch. I doubt that the public or the press will tolerate a situation where we do not have adequate generating or transmission capacity. I am certain that political office holders will not."

Yet he expressed sympathy for those who are concerned with environmental and aesthetic considerations. "It is a major point," he said, "and it ought to be. My pitch is that we have to develop an apparatus where these things can be resolved."

White warned that the time is short because of the lead times required to build new facilities, because many decisions on expanding power are irreversible and must soon be made, and because public opinion is slow to awaken to the issue.

He chastised the power industry for not looking beyond today and said that "my great crusade is to persuade the industry to change its methods" by regional planning, developing new criteria for operations, and bringing the interested public into the decision making process.

White confessed that he hadn't been able to do much about it, which he said gave him a "sense of disappointment and frustration." He said that "we can't attract attention to these problems when the competition for national attention is exceedingly keen. These are ten-year problems. How can we keep the public, the Congress, the press focusing the spotlight on the resource problem while it's still incipient and manageable? Look how late we were in recognizing the problem of pesticides. If we were able to sense an incipient problem and find alternatives, it ought to be explored."

White, who plans to leave the commission before the end of July, said he has not decided yet what he will do next. "I haven't focused on the decompression problem," he said. "I've spent my entire adult life working for all the citizens and I hope to be able to be involved in public interest matters."

He said that he had enjoyed the experience of ranging over a broad spectrum of matters as a staff man on the hill and in the White House and digging down into the intricate complexities of problems at the FPC. But he wasn't sure how he could use this in the future.

White doubted that he would or could go into elective politics. He pointed out that he had been in Washington for 15 years and had lost touch with things in his home state of Nebraska.

"Besides," he mused, "the track record for Democrats getting elected in Nebraska is not very good."

[From the Washington Post]

CHANGING COMMAND AT THE FPC

The forthcoming change of command at the Federal Power Commission is especially interesting because the present chairman, Lee C. White, is deliberately stepping aside so that President Nixon will have a free hand in naming his successor. Mr. White's term will not expire until June, 1970, but he feels strongly that the chairman of the regulatory commissions should have the confidence of the President so as to facilitate the tasks of budgeting, promoting essential legislation and carrying out administrative policies. Since the law is unclear as to how far the President may go in this regard Mr. White favors an amendment that would leave no doubt about the right of the President to oust a chairman who did not have his confidence. Such an ouster would not of course remove the demoted chairman from the commission itself, and if he remained aboard the new chairman would have to be an incumbent member.

There was not much doubt about the matter in the minds of the lawyers who wrote the United States Code. They said specifically that the President shall designate the chairman of the FPC and that "each chairman, when so designated, shall act as such until the expiration of his term of office." This language is an amalgamation of the original statute and a reorganization plan of 1950, which transferred the right to designate the chairman from the FPC to the President. But it seems to us to reflect the original intent of Congress to make the FPC an independent regulatory agency free from any control or domination by the White House.

Mr. White is not, of course, advocating presidential control of the regulatory commissions. He thinks they should be strictly independent in the performance of their quasi-judicial functions. We fear, however, that if the President were given a free hand to make a clean sweep of regulatory agency chairmen every time there was a change of administrations the public would soon lose confidence in the objectivity of the regulators. Certainly no move in this direction ought to be made until its implications have been fully explored for all the regulatory bodies, including the FPC.

The resignation of Mr. White brings regrets for another reason. He has been unusually sensitive to the mounting demands for electric power as well as to the public concern over water and air pollution and defacement of the countryside by gigantic power lines. It is estimated that the present consumption

of power will be multiplied by seven by the turn of the century. Ways of supplying these essential needs must be found without destroying fishlife and burying our landscapes under a wilderness of wires. At this point the country can only hope that John N. Nasikas, President Nixon's choice for the chairmanship of the FPC, will be, if he is confirmed by the Senate, as alert to these problems and the necessity of securing legislation to deal with them as Lee White has been.

PROBLEMS IN AIR TRANSPORTATION

Mr. PEARSON. Mr. President, I wish to bring to the attention of the Senate, with commendation, the May 1969, issue of Space/Aeronautics. This issue presents a special section entitled "Toward Aviation Growth." I recommend it to all Senators who wish to understand more clearly the problems facing aviation and air transportation today. I think the articles in this special report describe and analyze in a most reasonable way the major problem areas in air transportation.

Congress in the coming months faces a crucial decision as to how these problems must be confronted. I spent much effort last year with former Senator Monroney as a member of the Subcommittee on Avitaion of the Committee on Commerce drawing up what we felt was a practical approach to these problems. However, the work by the committee met many obstacles, and at the last session Congress failed to act.

The Subcommittee on Aviation will begin again next month to examine these problems and how they should be solved. The lead editorial in Space/Aeronautics' special aviation report, written by Englebert Kirchner, provides, I think, a sound perspective from which to proceed into these legislative considerations. His commentary on past and present processes of aviation planning and funding point out the crux of the problem. The facts are basic: There is a need for consistent and continuous resources to fund airport/airways requirements. If users are to bear the burden for providing these resources, they must know that the resources will be used to expand and modernize our national air transportation system. I ask unanimous consent that the editorial be printed in the RECORD.

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

IN LIEU OF CRASHES

(An editorial by Englebert Kirchner)

There is a disconcerting graph on page 53 of this issue. It plots civil aircraft operations and FAA appropriations from the mid-'40s to the present, and the startling thing about it is not that it shows the appropriations curve once again as way below the demand curve. Much worse is that it reveals what, in the past, triggered major increases in FAA spending: not the analyses of the air traffic problem such as the Curtis report of 1956 or the Beacon study of 1961 but a series of spectacular air disasters like the midair collisions over the Grand Canyon in 1956 and over Staten Island in 1960.

If it had not been for the deaths of several hundred people in these crashes, the airways and ATC system would not be as reasonably effective as it is today, and more people would have died in crashes in the mid- and late '60s. Will it now take the deaths of perhaps more than a thousand people in airbus crashes to get us the expanded and refined airways and ATC system we need for the '70s?

History will repeat itself if airways and ATC improvements continue to be financed out of the annual FAA appropriations. Without the spur of disaster, there is no hope that Congress will vote either the $2.75 billion FAA estimates it will need in the '70s for facilities, equipment and R&D or an adequate share of the roughly $5 billion that will be required for airport development in the same period.

Fortunately, there is another, much more effective way of financing airways and airport development: a trust fund fed from a special tax allocation—the expanded system of airways user charges FAA has long been arguing for. If FAA wins this argument, as now seems likely, this can make all the difference for commercial aviation in the '70s.

User charges and a trust fund probably are not the ideal solution. The Highway Trust Fund, which is the only precedent we have, for all its apparent success has become a millstone around the country's neck. Highway money, however, can be spent only on slapping down more concrete. An aviation trust fund would be much more open-ended, for the money from it could be expended on ATC, airports, advanced R&D and any number of other purposes.

It can also be argued that the general public should bear some of the burden of airways and airport development, whereas user charges eventually will put all of this burden on the shoulders of air travelers and general-aviation operators. But the points that really matter are that the airways users can afford to pay for what an aviation trust fund would buy and that it is their necks which would be saved. That lives are at stake also decisively weakens the otherwise sensible objection that in the past has prevented the establishment of an aviation trust fund: that such a fund reduces the government's leeway in fiscal manipulation for the good of the economy.

Airways user charges may sound like a gimmick. Actually, they are at the heart of a very simple choice: By imposing them, we can assure ourselves of the money to make air transportation safe in the '70s and thereafter. Without them, we can be certain to have to pay the price in human lives.

POOR EQUAL EMPLOYMENT RECORD OF ELECTRIC POWER INDUSTRY

Mr. HART. Mr. President, recently Mr. William H. Brown III, the new Chairman of the Equal Employment Opportunity Commission, delivered a speech to the Edison Electric Institute in Denver, Colo., pointing out the very poor record of the electric power industry in promoting equal employment. His speech suggests that despite continuing appeals from the Equal Employment Opportunity Commission, this industry has remained, for the past 3 years, as perhaps the worst employer of members of minority groups of all major industries in the United States. Although there has been improvement in the industry employment figures since the EEOC held an industrywide conference to discuss this problem last June, nearly all of this improvement can be attributed to the progressive hiring policy of a single company. Apparently the remaining companies have shown very little interest in complying with the spirit of the Civil Rights Act of 1964.

The Senator from Washington (Mr. MAGNUSON) chairman of the Committee on Commerce, recently announced that the committee would conduct an investigation of equal employment practices in the regulated industries during the coming year. Mr. Brown's remarks indicate that this review is certainly necessary and appropriate. Before the committee actually schedules hearings on the employment situation in the electric utility industry, however, I would hope that the Federal Power Commission would employ every means at its disposal to see that employment practices in this industry are rapidly improved. Since the "carrot" approach has apparently not worked, I believe it is time for the Power Commission to make clear to this industry that it show more concern about its poor employment record.

I ask unanimous consent that Mr. Brown's excellent, but disturbing, speech be printed in the RECORD.

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

REMARKS BY WILLIAM H. BROWN III, CHAIRMAN, U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Ladies and gentlemen, I am happy to be able to address this gathering today, a gathering designed to realize in meaningful terms one of the most important ideals of our times—equal opportunity for employment for all people. I say ideal without reservation, for equal employment is certainly not a reality today; not in our times, not in your industry.

The electrical power industry is of particular significance for many reasons—the large number of people employed; the geographical spread of the employment; the monopolistic nature of the industry; the tremendous value of your assets.

The significance of the utilities industry to American business and American life intensifies its importance as an equal opportunity employer. I am sure that everyone in this audience subscribes to the concept of equal employment opportunity; the fact of your inviting me to speak here today indicates your concern.

You should, then be concerned to learn that the electrical power industry has had one of the worst equal employment records of all industry groupings in America. The findings and statistics supplied to me—based on the reports that you yourselves submitted—will graphically demonstrate that the most effective methods of discrimination and exclusion are being practiced in your industry. The case histories give living shape to the story of exclusion and the hard facts of discrimination become glaring in the light of cold statistics.

The Equal Employment Opportunity Commission has used and will continue to use statistics, not for the purposes of punishment, but to illuminate the effects of discrimination where it exists and spotlight imaginative, affirmative employment policies where they exist. EEOC dwells on differences in employment patterns to prove that in almost every industry, every city, one or more employers who concentrate on affirmative action—not just affirmative motion—themselves destroy the myth that qualified and qualifiable minorities are not available.

When we publicize such disparities we are not setting quotas for the employers on the short end of the comparison. But we are throwing down the gauntlet, and certainly firms which pride themselves on being EEO employers, or send representatives to meetings such as this, should take a hard look

at themselves. And this look *has* to be quantitative.

You as businessmen would not applaud the salesman who writes copious sales plans each quarter and then doesn't deliver the sales. You would call him in, show him how Mike in the next sales unit in the same district is doing much better and challenge him to do likewise. That is essentially what EEOC does with employment statistics in a context such as a White House meeting, a public hearing or this session.

In June of 1968, the facts of exclusion and under-utilization were presented to representatives of the electric power and natural gas industries at a White House meeting sponsored jointly by the Federal Power Commission and the EEOC. At that time, the utilities industries—and particularly the electric power companies—were informed that according to 1966 and 1967 data, they were the worst employer of minorities of any industry grouping.

At that time electric companies employed only 41 black managers, out of almost 30,000; Out of 15,000 technicians, only 59 were black; Of over 6,000 sales workers, 27 were black. In the nation's 11 largest electric companies, employing over 8,000 officials and managers, in 1966, 13 were black; in 1967, 12 were black—and in both years 6 were employed by one company. And for Spanish Americans, the picture was no less bleak—these 11 largest companies employed them as only 0.3% of their total workforce . . .

At the time these statistics were presented to your industry—possibly to many of you personally, my predecessor as Chairman of EEOC said, "We do not believe this is a picture of which you will be proud, collectively or—with few exceptions—individually. The exceptions to the patterns are encouraging in kind but discouraging in number. One matter is clear; these hours we spend today in conference will mean very little if they do not lead to action. Such action is possible only with the commitment of top industry management. Your presence here today, I think, implies that commitment. But commitment which is unfulfilled may be apathy, if not self-deception. And that is why we hope that the programs we will discuss today will help you translate your commitment into action."

The Chairmanship of the EEOC has now changed; the patterns of minority exclusion and under-utilization in the electric companies, apparently and unfortunately, has changed only marginally at best. Based on reports for 1968 and 1969 submitted to the EEOC by 115 members of the Edison Electrical Institute employing the large majority of the total workforce in the electric power industry, your industry still inhabits the bottom of the list in terms of minority utilization.

This conference is devoted to affirmative *action*. I hope it will not celebrate the affirmative *motion* that results of the past year indicate has been going on.

The figures I will relate will show better than any words the continuing failure of the electric power industry to comply with the letter and spirit of the law.

Blacks, who comprise almost 12 percent of the nation, make up only 4.8 percent of 115 electric companies' employment and hold only 2.8 percent of white collar jobs in 1969. These figures are up only slightly from 4.1% and 2.1% a year ago.

As one descends the job scale, as the jobs become less desirable—and lower paying—and as upward mobility becomes increasingly difficult, suddenly, there the black workers show up. Thus, less than half of one percent of managerial and professional jobs are filled by blacks compared to over 5 percent of the clerical jobs. The same is true in the blue collar area; while fully a quarter of the laborers are black, less than 2% of craftsmen, foremen and kindred workers are.

Gross underutilization of minorities in your industry is not limited to blacks alone—Spanish Surnamed Americans hold only 1.2% of total jobs and comprise only one-half of one percent of the officials, managers and professionals. Women are almost entirely restricted to the clerical category—almost 40,000 are employed in that category compared to about 3,000 for all other categories combined.

It is quite obvious from this recital of statistics that in the aggregate, your industry is one of the poorest performers in the field of minority and female employment. However, I have hardly begun; the scene is actually much more frightening because a few isolated companies hide the inexcusable records of the rest:

Eighty-three of 115 reporting companies in your Institute have no blacks classified as officials or managers; 34 have no women.

In 64 of the companies, there are no black professionals and no female professionals in 26.

There are no black technicians in 64 companies, no black sales personnel in 72.

Women are completely absent from the technician category in 35 companies; from the craftsmen category in 104 companies.

I cannot accept the excuse, from any of these companies which are such painfully good examples of exclusion, that qualified minorities and women just could not be found.

One large company in a southern town which is 35% black reports *no blacks in any of its white collar positions.*

In a midwestern city with 17.5% of its population black, the electric company has no black manager, professional or salesman.

A major Western utility company in a city whose black population is over 10 percent has only 1 black manager out of almost 1900 and only 20 professionals out of 2,000.

In a Southwestern city in which almost 5% of the labor force is Spanish American, one electric company has no official, no salesman, one professional and three technicians who are Spanish Surnamed Americans out of 624 employees in those categories.

Another company in the same town has not one Spanish Surnamed American employee.

These statistics for the major portion of the electric power industry, which show one or two or ten or twenty blacks—and often none—in job classifications which encompass thousands of workers, cast more than a shadow on your industry's protestations of vigorous policies and progress. Words and good intentions cannot act as a substitute for the provision of better jobs with better prospects for minorities and women.

In the 1968 White House meeting, one company was singled out. Although it was far from a model employer of minorities at higher job levels, it was at least far ahead of the rest of the industry. It still is and it is the only company which goes a way towards proving that qualified and qualifiable minorities and women can be found.

Almost half of the increase in minority employment at the managerial level between 1968 and 1969 is among all 115 companies is accounted for by this one company.

This company employs 40% of all black craftsmen in the industry while employing less than 10% of total craftsmen.

Blacks accounted for almost half of its new hires in the craftsmen category which encompasses more than ¼ of its total workforce.

If this company is removed from the aggregate data, there is an almost total absence of change in minority employment for the other 114 companies from 1968 to 1969.

One of the excuses offered for this state is the practices of unions. Undoubtedly, unions do contribute to this picture. But I want to point out that unions have nothing to do with the white collar situation, and the white collar situation is infinitely worse than the blue collar situation. If the companies which profess equal employment policies were to implement such policies in the white collar categories, is there really any doubt that the unions would believe the companies were serious in the areas where collective bargaining agreements prevail?

I would like now to take this audience one step further along the road of illumination. Instead of overwhelming you with numbers, I want to paint for you the picture of actual cases of discrimination in the electric power industry.

Recently, the EEOC ruled on complaints lodged against some of the largest electrical power companies in this country. Their policies and practices were found to be in direct violation of Title VII. The companies were perfect examples of institutionalized discrimination, in both their physical plant and their job structure. Investigators found segregated rest rooms, segregated lines of progression and separate employee benefits such as retirement plans and pension plans.

Carelessness or lack of awareness can create the same results as overt discrimination. Seniority lines, testing procedures, training programs and promotion systems often operate to keep out minorities or freeze them at the lowest job levels with no upward mobility.

Isn't it all a little unbelievable in America in 1969?

Unbelievable that by design or by negligence human beings still don't have the right to use facilities freely; or to be promoted on merit; or to compete freely for jobs; or to accrue the benefits others receive—all merely because of race or religion or national origin or sex? Regardless of whether the *intent* of the President of those utilities was for all employees to have equal employment opportunity, his failure—by virtue of unconcern or negligence—to see that his intentions were effected, produced the situation I have described.

Just as top management must be held ultimately responsible for company profits and quality of output, so must they be for personnel action and employee relations. In addition to the concern for keeping expenses down, there must be an equal concern that non-discriminatory employment standards are being adequately maintained throughout the total organization.

Your companies should establish whatever procedures and periodic checks are necessary to enforce those standards just as you establish cost accounting procedures. And each company should take the same vigorous and severe action against employees whose discriminatory behavior violates company policy as it would against employees who carelessly squander profits.

The depressing array of statistics I have just finished relating outlines the debilitating lack of effective EEO policies in your industry by detailing the lack of real results. You met with the EEOC last year in an attempt to find avenues for improvement; they have obviously not yet been found. It is my hope that this meeting will give you the impetus to change and the tools with which to effect that change.

When top management of the electric companies applies itself seriously to implementation of EEO policies; when it responds to the statistics in its own companies, and the unlawful practices which exist in its offices and create those statistics, then and only then will the bleak employment picture of the present change—and very quickly.

And once it has really begun to change—at all levels, not just at the entry level—the going is easy. Improvement, in terms of numbers of minorities in meaningful jobs, is in itself a tool. Under-representation of minorities bears heavily on credibility—how can a company be an Equal Opportunity Employer, as so many advertise, when their workforce above the lowest blue collar level

is virtually all white? Minority representation in the workforce today bears heavily on the chances of recruitment success in the future. Just as there is a "take-off" point for an underdeveloped economy, when it will start to prosper without extra aid, there is one for a company, when it will no longer need to make a special effort at "communication" because the minority contingent of its workforce will recruit through the informal channels by which word of most job openings is disseminated. This work must be started; we cannot accept excuses any longer; the statistics must change and the "take-off" point must be reached.

The White House meeting last year was a call to action—a recital of grim statistics and a challenge to change them. You have not met that challenge.

You cannot in all conscience continue to attend such meetings as this and then return to your offices to do what results in nothing.

A year ago at the White House, it was noted that the time-consuming compliance process might be the inevitable alternative if real action were not forthcoming from your industry on a less formal basis. I do not mean to threaten—and the Commission presently lacks real enforcement power—but do want to make a simple statement of fact. We have seen in the intervening year what must have been more motion than action by most of you, and I am not disposed to see another such year go by.

CONTROLLING TECHNOLOGY

Mr. NELSON. Mr. President, perhaps the greatest challenge to this Nation as we enter the last third of the 20th century is to make technology work for rather than against a better future. In the threats of the arms race, of water and air pollution, of cities jammed with automobiles and decaying with slums, of persistent, toxic pesticides, we increasingly are realizing the hazard of failing to meet this challenge.

In a recent column published in the Washington Post, Joshua Lederberg points out one new danger, a new gasoline additive containing the metal nickel, and draws a lesson from it that must be applied to all new technological developments and uses. He says that as we have begun to learn from pesticides, we must "require reasonable proof of safety before such products can be wantonly cast into our breathing space."

I ask unanimous consent that Dr. Lederberg's excellent column be printed in the RECORD.

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

GREED TO CASH IN ON SCIENCE CAN CAUSE COSMIC BELLYACHE

(By Joshua Lederberg)

The deterioration of the "environment" has not been one of my important scientific preoccupations until very recently. When journalistic criticisms like Rachel Carson's "Silent Spring" first appeared, I tended to shrug them off as hysterical exaggerations, perhaps even motivated in part by the notoriety they generated.

I had, however, not often looked very deeply into the scientific foundations of these damning recriminations. The task of preparing the present series of articles has become a major educational experience, for it obliges me to look more closely into, and make an informed, independent judgment on, a great many subjects for which I had formerly relied upon third- and fourth-hand accounts, where I tended to discount what seemed like alarmist exaggerations.

In fact, the more deeply I pursue my own inquiries, the more alarmed I become. There appears to be an almost endless list of foolish gambles with and intrusive exploitation of our common environment. They are not usually malevolent by intention, but this is no balm to our concerns.

They domainly share a common fallacy—the mistaken view that the atmosphere and the rivers and oceans are infinite reservoirs that human activities cannot disturb. We have become too powerful now to take refuge in naive ignorance about what really does happen after we throw the switches.

The immediate irritant that provokes these remarks comes from a casual conversation with a staff colleague who had recently operated a filling station. He mentioned that one of the oil companies had proudly introduced a new gasoline additive that contained the metal nickel.

This was corroborated by an abstract in the transactions of the Society of Automotive Engineers that cited many wonderful properties of "nickel isodecylorthophosphate": "a unique and effective multifunctional gasoline additive which . . . reduces abnormal deposit-induced ignition; prolongs exhaust valve life; functions as an effective carburetor de-icer and rust inhibitor, and modifies combustion chamber deposits."

The abstract said nothing about the modification of people by nickel compounds, nor even about the chemical forms that nickel would probably take when it left the auto exhaust. But there is a substantial body of medical literature on nickel dust and on the particular compound, nickel carbonyl, which is readily formed by the reaction of nickel with carbon monoxide.

These compounds are insidious causes of cancer of the nose and lungs, as shown both by the occurrence of these cancers among nickel refinery workers and by experimental studies on laboratory mice. The nickel compounds are especially treacherous, for they often require over 20 years of chronic exposure before they reveal their cancer-inducing effect in man.

According to experimental studies, soluble nickel salts are relatively harmless (in contrast, say, to those of mercury or lead). The dangerous forms of nickel are insoluble dusts and the volatile nickel carbonyl which are readily taken into the lungs and remain there. In fact, Dr. F. W. Sunderman Jr. of the University of Connecticut School of Medicine has speculated, quite plausibly, that nickel is the culprit in cigarette smoke that causes lung cancer.

Dr. Mary R. Daniel of the Ontario Veterinary College has shown that different strains of rats vary in the production of tumors when inoculated with nickel sulphide. The possible hazards to man of nickel-containing gasoline additives will not be easy to determine. But who should bear the risks?

The President's Science Advisory Committee pointed out in its 1965 report on the environment that "widespread use of automobiles has made motor fuels the single most effective way to expose almost all our people to air pollution from combustion-resistant substances such as metals." It recommended that fuel additives be subject to compulsory registration.

In fact, we must go further, as we have begun to learn with pesticides, and require reasonable proof of safety before such products can be wantonly cast into our breathing space. Failing specific regulations under law, we must open the courts to private civil claims for collective damages for imprudent assaults on the common environment.

The larger issue was addressed by a committee of the American Association for the Advancement of Science in a 1965 report: We live in an era of large-scale "technological application before the related basic scientific knowledge was sufficiently developed to provide an adequate understanding of the effects of the new technology on nature."

Society is greedy for short-run payoffs—which are potentially enormous—on its investments in science. That greed, if it continues to foster a scientifically ignorant and imperceptive technology, responsive to narrow goals and blind to larger human needs, can have no end other than a terminal cosmic bellyache.

ADDITIONAL STATEMENTS ON THE ABM

Mr. THURMOND. Mr. President, in an effort to make the maximum testimony on the ABM available to the American people, I wish to submit two statements for the RECORD.

The Committee on Armed Services has taken an objective approach for the hearings on the ABM. Witnesses who are for and against the ABM have been heard. Some witnesses have submitted additional statements.

Mr. President, it is essential that the American people have full access to all the information on this critical issue. Dr. Albert Wohlstetter and Dr. Wolfgang Panofsky, both testified before the committee. These two witnesses have submitted additional statements to the committee which represent different viewpoints on the ABM.

Mr. President, I ask unanimous consent that these statements and a press release made by the Senator from Mississippi (Mr. STENNIS), chairman of the Committee on Armed Services, be printed in the RECORD.

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

NEWS RELEASE BY SENATOR JOHN C. STENNIS, CHAIRMAN, SENATE COMMITTEE ON ARMED SERVICES, MAY 26, 1969

Senator John C. Stennis, Chairman of the Senate Committee on Armed Services, today released additional statement regarding the anti-ballistic missile system received by the Committee from Drs. Panofsky and Wohlstetter who had testified earlier at the time the Committee held open public hearings on the subject.

STANFORD UNIVERSITY,
May 7, 1969.

Hon. JOHN STENNIS,
Committee on Armed Services,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STENNIS: As you know I have had the privilege of testifying before your Committee on Armed Services. I have now examined the transcripts of the Hearings on the ABM issue before your committe as well as the transcripts of the Hearings held before the Disarmament Subcommittee of the Committee of Foreign Relations; in this letter I would like to draw your attention to what I consider to be a significant omission in public testimony.

The stated primary mission of the Safeguard System is to decrease the damage to the Minuteman force should the threat from the Soviet SS-9 develop as forecast by Secretary Laird. There is a large spread in opinion on such questions of judgment as: (a) the validity of the forecast; (b) whether a first strike potential can be developed by the Soviets at all, even if Minuteman became vulnerable; (c) the effect of Safeguard on the Arms Race; (d) the effect of a deployment decision on the forthcoming negotiations with the Soviets; (e) how the Safeguard

System would in fact perform under realistic situations; (f) whether Safeguard is designed properly for its stated mission. I have given my views on these subjects in prior testimony before your committee.

However, there should be no disagreement on the simple question of specified performance of Safeguard in protecting Minuteman if it worked *perfectly*. Yet *none* of the testimony known to me given by the proponents of the Safeguard ABM System publicly addressed itself to that point.

Since it is, after all, primarily the reduction of damage to Minuteman under attack which the American taxpayer is being asked to pay an amount which now appears to have grown to the order of $10 billion, the answers to the following questions appear to be highly relevant:

1. If the Soviets developed an SS–9 force with MIRV warheads, which in the mid-'70s could reduce the Minuteman force to, say, a residual of 200 missiles without defense from Safeguard, how many Minutemen would survive if (a) Safeguard Phase 1, or (b) Safeguard Phase 2 were deployed, and if Safeguard worked as designed?

2. How many additional Minutemen would have to be added to the force such that for the level of attack assumed in 1. the same number of Minutemen would survive *without* any defense as those surviving *with* the defense assumed in 1., and what would such additional deployment cost?

It should be assumed that the answers to this question should visualize an attack by the SS–9 optimized against the defense. Of course if one also were to assume that the smaller Soviet SS–11 could participate in the attack against the defended Minuteman complex then one would find that the Safeguard offers no defense at all, since the SS–11 could easily take out the MSR radar system.

I feel that when the American public is being asked to spend large sums to reduce a projected and highly publicized threat it should be told publicly by the advocates the specific degree by which this threat can, at least in principle, be reduced by the proposed system. If the threat reduction is not large, then, considering the other uncertainties and the high cost, deployment should in my view not be approved. Also if the cost of the defense greatly exceeds the value of the damage reduction produced by the defense, again the system appears a poor use of resources.

I hope your committee will find it possible to close this gap in testimony. I appreciate very much the opportunity you have given me to contribute my views in this important issue.

Sincerely yours,

WOLFGANG K. H. PANOFSKY,
Director.

THE UNIVERSITY OF CHICAGO,
Chicago, Ill., May 23, 1969.

Hon. JOHN STENNIS,
Senate Armed Services Committee,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STENNIS: I was very honored to appear before your Committee on April 23, and I appreciate the invitation you extended to me and other witnesses to submit supplementary statements. I am transmitting with this letter both an unclassified supplement and a classified one relating the former to intelligence estimates and certain other classified matters.

Sincerely yours,

ALBERT WOHLSTETTER,
University Professor.

SUPPLEMENT ON PURPORTED PROOFS THAT THE MINUTEMEN WILL BE SAFE WITHOUT FURTHER PROTECTION

In preparing my testimony for the Senate Armed Services Committee on the role of ABM in the 1970s, I undertook to review and test my past views on the subject and once again to form my own independent judgment. I therefore did not rely on calculations of either the government or its critics. I took the relevant classified and public data and performed my own analysis.

The kind of analysis involved in obtaining a protected and responsible strategic force has been my principal concern for eighteen years starting with the study that gave rise to the first-strike/second-strike distinction and to a good many other concepts and modes of protecting and controlling strategic forces cited by both sides in the present debate. The ABM has other functions that I support, but my testimony in the space available focused on its role in defending Minuteman. As I stressed there, these are complex and intrinsically uncertain matters. Where scientists differ on them, laymen may be tempted simply to throw up their hands and chose to rely on the authority of those scientists they favor. I feel, however, that the substantive differences among the scientists they favor. I feel, however, that the substantive differences among the scientists, if carefully explained, are quite accessible to the members of this Committee and that such careful explanation can help them form their own judgment as to which conclusions are sound.

ON THE SAFETY OF MINUTEMAN

In my statement to the Senate Armed Services Committee on April 23, I said, "I have tried to reconstruct various numerical proofs recently presented or distributed to the Congress that purport to show our Minuteman will be safe without any extra protection; these proofs depend heavily on optimistic estimates of limitations in Russian delivery accuracies, reliabilities, associated offense capabilities, and sometimes on poor offense tactics." In response to questions from members of the Committee, I illustrated several troubles with these attempted proofs of the safety of Minuteman, but there was no time to explain their defects adequately. I would like to try to do that now, and to comment specifically on the calculations of Dr. Rathjens, Dr. Lapp, and of the Federation of American Scientists. Some of the comments, particularly those of Dr. Lapp, bear also on some unevidenced statements on this subject by Prof. Chayes and Dr. Panofsky, and more recently, by Dr. Wiesner and Dr. Steven Weinberg.

Though my own calculations were based on classified as well as public data, my summary of results, like that of Dr. Rathjens, was unclassified and so are the comments I am about to make. This will prevent explicit specification of some of the numbers assumed by Dr. Rathjens and by myself and inevitably it forces some roundaboutness of expression. I am able to state, for example, that Dr. Rathjens and I assume the same accuracy for the Russian SS–9 in the mid- and late 1970s. I can say that the SS–9 is now expected (and, before the Nixon administration, was expected) to achieve that accuracy years in advance of this late time period. And I can say, as Dr. Rathjens did, that the accuracy we have assumed for the Russians, in this late time period, is essentially the same as that estimated for our own MIRV carrying missiles, namely Poseidon and Minuteman III.[1] But I cannot say what that accuracy is.

I am, therefore, submitting classified statement in which the essential numerical assumptions are explicit and related to intelligence estimates. However, even without the classified statement, some essential defects of the calculations of Dr. Rathjens, Dr. Lapp, and the Federation of American Scientists can be made clear.

[1] Poseidon and Minuteman III have been test flown and are in the process of deployment. (The first of these should be operational in about a year and a half.)

DR. RATHJENS' CALCULATIONS

Dr. Rathjens has stated "Even if the Soviet SS–9 missile force were to grow as rapidly as the Defense Department's most worrisome projections, even if the Soviet Union were to develop and employ MIRVs with those missiles and even if they achieved accuracies as good as we apparently expect with our MIRV forces (according to figures released in late 1967 by former Deputy Secretary of Defense Nitze), a quarter of our Minuteman force could be expected to survive a Soviet preemptive SS–9 attack. That quarter alone would be more than enough to inflict unacceptable damage on the USSR."[2]

My own parallel calculations for the mid- and late 1970s, using what I described as moderate assumptions, show about 5% surviving. What explains the difference? Since Dr. Rathjens and I compared notes on April 22, I am able to fix quite precisely where we agreed and where we differed.

Our assumptions agreed in the accuracy assumed for the SS–9, in the overall reliability rate, in the number of SS–9 boosters (500) and in the use of several independently aimed reentry vehicles in each booster. Our assumptions differed on three key points: in the degree of blast resistance assumed for our Minuteman silos, in the yield of the Russian reentry vehicles, and in the use or non-use by the Russians of substantial information about what missiles are unready at launch or fail in early stages.

On the first point, I have explained that Dr. Rathjens assumed that Minuteman silos were two-thirds more blast resistant than I did, and two-thirds more blast resistant than they are officially estimated to be. He derived his assumption by reading several points off an unclassified chart showing the probability of a Minuteman silo being destroyed as a function of accuracy for various bomb yields. Then by using standard rules for weapons effects he inferred the overpressure resistance of Minuteman silos. However, the curves on the unclassified chart cannot be correctly read to imply the overpressure resistance Dr. Rathjens infers. His reading of the curves was in error.

Second, I assumed three 5-megaton reentry vehicles for each SS–9, as in Secretary Laird's public statements. Dr. Rathjens assumed four 1-megaton reentry vehicles. More than four reentry vehicles can be fitted on the SS–9, if the payload is only one megaton. However, the three 5-megaton reentry vehicles, given the accuracy we both assume, and given the actual blast resistance of the Minuteman, do enough for the attacker. Using his lower Russian bomb yield and his overestimated Minuteman blast resistance, Dr. Rathjens derived a probability of about 60 percent that one arriving Russian reentry vehicle would destroy one Minuteman silo. If he had used the officially estimated 5-megaton reentry vehicle and the actual blast resistance of the Minuteman silo, the probability would have been nearly 99%. If he had used three 5-megaton reentry vehicles per booster for the SS–9 and the correct estimate for blast resistance, he would have found only 16%, instead of 25% of the Minuteman force surviving. Alternatively, if he had used the classified estimates of the number of 1-megaton reentry vehicles that can be fitted on an SS–9 booster, his calculations would have shown about 7.3 percent surviving. The combined significance of these first two points of difference between Dr. Rathjens and myself is then considerable.

The third point of difference between our calculations is that Dr. Rathjens assumes that the Russians would have to salvo all of

[2] Testimony of April 23 before the Senate Armed Services Committee. See also his testimony of March 28. Part I, p. 359 of *Strategic and Foreign Policy Implications of ABM Systems*, Hearing before a subcommittee of the Senate Committee on Foreign Relations.

their missiles with no information as to which had been unready or failed in time to be discovered, or at any rate with no use of such information. However, it is familiar that better methods are available and are of considerable utility for an offense that wants to assure a very high percentage of destruction of the force attacked. Most missiles that are counted as "unreliable" (excluded from the figure of overall reliability) are either not ready for launch or fail at launch, and this information can be made available immediately. A substantial additional fraction that fail do so at burnout, and information as to whether burnout velocity is within expected tolerances can also be made quickly available. For radio-guided missiles this is almost automatic, but inertial systems can also radio this information back, as the telemetering in missile flight test program shows. Later flight information is also feasible. While some fraction of the failures will remain unknown, a large proportion can be known. Therefore, instead of salvoing all extra missiles blindly, to make up for all unreadiness and all failures without knowing where they occur, one can reprogram some extra missiles to replace the large proportion of known failures. Using a current planning factor for the proportion of the unreliable missiles that cannot be replaced on the basis of timely information, the calculations using three 5-megaton reentry vehicles show considerably greater destruction. Instead of 16 percent surviving, the approximate 5 percent survival that I mentioned in my statement results. Such techniques of using substantial timely information as to which missiles cannot be relied on are less important for cases where smaller yields and larger numbers of reentry vehicles per booster are used. For the 1-megaton multiple reentry vehicle case I have referred to, the expected number of Minuteman surviving reduces from approximately 7.3 percent without using such techniques to 5 percent using them.

A table follows summarizing differences between Dr. Rathjens' and my calculations.

CALCULATIONS ON THE VULNERABILITY OF THE MINUTEMAN FORCE IN THE LATE 1970'S IF NO EXTRA PROTECTION

Difference between assumptions used by Dr. Rathjens and myself:

Number of SS–9s: Same (500).

Overall reliability: Same.

Accuracy: Same. Dr. Rathjens': ⅔ higher than official estimate.

Minuteman Blast Resistance: Mine: Official estimate. Dr. Rathjens': 4 reentry vehicles at 1 MT (less than SS–9 capability).

SS–9 payload: Mine: 3 at 5 MT (SS–9 capability). Dr. Rathjens': Not used.

Use of partial information on missile malfunctions: Mine: Used.

Effect of assumptions on Minuteman survivability

[Percentage Minuteman surviving]

Dr. Rathjens' result	25
Adjust for correct Minuteman blast resistance and three 5 MT MIRV per SS–9	16
Alternatively adjust for correct Minuteman blast resistance and number of 1 MT MIRV warheads the SS–9 is capable of carrying	7.3
Using correct Minuteman blast resistance, either three 5 MT MIRV per SS–9, or the correct number of 1 MT warheads per SS–9, and information as to missile malfunctions	5

Dr. Lapp's calculations

Dr. Ralph Lapp's calculations were not presented at a Senate Hearing. However, one set of his calculations was presented as a two page appendix to his statement called "The Case Against Missile Defense," and they were featured in front page stories early in April in leading newspapers, describing Dr. Lapp as science advisor to the Senate opposition. These calculations attacking the credibility of a threat to Minuteman themselves apparently achieved widespread credence. They contain several grave errors, some of which have been pointed out independently by myself on April 23rd before the Senate Armed Services Committee, by Dr. Lawrence O'Neill before the House Armed Services Committee, and by Professor Eugene Wigner before the American Physical Society on April 29th. Yet these statements pointing out Dr. Lapp's errors have received little or no newspaper notice. It is therefore worth reviewing Dr. Lapp's calculations, particularly so since one of his most blatant errors appears to have been adopted uncritically by some of the other witnesses before the Committee, specifically Professor Chayes and Dr. Panofsky.[3]

Dr. Lapp states that his calculations are based on "maximum values" for Soviet capabilities. He shows 76% of the Minuteman surviving, compared to Dr. Rathjens' 25% and my 5%. Moreover, he has several assumptions that agree with my own:

1) Three 5-megaton reentry vehicles per SS–9, and

2) An accuracy estimate derived, like Dr. Rathjens', from public indications of the great precision of our Poseidon or Minuteman MIRVs.

His combined assumptions about the yield and accuracy of an SS–9 reentry vehicle and the blast resistance of the Minuteman result in very high probabilities that a single arriving reentry vehicle will destroy a Minuteman silo.

He suggests that 2½ warheads of 5-megaton power with a half nautical mile inaccuracy or CEP[4] are needed to destroy a 200 psi target with a 95% probability, and 1.1 warheads would have that probability if the CEP were a quarter of a nautical mile. In fact, using standard methods of calculation, at a half mile inaccuracy, two warheads would yield a 96% destruction probability and at a quarter of a mile inaccuracy one warhead would have a more than 99% probability of destroying a 200 psi target. Either Dr. Lapp's calculations are based on some rather exotic and unspecified method, or they are in error. But in any case it is apparent that, even using his methods, he derives a very high single shot kill probability, roughly comparable to my own.

How then does Dr. Lapp's Minuteman force, faced by supposedly "maximum" Russian capabilities, come out so much better than even Dr. Rathjens' Minuteman force? First, Dr. Lapp assumes a much smaller number of SS–9s than Dr. Rathjens and I. He assumes 333 SS–9s. This is hardly a maximum force. It is less than the number that would be produced at past rates by continuing production into the relevant 1976–77 time period. At three reentry vehicles per booster, Dr. Lapp's assumption would give the Russians about 1000 reentry vehicles.

Second, he assumes that the Russians would use only ¾ of their SS–9 forces, that is, about 250 SS–9s (or 750 reentry vehicles.)

This extraordinary failure to use a fourth of the force most adapted to the purpose of destroying Minuteman is attributed to a supposed universal rule that military strategists always keep forces in reserve. This may or may not be true for tank battles or aircraft attacks in a conventional war. (The June 1967 war in the Middle East suggests it is not a sound generalization even about attacks with aircraft at the start of a nonnuclear war.) But for a nuclear first-strike? Dr. Lapp does not say for what these SS–9s would be reserved. Moreover, Dr. Lapp forgets that the Soviet Union has a great many intercontinental missiles besides the SS–9 and exceeding the SS–9 in numbers by a large amount. These missiles would seem to furnish a reserve that might satisfy a military strategist.

Third, he assumes overall reliabilities that are quite a bit lower than the reliabilities that Dr. Rathjens and I assumed, also lower than those attributed to the SS–9. As a result of the three assumptions, Dr. Lapp's Russians would have substantially less than half as many reliable arriving reentry vehicles as our thousand Minuteman silos. More than half the Minuteman force would then be untouched by SS–9 reentry vehicles.

Finally, Dr. Lapp makes an assumption that is plainly absurd. He supposes that even though such warhead has a very high probability of destroying a single silo, "any military realist" would fire two of his outnumbered attacking reentry vehicles at each silo that is attacked. This would leave ¾ of the silos untouched. But if each warhead has a 99% probability of destroying a single silo, firing two at one silo would merely increase the probability of destroying that specific silo to 99.99% but would make it quite certain that a silo that could have been destroyed will go unscathed. If a more sensible tactic were followed, namely to fire each of the two missiles at a different silo, there would be a probability of 98% of destroying both silos and a probability of 99.99% that at least one of the two would be destroyed. (This latter is the same probability that Dr. Lapp would have achieved against the specific one that he was aiming at.) In short, Dr. Lapp's tactic would greatly reduce the expected level of destruction achieved by the attack, and it would not increase the probability of achieving some minimum level of destruction. I know of no military realist who would regard Dr. Lapp's tactic as a sensible one for the attacker. I must agree with Dr. Wigner that Dr. Lapp has presumed that his adversary would be unbelievably stupid.

It should be observed that the absurdity of the tactic is not dependent on the roughly 99% single shot kill probability implicit in Dr. Lapp's accuracy, yield and resistance assumptions. If one were to use a 95% single shot destruction probability, the point is equally obvious. In this latter case, an adversary who assigned one missile to each of two targets would have a better than 90% chance of getting them both and a probability of 99 and ¾% of getting one; and he could get no better than a 99 and ¾% probability of getting at least one silo if he sent both missiles against one silo. In the latter case, however, he could destroy at *most* one silo.

Prof. Chayes and Dr. Panofsky have made statements suggesting they also accept the principle of sending at least two missiles to each silo.

Prof. Chayes in his statement to the Committee on April 23: ". . . it is agreed that the attacker would need at the very minimum 2,000 accurate warheads—two for every one of our silos—before being able to think about a first strike."

Prof. Panofsky in his statement to the Committee on April 22: "Moreover, an attacker would have to compensate for the limited reliability of his force by targeting at least two and possibly more warheads against each of the 1,000 Minuteman silos."

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[3] It is an error that is repeated also in *ABM—An Evaluation of the Decision to Deploy an Antiballistic Missile System*, edited by Abram Chayes and Jerome B. Wiesner, April 1969.

[4] CEP is the acronym for "Circular Error, Probable," a commonly used measure of the inaccuracy of weapon systems. In repeated firings, 50% of the weapons would miss their target by less than the CEP (or median miss distance) and 50% would miss by more than the CEP. A frequent misinterpretation assumes that all weapons miss their targets by a distance equal to the CEP—which is like assuming that all students score at the 50th percentile on an exam.

A nautical mile is 6080'. It, rather than a statute mile, is a standard dimension for measuring CEP or median miss distance.

The reasoning behind these two statements is less explicit than Dr. Lapp's. Dr. Panofsky is talking about compensating for unreliability rather than inaccuracy, but it seems plain that no such universal rule makes sense.

Dr. Lapp has a second set of calculations published on May 4, 1969 in the *New York Times Magazine*. There he assumes the Russians may have 500 rather than 333 SS–9s. Since he again assumes three reentry vehicles per booster, this makes a total of 1500 reentry vehicles per booster. He apparently avoids the obviously bad strategies of reserving a quarter of the force, and then using the remainder to attack only half the targets they are capable of destroying with high probability. Nonetheless, once again his calculations show very high survival rates: "500 to 750 operable Minuteman." With these changed assumptions, how does the outcome continue to remain so favorable to Minuteman's survival?

Dr. Lapp has made some other changes. He has reduced the yield of the SS–9 reentry vehicles by 20%, increased his estimate of the hardness of the Minuteman by 50%, and most important, he now uses very large inaccuracies for the SS–9, 3600 feet in one case and 5500 feet in the other. The latter great inaccuracy assures him his 750 operable Minuteman surviving. But there is no justification for assuming such great inaccuracies in the mid- and late 1970s. One of the few constants in Dr. Lapp's various calculations appears to be his conclusion.

Calculations of Dr. Steven Weinberg and Dr. Jerome Wiesner in "ABM: An Evaluation of the Decision to Employ an Anti-Ballistic Missile System" edited by Abram Chayes and Jerome Wiesner, 1969

Dr. Weinberg and Dr. Wiesner present variants of the same calculation to show the safety of the Minuteman force. Dr. Weinberg supposes that at least 2100 reliable arriving reentry vehicles "with megaton yield and high accuracy" would be needed to destroy all but 42 of our 1050 ICBM silos. He appears to assume an 80% single shot kill probability. Dr. Weinberg doesn't indicate the exact blast resistance, yield, and inaccuracy assumptions that go into his 80% hypothetical kill probability and the testimony of Deputy Secretary Packard that he cites in that connection offers no basis for such a determination. Mr. Packard there shows for three different bomb yields a spectrum of probabilities varying from less than 10% to 100% as accuracy varies from a mile or so down below one-tenth of a mile. Mr. Packard does not say what the accuracy of any SS–9 reentry vehicles is expected to be so that no specific single shot kill probability can be inferred from his testimony.

Dr. Wiesner assumes 500 reliable SS–9s, each carrying 3 MIRVs; or more exactly 1500 reliable MIRVs. And he also assumes an 80% kill probability for each arriving reentry vehicle. He justifies this with the statement that a 5 megaton reentry vehicle would have to be used and that "at best the MIRV guidance system will be accurate enough to give only a 0.8 kill probability for the unit." One can read directly from Deputy Secretary Packard's chart that Dr. Wiesner is thus implying that accuracies less than about 2,400 feet are not possible in the time period in question. Dr. Wiesner has given no technical argument to support this assertion; it is at variance with expected accuracies for our own MIRV systems, and it is at variance with the accuracy that the intelligence community *for sometime* has expected the SS–9 to achieve years before the late 1970s time period; and with the accuracy assumed by Dr. Rathjens. At the 5 megaton yield and with the expected SS–9 accuracy the single shot kill probability for each reliable arriving reentry vehicle would be very much higher than 80% as I have already pointed out elsewhere.

If Dr. Wiesner had used three 5 megaton reentry vehicles, the expected accuracy of the SS–9s and, furthermore, had incorporated expected reliabilities his calculations would have shown only 63 out of 1100 hard targets surviving, that is 5.7%. Or if he had used the expected accuracy and reliabilities and the number of 1 megaton vehicles deliverable by the SS–9, he would have arrived at substantially the same results: 68 out of 1100 surviving.

There are a number of less critical flaws in Dr. Weinberg's and Dr. Wiesner's calculations. The essential, however, is that they both assume combinations of accuracy, yield and number of reentry vehicles per booster that are less effective than intelligence expects (and for some time has expected) for the SS–9.

The calculations of the Federation of American Scientists, March 8, 1969

These calculations of the FAS were published nearly a week before the President's decision on the Safeguard system was announced. The FAS statement was intended to refute in advance the need for extra protection of the Minuteman force. However, the calculations it presents are basically irrelevant since they use only the Russian force "at the present time", and they assume larger inaccuracies than intelligence attributes to the Russians' SS–9s for the later time period. They do not use MIRVs and in fact, according to their author, they do not use the SS–9 at all.

In my statement on April 23rd, I said that the many confident assertions current that Minuteman will be safe without extra protection in the late 1970s are unjustified. These supplementary comments have illustrated and analyzed some essential flaws in these assertions: they depend on erroneous estimates about the blast resistance of our own forces or wishful estimates about Russian lacks either in accuracy or in other capabilities or in competent tactics in that time period; they do not, as they claim, use "the most worrisome projections" and the "maximum capabilities" for Russian forces. In fact even my own calculations showing that the Minuteman will be vulnerable if extra protection is not provided do not use "maximum" Russian capabilities. Greater accuracies, for example, are quite feasible in the late 1970s for the Russians. I have used the CEP attributed to the SS-9 in the early 1970s. If the SS–9's CEP should be 250 ft. smaller than that estimate, then only 400 SS-9s using megaton range reentry vehicles would destroy about 95% of the Minuteman force. Or with the larger force even greater percentages of the Minuteman force could be destroyed if we do nothing to supplement its protection. As I emphasized in my statement on April 23, the expected vulnerability of a hardened force is extremely sensitive to the accuracy of the force attacking. The accuracy assumed by Dr. Rathjens and myself is not only attributed to the SS-9 in the early 1970s, it is also the accuracy we estimate for our own MIRVs. Programs for achieving still greater accuracies, for some of our MIRVs have been drawn up though not funded.

I have focused on the problem of protecting Minuteman, because as I have stressed, we need a mixed force and have good reason to preserve the second-strike capability of so large a proportion of our strategic force. Even if it were true that the United States needed only a few strategic vehicles surviving, buying and paying for the operation of a great many that had become vulnerable to attack would be a very poor way to obtain these few surviving. There are safer and cheaper ways of getting a force of a given size than to buy a much larger one, most of which is susceptible to annihilation. To maintain a force, most of which could then be used only in a first strike hardly contributes to stability.

It is sometimes said that such analyses of the potential vulnerability of Minuteman are like the talk of the bomber gap in the early 1950s and the missile gap at the end of the 1950s. Nothing could be further from the truth. Most of those who talked of bomber gaps and missile gaps raised these possibilities to argue for expanding the number of our own bombers or missiles to close the gap. They thought of the problem as one of matching first-strike forces. But how to maintain a second-strike force cannot be adequately understood in these terms. Whether or not we have it depends, as I have said, not simply on the relative size of two opposing forces, but on a great many characteristics of the attacking force and of the force attacked and its protection. It is the opponents of ABM today who, rather than defend the offense, would simply expand it. Moreover, many of these same opponents of the ABM were among the chief propounders of the missile and bomber gaps in the past; some scientists are now willing to state that they helped "create the myth of the missile gap." My own record on this matter is quite clear. Throughout the 1950s I pointed out the essential irrelevance of matching first strike forces and of all the gap theories that flowed from such matching. For example, in 1956 I wrote:

"Exaggerated estimates of Russian force size, for example, might be used directly to suggest emulation. But we have already made clear that determining who has the best or second best Air Force in being in advance of attack by simply matching numbers or quality is not to the point. Those who assert that we may have fewer and perhaps inferior planes than the enemy and still have a deterrent force must also recognize that we may have more and even better vehicles and yet have inadequate deterrence." *Protecting U.S. Power to Strike Back in the 1950s and 1960s.* Sept. 1, 1956.

The propensity simply to list Russian and American pre-attack forces measured in various arbitrary ways continues to be exhibited on both sides of the present debate. On one side, first strike capabilities are sometimes matched against adversary cities in discussions of "over kill." On the other side, first strike forces of Russia and the United States are sometimes matched against each other to show "superiority" or "inferiority" or "parity" or the like. My point is quite different. Foreseeable technical change in the 1970s compels sober thought about improving the protection of crucial elements in our strategic force. Such change can affect our second strike capacity. In that connection, I have centered my discussion on the protection of the Minuteman, but the problem of protecting our bombers is also important and even more we must improve our protection of the national political command vital to the control of sea as well as land-based strategic forces.

POLLUTION TECHNOLOGY

Mr. NELSON. Mr. President, it was quite heartening to see recent news that a new pulping process has been developed which would nearly eliminate air pollution and minimize water pollution from pulp and paper mills. If the process proves feasible—and its developers feel that it will—this could be a landmark technological breakthrough which would help greatly to advance the national effort to restore and protect the quality of our waters.

I ask unanimous consent that the report published recently in the Post-Crescent, an Appleton, Wis., newspaper, be printed in the RECORD.

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

[From the Appleton (Wis.) Post-Crescent, May 8, 1969]

AIR POLLUTION BATTLE WON?—IPC DEVELOPS PULPING PROCESS, CALLS IT ECONOMICALLY FEASIBLE

(By Arlen Boardman)

A new pulping process that will all but eliminate air pollution by paper mills apparently will be economically feasible for industrial use, researchers of The Institute of Paper Chemistry revealed today.

If in-plant pilot testing proves successful, the paper industry should be causing only "very, very minor pollution problems," Dr. Roy P. Whitney, Institute vice president and dean, said.

Although paper industries have "been fairly effective" in curbing water pollution, the new process—called holopulping—would improve on that, too, Whitney said.

Institute researchers began developing holopulping in 1963 and have satisfied themselves in laboratory testing that it can be as economical—or even cheaper in the future—compared with the most common pulping process now in use. However, about two years of in-plant testing, to begin late this year or in 1970, will precede any commercial use of the process.

Whitney and three other Institute researchers unveiled their findings today at the Institute's 33rd annual Executives' Conference. Whitney indicated he was "quite confident that it (the new process) will work" and be economically feasible for industries.

The new process was designed to improve yields in chemical pulping by reducing the loss of usable wood fibers during the process. Laboratory tests indicate yield increases of 20 to 40 per cent over the conventional process, S. T. Han, Institute Senior research associate, said.

In the pulping process, wood chips are chemically reduced to a fine state, after which a chemical reagent is added to separate the cellulose (papermaking fibers) from the lignin (unusable fibers). In the new process, less of the cellulose is lost with the lignin waste.

At the same time, holopulping uses chlorine dioxide as the reagent instead of sulphur, the cause of the pungent smell emitted by paper mills.

Of the waste material—called spent liquor—the organic materials are burned and the inorganic chemicals, mainly sodium, are electrolytically treated and re-used in the pulping process.

Under the conventional process—the most common one being the Kraft process—the organic and inorganic spent liquor was burned, and the sulphur compond used as a reagent produced odor problems when it was burned.

Chlorine dioxide has little or no odor, Whitney pointed out.

Although the new process is about on a cost par with the Kraft at this time, it should be less expensive in the future, Whitney said.

It appears holopulping reduces wood costs by about 25 per cent by increasing yields, Whitney said, and of all cost items in the pulping process, wood is one that is expected to increase the fastest.

At this time, energy—power, steam and water—is more expensive in the new process but the price of this item is not expected to climb, he added.

Han pointed out that chemicals also are less costly for the holopulping process.

There are other advantages to the manufacturer. Holopulping may be used for dense paper as glassine or for a bulky board as food container, Han said, and it also can be used in gentle tissue paper and printing grade papers, improving the strength of the latter two.

Han said that holopulping requires no high pressure vats but can be accomplished in an open vessel, facilitating operation and equipment construction.

In-plant pilot testing should provide a more accurate picture of what the costs will be for an industry, Whitney said. Conditions within an individual paper mill may affect the efficiency of the process, he added.

Interest in developing a new process dates back to the 1962 and 1963 Executives' Conferences when Institute researchers expressed concern with the pulping of wood and more particularly with chemical pulping. They hoped to find new ways "to insure the continued growth of the paper industry," Whitney said.

The conventional chemical processes used today were developed from 1850 to 1885, and although they have been improved on, they have "some rather serious shortcomings," he said.

Norman Thompson, Institute senior research associate, and his colleagues initiated the original research, which was at that time more academically than commercially oriented.

Thompson explained some of the early problems encountered in the research, which he noted, "caused some researchers to abandon similar pulping research."

Dr. Gordon Nicholls, Institute senior research associate, who heads the Institute's commercial feasibility studies, discussed the technical processes which are causing the major concern on the economic aspects of holopulping.

THE ECONOMICS OF MILITARY PROCUREMENT

Mr. PROXMIRE. Mr. President, the report of the Subcommittee on Economy in Government, of the Joint Economic Committee, called "The Economics of Procurement," is based on the series of hearings our subcommittee held in November and in January. There are a set of military procurement practices and circumstances which result in economic inefficiency and waste, subsidies to contractors, and inflated defense budgets.

There are specific practices which cause this—lack of competition, the use of Government-owned property, progress payments, the pyramiding of subcontractor profits, to name a few—which are spelled out in the report.

All of this directly affects the economy.

Defense budgets are larger than they need to be. We could buy the same amount of security and defense which the President and Congress deem essential, with less money.

The American people pay higher taxes than would be paid if the Pentagon were efficient.

And especially, the increase in prices throughout the economy is a direct result of the inflated military budgets. We spent $80 billion on defense last year, of which $44 billion was spent on procurement. In my judgment, this is a primary cause, if not the single most important cause, of the present inflation.

We are not having a traditional or classical inflation where too much money is chasing too few goods. This is a capital investment inflation. And the biggest item in it is the huge amount spent, and spent badly, for military procurement.

The country could either get more defense for the same money, or the same defense for less money. What our military needs are is not determined by this committee. But given those needs, how we buy what we need, and how that affects the economy is a subject of vital importance to us.

The bloated military budget and the excessive prices paid in military procurement and for weapons systems are the single biggest causes of the present inflation.

In addition to the effects which procurement has on the economy, there is a third major point I wish to draw from our hearings and our report.

This is the principle of the right of Congress and the American people to know the facts. In our case, it involved the testimony and evidence of Mr. A. E. Fitzgerald.

Here was a man who testified at our request. He testified with the permission of the Air Force. He was right. There is a $2 billion cost overrun on the C–5A aircraft.

But because of what he said, the Department tried to fire him. His duties were circumscribed. They treated him as if he had typhus or was radioactive.

This action must not become a precedent. Congress and the public have a right to know the truth. The Pentagon and its employees must act to protect the public interest and not the interest of a single firm. They must not attempt to cover up mistakes, or to shield anyone or any firm from the operations of the stock market or from the responsibility for mistakes.

This is fundamental. It is an issue arising out of our report.

I intend to continue to insist on getting economic data affecting military procurement because these actions vitally affect our economy which this committee has a responsibility and an obligation to review.

Finally, in addition to the recommendations made in the report—the need for information on profits, the establishment of military-industrial indicators, more competitive bidding, making the Truth in Negotiations Act effective, and so forth—I have one other recommendation to make.

In my judgment, we should authorize the General Accounting Office, which is an arm of the Congress and whose reputation for integrity and impartiality is without tarnish, to hire whatever staff it needs to do the job and do it properly.

The staff should be assigned the task of scrutiny and analysis, as well as auditing, and surveillance over the major weapons systems procurement.

In the past they have saved hundreds of dollars for every dollar Congress has appropriated to them.

In my judgment, huge savings can be made, better weapons can result, and the economy of this country can be made stronger and more secure if the GAO can ride herd on the huge weapons systems procurement practices.

I ask unanimous consent that the report of the subcommittee be printed in the RECORD.

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

THE ECONOMICS OF MILITARY PROCUREMENT

INTRODUCTION

Last year, fiscal year 1968, $44 billion was spent on defense procurement, equivalent to

about 25 percent of the Federal budget. Total defense spending reached $80 billion. In recent years numerous instances of inefficiency, excessive profits, and mismanagement in defense contracting have been revealed by this subcommittee, other committees of Congress, and the General Accounting Office. Increasing concern over the enormous amounts spent on military procurement prompted the Subcommittee on Economy in Government of the Joint Economic Committee to hold hearings on profits and cost control in defense procurement. Testimony was received on November 11, 12, 13, and 14, 1968 and January 16, 1949.[1 2 3]

The subject matter of the hearings, economic aspects of military procurement, may be perceived as a relatively narrow set of issues. In the subcommittee's view, however, the enormous commitment of national resources to military systems makes the details and facts of procurement practices a central public policy issue. The wasteful, inefficient practices uncovered in the course of the hearings raise basic questions concerning the Defense Department's management of its own affairs. It also makes us skeptical concerning the effectiveness and care with which the Defense budget is scrutinized by pertinent agencies outside of the Pentagon. If this government is to serve the public interest, close scrutiny of these billions of dollars of expenditures must be given high priority.

In the judgment of the subcommittee, there is a pressing need to reexamine our national priorities by taking a hard look at the allocation of Federal revenues between the military and civilian budgets. Indeed, the inefficiencies described in this report, in addition to being difficult to contend with raise questions about the very nature and size of the Department of Defense, its place within the framework of the executive branch of Government, and its relationship and responsiveness to Congress. The real needs of the Nation, military and civilian, are too important to endanger through bureaucratic arrangements in an agency which in too many instances has been unable to control costs or program results.

I. MILITARY PROCUREMENT POLICY: A PROBLEM OF UNCONTROLLED COSTS

A. There exists in the Department of Defense a set of practices and circumstances which lead to:

1. Economic Inefficiency and Waste

The extensive and pervasive economic inefficiency and waste that occurs in the military procurement program has been well documented by the investigations of this subcommittee, by other committees of the House and Senate, and by the General Accounting Office. The absence of effective inventory controls and effective management practices over Government-owned property is well known. In the past, literally billions of dollars have been wasted on weapons systems that have had to be canceled because they did not work. Other systems have performed far below contract specifications. For example, one study [4] referred to in the hearings shows that of a sample of 13 major Air Force and Navy aircraft and missile programs initiated since 1955 at a total cost of $40 billion, less than 40 percent produced systems with acceptable electronic performance. Two of the programs were canceled after total program costs of $2 billion were paid. Two programs costing $10 billion were phased out after 3 years for low reliability. Five programs costing $13 billion give poor performance; that is, their electronics reliability is less than 75 percent of initial specifications.

Actual costs of expensive programs frequently overrun estimated costs by several hundred percent. Assistant Secretary of the Air Force Robert H. Charles testified that "The procurement of our major weapons systems has in the past been characterized by enormous cost overruns—several hundred percent—and by technical performance that did not come up to promise." The greatest amount of cost overruns occur in negotiated, as opposed to competitive, contracts. Even where overruns do not occur, there is evidence that prices are being negotiated at too high a level from the beginning. Most procurement dollars are spent in the environment of negotiation. It is precisely in this area that the DOD has the heaviest responsibility for obtaining the best military equipment and supplies at the least possible price. In the judgment of the subcommittee, the DOD has not adequately fulfilled this responsibility.

2. A Subsidy to Contractors

The major portion of procurement costs are in the costs of research and development, material, labor, and overhead for which contractors are reimbursed. In theory, competition requires contractors to be efficient in order to mimimize costs and maximize profits, and inefficient contractors should not be able to underbid their more efficient competitors. Competition is a method of cost control. However, as we have said, most defense contracts are awarded through negotiation, not competition. A number of mechanisms, such as the cost and other price data submissions required by the Truth-in-Negotiations Act, and incentive contracting, have been designed to act as cost controls for negotiated contracts, in lieu of competition. In the judgment of the subcommittee, these mechanisms have not constituted an effective system of controls over the costs of procurement.

The result of the absence of effective cost controls, coupled with a number of policies and practices discussed in this report, has resulted in a vast subsidy for the defense industry, particularly the larger contractors. These practices include loose handling of Government-owned property, interest-free financing of contractors, absence of comprehensive profits reports and studies, lack of uniform accounting standards, reverse incentives, and a special patent policy lucrative to the contractor. All of these things tend to benefit the contractor at the public's expense.

3. An Inflated Defense Budget

The total effect of unnecessary cost overruns, of hidden profits in "fat" contracts, of inefficiency and waste, and of the absence of cost controls is to create a bloated defense budget. Admiral Rickover testified that $2 billion of excessive costs result from the absence of uniform accounting standards alone. There is evidence that literally billions of dollars are being wasted in defense spending each year.

It is the judgment of the subcommittee that the defense budget has been bloated and inflated far beyond what an economy minded and efficient Department of Defense could and should attain.

B. These practices include

1. Low Competition and High Concentration

Defense buying practices are reducing competition for Government contracts and increasing economic concentration within the defense industry. Formally advertised competitive military contract dollar awards dropped from 13.4 percent in fiscal year 1967 to 11.5 percent in fiscal year 1968. Single source procurement increased to 57.9 percent. These figures constitute a record low for competition and a record high for single source procurement over the past 5 years. Negotiated procurement in which more than one source was solicited comprised 30.6 percent of total contract awards, also a record low over the past 5 years.

The DOD maintains that there is a substantial degree of competition in negotiated procurement where more than one source of supply was solicited. However, too often in these cases technical performance rather than price has been the basis for contract awards. Competition must involve dollar cost as well as nonprice elements such as technical performance and date of delivery. Activity involving only one nonprice element usually cannot be considered competition, nor does it contribute beneficially to the public interest in defense procurement.

It is widely acknowledged that *true* competition significantly reduces the costs of procurement. Some experts believe that in the absence of effective competition, procurement costs are 25 percent to 50 percent higher than what they would be under competitive conditions. However, instead of competition, it is becoming increasingly clear that the "buy-in, get well later" method is commonly employed by contract rivals. Under this approach, a contractor may bid a lower price, higher performance, and earlier delivery than his rivals, knowing Pentagon officials will accept increased costs, less than promised performance, and late delivery. Inadequate management controls at the highest levels of Government have contributed to the development of these practices. The prevalence of these practices go far in explaining why the estimated costs of individual contracts almost always increased and the performance of the weapon procured was often less than promised. Weapons procured in this manner, in the absence of true competition, have been characterized by high

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[1] Due to the pressure of other responsibilities, Senator Symington was unable to fully participate in the hearings and other committee deliberations pertaining to this report and makes no judgment on the specific recommendations made therein.

[2] Congressman Donald Rumsfeld, Senator Len B. Jordan, and Senator Charles H. Percy, while in general agreement with this report, call attention to the fact that all the information and testimony cited in this report relate to procurement contracts in effect prior to the end of 1968. It is their belief that the irregularities and deficiencies in the procurement process reported here will encourage the new administration, which took office January 20, 1969, after the conclusion of this subcommittee's hearings, to press forward with the reforms necessary to save the American taxpayers millions of dollars while providing the defense capability necessary for peace and security.

They are encouraged that on April 30, 1969, Defense Secretary Melvin R. Laird expressed his concern over the costly C–5A transport plane and ordered the Air Force to make a thorough review of the multibillion-dollar contract Secretary Laird said:

I am determined to insure that full and accurate information on C–5A procurement, and all other procurement matters, is given to the Congress and to the public promptly. I also am determined to insure that past mistakes in the procurement of this transport aircraft will not be repeated.

They believe that the healthy, constructive pressures of a free enterprise system must be allowed to operate to provide a rebirth of competition in many of the sectors of the economy which provide the material needed for our national security. The leadership and stimulation needed in these areas must come from the new civilian leadership in the Department of Defense and the White House. It is their hope and belief that the new Administration will provide this leadership.

[3] Representative Barber B. Conable, Jr., states: "The hearings on this matter were held last year prior to my appointment to the Joint Economic Committee. Since I did not have an opportunity to hear the testimony, I neither endorse nor dissent from the conclusions herein."

[4] "Improving the Acquisition Process For High Risk Military Electronics Systems," Richard A. Stubbing, CONGRESSIONAL RECORD, Feb. 7, 1969, p. 3171.

costs, poor performance, and late delivery of the end product.

DOD procurement is highly concentrated. A relatively small number of contractors receive most of the dollar value of defense contract awards. In fiscal year 1968, the 100 largest defense contractors were awarded 67.4 percent of total defense contracts, the highest percentage since 1965. To get on the list of the top 100 in fiscal year 1968 required $50 million in awards, up from $46 million in fiscal year 1967. These large contractors generally have assets of $250 million or more. Small firms (as defined by the Small Business Administration) received only 18.4 percent of defense prime contracts in fiscal year 1968, down from 20.3 percent in fiscal year 1967 and 21.4 percent in fiscal year 1966.

The larger, dominant defense firms tend to hold entrenched positions. Eighty-four of the top 100 firms appeared on both the fiscal year 1968 and fiscal year 1967 lists. Eighteen of the top 25 in 1967 were in the top 25 in 1968. The same five companies received prime contract awards of more than $1 billion each in fiscal year 1968 as in fiscal year 1967. There is other evidence of entrenchment and concentration in the defense industry, such as the tendency of divisions of certain large contractors to obtain major contracts from one service, for example, the Air Force, while divisions of the same or other large contractors consistently obtain major awards from the other services. In some specific areas of military procurement the Government does business not only with sole-source suppliers, but with absolute monopolies. The nature of the purchases and the limited quantities may not be adequate to justify more than one producer. For this reason, the Federal Government must improve its capability to control procurement costs in the absence of competition.

2. Government-Owned Property

In addition to the lack of competition for defense contracts, the Defense Department's policy of providing Government-owned property and working capital to defense contractors constitutes a Government subsidy and contributes to concentration within this industry. The cost of Government-owned equipment supplied to contractors sometimes exceeds the value of property owned by the company. While the total value of Government-owned property in the hands of contractors declined from $14.6 billion in fiscal year 1967 to $13.3 billion in fiscal year 1968, reflecting primarily a drop in the amount of materials, in the important category of industrial plant equipment costing over $1,000, there was an increase from $2.6 to $2.7 billion. A disproportionate amount of this equipment was held by the larger contractors. Defense Department assurances that it is aware of the problems surrounding the use and control of the enormous amount of Government-owned property have so far yielded little tangible results in the form of improved performance in this area.

Last year this subcommittee found loose and flagrantly negligent management practices in defense procurement largely on the basis of facts surrounding Government-owned property furnished to contractors.[5] The subcommittee has no reason to alter this judgment.

3. Progress Payments

The Pentagon makes so-called progress payments to reimburse contractors for up to 90 percent of incurred cost, on a pay-as-you-go basis. These payments are not necessarily related to progress in the sense of work completed. Costs are often incurred greatly in excess of original estimates. It is possible, for example, for a contractor to incur costs equal to 75 percent of the original contract price while completing only 50 percent, or less, of the job. A more accurate term would be "incurred-cost reimbursement payments."

The important point is that the payments are made interest-free, prior to completion or delivery of the end-product. The contractor could operate largely without his own working capital, on capital supplied by the Federal Government, particularly in expensive, long leadtime procurement. For example, in the C–5A case, Lockheed received "progress" payments of $1.207 billion on reported incurred costs of $1.278 billion, as of December 27, 1968. In addition, the contract is being performed in a Government-owned plant. The plant and the Government-owned facilities employed at the plant have an original acquisition cost of $113.8 million.

In effect, considering the extensive use of Government-owned property and Government-supplied working capital—"progess payments"—the Defense Department provides negative incentives for the use of private capital, and tends to develop a financial stake in its contractors, especially those larger contractors which it favors with great amounts of Government-owned property and interest-free working capital. Contractors so favored have a sizable competitive advantage over others in the defense and civilian industries, and are actually highly subsidized.

Money advanced to contractors in the form of progress payments are really no-interest Government loans which inflate contractors' profits. Armed with free working capital a contractor may be able to bid low for more Government work, "finance" commercial work, or otherwise compete unfairly in the commercial market.

4. Patent Policy

The Government's patent policy similarly tends to reduce competition and increase the concentration of economic power. Briefly, the Government permits contractors to obtain exclusive patent rights, free of charge, on inventions produced in the performance of Government contracts. The Defense Department normally retains only a nonexclusive royalty-free license for itself. The contractor, in other words, obtains a monopoly which he can exploit for his own private gain in the commercial market for inventions paid for by public moneys. This "fringe benefit" of doing business under Government contracts does not get reported as part of the contractor's profits. In effect, the public pays twice. Once through the Government contract; again in the marketing of the private monopoly.

It should be noted that the contractor's own patent policy differs from that of the Department of Defense. When contractors award contracts to independent research institutes, the contractors, not the research institutes, retain the patent rights. Further, the employees of contractors generally must agree that the contractor gets the patent rights to any inventions developed during their employment.

Admiral Rickover and Professor Weidenbaum agreed that permitting contractors to obtain patent rights from Government contracts reduces competition in defense industries because the "ins" get a competitive advantage over the "outs." Rickover stated that one-half of the patents acquired by contractors as a result of Government-financed research and development work are owned by 20 large corporations, "* * * the very same companies that receive the lion's share of contracts."

In contrast to general Government policy, the Atomic Energy Commission and the National Aeronautics and Space Administration are required by law to take Government title to inventions developed under Government contracts, subject to waiver of rights by the Government. The Government's policy amounts to a special privilege to contractors at the expense of taxpayers.

5. Subcontracting and Profit Pyramiding

The study of subcontracting in defense procurement is important for at least two reasons. First, subcontracting can provide an opportunity for small business to participate in Government work. Most small businesses cannot obtain prime contract awards. But they can supply prime contractors with a variety of goods and services. Second, profits in subcontracts turn up as part of the costs of the prime contract. Information about the amount and type of subcontracting and of subcontract profitability could be a valuable guide to current procurement costs and future policy. Unfortunately, the Defense Department has not been able to supply good information on these subjects.

DOD's collection of subcontracting data is inadequate. The only data which has been collected is the percentage of subcontracts that go to small business, on the basis of sampling. In fiscal year 1968, 886 large prime contractors awarded subcontracts worth $15.2 billion. Of this sum, $6.5 billion went to small businesses, according to DOD. DOD also *estimates* that approximately 50 percent of the total amount of prime contract awards is subcontracted. This estimate seems to be based on data gathered by DOD during 1957–63 when prime contractors were required to report such information. Data on the total amount of subcontracting has not been collected since 1963. DOD cannot state with certainty whether subcontracting has increased or diminished since 1963, or whether prime contractors are tending to keep more or less of their work in-house.

Because DOD no longer collects complete data on subcontracting, we cannot know whether subcontracting is being awarded competitively or through sole sources, what kinds of work are being subcontracted, or whether subcontractors are required to submit cost data in compliance with the Truth in Negotiations Act. Admiral Rickover testified that there is a lack of effective price competition both at the prime contract and subcontract levels in shipbuilding procurement and that some major subcontractors have never provided the cost data required by the Truth in Negotiations Act.

Another serious omission has been the failure to collect information on subcontractor profits. The DOD profit review system compiles profit data for a sample of prime contract awards. These figures do not reflect profits taken by subcontractors which could involve several tiers. For example, a prime contractor might purchase a piece of machinery from a subcontractor. The subcontractor might purchase a component for the machinery from another subcontractor, and so on. Each of the subcontractors will earn a profit on the item supplied. The same final item, therefore, is likely to include a profit as part of its cost for each time it changed hands. In this manner, subcontractor profits are pyramided, layer upon layer, into the final cost.

When the prime contractor obtains the item, he, too, will add his profit to its cost. The Government pays for it on the basis of the prime contractor's cost plus the prime contractor's profit. Included in the prime contractor's cost are the pyramided profits of several subcontractors. However, profits are often considered to be only the amount realized by the prime contractor. Profit studies normally do not consider the hidden, pyramided layers of subcontractors' profits buried in the prime contractor's costs. Whether subcontractor profits are reasonable is entirely unknown to DOD or any other Government group. For this reason alone, defense profits may be seriously underestimated because the studies include only prime contractors' profits. The present policy of not gathering adequate information on subcontracting could be calculated to minimize the total

[5] Economy in Government Procurement and Property Management, Report of the Subcommittee on Economy in Government, Joint Economic Committee, April 1968.

amount of defense profits that are reported and to frustrate the thorough study of this important subject.

It is well recognized that subcontractors doing Government or non-Government business should be allowed to earn reasonable profits for their work. The issue here is that the DOD does not collect sufficient information to know whether subcontractors' profits on defense contracts are reasonable or excessive. The available data is also inadequate to reveal the level of competition among subcontractors, and the precise interrelationships between the prime contractors and the subcontractors. Further, it is presently not possible to determine whether price contractors are charging the Government unreasonably for work done by subcontractors. In the subcommittee's judgment, the thorough study and full disclosure of all the facts with respect to subcontractors' costs and profits, and their effects on the final costs to the Government, is frustrated by the DOD's present policy and practice.

6. Noncompliance and Waiver of the Truth-in-Negotiations Act

The Truth-in-Negotiations Act was passed in 1962. Its purpose was to give the Government better access to contractors' cost data so as to place Government on a more equal footing with industry in negotiating the prices of contracts. The Act is supposed to protect the taxpayer against overpricing where there is no true competition.

Investigations by this subcommittee and others over the past 2 years have demonstrated widespread noncompliance and other shortcomings with truth in negotiations. The Government's failure to fully implement it seems to be one of the major reasons. Lack of implementation occurs in two ways. First, the Government contracting officer can make a determination that competition is adequate, or that the price is based on a standard catalog price, and therefore that the Act should not apply. Such determination can be made with respect to a negotiated procurement even though there is, in fact, little or no actual competition for the contract. Once there is a determination that adequate competition exists, the Government does not obtain or evaluate cost and pricing data, or require the contractor to reveal the basis for his cost estimates, or to certify the completeness or accuracy of his cost information. Nor does the Government subsequently review the contractor's books or records. In effect, the price is set on the basis of uncertified, unevaluated data supplied by the contractor.

Second, the Government can waive the requirements under the Act for cost data. There is evidence that waivers are granted to many large contractors. In one recent case, the Navy waived the requirement for cost data in a $10 million procurement of propulsion turbines. According to Admiral Rickover, the price of the equipment was substantially higher than for similar equipment on a prior order. In addition, the price included a profit of 25 percent of costs. The contractor was one of the only two available sources capable of building the machinery. In response to requests for cost data, the contractor declined on the grounds that the proposed price was established "in competitive market conditions" and that "to supply any cost estimating data would only lead to misunderstanding." The waiver was granted over Admiral Rickover's objections.

The subcommittee also received evidence that the manufacturers of large computers are simply refusing to supply information specified in the Truth-in-Negotiations Act on orders for new design computers. In the face of contractor refusals to supply cost or pricing data for computers costing millions of dollars each, the Government has waived the provisions of the Act. According to the testimony of the General Services Administration, the Government is faced with a take-it-or-leave-it situation. The contractor will simply refuse to sell if the Government insists on the cost data. Moreover, there is evidence that few basic material suppliers such as steel mills, nickel producers, and forging suppliers comply with the cost data provisions of the Act. Again, the tactic is (1) to persuade the Government contracting officer that competition is adequate, or that the price is based on a standard catalog price, and that the Act should not apply; or (2) to obtain a waiver of the cost data provisions.

The Truth-in-Negotiations Act permits the Government to make preaward audits of contractors' books to determine the adequacy of cost data in cases where the Act is applied. Investigations by GAO have revealed substantial overcharges to the Government as a result of the failure of the Department of Defense to obtain adequate cost and pricing data. Because preaward audits were not always effective in disclosing inadequate cost estimates, Congress amended the act to give the Government postaward audit rights, Public Law 90–512. The effectiveness of the postaward audit provision has not yet been determined. However, it should be kept in mind that the postaward audit provision cannot solve the problem of the failure to apply the Act, or the granting of waivers. Furthermore, the Comptroller General testified to this subcommittee in 1967 that a GAO review showed there had been full compliance with the Act in only about 10 percent of the transactions tested. We are not aware that the record of compliance has improved.

7. Absence of Uniform Accounting Standards

In addition, the Truth-in-Negotiations Act often cannot place the Government on a more equal footing with industry in negotiating the prices of contracts, even when there is compliance, because of the inherent difficulties of determining costs and profits under present accounting practices.

For example, it may not be possible for the Government to determine whether direct and indirect costs on Government and commercial work have been properly allocated by the contractor. In one case, reported by Admiral Rickover, the Navy allowed a shipbuilder to charge salaries and other pay directly on Government contracts, while similar costs on commercial contracts were charged as overhead and allocated to both Government and commercial work. The Government was thus paying directly for work done on Government contracts and indirectly for work done on commercial contracts. The Navy had accepted these costing methods because the contractor's system conformed to "generally accepted accounting principles." In this particular case the GAO eventually found that the Government had been overcharged by over $5 million.

The fact is that there is wide disagreement on how particular costs should be handled and profits calculated under "generally accepted accounting principles." For this reason, experts may come to completely different conclusions about costs or profits in an individual case. In a case still pending, where the Government entered into several multimillion dollar contracts with the Westinghouse Co. for nuclear propulsion components, the contractor indicated his price included a 10-percent profit based on costs. GAO found that the contractor made actual profits of 45 to 65 percent of costs, and that he knew or should have known at the time he submitted cost breakdowns that the higher profits would be realized. Later the Defense Contract Audit Agency decided the contractor should have expected to realize 20- to 27-percent profits. Thus, two different Government auditing agencies are in sharp disagreement over the amount of profits in these contracts. The vagueness of "generally accepted accounting principles" is generally acknowledged. In a recent case, the Armed Services Board of Contract Appeals stated in its opinion:

"Except insofar as the ASPR (Armed Services Procurement Regulation) cost principles themselves reflect generally accepted accounting principles, it is difficult for the Board or the parties to cost contracts to govern their determinations by such an elusive and vague body of principles."

Under the Armed Services Procurement Regulations, cost principles are set forth for cost-reimbursement-type contracts for the purpose of denying certain costs, such as bad debts. These principles are not mandatory in fixed-price contracting. Yet fixed-price contracts constitute more than 75 percent of defense procurement. Thus there are no mandatory cost principles in the regulations for 75 percent of defense procurement. The cost principles that do exist have the effect of only disallowing certain items. They do not constitute uniform standards.

Finally, contractors are not required to maintain books and records on firm-fixed-price contracts, constituting 53 percent of defense procurement. Where contractors are required to maintain records, they must conform only to "generally accepted accounting principles," and may not show the cost of Government work. Admiral Rickover testified that a sole source supplier of nuclear propulsion units refuses to keep accounting records showing the cost of manufacturing the components. Thus, although he complies with the Truth-in-Negotiations Act, the absence of accounting records prevents a determination of whether his prices are reasonable. For example, a contractor may submit cost data at the time the price of the contract is being negotiated, but afterwards, during performance of the contract, not keep adequate books and records. Colonel Buesking testified, "I have yet to see a contractor's accounting system in major programs that can adequately determine the unit cost of hardware."

Uniform accounting standards for all defense contracts have been advocated to facilitate the measurement of costs and profits. The GAO is now undertaking a feasibility study of such standards at the direction of Congress. Regardless of the outcome of the study, it is clear that the Government often cannot determine the reasonableness of costs or profits on defense contracts under present cost accounting methods.

8. Voluminous Change Orders and Contractors' Claims

It is often necessary to make changes in the design or production of an item after the contract is awarded. This is especially true for the more complex weapons and equipment such as missiles, fighter planes, bombers, and their electronic components. There may be thousands of changes on such procurements. The production of the B–47 bomber in the 1950's involved about 8,000 changes. The Minuteman program has involved at least that number. Change orders generally increase the cost of a contract.

The Government pays the price if it originated the change or was in any way responsible for it. Because of the great number of changes, and the fact that the total cost of the changes may exceed the original price of a given contract, it would be reasonable to assume that records are maintained of the cost of each individual change and of their origin as to the Government's liability. Again, DOD has failed to keep adequate records or to even require that contractors keep adequate records.

Contractors are not required to account for change notices separately. As a result, it is usually not possible to determine the cost of individual changes. Typically, the Government is forced to negotiate a lump-sum settlement to pay for numerous changes since most changes are not priced in advance of the work, and the Government has not

checked to see what the cost of the change should have been, Admiral Rickover testified.

"Thus, contractors can use change orders as a basis for repricing these contracts. They have almost unlimited freedom in pricing change orders because their accounting system will never show the cost of the work. The Government can never really evaluate the amounts claimed or check up to see if it paid too much."

Under the present system of nonaccountability, it is possible for contractors to inflate costs by pricing changes, and to attribute cost overruns to contract changes. In the vernacular of the world of defense contracts, change notices are sometimes referred to as contract nourishment.

Many claims against the Government result from formal contract changes. Others are produced by contractive change notices which may occur in a telephone conversation between a DOD official and an officer of the contracting company. The contractor might obtain relief orally from meeting a contract specification, or claim that an act of God or a strike prevented him from meeting the contract schedule.

Regardless of the origin of a claim, the Government is often at a disadvantage in meeting it. A contractor may have a large staff begin preparing and documenting a claim the day work begins on the contract. Although fully documented, however, accounting records seldom support the costs claimed. Nevertheless, the claim may be pursued over a period of years until it is finally disposed of. DOD does not keep records of unfounded or exorbitant claims, nor does it consider such information in awarding subsequent contracts.

9. The Failure of Incentive Contracting

Another attempt to find a substitute for competition has been the use of incentive contracts. The Defense Department began using incentive contracts extensively in 1962. The shift in emphasis reflected the widely held belief within the Defense Department that the cost-plus-fixed-fee (CPFF) contracts commonly used up to that time for major weapons systems procurement did not result in adequate control over costs. Since 1962 the decline of CPFF contracts and the increase of incentive contracts has been substantial.

The goal of the incentive contract is to motivate the contractor to be efficient and control his costs. The mechanism is a provision in the contract entitling the contractor to retain a portion of any cost underrun as additional profits. That is, the Government and the contractor agree on a target cost as part of the contract price. They also agree on a profit as part of the price. If the actual costs turn out to be less than the target cost, the contractor retains part of the underrun as an increased profit. If the actual cost exceeds the target costs, the contractor must bear a portion of the overrun and his profit is reduced. The profit-sharing provision is the hoped for incentive which will cause the contractor to increase the underrun so as to increase his profit.

The Defense Department has maintained that incentive contracting is an improvement over cost-plus-fixed-fee contracts. Beyond question, the problem of cost control during the period when CPFF contracts predominated was very great. Assistant Secretary of the Air Force Robert H. Charles referred in his testimony to the "enormous cost overruns of several hundred percent" for major weapons systems procurement in the past. He attributed a substantial portion of the cost overruns to the use of cost reimbursement type contracts and the absence of price competition.

The question, however, is, first of all, whether incentive contracting is, in principle, an effective means of controlling the costs of procurement, and secondly, whether it has succeeded in practice. The Defense Department claims success on both counts, although conceding the difficulty of demonstrating the effectiveness of incentive contracts as opposed to CPFF contracts, since they cannot both be utilized on the same project at the same time. On the other hand, much evidence was received which casts doubt on the proposition that incentive contracts result in cost savings, at least in practice.

Indeed, the experience of incentive contracting shows that it can increase both profits *and costs*. For while a contractor may increase his profit by performing efficiently to produce an underrun, another way of producing an underrun is to inflate the original target cost as much as possible. As Irving Fisher of the RAND Corp. pointed out in the hearings November 13, 1968, the problem of overstated target costs is significant because most weapon system procurement is negotiated without price competition, and many of the development contracts awarded competitively are awarded on the basis of technical or nonprice rivalry. In situations where target costs are negotiated, the opportunity for contracts to increase them is great.

The evidence suggests that incentive contracts have not accomplished their intended goal of increased efficiency or reduced costs, and that they may actually be contributing to a general upward shift in target costs. Whether this is inherent in the incentive contracting approach, or the result of poorly applied but valid concepts, we are not prepared to say. However, we feel that burden of proof that the concept is indeed valid rests squarely on the Department of Defense. We are so far unconvinced that this approach is the best that can be designed to effectively control procurement contract costs.

10. The Conceptual Problems in Using Historical Cost Analysis and the Failure To Use "Should Costing"

The analysis of cost and pricing data is a crucial factor in determining the amount the Government spends on weapons programs. Without good cost analysis and cost estimation, the Government is unable to control the costs of procurement, much of which is based on original estimates. That is, the price of a contract is negotiated on the basis of cost estimates submitted by the contractor. An inflated estimate can result in an inflated price unless DOD can properly evaluate estimated cost data. Yet, as indicated above, the Defense Department's ability to adequately analyze cost data is severely limited by the lack of information on profitability, the absence of data on subcontracting, the shortcomings of the Truth-in-Negotiations Act, and the nonexistence of uniform accounting standards.

Another obstacle to adequate analysis is the fact that cost estimation presently relies extensively on past experience; that is, historical costs are used to provide estimates of the future costs of proposed weapons systems. Historical costs refer to the actual costs of performing earlier contracts. They are often insufficient and misleading guides to estimating the costs of new contracts for several reasons. For example, it is possible for the cost of performing a contract to be inflated intentionally or through contractor inefficiency, and for the costs of that contract to influence the estimation of costs on subsequent contracts.

As the testimony showed, historical costs are no better than the underlying data on which they are based. If the costs of previous procurements were obtained without competition, estimates based on them probably would not be comparable to costs determined competitively. As we know, most procurements in the DOD data bank were not awarded competitively. In fact, many of the earlier contracts were the CPFF type in which some of the most extreme cases of cost overruns occurred.

The use of historical costs may give the contractor a premium to inflate his cost base. The inflated costs of previous contracts may then become the new cost base figure for subsequent production runs and subsequent contracts. If profit is calculated by DOD as a percentage of costs, the contractor may be given a profit motive to increase costs. The only party hurt in this scheme is the American taxpayer.

Implicit in the criticism of historical cost is the point that the cost of a particular contract may have been excessive because of contractor inefficiency. The possibility that contractor inefficiency may be a significant problem was brought out in the testimony of Colonel Buesking (U.S. Air Force, retired) and A. E. Fitzgerald, Deputy for Management Systems, Office of the Assistant Secretary of the Air Force. Both witnesses compared the probable cost approach, which employs historical costs, and the should-cost approach to Government estimates.

The should-cost approach attempts to determine the amount that weapons systems or products *ought* to cost given attainable efficiency and economy of operation. The method of determining the should-cost figure is based on a combination of industrial engineering and financial management principles. Briefly, a study is made at a contractor's plant of each of the cost elements of the contractor's operation to ascertain what the product should cost the Government, assuming reasonable efficiency and economy on the part of the contractor. Obviously, this approach differs sharply from the traditional one in which costs are estimated in advance on the basis of earlier costs, and in which the Government thereafter reimburses the contractor for incurred and allocable costs without finding out whether the costs were reasonable.

According to the testimony, when the should cost approach was employed by the Navy in connection with the TF–30 engine contract for the F–111 program, substantial inefficiencies were detected in the contractor's plant. As a result of the study, the contract price was later reduced by more than $100 million.

It is difficult to see how the Government can be assured that incurred costs will be reasonable on negotiated contracts without the benefit of a should-cost type in-depth study and evaluation. Col. A. W. Buesking (U.S. Air Force, retired) testified that selected evaluations of resource planning and control systems conducted to assess contractor's capability to meet standards of efficiency revealed that control systems essential to prevent excessive costs were absent. He estimated that costs in such plants are 30 to 50 percent in excess of what they might be under competitive conditions. When Admiral Rickover was asked to comment on Colonel Buesking's statement, he said, "His estimate is a conservative one." Establishing objective cost performance standards would be an important step toward cost control.

11. Absence of Ongoing Cost Reports to Congress

Equally important is the need for devising a method to periodically report actual costs to Congress as they are incurred on large negotiated contracts. Presently, it is difficult for the Members of Congress and the public to know whether a program is staying within or exceeding original cost estimates and the negotiated price, during the period of contract performance. Reports of actual costs should be correlated with planned cost of work segments satisfactorily completed. In this way, cost estimates could be compared with incurred costs.

It may also be desirable to relate progress payments to real progress, in the sense of

work segments satisfactorily completed, rather than simply incurred costs, and to report the volume and cost of contract change notices. Finally, a full cost report system would include the profit rate negotiated and realized, and estimated and realized profits as a return on investment. If this were done, Congress would at least have available to it indicators of contract objectives and contract costs which would make it possbile to detect serious overruns and delays, and to determine on an ongoing basis the cost status of the contract.

C. The manifestation of these practices are

1. High Defense Profits

Perhaps the most glaring fact about defense profits is that not enough is known about them. The DOD cannot accurately state what profits are in defense procurement. First, it defines profits as a percentage of costs, and does not report profits as a return on investment. Second, DOD does not obtain complete information about profits on firm fixed-price contracts. During fiscal year 1968, firm fixed-price contracts made up about 53 percent of total expenditures for defense procurement. Third, without uniform accounting standards, it is difficult, if not impossible, to discover the costs and profits in defense production unless months are spent to reconstruct contractors' books. The reason for this is that contractors are not required to maintain books and records on most defense contracts. Thus, while the profit *rate* is designated at the time a contract is negotiated, the profit actually realized in the performance of the contract cannot be known and verified without an expensive, time-consuming audit.

The DOD collects data on less than half of annual contract awards, and the data it collects is inadequate. Studies conducted independently of the Pentagon are admittedly sketchy. Among other problems, (1) the trend toward conglomerate mergers among large defense suppliers obscures the opportunity for determining defense profits as their data is published in the aggregate without separating sales and profits by division, and (2) neither the DOD nor their contractors will readily furnish profit data to congressional or academic investigators.

No complete and comprehensive study of this subject has ever been made by any agency of the executive branch or by the GAO. Contractors are not required to report their profits on most Government contracts. The DOD does not keep adequate records of contractors' profits. In view of the tens of billions of dollars of taxpayers' money spent on defense contracts each year, the Government's lack of knowledge about defense profits is inexcusable.

One difficulty is in defining what is meant by profits. GAO and DOD surveys deal with profits as a percentage of costs. On this basis a 10-percent profit rate on a contract for a weapon that cost $1 million to produce would result in a profit of $100,000. But profits as a percentage of costs or sales is often an inaccurate indicator of true profits. For example, if a contractor is able to use Government-owned equipment or operate in a Government-owned plant, he may have a relatively small investment in a given contract. In such a case, his profit may be more accurately measured as a percentage or return on investment. Thus, on a $1 million contract, performed in a given year, where the contractor had an investment of $500,000 worth of plant and equipment, a $100,000 profit would be equal to a 20-percent return on investment.

An example of how a low profit as a percentage of costs can be misleading is found in a case decided by the Tax Court involving Air Force contracts (*North American Aviation Inc.* v. *Renegotiation Board, 1962*). In that case, while the contract provided for 8 percent profits as a percentage of costs, the Tax Court found the contracts returned 612 percent and 802 percent profit on the contractor's investment in 2 succeeding years, according to Admiral Rickover. In that case 99 percent of the contractor's sales was to the Government. Indeed, profits as a return on investment is the preferred method of measuring profitability. Stockholders are concerned with the return on their investment, not with profits as a percentage of costs or sales. Return on investment is also a better indicator of the profit in relation to the contractor's input.

It is interesting to note that defense companies operate on smaller profit margins, based on percentage of costs, than do typical industrial corporations. Basically, this is because they often operate with large amounts of Government-supplied capital. Professor Murray Weidenbaum studied a sample of large defense contractors doing three-fourths or more of their business with the Government compared with similar sized industrial companies doing most of their business in the commercial market. Net profits as a percentage of stockholders' investment was 17.5 percent for the defense contractors and 10.6 percent for the industrial firms, for the period 1962–65.

The first question asked in this investigation was whether defense contractors' profits are too high. Much criticism of defense profits has been made in recent years. Critics maintain there is a serious problem of excessive profits. Others assert the opposite, that defense profits may be too low.

Although our present knowledge is incomplete, there is evidence that profits on defense contracts are higher than in related nondefense activities, and higher for the defense industry than for the manufacturing industry as a whole. There is also evidence that this differential has been increasing. The arguments of the Department of Defense to the contrary are unconvincing. The Pentagon's own figures show a 22-percent increase in profit rates on negotiated contracts under the weighted guidelines method of profit computation. GAO found a 26-percent increase in a study comparing the 5-year period from 1959 through 1963 with the average profit rate negotiated during the last 6 months of 1966. DOD claims the increases relate only to "going in" profits negotiated, and that actual "coming out" or realized profits are less. But the DOD in-house profit review survey shows that contractors are coming out with profits that are substantially the same as the going in rates. In addition, when Admiral Rickover made a comparison of profits reported and actual profits as determined by Government audit for five contractors, actual profits were found to be much higher than profits reported. Admiral Rickover also testified that suppliers of propulsion turbines are insisting on 20- to 25-percent profit on costs as compared with 10 percent a few years ago, that several nuclear equipment suppliers are requesting 15- to 20-percent profit, that profit percentages on shipbuilding contracts doubled in the past 2 years, and that a large company recently priced equipment to a Navy shipbuilder at a 33-percent profit.

Col. A. W. Buesking testified that profits based on return on investment in the Minuteman program, from 1958 to 1966, were 43 percent. Profits for the large companies seem to be relatively higher than the smaller and medium-sized ones, according to the studies already completed.

Officials of the Department of Defense have attempted to answer the criticism of high profits in defense contracting by citing Renegotiation Board figures. Yet, in the annual reports, the Renegotiation Board warns against using its figures for generalizing about defense profits. One of the reasons for not using these figures is the fact that a large amount of contract awards are exempt from renegotiation and therefore do not show up in the totals for renegotiable sales. In addition, the Board does not publish figures for profits as a return on investment, nor does it disclose the names of contractors who have been ordered to return excessive profits to the Government and the amounts involved. Unless such disclosures are made so that profits on renegotiable sales can be fully analyzed, we agree that Renegotiation Board figures should not be used to generalize about profitability in defense contracting.

Officials of the Department of Defense have also attempted to answer its critics with the results of a study performed by the Logistics Management Institute (LMI). LMI was created by the DOD and in the past has worked almost exclusively for DOD. The LMI profits study was financed by DOD.

The LMI study used unverified, unaudited data which was obtained through the voluntary cooperation of a sample of defense contractors. Those who did not wish to do so did not participate in the study. Forty-two percent of those contacted provided no data. As Admiral Rickover pointed out, one of the faults with such a study is that the contractors making high profits would naturally be reluctant to supply information and could simply choose not to participate. In addition, the study fails to distinguish between profits of the larger contractors and the medium sized and smaller ones.

These facts are cited to underline the continued need by Congress for an objective, independent, and comprehensive study of defense profits. This need cannot be satisfied by a DOD in-house study, or by an organization dependent upon the DOD for its funds.

2. Cost Overruns: The C–5A Cargo Plane

The Air Force selected the Lockheed Aircraft Corp. as the airframe prime contractor for the C–5A, a large, long-range, heavy logistic aircraft, on September 30, 1965, after proposals had been received in response to Requests for Proposals (RFP) from 5 firms, and preliminary contracts had been entered into with 3 of them in 1964. It is not clear, from the evidence, how much *price* competition had to do with the selection. Secretary Charles testified that there was competition among the firms. But when asked how low Lockheed's bid was compared to the others, he refused to disclose the figures on the grounds that "this is company proprietary information". A similar procedure resulted in the selection of General Electric as the engine maufacturer.

The contract with Lockheed is a negotiated, fixed price incentive fee contract. It is also the first contract utilizing the total package procurement concept (TPPC). Two major objectives of the concept, according to the Defense Department, are to discourage contractors from buying in on a design and development contract wtih the intention of recovering on a subsequent production contract, and to motivate contractors to design for economical production and support of operational hardware. Thus, TPPC is supposed to act as a deterrent against cost overruns and less-than-promised performance. To accomplish this, all development, production, and as much support as is feasible of a system throughout its anticipated life, is to be procured in a single contract, as one total package. The contract includes price and performance commitments to motivate the contractor to control costs, perform to specifications, and produce on time. As the C–5A is an incentive contract (TPPC does not necessarily result in incentive contracting) it contains the usual financial rewards and penalties associated with incentive contracting.

The C–5A contract for the airframe provides for five research, development, test and evaluation (R.D.T. & E.) aircraft plus an initial production run of 53 airplanes (the total of 58 planes is called run A), and a Government option for additional airplanes. The present approved program for the C–5A is 120 airplanes comprised of run A (58 airplanes) plus run B (57 airplanes) plus five airplanes from run C.

The testimony received during the Novem-

ber 1968 hearings indicated a cost overrun in the C–5A program totaling as much as $2 billion. A "cost overrun" is the amount in excess of the original target cost. According to the testimony, the program originally called for 120 C–5A airplanes to cost the Government $3.4 billion, but because of cost overruns mainly being experienced in the performance of the Lockheed contract actual costs would total $5.3 billion.

Following the November hearings, Senator Proxmire asked GAO to investigate into the causes and amount of the C–5A overruns and other matters relating to the contract.

On November 19, 1968, the Air Force announced, in a press release, that the original estimate for 120 C–5A aircraft was $3.1 billion, compared to the current estimate of $4.3 billion. Subsequently, in response to a request by the subcommittee, Mr. Fitzgerald, who was responsible for the development of the management controls used on the C–5A and who was on a steering committee directing a financial review of the C–5A, supplied a breakdown of the estimates of C–5A program cost to completion. This data showed Air Force estimates for 120 airplanes was $3.4 billion in 1965, and $5.3 billion in 1968, indicating an overrun of about $2 billion. The difference between the Air Force press release and the data supplied by Mr. Fitzgerald seems to be accounted for in the figures for spare parts. The data supplied by Mr. Fitzgerald shows $0.3 billion for spares estimated in 1965, and $0.9 billion in 1968. If the figures for spares are added to the estimates in the Air Force press release, the two sets of figures are close to one another.

In the January 16 followup hearing, GAO reported on its investigation, the nature of which is discussed below on page 40. Briefly, GAO transmitted to the subcommittee figures supplied by the Air Force 2 days prior to the hearing. These figures indicated a substantial overrun but a smaller total cost for the overall C–5A program than the $5.3 billion figure shown in the November hearings. The reason for the lower total was the omission by the Air Force of the costs of the spares.

Nevertheless, testimony and other evidence received in the course of the hearings confirmed the existence of the approximately $2 billion overrun in the C–5A program, the reverse incentives contained in the repricing formula, and large overruns in other Air Force programs. The latest estimate of the total cost of 120 C–5A's, including spares, provided by Secretary Charles, is $5.1 billion. This is close to the estimate previously supplied by Mr. Fitzgerald, and about $2 billion more than was estimated in 1965. The following table shows the estimates supplied by Mr. Fitzgerald, the Air Force press release of November 19, 1968, and Assistant Secretary Charles:

COMPARISON OF ESTIMATES OF C–5A PROGRAM

[In billions of dollars]

	Fitzgerald		Air Force press release [1]		Charles	
	1965	1968	1965	1968	1965	1968
120 aircraft:						
R.D.T. & E. plus production	$3.1	$4.4	$3.1	$4.3	.....	$4.3
AFLC [2] investment	.3	.9	.....	.....	.....	.8
Total	3.4	5.3	3.1	4.3	.....	5.1

[1] The Air Force press release of Nov. 19, 1968, did not provide cost breakdowns between R.D.T. & E. (research, development, testing, and engineering), production runs, and AFLC investment. The figures given seem to omit AFLC investment.

[2] AFLC (Air Force Logistics Command) investment submitted by Fitzgerald includes spare parts; that submitted by Charles includes initial spares, replenishment spares, and support. Table submitted by Secretary Charles (hearings, pt. 1, p. 311) does not include estimates for 1965.

The cost growth in the C–5A program can be seen in the table. The figures supplied by Fitzgerald show an increase from $3.4 billion in 1965 to $5.3 billion in 1968. The Air Force press release can be reconciled with the Fitzgerald figures if the AFLC investment (spares) is added to each of the estimates. Thus, the $3.1 billion estimate for 1965 would total $3.4 billion, and the $4.3 billion estimate for 1968 would total $5.2 billion. Secretary Charles' own figures for 1968 total $5.1 billion. The subcommittee rejects the attempts of Air Force spokesmen to minimize the size of the program or the size of the overrun by removing spares as an item of cost. Spares are an integral part of the C–5A program and should be included in any consideration of costs.

According to the Air Force, the cost growth in the C–5A program has resulted from normal development problems associated with complex weapons and inflation. However, the subcommittee notes that the C–5A was chosen for the first application of the total package procurement concept partly for the reason that it was not considered a highly complex weapon system requiring technological advances beyond the state of the art. The inflation argument, which is supposed to account for $500 million of the cost growth, appears questionable. The contract contains an inflation provision to protect the contractor from unforeseeable price changes in the economy, to go into effect 3 years after the issuance of the initial contract, that is, October 1, 1968. The initial 3-year period was supposed to be considered a normal business risk. The Air Force official explanation of this provision states: "The contract thus included in the price an amount which reflected a projection of the mounting cost trend in the economy of labor, materials, equipment, and subcontract prices." If future inflation for at least 3 years was included *in the price*, it is hard to see why inflation should be a major factor in later increasing the price. Without a more thorough investigation of the C–5A program, the technical problems encountered, the failure to anticipate them at the time of the negotiations, and operations of the inflation provision, the subcommittee cannot form any firm conclusions about the reasons for the enormous overrun.

A repricing formula built into the contract was also revealed in the November testimony. The repricing formula is one of the most blatant reverse incentives ever encountered by this subcommittee. It should be recalled that the C–5A contract is supposed to represent an important step toward cost control. An Air Force manual on the total package procurement concept dated May 10, 1966, states that "It should produce not only lower costs on the first production units, but, in turn, a lower take-off point on the production learning curve, thus benefiting every unit in the production run." The facts about the C–5A are just the reverse. Costs for the first production units are greatly exceeding original estimates, resulting in a higher take-off point on the production learning curve, thus inflating every unit in the production run. In addition, the contract is supposed to provide the Government with binding commitments on price and performance. Obviously, there is in fact no binding commitment on price if the price can be modified upwards, as is being done in the C–5A, because actual costs are exceeding estimates. Whether the actual performance of the C–5A lives up to its promise remains to be seen. On the matter of delivery, it is interesting to note that the Air Force announced on February 25, 1969, a 6-month delay in the first operational C–5A aircraft, from June 1969 to December 1969.

Not only were the price increases made possible by the repricing formula, but the cost overruns which are resulting in the higher prices may very well have been encouraged by the existence of the formula and by the nature of the formula. For the mere fact that a repricing provision existed in the contract constituted a built-in get-well remedy for almost any kind of cost growth. According to this provision, the price of the second increment (run B) could be increased on the basis of excessive actual costs on the first increment (run A). The motivation, if any, of the incentive feature of the contract is thereby largely nullified, provided the contractor is confident that the Government will exercise the option. Why bother to keep costs down if their increase forms the basis for a higher price? Additionally, because of the nature of the formula, the higher the percentage of overrun over the original contract ceiling price on the first increment, the higher the percentage by which the second increment is repriced.

The subcommittee learned, on the morning of the January 16, 1969 hearing, that the Air Force had exercised the run B option for 57 additional C–5A aircraft, apparently committing the Government to spend at least $5.1 billion on aircraft originally estimated to cost $3.3 billion. The subcommittee was dismayed to learn that this decision was made before the completion of the GAO investigation and without a full disclosure of the reasons for the cost overruns. The public interest in economy in Government was not served by this precipitous decision, announced a few hours before the start of a congressional hearing and a few days before the inauguration of the new President.

II. PENTAGON POLICY ON INFORMATION AND PERSONNEL: A PROBLEM OF EXECUTIVE SECRECY AND EMPLOYEE CONTROL

A. Secrecy and failure to disclose information on the C–5A and other Air Force programs

To inquire into the problem of profits and cost control in a major weapons system procurement, the subcommittee first questioned the Deputy Assistant Secretary of Defense for Procurement about the C–5A on November 12, 1968. However, when this high procurement official was asked to comment on whether the contract price had been overrun, neither he nor anyone of a large number of backup people accompanying him were able to provide any information. In view of this official's high capacity, and the later disclosure of an enormous overrun in the C–5A program, the subcommittee is somewhat puzzled by the witnesses' unresponsiveness and lack of information on this matter.

A profit rate of 10 percent of costs was established by the Air Force and given in the request for proposals. However, when asked what the profit would be as a return on investment, the Deputy Assistant Secretary of Defense for Procurement replied that they did not know. In an insert for the record later submitted, he stated that Lockheed's profit on the C–5A contract "cannot really be estimated at this point in the program."

While the realized profits on net investment cannot be precisely known until the contract is completed, it can be estimated on the basis of what is known. The Air Force ought to know Lockheed's investment in the C–5A, the depreciation charges for which it has been reimbursed by the Government, the amount of operating capital, and the dollar equivalent of the 10 percent profit rate on costs provided in the contract. From these facts plus the number of years needed to perform the contract, at least a preliminary estimated return on investment could be made.

Perhaps the most significant facts reported by GAO in the January 16 followup hearing concerned the difficulties it was faced with by the Air Force and the contractor in trying to obtain information. In short, GAO was unable to complete its investigation. For example, the Air Force refused, until 2 days prior to the hearing, to provide information requested by GAO on costs to produce the first 58 planes, causes of the over-

run, and whether January 31, 1969, was a firm date under the contract by which the Government was required to exercise its option on run B. The grounds of the refusal were that cost estimates for run A were an important element to be considered in negotiating for the option quantity and public disclosure of this information might compromise the negotiations between the Air Force and Lockheed.

On January 14, 1969, the Air Force supplied GAO with some of the data requested. However, because of the short period of time remaining before the hearing on January 16, GAO was not able to analyze or verify the information received. GAO was also unable to identify the reasons for the overruns. The Air Force refused to provide the C–5A requirement studies requested on the grounds that such information is not releasable.

When GAO requested estimates of cost overruns from the contractor, it was refused and advised to write to the Air Force Systems Program Office. At the time of the hearing, GAO had not received a reply to its letter to the Systems Program Office. According to GAO, access to recorded costs, as opposed to estimated future costs and overruns, was given.

GAO also testified that the Air Force told it the information on overruns would be made available to GAO provided GAO promised not to make it public. Secretary Charles later testified that the possibility of providing the information on overruns to Congress on a restricted basis, that is, on the condition that there would be no public disclosure, was not discussed with GAO. Further, when asked whether the Air Force would have supplied the information to Congress on such a condition, Secretary Charles replied that it probably would not have supplied the data.

Clearly, the Air Force failed to fully cooperate with GAO in its investigation of the C–5A overruns. It withheld the requested information for almost 7 weeks, then provided some information by letter less than 2 days before the hearing. The information that was finally provided was less than complete and independent corroboration and analysis of the Air Force data prior to the January 16 hearing was not possible. In effect, GAO was not able to do much more than transmit to the subcommittee the contents of the Air Force letter of January 14, 1969.

The subcommittee was shocked to learn that the repricing formula has been used on at least two other major weapons procurements, and of large overruns on other TPPC contracts. The subcommittee queried Secretary Charles on the cost status of some of these contracts. On the SRAM (short range attack missile), in which the repricing formula was used, the subcommittee was informed that "disclosure of any Air Force estimates is premature and could prejudice the Government's position in its efforts to obtain the best price in negotiations with the contractor." The subcommittee has reason to believe that the Air Force is simply concealing from the public the fact that there is a large overrun in this program.

On the Mark II Avionics program (radars, computers, and inertial equipment for the F111D) the oiginal contract price for R.D.T. & E. and production was $143 million. Secretary Charles conceded that the actual cost "may go as high as $360 million."

On the Mark XVII program (reentry system for Minuteman), the original contract price for R.D.T. & E. was $36.4 million. The cost to completion at the time this contract was terminated was $70.2 million.

The subcommittee also requested cost overrun information for the B–52, Minuteman, F–4 and F–111 programs. Secretary Charles stated he would try to provide the information for the record. However, he later told the subcommittee in a written statement that information on the cost overruns in those programs which would permit a meaningful comparison with the experience on the C–5 is not readily available and that it is doubtful that useful information for comparison purposes could be developed.

The subcommittee believes the Air Force evaded the request for cost overrun information on major programs. It should not be as difficult as the Air Force is making it seem to supply information on original estimated program and unit costs, current status, and estimated cost to completion. The subcommittee is deeply concerned over what appeared to be a pattern at the highest levels of the Defense Department and the Air Force of nonresponsiveness, failure to disclose evasiveness, and even concealment of information relating to profits, costs and cost overruns on military procurements throughout the inquiry. The difficulties encountered by the subcommittee in the C–5A investigation, the great reluctance of the Air Force to cooperate, and its attempts to obstruct the subcommittee, as will be further demonstrated in the next section of this report, is a case in point.

B. The Fitzgerald affair

A. E. Fitzgerald is the Deputy for Management Systems, Office of the Secretary of the Air Force. As stated in the discussion of the C–5A cost overruns, he was responsible for the development of the management controls used on the C–5A program and was also a member of the steering committee directing a financial review of the C–5A. Mr. Fitzgerald's work in connection with the C–5A program was, however, only a part of his broader responsibility for developing improved cost controls. His efforts in this regard extend over a period of many years in both private and public employment. The subcommittee invited Mr. Fitzgerald to testify in the hearings on the economics of military procurement because of the high quality of his past work and his widely acknowledged expertise.

The circumstances surrounding the appearances before the subcommittee of A. E. Fitzgerald, on November 13, 1968, and January 16, 1969, and the substance of his testimony, raise questions that go even beyond the important question of cost controls in defense procurement. These questions penetrate to the heart of the relationship between the executive and legislative branches of government, to the ability of Congress to gather facts, and to the right of the people to know the truth about the ways its dollars are being spent by the Defense Department.

1. Interference With Witness

First, an effort was made within Department of Defense to prevent Fitzgerald from appearing before the subcommittee as a witness. It was only because of the repeated urging of the subcommittee, following the letter of invitation to Fitzgerald dated October 18, 1968, that he was granted permission to make an appearance. When this permission was granted, however, the subcommittee was advised by Department of Defense that Fitzgerald was to appear as a "backup" witness. The principal witness, according to Department of Defense, was to be another individual, one with whom the subcommittee was not familiar, had not communicated with, and did not invite.

Second, Fitzgerald was directed by some anonymous official in the Department of Defense not to provide the subcommittee with a written statement. The subcommittee had requested that a written statement be submitted by the witness prior to the hearing, as is the usual practice. A written statement permits the witness to order his ideas and facts, including statistical data, charts, and other exhibits, into a well-thought-out form, and provides the subcommittee with an opportunity to familiarize itself with the testimony and have a more fruitful dialog with the witness. After inquiring of Department of Defense and Air Force spokesmen in November and December 1968, the committee is still not certain why the witness was directed to not prepare a written statement, or who originated the directive to so restrict his testimony.

Third, transmittal of written inserts prepared by Fitzgerald at the subcommittee's request, to supplement his oral testimony, was unduly delayed by officials of the Pentagon. The request for additional cost data on the C–5A and other information was made by Senator Proxmire on November 13, 1968. Fitzgerald prepared his supplemental testimony and submitted it to his superiors for transmittal to the subcommittee within 2 or 3 days after his original appearance. The supplemental testimony included a breakdown of the C–5A probable costs to completion, drawn from independent estimates performed by Air Force Systems Command and the Air Force Staff Cost Estimating Specialists. Because there had been no public disclosure of the C–5A overrun prior to the hearings, it was extremely important for the subcommittee and the Congress to have the cost estimates.

Yet, despite repeated inquiries to DOD by the subcommittee the full supplemental testimony was not transmitted to the subcommittee until January 15, 1969, 2 months after they had been prepared by Fitzgerald and 1 day before the January 16 hearing.

Fourth, the Air Force transmitted to the subcommittee for insertion in the record data and documents purporting to represent the supplemental testimony of Fitzgerald. These materials were received by the subcommittee on December 24, 1968. They were labeled, "Insert for the record/testimony of A. E. Fitzgerald." A routine check with Fitzgerald revealed that the cost estimates for the C–5A contained in the materials were not the same cost estimates which he had submitted along with the materials to his superiors.

Apparently, Air Force officials had altered the cost estimates submitted by Fitzgerald prior to transmitting them to the subcommittee. The effect of the change in figures was to reduce the amount of the C–5A overrun.

The Air Force was advised that the subcommittee would accept as the "Testimony of A. E. Fitzgerald" only the data and information that the witness himself wished to include in the record. Subsequently, on January 15, the subcommittee received the package referred to above. The second package was also labeled "Insert for the record/testimony of A. E. Fitzgerald."

Fifth, on September 6, 1968, Fitzgerald was notified that his job was reclassified and brought under civil service regulations. The reclassification gave him job tenure and would prevent his dismissal without cause. However, less than 2 weeks after he testified in November, he received a second notice advising him that the first notice was a mistake. He no longer had tenure or job protection.

The Air Force stated on January 16, 1969, that the mistake was due to a rare "computer error," that he was not entitled to tenure in the first place. The Air Force has also denied that any punitive action has been taken against Fitzgerald as a result of his appearance before the subcommittee. Yet, during the hearing a memorandum to the Secretary of the Air Force from his administrative assistant, dated January 6, 1969, was produced setting forth three types of actions "which could result in Mr. Fitzgerald's departure." The actions set forth were: (1) adverse actions for cause, (2) reduction in force, and (3) conversion of Fitzgerald's position from excepted category to career service,

and not selecting him in the subsequent competitive procedures. In explaining the third possibility, the memo states "this action is not recommended since it is rather underhanded and would probably not be approved by the Civil Service Commission, even though it is legally and procedurally possible." This action indicates not only that it was possible to convert Fitzgerald's position from excepted to career service, but also that disciplinary action against him was at least under serious consideration and made the subject of study and reduced to writing.

The subcommittee's evaluation of the evidence with respect to the testimony of A. E. Fitzgerald, and the events following his appearance before this subcommittee, were well expressed by the chairman in his closing remarks on January 16, 1969:

Chairman PROXMIRE: Well, Mr. Fitzgerald, I want to say to you finally that you have been an excellent witness, and if there were a computer into which you could put courage and integrity, you certainly would be promoted rather than have your status in such serious and unfortunate jeopardy.

"The Air Force can say, and the armed services can say, that their officials are free to speak any time and tell the Congress the facts as they see them. But it is going to be very hard for the public and the Congress to accept that if there is any further disciplinary action against you."

2. Concealment of Overrun

The almost frantic efforts on the part of the DOD to first prevent, then restrict, then interfere with Fitzgerald's testimony cannot obscure the facts which indicate a huge C–5A overrun, or the fact that were it not for this courageous Government employee the overrun may have remained undisclosed. As recently as March 5, 1968, the Air Force assured another committee of Congress that the current costs of the C–5A were within the original cost estimates, "in the range where it should be between the target and the ceiling costs." Yet, Fitzgerald testified that overruns were detected by the Air Force in the summer of 1966, through monthly reports submitted by Lockheed.

It is interesting to note that the requirement for monthly contractor reports had been initiated by the Office of Financial Management of the Air Force as an effort to improve procedures to control the C–5A program. The growth of the overrun in the monthly reports prompted a visit by an Air Force team, including Fitzgerald, to the Air Force plant in Marietta, Ga., in November 1966. A review of cost data at that time revealed overruns of 100 percent in key segments of the program. At that time, the contractor denied there was a substantial overrun. But 3 weeks later the Air Force team revisited the plant and the contractor conceded there was a large overrun.

While the overrun was steadily growing, evidence of its existence began disappearing from DOD internal reports. To compensate for the absence of good cost reports, the Air Force teams went to the plant in Marietta to attempt to keep up with the program. However, according to Fitzgerald, early in 1968 internal Air Force reports began showing either no overrun or overruns far less than those generally acknowledged to exist. When Fitzgerald requested audit assistance to find out why the reports appeared to be in error it became apparent that the internal Air Forc reports "had been changed by direction from higher headquarters." Fitzgerald was unable to determine who in the Government had ordered the changes in the reports. One of the reports referred to in testimony January 16, 1969, containing C–5A cost estimates for the spring of 1968, includes the following statement: "The resulting aeronautical system division cost team estimates for Lockheed are not shown in this report per direction of higher headquarters." The audit requested by Fitzgerald was never completed.

Only after the November 1968 hearings before this subcommittee did the Air Force officially acknowledge that there was a large overrun in the C–5A program. It is unfortunate, and still unexplained, why corrective action was not taken when the overrun was first discovered in 1966. The Air Force did not seem to be as zealous to control costs as it was to control employees who wanted to control costs.

3. Cost Control as an Antisocial Activity

Considerable testimony was received on the need to protect and encourage Government personnel attempting to keep the costs of procurement down. But cost control has been interpreted by many within and outside of Government as antisocial activity. The phenomenon of officials in the bureaucracy pushing for ever-enlarged programs is widely known. To such bureaucrats, any employee who wants to cut costs, and possibly reduce the size of the program, is stepping out of line.

The problems encountered by Fitzgerald in connection with the C–5A were underlined by Admiral Rickover. According to the admiral, subordinates in DOD are supposed to "hew to the party line." Personnel who speak out against excessive costs may be subjected to disciplinary action. Rickover testified: "We have all heard of cases where Government personnel were apparently 'punished' for speaking out against the policies of their superiors. I do not mean the spectacular punishments that might be meted out to a dissenter in other countries; but there are subtle methods of reprisal that have been brought to bear against subordinates who publicly refuse to toe the agency line."

Colonel Buesking similarly observed that the sanctions have been imposed on those who have attempted to bring about major improvements in reducing costs. He testified: "It has been my personal observation that a number of competent people who did attempt to stimulate major change in the cost environment are no longer involved in working that particular environment."

In a written statement submitted for the record by Fitzgerald, a civilian employee of the Navy, Mr. Gordon Rule, cautioned his fellow civilian employees engaged in controlling costs to expect resistance not only from the contractor but from people in the Government as well. Mr. Rule stated: "This 'homefront' resistance can be much more brutal than that from a contractor."

The subcommittee is deeply disturbed over the evidence of the lack of support for those conscientious individuals in DOD who want to reduce procurement costs. The negative attitude toward cost control and the apparent hostility against those who try to perform this function, is another example of "reverse incentives" in military procurement.

III. RECOMMENDATIONS

Military industrial indicators

The Federal Government has not been adequately controlling military spending. As a result, substantial unnecessary funds have been spent for the acquisition of weapons systems and other military hardware. Mismanagement and laxity of control over this expensive program are creating heavy burdens for every taxpayer. The evidence is convincing that procurement expenditures can be substantially reduced without diminishing national security. Good information is a condition precedent to the attainment of Government control over military procurement. Presently we do not have sufficient information about much of the procurement process including profitability, status of program costs, overruns, subcontracting, military prices, cost allocation, performance, and number of retired military employed by defense contractors. The recommendations that follow are designed to establish a basis for developing methods to systematically obtain and publicly disclose this information.

The GAO is being asked to develop what might be considered military-industrial indicators. Ideally, when compiled the information can be distributed in a single publication to the Congress. It is important that GAO, the investigative and auditing arm of Congress, develop this information system under its existing statutory authority, without resorting to questionnaires soliciting voluntary submissions of data. One of the most serious deficiencies in the military procurement program has been the failure of the Defense Department to provide itself, the Congress, and the public with the information necessary for a proper accounting of the tens of billions of dollars spent each year. This information should now be developed through congressional initiative and published on an on-going basis by an agency independent of the defense establishment.

The purpose of military-industrial indicators is to provide the basis for on-going reports to Congress and the public on the status of military expenditure, with individual program costs and other appropriate breakdowns. The taxpayers are entitled to know how their money is being spent for military purchases, and whether it is being well spent.

1. The GAO should conduct a comprehensive study of profitability in defense contracting. The study should include historical trends of "going-in" and actual profits considered both as a percentage of costs and as a return on investment. Profitability should be determined by type of contract, category of procurement, and size of contractor. Information for the study should be collected pursuant to the statutory authority already vested in the GAO. The GAO should also devise a method to periodically update and report the results of its profits study to Congress.

2. Total-package and other large contracts amounting to hundreds of millions of dollars and extending over several years should be broken down into smaller, more manageable segments. It should be possible to break contracts into segments short enough in duration for periodic evaluation of accomplishment, representing parts of the total program with definable objectives, and yet large enough to include acknowledged functions such as engineering and manufacturing, and work sequences such as design phases and fabrication lots.

3. GAO should develop a weapons acquisition status report, to be made to Congress on a periodic basis, and to include the following information:

a. Original cost estimates, underruns and overruns on work completed as of effective date of report, current estimated cost at completion, total actual cost, including underruns or overruns, scheduled and actual deliveries and other major accomplishment milestones such as major design reviews, first article configuration inspection, roll out and flight of first airplane, launching of ship, and so forth, for all programs in excess of $10 million. Estimated and actual unit costs should be included. Where there are cost variances, whether they be underrun or overrun, GAO should separate them into their components such as labor, labor rates, overhead rates, material and subcontract costs, and general and administrative expense.

b. So-called "progress payments," made by the Government on firm-fixed and fixed-price incentive contracts in excess of $1 million, compared to work segments satisfactorily completed, rather than simply costs incurred.

c. Technical performance standards which would compare actual performance of weapons systems and other hardware to contract specifications.

d. Impact on costs, schedules, and technical performance of authorized contract changes from contract base line described in *a.*, *b.*, and *c.* above. GAO should be prepared

to furnish backup data to support impact on a change-by-change basis.

4. GAO should develop a military procurement cost index to show the prices of military end products paid by the Department of Defense, and the cost of labor, materials, and capital used to produce the military end products.

5. GAO should study the feasibility of incorporating into its audit and review of contractor performance the should-cost method of estimating contractor costs on the basis of industrial engineering and financial management principles. The feasibility study should, if possible, be completed by the end of the current calendar year.

6. GAO should compile a defense-industrial personnel exchange directory to record the number and places of employment of retired or former military and civilian Defense Department personnel currently employed by defense contractors, and the number and positions held by former defense contractor employees currently employed by the Defense Department.

The directory should include the names of all retired military or former military personnel with at least 10 years of military service, of the rank of Army, Air Force, or Marine colonel or Navy captain or above, former civilian personnel who occupied supergrade positions (GS–16 and above) in the Department of Defense, and former defense contractor employees who occupy supergrade positions (GS–16 and above) in the Department of Defense.

Department of Defense activities

7. The Defense Department should collect complete data on subcontracting including total amount of subcontracts awarded, competitive and negotiated awards, subcontract profits, type of work subcontracted out, the relationship between the prime contractor and the subcontractors, the amount of business done by the subcontractor for the prime contractor, and compliance with the Truth-in-Negotiations Act. GAO should have access to this information and should make it available to Congress on an on-going basis.

8. The Defense Department should require contractors to maintain books and records on firm-fixed-price contracts showing the costs of manufacturing all components in accordance with uniform accounting standards.

9. The subcommittee once again makes its longstanding and unheeded recommendation that DOD make greater use of true competitive bidding in military procurement, and that the tendency to award contracts by noncompetitive negotiation be reversed.

Legislative action

10. Legislative action should be taken to make the submission of cost and pricing data mandatory under the Truth-in-Negotiations Act for all contracts awarded other than through formally advertised price competition procedures, and in all sole source procurements whether formally advertised or not.

11. Legislative action should be taken to establish uniform guidelines for all Federal agencies on the use of patents obtained for inventions made under Government contract.

THE VOTING RIGHTS ACT

Mr. KENNEDY. Mr. President, 2 weeks ago, on behalf of Senator CANNON and myself, I introduced S. 2165, a bill to amend the Voting Rights Act of 1965 to enable citizens who change their residences to vote in presidential elections. As I said at that time, one of the most distressing facts of our modern democratic process is that large members of American citizens are unable to participate in the election of their President because they fail to meet the lengthy and unfair residence requirements established by many of the States. Whatever the merit of lengthy residence requirements in elections for the Senate and House of Representatives, or for State and local office, such requirements are hardly valid for presidential elections, where the issues are national and transcend State and local boundaries.

S. 2165, the bill that I have introduced, would amend the Voting Rights Act of 1965 to limit State and local residence requirements for voting in presidential elections to a period of 30 days. Under this amendment, citizens who change their residence will have a maximum opportunity to vote for their President, and the States will have ample opportunity to establish orderly election procedures, including voter registration, and to take adequate precautions for the prevention of voting frauds.

At the time I introduced the bill, I had asked the Bureau of the Census to determine as accurately as possible the number of persons disqualified from voting in the 1968 presidential election because of their failure to meet State, county, or precinct residence requirements. I also asked the Bureau to determine the number of persons who would have been disqualified from voting if State and local residence requirements had been limited to a maximum period of 30 days, as proposed in S. 2165.

I have now received the estimates from the Census Bureau. They reveal that a total of approximately 1,928,000 otherwise eligible voters were disfranchised in the 1968 presidential election in the United States because of State or local residence requirements. According to the Bureau's calculations, only 283,000—or less than 15 percent of these citizens would have been disfranchised had the residence requirements been limited to 30 days, as proposed by S. 2165.

The accompanying table summarizes the data made available by the Census Bureau on a State-by-State basis. In addition to providing estimates of the number of citizens disfranchised in presidential elections by existing residence requirements as compared to the number who would have been disfranchised under the provisions of S. 2165, the table also estimates that a total of 5,270,000 citizens were disfranchised in congressional elections, and in State and local elections, because of the residence requirements applicable to those contests.

The census estimates were compiled from the Bureau's 1968 annual national survey of interstate, intercounty, and intracounty migration within the United States. The national migration figures were allocated among the States on the basis of the State-by-State distributions of the three migration categories in the 1960 census. For each State, the estimated number of migrants disqualified from voting because of State or local residence requirements was calculated from the length of the applicable requirements. In the case of precinct requirements, it was arbitrarily assumed that one-half of all intracounty migrants had crossed precinct boundaries.

The method of calculation may be illustrated by the following example. If a State's election laws imposed a residence requirement of 3 months in the State, 2 months in the county, and 1 month in the precinct, and there were 36,000 interstate migrants, 24,000 intercounty migrants, and 12,000 intracounty migrants, then the total number of disfranchised voters in the State would be 13,500, determined as follows:

State residence requirement: 36,000 times three-twelfths equals 9,000.

County residence requirement: 24,000 times two-twelfths equals 4,000.

Precinct residence requirement: 12,000 times one-half times one-twelfth equals 500.

Making a total of 13,500 disfranchised voters.

The Census Bureau emphasized that the technique employed to derive these figures does not have the sophistication or the precision of the Bureau's regular estimating procedures. Nevertheless, the figures are useful as indicating the overall magnitude of the number of voters disfranchised under the helter-skelter residence requirements of our existing laws. More important, the figures also indicate the substantial beneficial impact the bill I have proposed would have in reducing this number.

As the figures make clear, in spite of the fact that a number of States have enacted special remedial legislation to reduce the residence requirement for voting in presidential elections, a significant group of our citizens were still unable to vote for their President in 1968. Many States, including some of the States where special legislation has been enacted, continue to impose unreasonably long residence requirements on their citizens as a condition of voting.

To be sure, absent the special residence requirements enacted in certain States for presidential elections, more than 5 million citizens across the Nation would have been disqualified from voting for their President in 1968 by State and local residence requirements. Thus, it is clear that the States, themselves, have gone part of the way in meeting this problem. Even allowing for the special State laws applicable to presidential elections, however, nearly 2 million citizens were disfranchised in the 1968 election.

As this figure demonstrates, there are still far too many of our citizens who are unable to vote for their President. The legislation I have proposed would reduce the number of disfranchised voters from its present level of 2 million citizens to less than 300,000, or a reduction of about 85 percent. The plight of the "lost" voters in our Nation's most important election is urgent, and I am hopeful that Congress will act at the earliest opportunity to eliminate this arbitrary and unjust disqualification that mars the basic working of our modern American democracy.

I ask unanimous consent that the table to which I have referred be printed in the RECORD.

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

ESTIMATES OF CITIZENS DISQUALIFIED FROM VOTING IN THE 1968 ELECTION BY STATE AND LOCAL RESIDENCE REQUIREMENTS

State	Residence requirements [1]				Citizens disqualified from voting by residence requirements [2]		
	Congressional, State, and local elections						
	In State	In county	In precinct	Presidential election	Congressional, State, and local elections	Presidential election	Presidential election, if S. 2165 enacted (30-day maximum residence period)
Alabama	1 year	6 months	3 months [3]	Not applicable	114,000	114,000	5,000
Alaska	do	None	30 days	No minimum	25,000	0	0
Arizona [4]	do	30 days	do	60 days	90,000	14,000	7,000
Arkansas	do	6 months	do	Not applicable	64,000	64,000	3,000
California	do	90 days	54 days	54 days	734,000	78,000	44,000
Colorado	do	do [3]	20 days	2 months in State, 2 months in county, 15 days in precinct.	90,000	13,000	6,000
Connecticut [4]	6 months	6 months in town	None	60 days	90,000	10,000	5,000
Delaware	1 year	3 months	30 days	3 months	18,000	4,000	1,000
District of Columbia	do	None	None	Not applicable	33,000	33,000	3,000
Florida	do	6 months	45 days	30 days	402,000	28,000	28,000
Georgia	do	do	None	do	142,000	7,000	7,000
Hawaii	do	3 months	3 months	Not applicable	34,000	34,000	2,000
Idaho	6 months	30 days	90 days for county seat election	60 days	12,000	4,000	2,000
Illinois	1 year	90 days	30 days	60 days in election district	240,000	125,000	14,000
Indiana	6 months	60 days in township	do	Not applicable	71,000	71,000	7,000
Iowa	do	60 days	10 days for municipal and special elections.	do	31,000	31,000	3,000
Kansas	do	None	30 days	45 days in township or precinct	40,000	23,000	5,000
Kentucky	1 year	6 months	60 days	Not applicable	104,000	104,000	5,000
Louisiana	do	do	3 months [3]	do	113,000	113,000	4,000
Maine	6 months	3 months in city or town	None	30 days	21,000	2,000	2,000
Maryland	1 year	6 months	6 months [3]	45 days in ward or election district	175,000	32,000	8,000
Massachusetts	do	None	do	31 days in city or town	211,000	30,000	6,000
Michigan	6 months	30 days in city or township [3]	None	No minimum	84,000	0	0
Minnesota	do	None	30 days [5]	30 days	43,000	5,000	5,000
Mississippi	2 years	do	1 year	Not applicable	183,000	183,000	3,000
Missouri	1 year	60 days	None	60 days	108,000	15,000	7,000
Montana	do	30 days	do	Not applicable	20,000	20,000	2,000
Nebraska	6 months	40 days	10 days	No minimum	20,000	0	0
Nevada	do	30 days	do	Not applicable	12,000	12,000	2,000
New Hampshire	do	6 months in town [3]	None	30 days	22,000	1,000	1,000
New Jersey [4]	do	40 days	do	40 days in county	85,000	30,000	12,000
New Mexico	1 year	90 days	30 days	30 days in county	54,000	5,000	4,000
New York [4]	3 months	3 months	3 months	30 days in election district	295,000	98,000	14,000
North Carolina	1 year	None	30 days [3]	60 days	91,000	12,000	6,000
North Dakota	do	90 days	do	No minimum	16,000	0	0
Ohio	do	40 days	40 days	do	218,000	0	0
Oklahoma	6 months	2 months	20 days	do	44,000	0	0
Oregon	do	30 days	30 days	do	36,000	0	0
Pennsylvania	90 days	None	60 days in district	Not applicable	124,000	95,000	9,000
Rhode Island	1 year	6 months in town or city	None	do	38,000	22,000	2,000
South Carolina	do	6 months	3 months	do	80,000	80,000	4,000
South Dakota	do	90 days	30 days [3]	do	20,000	20,000	1,000
Tennessee	do	3 months	None	do	79,000	79,000	5,000
Texas [4]	do	6 months	do	60 days	321,000	30,000	15,000
Utah	do	4 months	60 days	Not applicable	33,000	33,000	2,000
Vermont	do	90 days in town [3]	None	do	13,000	10,000	1,000
Virginia	do	6 months	30 days	do	185,000	185,000	10,000
Washington	do	90 days	do	60 days	113,000	15,000	7,000
West Virginia	do	60 days	None	Not applicable	30,000	30,000	2,000
Wisconsin [4]	6 months	None	10 days [3]	No minimum	33,000	0	0
Wyoming [4]	1 year	60 days	do [3]	Not applicable	17,000	17,000	1,000
Total					5,270,000	1,928,000	283,000

[1] Source: U.S. Senate, Office of the Secretary, "Nomination and Election of the President and Vice President of the United States" U.S. Government Printing Office, January 1968. Corrected to Sept. 18, 1968. (Residence requirements essentially as published by the Bureau of the Census in "Current Population Reports," series P-25, No. 406, Oct. 4, 1968.) (Colorado requirements and figures corrected for new law enacted Apr. 23, 1968.)

[2] Figures may not add to total because of rounding.

[3] If less may vote in old precinct.

[4] State permits former residents to vote for President and Vice President where not qualified in new State of residence.

[5] If less may vote in old precinct if in same municipality.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT OF THE SECRETARY OF DEFENSE

A letter from the Deputy Secretary of Defense, transmitting, pursuant to law, a confidential report on support furnished from military functions appropriations for Vietnamese and other free world forces in Vietnam and local forces in Laos and Thailand (with an accompanying report); to the Committee on Appropriations.

REPORTING PURSUANT TO LAW ON DEFERMENT OF THE 1969 CONSTRUCTION PAYMENT DUE THE UNITED STATES FROM THE SAN ANGELO WATER SUPPLY CORP. IN CONNECTION WITH THE SAN ANGELO RECLAMATION PROJECT, TEXAS.

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, on deferment of the 1969 construction payment due the United States from the San Angelo Water Supply Corp. in connection with the San Angelo Reclamation Project, Texas; to the Committee on Interior and Insular Affairs.

EXECUTIVE REPORT OF A COMMITTEE

As in executive session,

The following favorable report of a nomination was submitted:

By Mr. SPARKMAN, from the Committee on Banking and Currency:

John Conrad Clark, of North Carolina, to be a member of the Board of Directors of the Export-Import Bank of the United States.

PETITIONS AND MEMORIALS

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

By the PRESIDING OFFICER:

Senate joint resolution, adopted by the Legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION 10

"Whereas, The increasing burden of property taxes on homeowners is of nationwide concern; and

"Whereas, The California Legislature has provided for a $70 rebate in 1969 of property taxes paid by homeowners for the 1968–1969 fiscal year; and

"Whereas, Under federal income tax law, this tax relief may be reduced by the inclusion of the rebate as income for federal income tax purposes; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to exclude the $70 homeowners' property tax rebate from income for federal income tax purposes; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

Two Senate joint resolutions, adopted by the legislature of the State of California; to the Committee on Interior and Insular Affairs:

"SENATE JOINT RESOLUTION 3

"Whereas, The U.S. Corps of Engineers has received plans of the City of Los Angeles for a water reclamation facility in the Sepulveda Dam Basin of the San Francisco Valley; and

"Whereas, The City of Los Angeles seeks only 86 acres of undeveloped land for a 38-million-dollar water reclamation-sewage treatment plant that would reclaim 200 million gallons of water daily for purposes of irrigation, lakes, and replenishment of the downstream spreading grounds; and

"Whereas, Such a water reclamation plant would solve the serious crisis which is developing with respect to the disposal of sewage in the San Fernando Valley, as well as make available free water to make green large areas of the Sepulveda Basin and of Griffith Park; and

"Whereas, In an arid region where generally there is little rain and where water necessary for the future growth and development of the region must be imported, water reclamation should be encouraged to the fullest extent practicable; and

"Whereas, The construction of a water reclamation facility in the Sepulveda Basin would not detract from the recreational value of that land in the basin which has been leased to the city for recreational use, but would be a source of new recreational benefits for the entire area; and

"Whereas, The vital public interest in the construction of this project warrants a prompt and thorough review by the U.S. Corps of Engineers with full consideration being given to recreation, water reclamation, sewage capacity, and the future growth of the City of Los Angeles; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the U.S. Army Corps of Engineers to accept the application of the City of Los Angeles for permission to construct a water reclamation facility in the Sepulveda Dam Basin of the San Fernando Valley in the interest of the enhancement of the recreational resources of the area, the provision of vitally needed water reclamation and sewage capacity, and the insurance that the requirements for the future growth and development of the City of Los Angeles will be met; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Secretary of the Army, to the Chief Engineer of the U.S. Army Corps of Engineers, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

"SENATE JOINT RESOLUTION 9

"Whereas, The coastline of California is of unique scenic beauty and is one of the state's greatest natural resources; and

"Whereas, The coastal fish and wildlife resources of California furnish a significant contribution to the state's economy; and

"Whereas, The California coast is under continuous hazard from oil and gas development operations which may result in oil escapement on federally controlled outer continental shelf lands; and

"Whereas, The State of California and cities and counties within the state have an exigent interest in offshore oil and gas development operations conducted under federal leases and survey permits but have no voice in the granting of such leases and permits by the federal government; and

"Whereas, The State of California, acting through its Governor and its legislative representatives, has requested that the authority for inspection and control of offshore oil and gas development in federally controlled areas beyond the three mile limit be vested in the state; and

"Whereas, The Government of the State of California has demonstrated a high degree of reliability in its inspection of, and regulations over, oil and gas developments on all onshore and offshore lands within state boundaries; and

"Whereas, The transfer of the inspection function from federal to state control would provide uniformity of protection through uniform inspection and regulation practices; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to provide *for the holding of a public hearing within the affected local area of California, upon adequate notice thereof, on the matter of any future oil and gas development operation which would be conducted off the California coast whenever the granting of a federal lease or survey permit for any such operation is under consideration, such hearing to be held prior to the granting of any such lease or permit; and be it further*

"Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to provide for the immediate transfer of inspection and regulation of oil and gas developments off the California coast outside the three-mile limit to the State of California; and be it further

"Resolved, That the enactment of legislation providing for such transfer also provide the necessary funding to carry on the inspection program; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of the Interior, and to each Senator and Representative from California in the Congress of the United States."

Two Senate joint resolutions, adopted by the Legislature of the State of California; to the Committee on Public Works:

"SENATE JOINT RESOLUTION 13

"Whereas, There exists in the Carpinteria Valley a severe flooding problem which affects hundreds of homes, local schools, valuable agricultural lands, highway and railroad transportation, and the health and safety of the citizens residing in the area; and

"Whereas, Three separate floods devastated the Carpinteria Valley in January 1969; and

"Whereas, A federally financed flood control project under the provisions of Public Law 566 is proposed for the Carpinteria Valley watershed, which would eliminate the flooding problem; and

"Whereas, Such flood control project has been found to be economically feasible, and the watershed work plan, which constitutes the feasibility report for such project, has been submitted to the federal Administrator of the Soil Conservation Service for review and transmittal to the Congress; and

"Whereas, The urgent necessity for flood protection requires quick action by the Congress and the Administrator of the Soil Conservation Service in approving the work plan, authorizing the project, and appropriating funds for the beginning of engineering and construction; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully requests state and federal agencies to expedite their review of the Carpinteria Valley Watershed Project Work Plan and to forward their comments to the Administrator of the Soil Conservation Service without delay; and be it further

"Resolved, That the Administrator of the Soil Conservation Service is requested to approve the work plan and to include the Carpinteria Valley Watershed Project in the group of PL 566 projects to be submitted to the Congress in the near future; and be it further

"Resolved, That the Soil Conservation Service and the local sponsoring agencies are requested to cooperate with the Department of Fish and Game in protecting and improving wildlife conditions in the project area, and especially in devising ways to enhance the management of El Estero Marsh for such purposes; and be it further

"Resolved, That the Legislature memorializes the Congress to approve, authorize, and appropriate funds for the beginning of work on the Carpinteria Valley Watershed Project; and be it further.

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Administrator of the Soil Conservation Service, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

"SENATE JOINT RESOLUTION 17

"Whereas, In January and February of this year areas of Santa Paula Creek in Santa Paula, California, were devastated by disastrous flooding; and

"Whereas, Extensive damage to property, both public and private, has been caused by the severe flooding which has occurred this year; and

"Whereas, These events clearly manifest the critical need for protective flood control works in Santa Paula Creek; and

"Whereas, The amounts allocated for this purpose in the proposed federal budget for the next fiscal year are grossly inadequate; and

"Whereas, The Santa Paula Creek Flood Control Project is acknowledged as the most critical project in Ventura County; and

"Whereas, The widespread demand for federal flood control projects points to the need for establishing a priority program in which the necessary funds are appropriated to immediately undertake the most critical projects; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the legislature of the State of California respectfully memorializes Congress to appropriate the necessary funds to immediately undertake the construction of the Santa Paula Creek Flood Control Project; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A Senate concurrent resolution, adopted by the Legislature of the State of Florida; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION 1172

"A concurrent resolution ratifying the Nineteenth Amendment to the Constitution of the United States relating to the right of all citizens to vote

"Whereas, the Congress of the United States of America in both houses by a constitutional majority of two-thirds thereof has amended the Constitution of the United States in the following words:

"'Senate Joint Resolution proposing an amendment to the Constitution of the United States relating to the right of all citizens to vote.

"'Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United

States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years of its submission by the Congress:

" 'AMENDMENT XIX

" 'The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

" 'Congress shall have power to enforce this article by appropriate legislation.'

"Now, Therefore, Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

"That the said amendment to the Constitution of the United States be, and the same is hereby ratified by the Legislature of the State of Florida.

"Be it further resolved that certified copies of the foregoing preamble and resolution be immediately forwarded by the Secretary of State of the State of Florida, under the great seal, to the President of the United States, the President of the Senate of the United States, and the Speaker of the House of Representatives of the United States.

Attest: "DON ADAMS,
"Secretary of State."

A resolution, adopted by the Legislature of the State of Minnesota; to the Committee on Post Office and Civil Service:

"RESOLUTION 6

"A resolution memorializing Congress, the President, and the Bureau of the Census to include censuses of school districts in the federal census.

"Whereas, in Minnesota, the school district is one of the most important divisions of government; and

"Whereas, a census of Minnesota school districts on a regular basis would be useful for many purposes; now, therefore,

"Be it resolved, by the Legislature of the State of Minnesota, that Congress and the Census Bureau should provide that future federal population censuses also include censuses of the population of school districts.

"Be it further resolved, that the Secretary of State of the State of Minnesota transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Bureau of the Census, and the Minnesota Senators and Representatives in Congress.

"L. L. DUXBURY,
"Speaker of the House of Representatives.
"JAMES B. GOETZ,
"President of the Senate.

"Passed the House of Representatives this 29th day of April in the year of Our Lord one thousand nine hundred and sixty-nine.

"EDWARD A. BURDICK,
"Chief Clerk, House of Representatives.

"Passed the Senate this 14th day of May in the year of Our Lord one thousand nine hundred and sixty-nine.

"H. Y. TORREY,
"Secretary of the Senate.

"Approved May 21, 1969.

"HAROLD LEVANDER,
"Governor of the State of Minnesota.

"Filed May 22, 1969.

"JOSEPH L. DONOVAN,
"Secretary of State.

A Senate joint memorial, adopted by the Legislature of the State of Colorado; to the Committee on Finance:

"SENATE JOINT MEMORIAL 6

"Memorializing the Congress of the United States to enact legislation providing for tax credits, or unrestricted grants, or to otherwise restore to the States adequate tax sources for the support of State and local government

"Whereas, The State of Colorado has outstanding programs of state and local government which are providing services to the people of this state at levels far beyond those furnished in the past; and

"Whereas, The State of Colorado and many other states have proven their willingness and ability to develop effective programs and solve problems at the state and local level; and

"Whereas, It is essential that state and local governments assume greater responsibility in order to maintain a proper relationship between the states and national government within the concept of a balanced federal system; and

"Whereas, Many programs are currently financed and administered at local, state, and national levels with resulting inefficiency, duplication of administrative effort, and the loss of effective citizen participation, and it is desirable for the states to assert greater leadership and initiative in the formulation and administration of such programs; and

"Whereas, Federal taxes now constitute more than two-thirds of all taxes paid by Colorado citizens and it is impossible for state and local governments to adequately finance increased responsibilities within reasonable tax limits unless the tax base of the states be broadened; now, therefore,

"Be it resolved by the Senate of the forty-seventh General Assembly of the State of Colorado, the House of Representatives concurring herein:

"That this General Assembly respectfully petitions the Congress of the United States to enact tax credits, or unrestricted grants, or otherwise restore to the states adequate revenues for the support of state and local government.

"Be it further resolved, That this General Assembly urges other state legislatures to adopt similar memorials to the Congress and that a copy of this memorial be transmitted to the Presiding Officer of each house of the several state legislatures.

"Be It Further Resolved, That a duly attested copy of this memorial be transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, and to each member of Congress from this state.

"MARK A. HOGAN,
"President of the Senate.
"COMFORT W. SHAW,
"Secretary of the Senate.
"JOHN D. VANDERHOOF,
"Speaker of the House of Representatives,
"HENRY C. KIMBOROUGH,
"Chief Clerk of the House of Representatives."

A letter from the Representative in Washington of the Territory of Guam, informing the Senate of the endorsement by the people of Guam of the proposed amendment of Senate Joint Resolution 1 to permit American citizens residing in Guam, the Virgin Islands, and Puerto Rico the right to vote for President and Vice President of the United States; to the Committee on the Judiciary.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. SPARKMAN, from the Committee on Banking and Currency without amendment:

S.J. Res. 112. Joint resolution to amend section 19(e) of the Securities Exchange Act of 1934 (Rept. No. 91-206).

BILLS INTRODUCED

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

By Mr. DIRKSEN (for himself, Mr. PERCY, Mr. HATFIELD, and Mr. ALLOTT):

S. 2256. A bill to authorize the Secretary of the Interior to establish the Lincoln Home Area National Historic Site in the State of Illinois; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of North Dakota (for himself and Mr. BURDICK):

S. 2257. A bill to provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to food control; to contribute to improved water quality and reduce stream sedimentation; to contribute to improved sub-surface moisture; to reduce acres of new land coming into production and to retire lands now in agricultural production; to enhance the natural beauty of the landscape, and to promote comprehensive and total water management planning; to the Committee on Agriculture and Forestry.

(See the remarks of Mr. YOUNG of North Dakota when he introduced the above bill, which appears under a separate heading.)

By Mr. SAXBE:

S. 2258. A bill for the relief of Tung Tsai Liang; to the Committee on the Judiciary.

By Mr. SCOTT (for himself, Mr. BROOKE, Mr. COOPER, Mr. HART, Mr. HATFIELD, Mr. HOLLINGS, Mr. RANDOLPH, Mr. SCHWEIKER, and Mr. TYDINGS):

S. 2259. A bill to amend the Federal Credit Union Act to assist in meeting the savings and credit needs of low-income persons; to the Committee on Banking and Currency.

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

By Mr. HOLLINGS:

S. 2260. A bill to provide private relief for certain members of the U.S. Navy recalled to active duty from the Fleet Reserve after September 27, 1965; to the Committee on Armed Services;

S. 2261. A bill for the relief of Cheng Mau Kwong; and

S. 2262.A bill for the relief of Lai Lin; to the Committee on the Judiciary.

By Mr. DODD:

S. 2263. A bill to expand the participation by State agencies in programs authorized by the Juvenile Delinquency Prevention and Control Act of 1968; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. DODD when he introduced the above bill, which appear in an earlier heading.)

By Mr. YARBOROUGH:

S. 2264. A bill to amend the Public Health Service Act to provide authorization for grants for communicable disease control; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. YARBOROUGH when he introduced the above bill, which appear under an earlier heading.)

By Mr. METCALF (for himself, Mr. MANSFIELD, Mr. ANDERSON, Mr. BURDICK, Mr. GOLDWATER, Mr. MCCARTHY, Mr. MCGOVERN, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. RANDOLPH, Mr. STEVENS, Mr. WILLIAMS of New Jersey, and Mr. YARBOROUGH):

S. 2265. A bill to amend the Social Security Act to extend to Indians of all tribes, under all of the existing public assistance programs, the special additional Federal matching payments presently provided only for certain specified tribes under certain specified programs; to the Committee on Finance.

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

By Mr. WILLIAMS of New Jersey:

S. 2266. A bill for the relief of Gaetano Soccadato;

S. 2267. A bill for the relief of Salvator Baio;

S. 2268. A bill for the relief of Antonio Fusco; and

S. 2269. A bill for the relief of Constantinos Lekkas; to the Committee on the Judiciary;

S. 2270. A bill to amend title II of the So-

cial Security Act to permit the payment of benefits to a married couple on their combined earnings record where that method of computation produces a higher combined benefit;

S. 2271. A bill to provide for the conduct of certain studies by the Secretary of Health, Education, and Welfare with respect to the insurance program established by title II of the Social Security Act;

S. 2272. A bill to amend title II of the Social Security Act to increase the amount of the insurance benefits payable to widows and widowers;

S. 2273. A bill to amend title II of the Social Security Act to increase the amount of earnings permitted each year without deductions from benefits thereunder; and

S. 2274. A bill to amend title II of the Social Security Act so as to provide that remarriage shall not disqualify an individual from receiving widow's or widower's benefits thereunder; to the Committee on Finance.

(See the remarks of Mr. WILLIAMS of New Jersey when he introduced the last five above bills, which appear under a separate hearing.)

By Mr. RIBICOFF:

S. 2275. A bill to amend title 5, United States Code, to authorize payment of travel expenses of applicants invited by an agency to visit it in connection with possible employment; to the Committee on Government Operations.

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

By Mr. RANDOLPH:

S. 2276. A bill to extend for one year the authorization for research relating to fuels and vehicles under the provisions of the Clean Air Act; to the Committee on Public Works.

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

By Mr. McGOVERN (for himself, Mr. MANSFIELD, Mr. CHURCH, Mr. INOUYE, Mr. FULBRIGHT, Mr. NELSON, Mr. ANDERSON, Mr. MONDALE, Mr. GRAVEL, Mr. YARBOROUGH, Mr. MUSKIE, Mr. McGEE, Mr. HART, Mr. YOUNG of Ohio and Mr. RANDOLPH):

S. 2277. A bill to impose an excess profits tax on the income of corporations during the present emergency; to the Committee on Finance.

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

By Mr. JORDAN of North Carolina:

S. 2278. A bill to transfer from the Architect of the Capitol to the Librarian of Congress the authority to purchase office equipment and furniture for the Library of Congress; to the Committee on Rules and Administration.

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

By Mr. CURTIS (for himself and Mr. HRUSKA):

S. 2279. A bill to provide for the issuance of a special series of postage stamps in commemoration of the one hundredth anniversary of the birth of the great Nebraska novelist, Willa Cather; to the Committee on Post Office and Civil Service.

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

By Mr. BAKER:

S. 2280. A bill to amend section 103(c) of the Internal Revenue Code of 1954 relating to the income tax treatment of interest on industrial development bonds and for other purposes; to the Committee on Finance.

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

By Mr. CASE:

S. 2281. A bill conferring jurisdiction upon the U.S. Court of Claim to hear, determine, and render judgment upon the claim of Harold Braun, of Montclair, N.J.; to the Committee on the Judiciary.

By Mr. MUSKIE:

S. 2282. A bill to authorize and direct the Secretary of Transportation to cause the vessel *Barbara Ann*, owned by Larry A. Torrey of Winter Harbor, Maine, to be documented as a vessel of the United States with full coastwise privileges; to the Committee on Commerce.

By Mr. MAGNUSON (for himself, Mr. BROOKE, Mr. COOPER, Mr. CRANSTON, Mr. FULBRIGHT, Mr. GOODELL, Mr. GRAVEL, Mr. HART, Mr. HUGHES, Mr. INOUYE, Mr. JAVITS, Mr. KENNEDY, Mr. MANSFIELD, Mr. MATHIAS, Mr. McCARTHY, Mr. McGOVERN, Mr. MONDALE, Mr. MUSKIE, Mr. NELSON, Mr. PELL, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. YOUNG of Ohio):

S. 2283. A bill to promote the foreign policy and security of the United States by providing authority to negotiate commercial agreements with Communist countries, and for other purposes; to the Committee on Finance.

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

By Mr. WILLIAMS of New Jersey:

S. 2284. A bill to improve the health and safety conditions of persons working in the coal mining industry of the United States; to the Committee on Labor and Public Welfare.

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

S. 2257—INTRODUCTION OF THE WATER BANK ACT

Mr. YOUNG of North Dakota. Mr. President, it is a pleasure for me to introduce a bill to establish the water bank program. This proposal takes aim at a number of problems confronting us today as we attempt to develop a comprehensive, long-range plan for the conservation and development of our natural resources.

Throughout the Nation today landowners and public and private agencies are faced with the necessity to plan the use and development of our land and water resources. There are a good many options to be considered, however, and in many cases once a decision is reached and a plan is embarked upon, the process is irreversible. In many instances, these decisions lead to the loss of a valuable natural resource for all time.

We are all aware of the problems facing the Nation's farmers. They are caught in a cost-price squeeze that daily drives more and more of them from the land. In North Dakota alone, we are losing about 1,000 farmers per year.

In order to stay in business and provide an adequate living for themselves and their families, farmers are continually seeking to lower their costs, reduce their risks, and improve their efficiency. One of the most common ways of doing this has been to improve the land resources available to them. Often this has meant the use of conservation practices such as strip cropping, well-planned crop rotations, the planting of shelterbelts, and other measures. At other times, it has meant the drainage of natural wetlands.

This drainage has, generally speaking, been the farmer's only means of improving the return available to him from land in which he has made an investment, on which he pays taxes, and which represents an integral part of his unit.

This drainage, however, often represents the loss of a valuable natural resource to society as a whole. These wetlands are a valuable source of wildlife production. Their retention of runoff waters add materially to flood control and they help maintain water table levels so essential to meeting the ever-expanding demand for municipal and industrial water supplies to support an expanding population.

It has long been recognized that the dilemma presented by these apparently conflicting interests cannot be solved without some public action. The legislation we are introducing today is aimed directly at providing such a solution.

By 1950, about half of the wetlands of the prairie pothole region of the United States had been drained. This is considered to be the prime waterfowl producing area of the country. This drainage has continued in recent years, and recent surveys indicate that in my own State, landowners are draining almost 45,000 acres of wetlands each year.

Recognizing this problem and the need for concerted action to retain the maximum possible portion of this valuable natural resource, various public, and private agencies and farm groups in the State of North Dakota have joined in proposing this Water Bank Act.

Briefly, the Water Bank Act, would provide landowners with an economic alternative to drainage. It would establish a program whereby they could enter into contracts with the Federal Government to limit the use of wetlands and to leave them in their present condition.

Under the terms of the proposed contracts, the landowner would designate wetland on his farm for the program. During the 10-year contract period these areas would not be drained or otherwise altered so as to affect their value as wetlands. In return, the landowner would receive payments based on the productive value of the land.

Since some wetlands have an agricultural value without further treatment, it has been deemed desirable to provide for use and nonuse options. Under the use option, farmers could continue to utilize the land for farm operations although they would agree to refrain from any drainage or filling operations on the acreage. Under the nonuse option, no farm operations would be undertaken on the land.

The program envisions a contract period of 10 years, with the option available for the producer to extend the agreement at the end of that term. I sincerely feel that this would be a positive step toward conserving and maintaining a rapidly disappearing resource.

As I have indicated, this proposal is the outgrowth of numerous meetings and discussions on the part of many concerned people in North Dakota. Officials of the State Government and the North Dakota State University have partici-

pated in the drafting of the proposal. Also in on these discussions were representatives of the North Dakota Farmers Union, North Dakota Farm Bureau, National Farmers Organization, North Dakota Stockmen's Association, North Dakota Wildlife Federation, North Dakota Water Users, the Garrison Conservancy District, and the North Dakota Association of Soil Conservation Districts.

I think we are all aware that at times there has been antagonism and hard feelings generated between landowners and wildlife interests when each group felt their best interests were being trespassed upon by the other. In this case, we have an outstanding example of these groups joining in an effort to develop a sound, logical proposal to provide a solution to mutual problems.

Mr. President, there is much merit to the measure being offered here today, and I would like to urge prompt and favorable action on it.

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

The bill (S. 2257) to provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to food control; to contribute to improved water quality and reduce stream sedimentation; to contribute to improved sub-surface moisture; to reduce acres of new land coming into production and to retire lands now in agricultural production; to enhance the natural beauty of the landscape; and to promote comprehensive and total water management planning, introduced by Mr. YOUNG of North Dakota (for himself and Mr. BURDICK) was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

Mr. YOUNG of North Dakota. I am pleased to say that my colleague, Senator BURDICK, is joining as a cosponsor of this measure. Unfortunately, it is impossible for him to be here today. However, I ask unanimous consent that a statement he has prepared on this proposal be printed in the RECORD at this point.

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

STATEMENT OF SENATOR BURDICK

Mr. BURDICK. Mr. President, it is with a great deal of satisfaction that I join in the introduction of the bill to create a "Water Bank."

The program authorized in our proposal is, I feel, a constructive and fair solution to a national problem which manifests itself most strongly in North Dakota and other states blessed with waterfowl breeding resources.

The problem is how to preserve and enhance migratory waterfowl breeding and nesting areas—the "wetlands"—without placing an undue burden on the individual whose holdings may encompass some wetlands. Many wetland areas can, and have become highly productive croplands when properly drained. When this happens, the land's value as a breeding area ceases or is materially lessened.

The "Water Bank" offers the farmer or rancher annual payments for his agreement not to "drain, burn, or fill" such areas for the duration of the contract, ten years. In setting the rate of annual payments, the Secretary of Agriculture is to be guided by the considerations outlined in Section 4 of the proposed bill. One of the considerations in making this determination is the "rate . . . necessary to encourage owners of wetlands to participate. . . ." The owner is under no compulsion to participate, but must simply decide if the economic gains in participation outweigh the economic benefit to be realized by draining the wetland.

We recognize our wildlife as a national resource which must be protected and preserved. The "Water Bank" would assure that the direct cost of this vital national effort will not fall disproportionately on the relatively few citizens who now maintain wetlands.

Senator Young has described the active participation of the many North Dakota individuals and associations which has resulted in the bill we introduce today. The principle of the "Water Bank" has already received extensive support both in North Dakota and nationally, including the 1969 session of the North Dakota Legislature, the United States Durum Growers Association, the National Wildlife Federation, the North Dakota Wildlife Federation, the Mississippi Flyway Council, the North Dakota and National Associations of Soil Conservation Districts, and the North Dakota State Water Commission.

These preliminary indications of support are very encouraging. For my part, I will do all that I can to see that the 91st Congress takes prompt action to make the "Water Bank" a reality.

S. 2259—INTRODUCTION OF A BILL TO ESTABLISH CREDIT UNIONS IN LOW-INCOME AREAS

Mr. SCOTT. Mr. President, on behalf of Senators BROOKE, HART, HATFIELD, HOLLINGS, RANDOLPH, SCHWEIKER, TYDINGS and myself, I introduce, for appropriate reference, a bill to permit the Director of the Bureau of Federal Credit Unions to establish credit unions in low-income areas.

The purpose of my bill is to encourage saving and provide access to credit for low-income persons, and to bring consumer education into poverty areas. Although my bill will permit the poor to expand their incomes, it is not a welfare proposal. It opens the door to the poor—who want more money and credit—to help themselves.

My proposal will make it possible for the poor to become credit union savers, and thus expand their paltry, fixed incomes through interest on their savings. But far more important, credit union cash loans will make even small incomes flexible. The accompanying consumer education services will provide instruction on how to get the most out of a poverty income.

I believe it is unrealistic to expect poverty neighborhoods, by themselves, to produce the necessary funds and the leadership to form credit unions. The whole idea is unknown there. The bill I am introducing today will permit the Bureau of Federal Credit Unions, part of the Department of Health, Education, and Welfare, in cooperation with the Office of Economic Opportunity, to establish credit unions in poverty areas—especially in those areas with community action programs.

The Department of Health, Education, and Welfare would pay the administrative and operating costs of the credit unions for 1 year and would make and guarantee loans to the credit unions. A fund for these purposes would be established within the Treasury.

There is a crying need for credit unions among the poor, in spite of the paradox of the poor having little or no obvious funds to put into savings. To some the question is natural: How does a family which can barely afford to buy the necessities of life, afford to put money into a credit union savings? The fact is, there is an element of choice in spending income which all of us exercise. We naturally place our resources where we get something in return. Surely, the credit union has better credentials for the ghetto than has the pawn shop. It is a service organization dedicated to helping even those on subsistence income learn to use wisely what they have. It offers savings interest to encourage thrift—and thrift is a route to a better life which many a poor man took in another day, but which seems rarely encouraged in modern day America. And, finally, and probably most crucial, the credit union provides an opportunity to borrow a modest sum from a legitimate source, at reasonable cost. A modest loan can provide the very stake in society which the poor now miss, and miss with a vengeance.

The poverty psyche has been passed on from one generation to another because opportunities for change have not come to the poor. The influence of generations of poverty can be overcome by the presence of an institution where the poor can begin to deposit a dollar or two a week in savings and where they may turn in an emergency or just in need to borrow the $5 or $25 most banks would never consider lending. It is readily apparent that the small credit union loan is of more benefit to those living on a meager income than is the big bank loan which is beyond the reach of the poor.

The plain fact of the matter is that many banks consider the very poor to be very bad credit risks. This drives the poor into the open, avaricious arms of loan sharks, some operating on their own and some operating at the beck and call of organized crime. Again, the credit union is far more than a mere substitute for loan sharking; it is by any man's measure a vastly superior alternative.

Credit unions in low-income areas have already proved successful. For example, there are nine credit unions in poverty pockets of Washington, D.C., which had total assets of $755,763.94 at the end of 1968.

There are now nearly 700 Federal credit unions serving the poor in urban and rural areas, and more than 130 are directly involved in community action programs. A substantial response has come from low-income communities with credit unions which have been closely associated with the Bureau of Federal Credit Unions, the Office of Economic Opportunity and other credit unions.

If my bill were in effect today, each of the existing 700 credit unions in low-income areas across the country could be reviewed by the Bureau, and specific

programs of aid and technical assistance could be made available to them.

Those who support the idea of black capitalism and minority enterprise should be intrigued indeed by the idea of credit unions in ghetto and poverty ridden neighborhoods. Credit unions are owned and operated by their members. Members elect a board of directors, form a credit committee and a supervisory committee, and generally run their own business without outside interference. The community can take pride in its participation and control of its financial affairs, and in its enhancement of the neighborhood. The credit union is a means by which such neighborhoods can stretch incomes and provide local employment opportunity, plus increasing practical financial and consumer knowledge within the area.

I ask unanimous consent that the text of my bill together with a summary of it be printed in the RECORD following my remarks.

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

The bill (S. 2259) to amend the Federal Credit Union Act to assist in meeting the savings and credit needs of low-income persons, introduced by Mr. SCOTT (for himself and other Senators), was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

S. 2259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 21(f) of the Federal Credit Union Act (12 U.S.C. 1766(f)) is amended by adding at the end thereof a new paragraph as follows:

"(3)(A) In order to meet more effectively the savings and credit needs of low-income persons, the Director, upon the basis of studies or investigations conducted pursuant to paragraph (1) of this subsection and after consultation with the Director of the Office of Economic Opportunity, shall undertake a program to encourage, facilitate, and assist in the formation of Federal credit unions in those urban and rural areas which he determines contain a high concentration of persons of low income who have a need for, and could obtain substantial benefits from, cooperative saving and lending.

"(B) To assist any Federal credit union organized under the program referred to in subparagraph (A) in becoming firmly established and in meeting the credit needs of its members, the Director is authorized, under terms and conditions prescribed by him—

"(i) to pay the administrative and operating expenses of such credit union for a period of not to exceed five years from the date of its organization, and to provide technical assistance to such credit union pursuant to paragraph (2) of this subsection: *Provided,* That the total amount paid by the Director in the case of any such credit union for administrative and operating expenses shall not exceed $25,000 per year;

"(ii) to make loans to such credit union when necessary to meet the credit needs of its members; and

"(iii) to guarantee loans made by such credit union to its members.

Notwithstanding the provisions of section 8 (10), the aggregate amount of such loans made to any such credit union shall not exceed a total amount as established by the Director. Any guarantee of any loan made by such credit union shall not exceed 90 per centum of the unpaid balance thereof. Reasonable fees may be charged by the Director in connection with any such guarantee.

"(C) In order to carry out the purposes of this paragraph, there is authorized to be appropriated, as a supplement to any funds that may be expended by the Director pursuant to sections 6 and 7 for such purposes, not to exceed $_____ for any fiscal year.

"(D)(i) There is hereby established in the Treasury a revolving fund (hereinafter referred to as the 'Fund') which shall be used by the Director for carrying out the provisions of clauses (ii) and (iii) of subparagraph (B). As capital for the Fund there is authorized to be appropriated not to exceed $_____.

"(ii) All moneys, claims, contracts, and property acquired by the Director under subparagraph (B), and all collections and proceeds therefrom, shall constitute assets of the Fund; all liabilities and obligations of such assets shall be liabilities and obligations of the Fund. Administrative expenses of the Director in carrying out the provisions of subparagraph (B) shall be chargeable to the Fund. Moneys in the Fund not needed for current operations shall be invested in direct obligations of the United States or obligations guaranteed by the United States.

"(iii) The Director may issue notes to the Secretary of the Treasury whenever he determines that additional funds are necessary to discharge obligations of the Fund or to meet authorized expenditures payable out of the Fund, but, except as may be authorized in appropriation Acts, not for the original capital of the Fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Director with the approval of the Secretary of the Treasury. Each note shall bear interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which such note is issued, which are neither due nor callable for redemption for fifteen years from the date of their issue. The Secretary of the Treasury is authorized and directed to purchase any notes of the Director issued hereunder, and for that purpose the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which such securities may be issued under such Act are extended to include purchases of notes issued by the Director. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States. The notes issued by the Director to the Secretary of the Treasury shall constitute obligations of the Fund."

The material presented by Mr. SCOTT follows:

SUMMARY OF THE FEDERAL CREDIT UNION AMENDMENTS

Section 21(f) of the Federal Credit Union Act would be amended by giving the Director of the Bureau of Federal Credit Unions authority to undertake a program of encouraging the formation of Federal credit unions in urban and rural areas which he determines have a high concentration of persons of low income who have a need for a cooperative saving and lending program.

To assist any Federal credit union organized under the program, the Director would be authorized:

(1) to pay the administrative and operating expenses of the credit union for a period not exceeding five years from the date of its organization and to provide technical assistance to the credit union as authorized by the Federal Credit Union Act;

(2) to make loans to the credit union when necessary to meet the credit needs of its members, the total loans not to exceed the total amount of the credit union's paid-in and unimpaired capital and surplus; and

(3) to guarantee loans made by the credit union to its members, any guarantee of a loan not to exceed 90 per centum of the unpaid balance of the loan.

The Director would be authorized to charge reasonable fees in connection with the loan guarantee program.

The bill contains an authorization for an appropriation to support the payment of administrative and operating expenses of credit unions selected by the Director.

The bill contains a second authorization to provide funds to establish the revolving fund authorized by the bill. The revolving fund would be used by the Director in carrying out the authority to make loans to credit unions and to guarantee loans made by the credit unions. Administrative expenses of the Director in carrying out these programs would be chargeable to the fund. Repayments of loans from the fund would be deposited in the fund for future needs. Money not needed for current operations would be invested in direct or guaranteed obligations of the United States.

The Director of the Bureau of Federal Credit Unions would be authorized to issue notes to the Secretary of the Treasury, and the Secretary would be authorized to purchase the notes. The notes would be issued when the Director determined that additional funds would be necessary to discharge obligations of the fund but would not be for the original capital of the fund. The notes would bear interest as determined by the Secretary of the Treasury and would not be callable for redemption for fifteen years from the date of issue.

S. 2265—INTRODUCTION OF A BILL TO EXTEND TO INDIANS OF ALL TRIBES THE SPECIAL ADDITIONAL FEDERAL MATCHING PAYMENTS

Mr. METCALF. Mr. President, in response to a need expressed in a joint resolution of the Legislature of Montana, Senator MANSFIELD and I today introduce, with the cosponsorship of other Senators, a bill to expand the amendments to the Social Security Act which provided a special Federal contribution toward State expenditures for public assistance programs for the Navajo and Hopi Indians. Our bill proposes that the provisions of Public Law 474, 81st Congress (64 Stat. 47; 25 U.S.C. 639), apply to all Indian tribes and, further, that they be operative for programs enacted since the 1950 amendment.

Mr. President, Senator MANSFIELD and I are pleased to list as cosponsors Senators ANDERSON, BURDICK, GOLDWATER, MCCARTHY, MCGOVERN, MONTOYA, MOSS, MUSKIE, RANDOLPH, STEVENS, WILLIAMS of New Jersey, and YARBOROUGH. We are particularly proud that Senator ANDERSON, the distinguished senior Senator from New Mexico, has consented to join us in offering this proposal to extend Public Law 474, of which he was one of the coauthors in 1949.

Mr. President, the primary Federal responsibility for Indian people is well established in our laws.

With respect to welfare, the Bureau of Indian Affairs has the responsibility for general assistance to Indian people, and this program is supported solely by Federal funds.

For federally approved State matching fund program—old age assistance,

aid to dependent children, aid to the needy blind, aid to the permanently and totally disabled and medical assistance—our bill would provide an 80 percent reimbursement to the States for funds expended in behalf of Indians "residing within the boundaries of the State on reservations or on allotted or trust lands." Existing law allows a 50 percent Federal contribution, except for the Navajo and Hopi in whose behalf States receive 80 percent for old age assistance, ADC and aid to the needy blind.

States in whose boundaries there is a significant Indian population and where the existence of reservations deprives the States of revenues that would otherwise be derived from the reserved land, have a double problem in the added persons to be assisted and the reduction of sources of revenue.

With the authorization of sufficient funds to permit all States to administer programs of assistance to Indians, our bill affirms the principle of Federal responsibility embodied in Public Law 474. We hope it will have the early and favorable consideration of our colleagues.

Mr. President, so that others may have the benefit of the legislative history of the statute our bill would expand, I ask unanimous consent that the article by former Secretary Cohen entitled, "Public Assistance Provisions for Navajo and Hopi Indians: Public Law 474," be printed in the RECORD.

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

PUBLIC ASSISTANCE PROVISIONS FOR NAVAJO AND HOPI INDIANS: PUBLIC LAW 474

(By Wilbur J. Cohen*)

On April 19, President Truman approved Public Law 474, providing for the rehabilitation of Navajo and Hopi Indians. Section 9 of this law provides for increasing the Federal share of public assistance payments for needy Indians of these tribes who reside on reservations or on allotted or trust lands and who are recipients of old-age assistance, aid to dependent children, or aid to the blind. The new law becomes effective July 1, 1950. It provides that with respect to assistance payments for these Indians the Federal Government will pay, in addition to its regular share under titles I, IV, and X of the Social Security Act, 80 percent of the State's regular share. The maximums for individual payments specified in the Act apply to these payments.

Thus, in a payment of $20 to a needy individual, the regular State share is $5 and the Federal share is $15. For Navajo and Hopi Indians the Federal Government will pay $4 additional (80 percent of the $5 State share) or a total of $19 out of the $20 payment. The Federal share in such a payment would thus be increased from 75 percent to 95 percent. In a $50 payment the Federal share would be increased from $30 to $46, or from 60 percent to 92 percent.[1] The accompanying table illustrates the effect of section 9 on public assistance payments to Navajo and Hopi Indians.

LEGISLATIVE HISTORY

The first form (S. 1407) of the legislation that became Public Law 474 was introduced on March 25, 1949, by Senators O'Mahoney, Hayden, Chavez, McFarland, and Anderson. Companion bills, H.R. 3476 and H.R. 3489, were introduced in the House of Representatives.[2] S. 1407 passed the Senate on July 6, 1949, with amendments, and passed the House with some further amendments on July 14, 1949.[3] In the Conference Committee a new provision dealing with increased Federal grants to the States for public assistance to Navajo and Hopi Indians was included in section 9. The Conference Report was accepted in both the House and the Senate on October 3, and the bill was then sent to the President. The President vetoed the bill on October 17, 1949,[4] but his veto message did not contain any objection to the public assistance provisions of the bill.

The Senate deleted the provisions of the bill to which the President objected and passed a new bill, S. 2734, on October 18, the day after the veto was received. Immediate consideration of the bill in the House on October 19 was objected to by Representative Kean, a member of the House Committee on Ways and Means.[5]

With the adjournment of Congress, S. 2734 went over to the second session in 1950. The House passed the bill on February 21, 1950, with several amendments, one of which changed the method of determining the Federal share of public assistance payments to the two tribes. However, this amendment was based upon an erroneous interpretation of section 9 and in effect made the entire public assistance provision inoperative.[6] The Conference Committee therefore deleted certain language from the amended section 9 and thus restored the section's effectiveness.[7] The Conference Report was adopted by the House on April 6, 1950, and by the Senate on April 10. The President signed the bill on April 19, 1950.

The basic issue as to whether Indians should be given public assistance entirely at Federal expense or on the same basis as other individuals has been the subject of lengthy debate. When the House added the provision to S. 1407 to make all Indians within the Navajo and Hopi reservations subject to the laws of the State in which they live, it became necessary to consider whether this same principle should be applied to public assistance recipients or whether it should be modified in some way. The following quotation from the Conference Committee Report describes the difference of opinion between the two houses:

The House conferees insisted upon section 9, but the Senate conferees wanted it eliminated for the reason that the extension of State laws would obligate the States to make available the benefits of the State social security laws to reservation Indians, an obligation which has not been assumed by New Mexico and Arizona for two reasons: First, they have not admitted their liability, claiming that under the enabling acts and Federal laws the Indian was an obligation of the Federal Government. Second, because of the large Indian population, the States strenuously urged their financial inability to meet this obligation.[8]

The Conference Report also explains the justification for the "80-percent formula":

Less than 20 percent of the Navajo and Hopi Indians speak the English language. The States have indicated their willingness to assume the burden of administering the social security laws on the reservations with this additional help. The Conference Committee was of the opinion that this was a fair arrangement particularly in view of the large area of tax-free land and the difficulty in the administration of the law to non-English-speaking people, sparsely settled in places where there are not adequate roads; and that it would be of particular advantage to the Indians themselves. This arrangement can and no doubt will be changed as soon as the Indians are rehabilitated. Both States assume full responsibility for nonreservation Indians at the present time.

The percentage to be paid by the States under this section, other than the cost of administration, is the same as was worked out in a conference at Sante Fe, New Mexico, between representatives of the Federal Security Agency, Bureau of Indian Affairs, the offices of the Attorney General of the States of Arizona and New Mexico, and the State Department of Welfare of the States of Arizona and New Mexico, on April 28 and 29, 1949. At this conference, it was agreed that the net cost to the State would not exceed 10 percent of the total cost incurred by the Federal and State Governments in aid to needy Indians (aged, blind, and dependent children). This is the agreement under which the States are now opertaing. However, it is the opinion of the Conference Committee that the Indians would be greatly benefited by the States' assuming full responsibility for the administering of this law, and it would assure a continued assistance which would not be dependent upon appropriations through the Bureau of Indian Affairs from year to year.

Before the passage of the Social Security Act, the Federal Government assumed full responsibility for needy reservation Indians, and there is strong argument that the Federal Government still has full responsibility for their care. The additional cost of the extension of social security benefits not heretofore assumed by New Mexico and Arizona is only part of the cost of the extension of State laws to the reservations. Therefore, the Conference Committee is of the opinion that the amendment which was adopted is a fair and equitable division of the expense.[9]

The 80-percent formula embodied in Public Law 474 is based upon a formula proposed in bills S. 691 and H.R. 1921, introduced in both houses on January 27, 1949, for all Indian "wards" in any State. Testimony was given before the House Committee on Ways and Means in favor of H.R. 1921,[10] but the Committee did not report that bill out nor did it include any special provision for Indians in the social security bill, H.R. 6000, reported out by the Committee.

FEDERAL SHARE OF ILLUSTRATIVE PUBLIC ASSISTANCE PAYMENTS TO NEEDY MEMBERS OF THE NAVAJO AND HOPI TRIBES

Law	Federal share of payment, by specified amount							
	To aged or blind individual				To 1 dependent child		To 3 dependent children	
	$20	$40	$50	$60	$27	$54	$63	$106
Social Security Act Amendments (1948)	$15	$25	$30	$30	$16.50	$16.50	$40.50	$40.50
Public Law 474 (1950)	19	37	46	46	24.90	24.90	58.50	58.50

HISTORICAL BACKGROUND

On several occasions Congress has given consideration to legislation affecting Indians receiving public assistance under the Social Security Act. In 1935 when the original social security bill was being considered in the Senate, a provision for payment by the Federal Government of the full cost of Indian pensions was passed by the Senate as an amendment to the pending bill. The proposed amendment provided for a new title in the Social Security Act making payments to Indians "a pension from the United States in the sum of $30 per month."[11] This amendment was sponsored by Senator Norbeck of South Dakota. It was dropped, however, by the Conference Committee and was not included in the final law.

Footnotes at end of article.

In a special report of the Social Security Board on proposed changes in the Social Security Act, which President Roosevelt submitted to the Congress in January 1939, the Board stated as follows:

A number of States have a considerable Indian population, some of whom are still wards of the Federal Government. The Board believes that, with regard to certain Indians for whom the Federal Government is assuming responsibility in other respects, and who are in need of old-age assistance, aid to the blind, or aid to dependent children the Federal Government should pay the entire cost. If this provision is made, the Board should be authorized to negotiate cooperative agreements with the proper State agencies so that aid to these Indians may be given in the same manner as to other persons in the State, the only difference being in the amount of the Federal contribution. The Board believes that it should also be given authority to grant funds to the Office of Indian Affairs for this purpose, if that appears more desirable in certain circumstances.[12]

The House Committee on Ways and Means, however, did not include any provision concerning Indians in the 1939 social security bill. The Senate Committee on Finance considered an amendment affecting Indians but did not report it out. On the floor of the Senate, an amendment was offered which provided that "notwithstanding any other provisions of law, the Social Security Board shall not disapprove any State plan under titles I, IV or X of this act because such plan does not apply to or include Indians."[13] This amendment passed the Senate but was deleted by the Conference Committee and was not included in the final 1939 law.

The Social Security Administration has consistently interpreted the Social Security Act to mean that a State public assistance plan could not legally be approved if that plan discriminated against any citizen of the United States on account of race. Twenty-four of the 26 States in which there are Indians residing on reservations provide public assistance under the Social Security Act to these individuals. In Arizona and New Mexico, however, questions have been raised over the years by both State agencies as to whether reservation Indians were to be included in the public assistance programs under the Social Security Act.

The immediate factors that led to the inclusion of the public assistance provisions in section 9 of Public Law 474 first made themselves felt on April 17, 1947. On that date the State Board of Public Welfare of New Mexico refused the application of a Navajo Indian for old-age assistance on the grounds that reservation Indians were not a responsibility of the State Welfare Department "just as long as they are under the complete jurisdiction of the Indian service and insofar as the expenditure of State money for their welfare is concerned." At about the same time the Arizona State Department of Public Welfare also took a position that it would not make payments to reservation Indians.

The Social Security Administration discussed the subject with the State agencies in an effort to resolve the conflict between the position they had assumed and the requirement of the Social Security Act that assistance must be available to all eligible persons within the State. Discussions continued over a period of time, and the States were informed that the continued receipt of Federal funds for their public assistance programs was dependent on whether the State programs were operating in conformity with the principle that applications are to be accepted from all who apply and assistance granted to all eligible persons. During the same period the Bureau of Indian Affairs made some payments, as their funds permitted, to needy Indians in the two States.

Finally, after all efforts to bring the States into conformity with the requirements of the Social Security Act had failed, the Commissioner for Social Security, after due notice, held hearings to determine whether there was a failure by New Mexico and Arizona to operate their plans in accordance with sections 4, 404, and 1004 of the Social Security Act. A hearing on New Mexico was held on February 8, 1949, and on Arizona on February 15, 1949. Before findings or determination based upon these hearings were made, the arrangements described in the quotations from the Conference Report on S. 1407 were completed at Santa Fe, New Mexico, on April 28 and 29, 1949, and assistance was provided for reservation Indians in these two States. It was the purpose of Public Law 474 to solve, by congressional action, the problems raised in the hearings before the Social Security Commissioner.[14] As stated in the Conference Report on the bill, the Committee felt that efficient operation could be more definitely assured if the State were to administer the entire program for needy Indians rather than share the responsibility with the Bureau of Indian Affairs.

FOOTNOTES

* Technical Adviser to the Commissioner for Social Security.

[1] The above figures and those in the table are used only as general illustrations of the amount of Federal participation. They are based on hypothetical individual payments, whereas actually, under the basic formula of the Social Security Act, the Federal percentages are not applied to individual payments but rather to the average payments of a State under each title. That part of any payment for a month in excess of $50 to an aged or blind recipient and in excess of $27 with respect to one dependent child in a home and $18 with respect to each of the other dependent children in a home is not counted in computing the averages.

[2] For the history of legislative proposals before 1949 see *Hearings Before a Senate Subcommittee of the Committee on Interior and Insular Affairs on S. 1407* (81st Cong., 1st sess.), pp. 3–7. Hearings were also held on H.R. 3476 by the House Committee on Public Lands.

[3] For proceedings in the House see *Congressional Record* (daily edition), July 14, 1949, pp. 9682–92.

[4] Ibid., Oct. 17, 1949, pp. 15119–20.

[5] Ibid., Oct. 19, 1949, pp. 15243–46.

[6] Ibid., Feb. 21, 1950, p. 2129.

[7] See Conference Report on S. 2734, *Congressional Record* (daily edition), Apr. 5, 1950, p. 4835.

[8] House Report 1338 to accompany S. 1407, Sept. 22, 1949, p. 7.

[9] Ibid, pp. 7–8.

[10] *Hearings before the House Committee on Ways and Means on H.R. 2892* (81st Cong., 1st sess.), pp. 791–801.

[11] *Congressional Record*, June 18, 1935, p. 9540; see also letter from the Commissioner of Indian Affairs stating that he was "in sympathy with this proposal," pp. 9540–41.

[12] *Hearings Relative to the Social Security Act Amendments of 1939 Before the House Committee on Ways and Means* (76th Cong., 1st sess.), February 1939, p. 15. The Secretary of the Interior also urged that "social security benefits for Indians be administered as a part of the general plan for the citizens of the United States" (*Hearings Before the Senate Committee on Finance on H.R. 6635*, 76th Cong., 1st sess., June 1939, p. 272).

[13] *Congressional Record*, July 13, 1939, pp. 9027–28.

[14] On December 27, 1949, the Arizona State Board of Public Welfare adopted a resolution stating that it would not discontinue its policy of excluding crippled reservation Indian children in the provision of treatment services. The Commissioner of the State department in transmitting the Board's resolution to the Chief of the Children's Bureau of the Social Security Administration stated that it was "necessary to sever our connections." No Federal funds have been paid to Arizona under part 2 of title V of the Social Security Act since December 22, 1949.

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

The bill (S. 2265) to amend the Social Security Act to extend to Indians of all tribes, under all of the existing public assistance programs, the special additional Federal matching payments presently provided only for certain specified tribes under certain specified programs, introduced by Mr. METCALF (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Finance.

S. 2270, S. 2271, S. 2272, S. 2273 AND S. 2274—INTRODUCTION OF BILLS TO AMEND THE SOCIAL SECURITY ACT

Mr. WILLIAMS of New Jersey. Mr. President, it appears certain that the 91st Congress will act upon legislation intended to improve social security protection.

Perhaps the final bill will be limited to the request—attributed to the administration a few weeks ago—for a 7-percent increase. My own view is that the 7-percent proposal is totally unrealistic.

It fails to deal with other major issues including inadequate minimum benefits. And—if the present cost-of-living rise continues at its present rate, or even at the lower 1968 rate—the 7-percent rise would be wiped out long before the first check is mailed out to recipients.

We should be talking perhaps about an increase of as much as 20 percent as the beginning of a thoroughgoing revision of the social security benefit structure, but only if it is linked to a realistic plan for raising minimum benefits to levels much closer to adequate than today's $55 a month for single persons and $82.50 for couples.

What I look for in the next few months is the evolution of an omnibus bill which will serve as a worthy vehicle for congressional debate at the earliest possible date.

Today I am not introducing that omnibus bill. But I am introducing several proposals which I regard as essentials without which the final bill would be incomplete.

My recommendations are based largely upon very emphatic and informative statements made at hearings conducted on "Economics of Aging: Toward a Full Share in Abundance" by the Special Committee on Aging on April 29–30. As chairman of that committee, I was deeply impressed by the lively debate over many issues related to social security protection and a multitude of other subjects related to the overall subject of economic security in later years, now in 1969, and in decades to come.

The hearings added to my conviction that the retirement income problems of today and tomorrow will not be solved by adding a few dollars every 2 years to social security benefits. It is clear that more fundamental changes in the Social Security System are needed to serve as the foundation for economic security now and in the future.

That last point was made very emphatically by a distinguished task force which reported to the committee on March 24 after an exhaustive survey of the field.

While it declared that the Social Security System "has failed to keep up with the rising income needs of the aged," the task force also said:

> The existing social insurance system is a fast and effective way to deliver an income assurance that carries commitments for the future as well as for the current generation of aged.

To prepare the way for thoroughgoing reform, I offer the following bills for appropriate reference:

I. FACTFINDING IN THREE VITAL AREAS

The first bill would require the Secretary of Health, Education, and Welfare to conduct three studies on vital issues related to social security; and he would make his reports no later than March 31, 1970.

I wish to make clear that, in calling for these studies, I do not consider "study" an acceptable excuse for inaction—once we are sure what form that action should take. But the areas in which I am requesting reports involve fundamental changes in our present Social Security System that should not be made without careful consideration of all the consequences.

Nor do I believe that we can wait until the next Social Security Advisory Council—not yet appointed—has made its report early in 1971. Time is of the essence and I am, therefore, requesting the Secretary to report at the earliest possible date and no later than March 31, 1970.

First, the Secretary would be directed to analyze various approaches to automatically adjusting benefits, including the so-called "cost-of-living" adjustment often suggested as a means of maintaining the purchasing power of social security benefits despite rising costs. Instead of a fixed income, social security beneficiaries would have a built-in escalator in times of need.

But how is the escalator to be geared? Should it be based simply on fluctuations in the consumer price index? On increases in the cost of goods and services most needed, in particular, by older Americans? On rises in the standard-of-living for the populace as a whole? On increases in wage levels? Or on a formula related to increased productivity of the work force?

We must be certain, if we adopt an automatic adjustment mechanism, that it serves the greatest need. A study by the Secretary would give us the facts we need for a final decision, but it need not delay action on an interim cost-of-living adjustment if the Congress wishes to act before the study is completed.

Second, the Secretary would be asked to report on ways in which general tax revenues could be used to finance part of the cost of the social security program.

We have heard many calls for general revenue financing, but here again many possibilities arise, including the use for such purposes as: financing the differences between contributions and costs of benefits paid to retirees in the early years of the system and to low-paid workers; costs of dependents benefits; liberalizations in eligibility conditions; and costs of administration. We should have full information from the Secretary on such possibilities, or combinations of possibilities, and the costs involved. In addition, the Secretary should also study the extent to which such general revenues could be justified on the basis of savings that would result from decreased public assistance payments likely to result as more adequate social security benefits take more people off welfare rolls.

Third, the final study proposed in this bill would require the Secretary to report on certain questions related to the trend toward retirement before age 65 and the effects of that trend upon individual social security beneficiaries.

The Committee on Aging was told during its recent hearings, and in the task force report, that more than half the men retiring in recent years are leaving the work force before age 65. We have good reason to believe that many early retirees make their decision simply because they have no choice. They take an actuarially-reduced social security benefit at age 62 or thereabouts in lieu of any other significant source of income. In the long run, they take a heavy economic loss; they have no alternative.

We should know more about the effects of early retirement on social security and the people it is meant to serve. And the Secretary—in the same report—would also be required to report on related matters, including: exploring the cost and other considerations of establishing for men—as is now the case for women—of age 62 as the end of the period which is used in determining the average wage and insured status under the program; and the extent to which liberalized definitions of disability would serve to pay benefits to older workers physically handicapped in obtaining or retaining employment.

II. 100-PERCENT BENEFITS FOR WIDOWS

My second bill would increase the amount of the social security benefits payable to widows. At present, they receive 82½ percent of the primary benefit of the deceased spouse. My bill proposes that this percentage be increased to 100 percent.

Among the pressing reasons for making this proposal—as reported by the task force—is simply that six out of every 10 aged women living alone have incomes below the poverty line. Especially disadvantaged are the Nation's very oldest women. The percentage of widows getting monthly benefits of $44 or less was twice as high for those aged 85 and over as for those under 70 years—at the end of 1967.

Another compelling argument for more satisfactory widows' benefits has been made by Dr. Joseph Pechman, of the Brookings Institution, who was one of the witnesses at our recent hearings. Dr. Pechman said:

> As a welfare measure, an increase in the widow's benefits to a full 100 per cent of P/A (the primary benefit amount that had been payable to the husband) would more effectively aid the poor, per dollar of added cost, than any other change in the system, including a minimum benefit.

Most emphatically, I urge that this reform be included in broad new social security revision.

III. THE "RETIREMENT TEST"

My third social security bill would liberalize limitations upon earnings of social security beneficiaries. It seeks to implement a recommendation of former Secretary of Health, Education, and Welfare Wilbur J. Cohen, made last January, shortly before he left that office. His recommendation was included in a report to Congress entitled "The Retirement Test Under Social Security", which had been requested by Congress in enacting the Social Security Amendments of 1967. While opposing repeal of the social security earnings limitations, Secretary Cohen took a firm position in favor of liberalizing them as proposed in the bill which I am today introducing. He said these changes are needed to bring these limitations up to date with the increases in earnings levels that have occurred since the present exempt amount was enacted. My bill proposes these liberalizations:

First, there would be an increase from $1,680 to $1,800 in the annual exempt amount—the amount a beneficiary can earn each year without any reduction in his social security benefits.

Second, there would be a corresponding increase from $140 to $150—one-twelfth of the annual exempt amount—in the monthly exempt amount—the amount of wages which, regardless of his annual earnings, a beneficiary can earn in a given month and still receive his benefit for that month.

Third, there would be no change in the provision in present law under which $1 in benefits is withheld for each $2 of earnings for the first $1,200 of earnings above the exempt amount. However, due to the increase in the exempt amount, this $1,200 band would be from $1,800 to $3,000 of annual earnings, instead of the present $1,680 to $2,880 of annual earnings.

Fourth, in lieu of the present requirement that $1 of social security benefits be withheld for each dollar of earnings over that $1,200 band, my bill proposes that only $3 be withheld for every $4 earned above $3,000 per annum.

Unlike some proposals for liberalizing or repealing social security earnings limitations, my bill carries a very modest price tag. Secretary Cohen, with the assistance of social security actuaries, estimates its cost as only seven one-hundredths of 1 percent of payroll. This means that it could be financed by raising the social security contribution rate by less than 4 cents each for the employer and employee for each $100 paid the employee. However, I do not anticipate that it will be necessary to raise social security contributions even by that small amount, since I believe these changes could be financed out of the present actuarial surplus.

I am also contemplating the introduction of additional legislation for the purpose of lessening the penalty presently imposed on social security beneficiaries who continue to work after claiming benefits. Not only do they now forgo part of the benefit, but they pay social security taxes and income taxes on all

of their earnings—whereas the benefits are tax exempt. It would seem reasonable to excuse the income tax on the portion of the earnings that is equivalent to the benefit loss.

Such a proposal could significantly reduce the penalty for working and—unlike proposals for eliminating or greatly liberalizing the retirement test—would necessitate absolutely no increase in social security taxes.

Whether social security taxes should be paid on the earnings that are the equivalent of the benefit loss is part of a larger question of whether earnings after eligibility should be taxed for social security purposes if these earnings do not result in additional benefits.

I expect to introduce separate legislation to deal with these questions.

IV. WORKING WIVES

My fourth bill would eliminate a social security inequity against married couples where the wives work. Under present law, a social security beneficiary's wife, if she meets certain requirements, is entitled to receive a wife's benefit of 50 percent of her husband's social security benefit, even if she herself never worked under social security. However, a wife who works under social security coverage for long enough to obtain a benefit on account of her own work frequently finds that her benefit, after working and making contributions, is not as much as her husband's benefit, based upon her husband's work, to which she would have been entitled even if she had never worked and contributed to social security. In view of this effect of present law, many working wives feel that they should receive more in benefits than nonworking wives, who never contributed to the social security system.

The social security bill I am today introducing would correct that inequitable result. It proposes that a married couple, both of whom qualify for social security benefits on their own accounts, be permitted to elect to combine their earnings for purposes of computing their social security benefits, and to receive 75 percent each of the primary benefit which would result if only one of them had that amount of earnings. This would, of course, be optional. If a couple would benefit more by merely receiving the primary benefit to which each spouse is entitled, they would not have to elect to combine their earnings.

As an example of the unfairness of the present law, assume that two couples each have a family income of $400 per month, and that they are similarly situated in every respect except that one of the husbands earns to total family income of $400, but that the family income of the other couple is composed of $200 per month earned by each the husband and wife. The benefit paid to a person with average monthly earnings of $200 is $101.60; thus, the total monthly benefit payable on the basis of two earnings records of $200 each would be $203.20. On the other hand, the monthly benefit payable to a man with average monthly earnings of $400 is $153.60, and his wife who never worked can be paid an additional benefit equal to one-half that amount—$76.80—making the total monthly payment to that couple $230.40. This is $27.20 a month more than is paid to the other couple who had the same total earnings and who made the same total contributions, but whose income was earned equally by the husband and wife. But, if my bill is enacted, this couple could elect to have their income treated as having all been earned by one of the spouses, for purposes of determining their entitlement to social security benefits.

To be eligible for the election, the working wife would have to have 20 quarters of coverage after she reached age 50. The cost of the proposal is significantly reduced by limiting it to couples who actually suffer a loss of earnings on the wife's retirement.

Mr. President, the present discrimination against working wives is not a transient problem. More and more wives are working and, unless we take remedial action, the inequity will affect more and more older couples as time goes on.

In all fairness, this is an improvement we should enact at the earliest opportunity.

V. BENEFITS UPON REMARRIAGE

My final bill would eliminate the feature in our Social Security Act which penalizes elderly newlyweds. At present, many recipients of widows' and widowers' social security benefits who remarry find that by doing so, they have reduced or eliminated their social security benefits. This has resulted in some wry observations that it pays a recipient of such benefits merely to live with the person whom he would otherwise wed; but the problem is not humorous to those affected by it.

Congress partially dealt with this problem in 1965. We inserted a provision in the social security amendments of that year, which continues entitlement to benefits of widows who remarry after age 60 and widowers who remarry after age 62. Since then, such an individual has not been eligible to continue receiving full benefits as a widow or widower but has been entitled to either one-half the retirement benefit of the former spouse or a spouse's benefit based upon the earnings of the present spouse, whichever benefit is larger. While a step forward, that provision falls far short of eliminating the penalty for remarrying. That amendment had no effect upon the penalty against widows who remarry before reaching age 60 and widowers who remarry before reaching 62. Even those who are covered by the 1965 provision can be penalized for remarrying, since that amendment does not authorize payment to them of the same benefit they were receiving before remarrying, but only a smaller benefit than if they had not remarried.

The bill I am introducing would finish the job begun in 1965 by taking away all forfeiture of benefits of widows and widowers who remarry.

Thus far, Mr. President, I have touched upon only one of the reasons for this needed amendment. Another reason is that the present requirement that a widow's or widower's benefit be reduced upon remarriage is difficult to administer. Evidence of this was provided last summer in a news article published in the New York Times of August 27, 1968. This article was headed "Some U.S. Aid Going to Widows in Error." I ask unanimous consent that it be printed at this point in the RECORD.

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

SOME U.S. AID GOING TO WIDOWS IN ERROR

WASHINGTON, Aug. 26.—Government auditors suggested today that steps should be taken to prevent widows from illegally getting Federal benefits after remarriage.

A limited test identified 147 widows who had received about $82,000 in benefits although ineligible because of remarriage, the General Accounting Office reported.

Future payments of about $1.2-million might have been made, the report said, if these remarriages had not been detected.

The auditors said Social Security official, acting on the auditors' findings, had subsequently identified about 7,000 widows who were getting benefits to which they were not entitled.

In 1967, five Federal agencies made payments of about $1.6-billion to 1.8-million widows. The agencies were the Social Security Administration, Civil Service Commission, Railroad Retirement Board and Bureau of Employees' Compensation.

Mr. WILLIAMS of New Jersey. Mr. President, the article reported that the General Accounting Office had found that thousands of dollars of Federal benefits are being illegally paid to widows who have remarried. This report is easy to believe, since it is obviously extremely difficult and expensive for the Social Security Administration to be aware of remarriages of thousands of widows and widowers, in order that their survivors' benefits may be reduced or eliminated, as present law requires. Enactment of my proposal will make such determinations unnecessary.

While I am aware of the Constitution's requirement that such legislation originate in the House, I am introducing my bills with the hope that they may serve as a basis for discussion and consideration of the issues involved.

In introducing these five bills, Mr. President, it is my hope that they will help Congress to make wise decisions on improving our social security laws.

I ask unanimous consent that the five bills be printed in the RECORD at this point.

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

The bills (S. 2270), to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record where that method of computation produces a higher combined benefit; (S. 2271), to provide for the conduct of certain studies by the Secretary of Health, Education, and Welfare with respect to the insurance program established by title II of the Social Security Act; (S. 2272), to amend title II of the Social Security Act to increase the amount of the insurance benefits payable to widows and widowers; (S. 2273), to amend title II of the Social Security Act to increase the amount of earnings permitted each year without deductions from benefits thereunder; and (S. 2274), to amend title II of the Social Security Act so as to provide that remarriage shall not dis-

qualify an individual from receiving widow's or widower's benefits thereunder, introduced by Mr. WILLIAMS of New Jersey, were received, read twice by their titles, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 2270

A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record where that method of computation produces a higher combined benefit

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(a) of the Social Security Act is amended to read as follows:

"(a) (1) Every individual who—

"(A) is a fully insured individual (as defined in section 214(a)),

"(B) has attained age 62, and

"(C) has filed application for old-age insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained age 65, shall be entitled to an old-age insurance benefit for each month beginning with the first month in which such individual becomes so entitled to such insurance benefits and ending with the month preceding the month in which he dies.

"(2) Except as provided in subsection (q), such individual's old-age insurance benefit for any month shall be equal to his primary insurance amount for such month as determined under section 215(a), or as determined under paragraph (3) of this subsection if such paragraph is applicable and its application increases the total of the monthly insurance benefits payable for such month to such individual and his spouse. If the primary insurance amount of an individual for any month is determined under paragraph (3), the primary insurance amount of his spouse for such month shall, notwithstanding the preceding sentence, be determined only under paragraph (3).

"(3) If both an individual and his spouse are entitled to benefits under this subsection (or section 223), or one of them is so entitled and the other would upon satisfying subparagraphs (A) and (C) of paragraph (1) be entitled to benefits under this subsection, then (subject to paragraph (4)) the primary insurance amount of such individual, and the primary insurance amount of such spouse (who shall be deemed to be entitled to benefits under this subsection, whether or not satisfying such subparagraphs, beginning with the later of the month in which such spouse attains age 62 or the month in which such individual became entitled to benefits under this subsection), for any month, shall each be equal to the amount derived by—

"(A) adding together such individual's average monthly wage and such spouse's average monthly wage, as determined under section 215(b),

"(B) applying section 215(a)(1) to their combined average monthly wage determined under subparagraph (A) (subject to the next sentence) as though such combined average monthly wage were such individual's average monthly wage determined under section 215 (b), and

"(C) multiplying the amount determined under subparagraph (B) by 75 percent.

If the combined average monthly wage resulting under subparagraph (A) exceeds the average monthly wage (hereinafter referred to as the 'maximum individual average monthly wage') that would result under section 215(b) with respect to a person who became entitled to benefits under this subsection (without having established a period of disability) in the calendar year in which the primary insurance amounts of such individual and spouse are determined under this paragraph, and who had the maximum wages and self-employment income that can be counted, pursuant to section 215(e), in all his benefit computation years, then the determination under subparagraph (B) shall take into account only that part of such combined average monthly wage which is equal to the maximum individual average monthly wage but the amount determined under such subparagraph shall be increased by 25.88 percent of the difference between such combined average monthly wage (or so much thereof as does not exceed 150 per centum of the maximum individual average monthly wage) and such maximum individual average monthly wage before applying subparagraph (C). The primary insurance amount of an individual and his spouse determined under this paragraph shall not be increased unless there is an increase in the primary insurance amount of either of them pursuant to provisions of this title other than this paragraph.

"(4) Paragraph (3) shall not apply—

"(A) with respect to any individual for any month unless, prior to such month, such individual and his spouse shall have each acquired, after attainment of age 50, not less than 20 quarters of coverage (counting as a quarter of coverage for purposes of this subparagraph any quarter all of which was included in a period of disability, as defined in section 216(i)),

"(B) with respect to any individual for any month unless there is in effect with respect to such month a request filed (in such form and manner as the Secretary shall by regulations prescribe) by such individual and his spouse that their primary insurance amounts be determined under paragraph (3),

"(C) with respect to any individuall or his spouse for any month if such individual or his spouse shall have indicated, in such manner and form as the Secretary shall by regulations prescribe, that he or she does not desire a request filed pursuant to subparagraph (B) to be effective with respect to such month, or

"(D) for purposes of determining the amount of any monthly benefits which (without regard to section 203(a)) are payable under the provisions of this section other than this subsection on the basis of the wages and self-employment income of an individual or his spouse."

SEC. 2. (a) Section 202(e)(2) of the Social Security Act is amended by striking out "shall be equal to 82½ percent of the primary insurance amount of such deceased individual" and inserting in lieu thereof "shall be equal to the larger of (A) 82½ percent of the primary insurance amount of such deceased individual for such month as determined under section 215(a), or (B) 110 percent of the primary insurance amount of such individual as determined under subsection (a)(3) of this section (assuming for purposes of this clause that such subsection was applicable) for the month preceding the month in which he died".

(b) Section 202(f)(3) of such Act is amended by striking out" shall be equal to 82½ percent of the primary insurance amount of his deceased wife" and inserting in lieu thereof "shall be equal to the larger of (A) 82½ percent of the primary insurance amount of his deceased wife for such month as determined under section 215(a), or (B) 110 percent of the primary insurance amount of his deceased wife as determined under subsection (a)(3) of this section (assuming for purposes of this clause that such subsection was applicable) for the month preceding the month in which she died".

SEC. 3. Section 203(a) of the Social Security Act is amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", or", and by inserting after paragraph (3) the following new paragraph:

"(4) when the primary insurance amount of the insured individual is determined under section 202(a)(3), such total of benefits for any month shall not be reduced to less than the larger of—

"(A) the amount determined under this subsection without regard to this paragraph, or

"(B) (i) the amount appearing in column V of the table in section 215(a) on the line on which appears in column IV the amount determined under subparagraph (B) of such section 202(a)(3) for such individual and his spouse, or

"(ii) if the amount so determined under such subparagraph (B) does not appear in column IV—

"(I) the amount appearing in Column V on the line on which appears in column IV the next higher amount, if the amount so determined under such subparagraph (B) is less than the last figure in column IV, or

"(II) an amount which bears the same ratio to the amount appearing on the last line of column V as the amount determined under such subparagraph (B) bears to the amount appearing on the last line of column IV, if the amount so determined under such subparagraph (B) is greater than the last figure in column IV."

SEC. 4. (a) Section 215(f)(1) of the Social Security Act is amended by inserting "(or section 202(a)(3))" after "determined under this section".

(b) The second sentence of section 215(f)(2) of such Act is amended by inserting before the period at the end thereof the following: ", or as provided in paragraph (3) of section 202(a) if such paragraph is applicable (but disregarding any increase which might result under the second sentence of such paragraph solely from changes in the maximum wages and self-employment income that can be counted in the years involved)".

SEC. 5. Section 223(a)(2) of the Social Security Act is amended by inserting after "section 215" the following: "or under section 202(a)(3)".

SEC. 6. (a) The amendments made by the first three sections of this Act shall apply only with respect to monthly insurance benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted.

(b) In the case of an individual or his spouse who became entitled to benefits under section 202(a) or section 223 of the Social Security Act prior to the second month following the month in which this Act is enacted (but without regard to section 202(j)(1) or section 223(b)(2) of the Social Security Act), the average monthly wage of such individual or spouse, as the case may be, for purposes of section 202(a)(3)(A) of the Social Security Act, shall be the figure in the column headed "But not more than" in column III of the table in section 215(a)(1) of the Social Security Act in effect immediately prior to the enactment of this Act on the line on which in column IV of such table appears the primary insurance amount of such individual or spouse, as the case may be, for the month in which this Act is enacted, unless the average monthly wage of such individual or such spouse, as the case may be, is, after the enactment of this Act, redetermined under section 215(b) of the Social Security Act.

S. 2271

A bill to provide for the conduct of certain studies by the Secretary of Health, Education, and Welfare with respect to the insurance program established by title II of the Social Security Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall conduct a study of the various means which might be employed so as to

provide such regular and automatic adjustments in the amounts of the monthly insurance benefits payable to individuals under title II of the Social Security Act as may be appropriate to assure fair and equitable treatment to such individuals in light of changes which periodically occur (A) in the standard-of-living of the populace as a whole, (B) the cost-of-living, (C) the cost-of-living as it relates to elderly people (taking into account the difference between the needs and spending habits of such people and those of the populace as a whole), (D) the average wage earned by employed persons, and (E) productivity of the work force. In such study, the Secretary shall also study the techniques employed for the regular automatic adjustment of benefits payable under other programs for retired, dependent, or disabled persons (including the social security or similar programs of foreign countries). Such study shall include an analysis and cost estimate for each of the various approaches which might be employed to provide for such regular and automatic adjustments in monthly social security benefits, together with an evaluation of each such approach as to its relative merits as compared to the other approaches included in the study.

(b)(1) The Secretary shall conduct a thorough study of the costs and advisability of utilizing general revenues to finance part of the cost of the insurance program established by title II of the Social Security Act. Such study shall include (but need not be limited to) the desirability and propriety of utilizing financing from general revenues to finance each of the following: (A) the differences between benefits paid to retirees in the early decades of the system and the employer-employee taxes paid on their earnings (plus accumulated interest); (B) the difference between the employer-employee contribution rate for low-paid workers and the benefits they receive, assuming the present minimum and minimums of $70 and $100; (C) the costs of benefits payable to dependents of insured workers; (D) liberalizing the conditions under which individuals may become entitled to benefits, for example, at earlier ages or with fewer quarters of coverage; and (E) the payment of the costs of administration of such program.

(2) In carrying out such study, the Secretary shall, with respect to each proposition for general revenue financing included in the study, study the extent, if any, which such proposition, if put into effect, would reduce the costs of the Federal Government with respect to its financial participation in State public assistance programs.

(3) The Secretary shall determine the most appropriate procedure for the making of payments into the appropriate social security trust funds of any sums that might be contributed from general revenues to finance any part of the cost of the insurance program established by title II of the Social Security Act.

(c) The Secretary shall also conduct a study of the insurance program established by title II of the Social Security Act with a view to—

(1) determining the feasibility of paying unreduced benefits to individuals electing early retirement thereunder because of a disability which is not sufficiently severe to entitle an individual to disability insurance benefits but is a substantial handicap in obtaining or retaining employment,

(2) exploring the cost and other considerations of establishing for men (as is presently the case for women) of age 62 as the end of the period which is used in determining average wage and insured status under such program, and

(3) exploring the cost and other considerations of lowering the age at which actuarially reduced benefits are payable under such program.

SEC. 2. The Secretary shall make a full and complete report to the Congress on each of the studies provided for under the first section of this Act, together with his views and recommendations on each of the matters included in each such study. Such report on each of such studies shall be submitted at the earliest practicable date, but in no event later than March 31, 1970.

S. 2272

A bill to amend title II of the Social Security Act to increase the amount of the insurance benefits payable to widows and widowers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202(e) (1) and (2) of the Social Security Act is amended by striking out "82½ percent" wherever it appears therein and inserting in lieu thereof "100 percent".

(b) Section 202(b) (1) and (2) of such Act is amended by striking out "82½ percent" wherever it appears therein and inserting in lieu thereof "100 percent".

SEC. 2. The amendments made by this Act shall apply with respect to monthly benefits under section 202 of the Social Security Act for months after the month following the month in which this Act is enacted.

S. 2273

A bill to amend title II of the Social Security Act to increase the amount of earnings permitted each year without deductions from benefits thereunder

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraphs (1), (3), and (4)(B) of section 203(f) of the Social Security Act are each amended by striking out "$140" and inserting in lieu thereof "$150 or the exempt amount (determined as provided in paragraph (8) of this subsection)."

(b) Paragraph (1)(A) of section 203(h) of such Act is amended by striking out "$140" and inserting in lieu thereof "$150 or the exempt amount (determined as provided in paragraph (8) of subsection (f) of this section)".

(c) Paragraph (3) of section 203(f) of such Act is further amended by striking out "except that of the first $1,200 of such excess (or all such excess if it is less than $1,200), an amount equal to one-half thereof shall not be included." and inserting in lieu thereof the following: "except that there shall not be included in such excess—

"(A) 50 percent of the first $1,200 of such excess (or 50 percent of all of such excess if it is less than $1,200), and

"(B) (if such excess is greater than $1,200) 25 percent of the difference between such excess and $1,200."

(d) The amendments made by this Act shall apply with respect to taxable years ending after December 1969.

S. 2274

A bill to amend title II of the Social Security Act so as to provide that remarriage shall not disqualify an individual from receiving widow's or widower's benefits thereunder

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 202(e)(1)(A) of the Social Security Act is repealed.

(2) Section 202(e)(1) of such Act is amended by striking out "she remarries, dies, becomes entitled to an old-age insurance benefit" and inserting in lieu thereof "she dies, becomes entitled to an old-age insurance benefit".

(3) Section 202(e)(2) of such Act is amended by striking out "and paragraph (4) of this subsection".

(4) Section 202(e) of such Act is further amended by striking out paragraphs (3) and (4) thereof.

(b) (1) Section 202(f)(1)(A) of such Act is repealed.

(2) Section 202(f)(1) of such Act is amended by striking out "he remarries, dies, or becomes entitled to an old-age insurance benefit" and inserting in lieu thereof "he dies, becomes entitled to an old-age insurance benefit".

(3) Section 202(f)(3) of such Act is amended by striking out "and paragraph (5)".

(4) Section 202(f) of such Act is further amended by striking out paragraphs (4) and (5) thereof.

(c) (1) Section 202(s)(2) of such Act is amended by striking out "Subsection (f)(4), and so much of subsections (b)(3), (d)(5), (e)(3)" and inserting in lieu thereof "So much of subsections (b)(3), (d)(5)".

(2) Section 202(s)(3) of such Act is amended by striking out "(e)(3),".

(3) Section 202(k)(2)(B) of such Act is amended (A) by striking out "(other than an individual to whom subsections (e)(4) or (f)(5) applies)", in the first sentence, and (B) by striking out the second sentence thereof.

(4) Section 202(k)(3) of such Act is amended (A) by striking out the "(A)" at the beginning of paragraph (A) thereof, and (B) by striking out paragraph (B) thereof.

SEC. 2. The amendments made by the first section of this Act shall apply with respect to monthly insurance benefits under section 202 of the Social Security Act beginning with the second month following the month in which this Act is enacted; but, in the case of an individual who was not entitled to a monthly insurance benefit under section 202 (e) or (f) of such Act for the first month following the month in which this Act is enacted, only on the basis of an application filed in or after the month in which this Act is enacted.

S. 2275—INTRODUCTION OF A BILL TO AUTHORIZE PAYMENT OF TRAVEL EXPENSES OF APPLICANTS INVITED BY AN AGENCY TO VISIT IT IN CONNECTION WITH POSSIBLE EMPLOYMENT

Mr. RIBICOFF. Mr. President, I introduce, for appropriate reference, a bill to amend title 5 of the United States Code, to authorize payment of travel expenses of applicants invited by an agency to visit it in connection with possible employment. The bill is being introduced at the request of the Chairman of the U.S. Civil Service Commission. An identical proposal submitted to the 90th Congress was introduced in the House as H.R. 9382.

According to the Chairman of the Commission, the purpose of this bill is to improve the ability of the Federal Government to attract able scientists and engineers. Its enactment is recommended by many Federal agencies, including the following major employers of scientists and engineers: National Aeronautics and Space Administration, Veterans' Administration, Federal Aviation Administration, and the Departments of Army, Navy, Air Force, Agriculture, Interior, Commerce, and Health, Education, and Welfare.

These agencies have found that inability to pay travel expenses for applicants in shortage category fields is the governing factor in hundreds of declinations of job offers each year. If enacted, this legislation would place Government laboratories on a more equal footing with private industry, which for some time has

provided expense-paid plant visits to promising candidates, as an aid in recruitment.

I ask unanimous consent that a letter addressed to the President of the Senate from the Chairman of the Commission, dated March 20, 1969, and the text of the bill, together with a section analysis and a statement of purpose which sets forth additional justification and background on the proposed legislation, be printed in the RECORD at this point, as a part of my remarks.

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

The bill (S. 2275) to amend title 5, United States Code, to authorize payment of travel expenses of applicants invited by an agency to visit it in connection with possible employment, introduced by Mr. RIBICOFF, was received, read twice by its title, referred to the Committee on Government Operations, and ordered to be printed in the RECORD, as follows:

S. 2275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5723 of title 5, United States Code, is amended as follows:

(1) Subsection (d) is redesignated as subsection "(e)".

(2) Subsection (e) is redesignated as subsection "(f)", and amended by striking out "subsection (a)" and inserting "subsections (a) and (d)" in place thereof.

(3) The following new subsection is inserted after subsection (c): "(d) Under such regulations as the President may prescribe, an agency may pay from its appropriations travel expenses of—

"(1) an individual, while away from his home or regular place of employment, who is found qualified; or

"(2) a student while away from his home or temporary residence during the school term, who tentatively is found qualified subject to completion of his education;

to serve in a position in the competitive service for which the Commission determines there is a manpower shortage and who is invited by the agency to visit it in connection with possible employment. Travel expenses payable under this subsection may include the per diem and mileage allowances authorized for employees by subchapter I of this chapter. Advances of funds may be made for the expenses authorized by this subsection to the extent authorized by section 5724(f) of this title."

(4) The catchline is amended to read as follows:

"§ 5723. Travel and transportation expenses of new appointees, student trainees, and proposed appointees; manpower shortage positions".

(b) The analysis of chapter 57 is amended by striking out:

"5723. Travel and transportation expenses of new appointees and student trainees; manpower shortage positions."

and inserting in place thereof:

"5723. Travel and transportation expenses of new appointees, student trainees, and proposed appointees; manpower shortage positions."

The material presented by Mr. RIBICOFF follows:

U.S. CIVIL SERVICE COMMISSION,
Washington, March 20, 1969.

Hon. SPIRO T. AGNEW,
President of the Senate.

DEAR MR. PRESIDENT: The Commission is submitting for the consideration of the Congress proposed legislation "To amend title 5, United States Code, to authorize payment of travel expenses of applicants invited by an agency to visit it in connection with possible employment." An identical proposal submitted to the 90th Congress was introduced in the House as H.R. 9382. There are enclosed: (1) a draft bill; (2) a section analysis of the proposed bill; and (3) a statement of purpose and justification.

The proposed bill would significantly improve the ability of the Federal Government to attract able scientists and engineers. Its enactment is recommended by many Federal agencies, including the following major employers of scientists and engineers: National Aeronautics and Space Administration, Veterans' Administration, Federal Aviation Agency, and the Departments of Army, Navy, Air Force, Agriculture, Interior, Commerce, and Health, Education, and Welfare.

These agencies have found that inability to pay travel expenses for applicants in shortage category fields is the governing factor in hundreds of declinations of job offers each year. If enacted, this legislation would place Government laboratories on a more equal footing with private industry, which for some time has provided expense paid plant visits to promising candidates as an aid in recruitment.

This is a recruiting practice which can easily tip the balance of a person's decision. It resolves any doubts he may have about the worksite, working conditions, associates and the community in which he will live. Any employer who leaves an applicant uncertain in these matters is at a serious disadvantage.

The Bureau of the Budget advises that there would be no objection from the standpoint of the Administration's program to the submission of the proposal.

A similar letter is being sent to the Speaker of the House of Representatives.

By direction of the Commission:

Sincerely yours,

ROBERT E. HAMPTON, *Chairman.*

SECTION ANALYSIS

The draft bill amends section 5723 of title 5, United States Code, by redesignating two subsections and by inserting a new subsection.

Subsections (d) and (e) are redesignated as subsections (e) and (f) respectively. Redesignation is necessary to permit insertion of the new subsection (d) in the most logical place in the section.

A new subsection (d) is added authorizing the payment of travel expenses of persons in shortage occupations who are invited to visit agencies or installations in connection with possible employment. Such payments of travel expenses would be discretionary with the prospective employing agency, but could be made only after it was first determined that the person invited to visit the agency was found qualified (or students found tentatively qualified, subject to completion of education) by an appropriate civil service examining office, including boards of civil service examiners and interagency boards. The position would have to be one in the competitive civil service which the Civil Service Commission has placed in the manpower shortage category.

New subsection (d) does not provide authority for payment to applicants being considered for employment in the excepted service, or in those positions in the competitive service filled pursuant to 5 U.S.C. 3104 and 10 U.S.C. 1581. The Comptroller General has ruled that in filling these positions, where the responsibility for recruitment and selection is vested in the agencies, the payment by them of any necessary expenses incident to the determination of the qualification of applicants is proper if funds otherwise are available therefor.

Payment for travel expenses would be provided in accordance with the travel regulations currently applicable to Federal employees.

STATEMENT OF PURPOSE AND JUSTIFICATION

PURPOSE

To improve the ability of Federal agencies to recruit well-qualified persons in shortage occupations.

JUSTIFICATION

The need for well-qualified professional and technical employees continues at a high level and shows no sign of diminishing. Department of Labor manpower estimates for the economy as a whole predict a 45% increase in employment in professional and technical occupations during the decade from 1965–1975. This growth has several major causes, including the rapid expansion in research and development activities, the tremendously rapid increase in application of technological improvements, and the increasing size and complexity of business organizations.

Current Commission projections of Federal manpower requirements indicate that by fiscal year 1971 agency needs for mathematicians, engineers, scientists and medical personnel will increase by at least 10%. Demand for social scientists and technicians will be equally high. Despite increased college enrollments, and even with greatly increased recruiting efforts, it is quite likely that Federal needs for top flight scientific and technical personnel will not be fully met.

To Federal recruiting officials, these forecasts can only mean that competition for highly trained and specialized personnel will remain very high. Our Federal laboratories must have technically trained and highly skilled employees if we are to be successful in such critical endeavors as medical research, military preparedness, and space activities.

The Federal Government should be able to attract its fair share of the best talent that our colleges and universities are producing. In occupations in which there are numerical shortages, there often are even more serious shortages of quality. Industry makes special efforts to attract the superior quality graduate. The Government as an employer must do all that it can to attract highly talented men and women.

Authorizing agencies to pay travel and transportation expenses of new employees to the first post of duty (Public Law 86–587) was a stride forward in placing the Federal Government in a more competitive position with industry. However, inability to pay interview expenses remains a serious obstacle. Therefore, major Federal employers of scientists, engineers and other personnel in short supply (Departments of Army, Navy, Air Force, Interior, Agriculture, Commerce, Health, Education, and Welfare, National Aeronautics and Space Administration, Veterans Administration, and Federal Aviation Agency) have recommended that legislation be sought to authorize payment for travel expenses of certain applicants invited to visit the agency to discuss employment.

Why is this authority needed?

(1) *To more nearly meet competition from private industry.* Private industry has recognized that the kind of equipment a man will have to work with, who his co-workers will be, and the kind of living conditions his family will have can all be important factors in selling him on a particular job. Twenty-five of twenty-six large AEC contractors pay the cost of travel to their plants or laboratories in connection with recruitment for important positions. Research and development

contractors for the military services provide such travel expenses, and other private firms advertise that expenses of a visit to the company before employment will be paid.

A report of college placement bureaus compiled 3 years ago indicated that more than 80% of employers who recruit on their campuses provide for plant visits at company expense. A 1968 Prentice-Hall survey of 121 companies found that 87% of them pay some or all of an applicant's expenses for a plant interview. Of these 121 employers, 74% pay all expenses (including transportation, meals, lodging, and incidentals), 75% pay for meals, 76% pay for lodging and 85% pay for transportation. A recent CSC study of seven large private employers and two large public entities revealed that all nine of these pay the cost of transportation for plant visits in screening candidates for college level entry jobs.

(2) *To acquaint applicants with opportunities presented by Government employment.* In addition to the advantage of offering the rewards of public service—a factor which draws more young people to the Federal service each year—Government employment often provides unique challenges and opportunities.

This is especially true in the scientific and engineering fields. These benefits can be made so much more apparent in a plant visit that they can often more than compensate for the slightly lower starting salaries in the Federal Government. (The Army Materiel Command reports a difference of $2,253 per year at GS–5 and $1,000 per year at GS–7 with the average industrial starting salary for Bachelor level technical graduates in the 1967 fiscal year.)

(3) *To obtain a greater number of highly qualified applicants.* The demand for technical talent is such that the well-qualified scientist or engineer does not have to go looking for a job—the job goes looking for him. Recruiting such a person often becomes a "selling" job.

In today's market most scientists and engineers will not make a decision on their professional career without personally visiting the place of employment. It is only natural to accept an offer from industry, where the applicant has visited the plant and met the officials, in preference to an offer from a distant and unknown Federal laboratory, even though the work at the Federal agency may appear to be more interesting and offer more challenge. Federal laboratories, equipment, and physical plant often surpass the best in private industry, and these things can be a powerful inducement for able scientists and engineers. But this advantage is lost unless we are able to bring qualified persons in to see them, and in appropriate cases to pay their travel expenses.

Similarly, applicants on civil service lists of eligibles who appear to be well-qualified, but who are not available for interview, are often passed over for persons not as well-qualified, but who were interviewed. Federal employers also do not want to buy without looking and this may result in the Federal Government not selecting the best available person.

It has been the experience of Federal employers in recent years that inability to pay these expenses is the governing factor in numerous declinations of job offers. To cite a few examples:

Navy reported 726 declinations out of the 945 offers made by 5 of their biggest labs. Without exception, the labs specified nonpayment of preemployment interview expenses as a primary reason for these declinations.

The Army Materiel Command reported that 32% of all those inexperienced scientists and engineers declining job offers listed the lack of opportunity to visit the work site at government expense as their *main* reason for declination.

One Air Force installation reported losing an average of 25 qualified research people per year to industry because of the inability to pay expenses for a plant interview.

All Naval recruiting activities—65 in total—mentioned inability to pay preemployment interview expenses as a major reason for declinations by qualified applicants in shortage categories.

74% of all Army Materiel Command applicants declining offers reported that they had visited the organization whose offer they subsequently accepted. Moreover, respondents visited an average of five companies each at company expense.

These illustrations are indicative of the need for authority to pay preemployment interview expenses. Total figures would undoubtedly be much higher. We can only conclude from such examples that the Federal Government has lost opportunities to obtain professional talent of high quality by inability to pay interview expenses.

(4) *To place the right man in the right position.* This is particularly important for the higher-grade, specialized, research positions, and is critical in the selection of a scientist to be a member of a research team where the ability to function in the particular working environment is extremely important. Such interviews enable a larger group to talk to the candidates and thereby provide a broader base for evaluating personal qualifications. Multiple evaluations may also result in consideration for alternative positions at the installation.

(5) *To eliminate misconceptions which we know exist in the minds of some applicants concerning Federal employment in general or employment at particular locations.*

(6) *To keep turnover at a minimum, particularly at isolated locations.* Despite agency efforts to give prospective employees complete and factual information about the working and living conditions at isolated installations, employees sometimes resign shortly after reporting for duty. This is very costly. Personal interviews at the work site will tend to uncover these sources of potential dissatisfaction before the appointment is made.

What are Federal agencies doing in the absence of authority to pay for interview expenses?

Federal recruiters, when visiting colleges and through telephone calls and correspondence, make every reasonable effort to encourage prospects to visit the work site at their own expense. The distance involved is an important factor in these efforts. Results are often disappointing.

One Naval activity reports: "We have in our files dozens of letters from applicants who have naively requested to visit the laboratory at Government expense. They assume that this is standard practice, as it is in industry. When we disillusioned them, their candidacy, with rare exception, came to an abrupt end."

In the absence of authority to pay expenses for preemployment interviews, some agencies now conduct essential interviews near the applicant's home. Interviews are conducted by agency officials who may be traveling in the area for other purposes or who may be making the trip for the sole purpose of conducting the interviews. "Courtesy" interviews are conducted by officials of a nearby installation of the same agency as the prospective employer. However, both kinds of interviews have serious disadvantages. In addition to the absence of personal contact between employer and applicant:

(1) "Courtesy" interviewers are usually not familiar with actual working and living conditions at the recruiting installation;

(2) Selecting officials are reluctant to depend on the judgment of a disinterested third party, particularly for high-level, specialized positions;

(3) There is no opportunity to make multiple evaluations of a candidate;

(4) Time delays and some expense are encountered in arranging with third parties to conduct interviews and to furnish results to recruiting installations;

(5) There are travel costs for interviewing officials;

(6) In research organizations it is particularly desirable that interviews be conducted by key staff members who have a thorough knowledge of the research programs and can discuss them in terms of the technical knowledge of the candidates. When these key officials must travel extensively to conduct interviews, much of their time used for this purpose could otherwise have been profitably devoted to program duties at the work site.

What has been the experience of Federal agencies now authorized to pay these expenses?

Federal agencies are authorized to pay preemployment interview expenses when considering candidates for employment to positions excepted from the competitive civil service. The Comptroller General has ruled that in filling excepted positions, where the responsibility for determining the qualifications of applicants is vested in the agencies, the payment by them of any necessary expenses incident to the determination is proper if funds otherwise are available therefor.

Reports from the principal excepted agencies authorized paid preemployment travel show that this right has been used carefully and conservatively. No complaints of abuse have been made to the General Accounting Office.

Tennessee Valley Authority—All positions in TVA are in the excepted service. TVA policy is that payment for interview expenses may be authorized when deemed by the division incurring the expense to be necessary in the conduct of official business. Experience of TVA has disclosed no applicant abuse of the authorization to pay such expenses. In FY 1967, TVA hired 175 employees in shortage categories and authorized preemployment travel for 68 applicants.

Atomic Energy Commission—All positions in AEC are in the excepted service. AEC reports that the authority to pay these expenses has been found necessary in the current competitive market for "quality" candidates. Invitational travel is not considered an additional cost. In most instances, in lieu thereof, AEC would have to send a representative to interview the candidate to accomplish an adequate evaluation of his qualifications. The cost then would include not only travel expenses for AEC's representative, but also his salary.

In FY 1967 AEC hired 277 shortage category employees and authorized preemployment interview expenses for 85 applicants.

AEC is not aware of any abuse on the part of candidates, such as travel for their own pleasure or convenience. Candidates who have accepted invitation travel for interview have usually accepted offers of employment.

Veterans' Administration—Physicians, dentists, and nurses in the Department of Medicine and Surgery are in the excepted service. VA uses its authority infrequently but regards it as an important recruiting factor in the cases where it is needed. In FY 1967, VA only used its authority to pay expenses for 46 applicants but it hired 5,195 employees in shortage categories.

How would the proposed legislation be administered?

Regulations governing travel under the proposed legislation would be prescribed by the Director, Bureau of the Budget, who now has the responsibility for prescribing other travel regulations.

The Civil Service Commission already determines those positions which fall into the category of "manpower shortages" for purposes of payment of travel and transportation expenses of new employees to first post of

duty (Public Law 86-587). This responsibility is not treated lightly. There is a detailed procedure followed in making these determinations and the same procedure would be followed in authorizing payment of preemployment travel expenses.

Under this procedure agencies have to furnish to the Civil Service Commission *in advance* a statement showing the extent of the shortage by position and location. The agency justification must include such information as:

The total number of incumbents in the agency in the area in question;

The number of existing and anticipated vacancies in the next 12 months;

The length of time active but unsuccessful recruiting has been conducted;

The declinations because of lack of payment of travel and transportation funds;

A statement on the extent and nature of recruiting efforts and the results obtained from the use of paid and free advertising, contacts with schools, contacts with the local State Employment Service, etc.;

The extent to which it has been necessary to recruit outside of the area in which the vacancy exists;

Information on internal efforts to relieve the shortage such as job engineering and upgrading the skills of people already employed; and

The general quality of recruits obtained and the prospects for obtaining better ones if travel costs are paid.

In evaluating agency requests the Commission independently examines existing registers to see how many qualified people are actually available, and how well qualified they are. As circumstances require other pertinent sources of information are checked such as the U.S. Employment Service and the latest literature on the subject.

Funds to pay travel costs authorized by the draft bill would be secured by individual agencies through their appropriation requests to the Congress. Necessity for justifying funds to be used for this purpose and the generally limited amounts of agency travel funds in relation to travel needs will assure that individual agencies administer these provisions in the best interests of the agency and the Federal Service. The requirement that applicants must first be found qualified by a civil service examining office is added assurance that these interviews would come at a point just short of actual employment in the competitive service.

Students often express an interest in the Federal service some months before they are scheduled to complete their education. The proposed legislation has been drafted so as not to preclude from coverage this very important group of applicants who are considered "tentatively qualified". This means they have taken and passed any required test and have been rated qualified by an examining office. To be fully qualified they only need to finish the last few weeks of their education and receive their degree.

These applicants, still in school, but about to begin their working careers, comprise one of the Government's most important recruitment sources for engineer and scientific positions. Because of the intense competition with industry recruiters for this particular group of applicants, it is essential that Federal agencies be able to extend preemployment interview invitations to the students some weeks, or months, before graduation.

What will be the cost?

The estimated 6,250 payments to prospective employees would come out of agency travel appropriations and amount to about $970,000 per year. The actual amount, however, would be controlled by the Congress through its acceptance of agency requests for travel appropriations. Present estimates are based on the current list of "manpower shortage" occupations and agency estimates of cost and probable use of authority to pay preemployment interview expenses. These estimates do not take into account certain significant savings that can be expected, as for example:

Decreases in travel expenses of agency administrative officials who would no longer find it necessary to go to the applicant to conduct essential interviews.

Decreases in travel expenses and loss of working time of key scientists who would not be taken from their regular duties to travel about the country conducting interviews.

Decreases in turnover (especially at isolated locations) because applicants will have a clearer view of actual living and working conditions and can better decide whether or not they wish to accept the job offered.

Greater benefits from the funds already spent on recruiting because many applicants, who now go through the initial interview stage but drop out when they find no opportunity to visit the work site at Government expense, will go on to probable employment.

The present experience of the excepted agencies TVA, AEC, and VA show their expenses to be under our estimate of about $155 per trip. The average cost reported for each preemployment interview traveler was for AEC $117.87, for TVA $67.81, and for VA $133.13. Therefore we feel our estimate is a generous one.

It is expected that costs would be absorbed in the regular travel budgets of the agencies concerned, and that no special appropriation would be needed.

The agency's ability to reimburse an applicant for his interview expenses might well tip the scale in favor of his accepting a "manpower shortage" category position. In this event, the money would be well spent.

S. 2277—INTRODUCTION OF THE EXCESS WAR PROFITS TAX ACT OF 1969

Mr. McGOVERN. Mr. President, I am today introducing a bill to establish an emergency tax on excess war profits. I am proposing this temporary measure as an alternative to the surtax charge on personal income.

It is my judgment that a tax on excessive corporate profits, induced by wartime military spending, is a more equitable means of financing our war effort than extension of the surtax levy on individual incomes.

Mr. President, I ask unanimous consent that the text of the bill which I now send to the desk be printed in the RECORD at the conclusion of my remarks.

Mr. President, joining me in cosponsoring the measure are Senators CHURCH, MANSFIELD, HART, NELSON, MONDALE, FULBRIGHT, ANDERSON, McGEE, MOSS, MUSKIE, INOUYE, YARBOROUGH, GRAVEL, YOUNG of Ohio, and RANDOLPH.

Mr. President, in the true financial sense, a war is never over. The costs do not end with the cessation of hostilities. There are long-term charges—veterans benefits, medical treatment, hospital upkeep—which will be borne by our children and their children after them. Today, 15 years after the Korean war ceasefire, veterans assessments incurred during that conflict still cost us over $700 million annually.

We can put off for now the question of who shall pay for these relentless costs. But we cannot postpone a decision on how to finance current combat operations. Each year the war in Vietnam costs the United States over $30 billion—roughly one-sixth of all Federal outlays.

I think it is time for American industry, which has enjoyed an unprecedented 33 percent rise in net after-taxes profits since the combat escalation of 1965, to assume more of the tax burden generated by the war.

And I think it is time to relieve the middle and low-income taxpayers of the war costs he must carry in the form of the surtax charge, the inflation which cuts so cruelly into the income of the poor and the elderly, and the high and increasing interest rates of all categories.

This bill, the Excess War Profits Tax Act of 1969, provides for a long-overdue equitable reassignment of our wartime revenue demands.

HISTORY

In his tax message of April 22, President Nixon said:

> While we must maintain total Federal revenues, there is no reason why we cannot lighten the burden on those who pay too much, and increase the taxes of those who pay too little . . . Fairness calls for tax reform now.

The appeal for fairness in our tax structure should always be most compelling at times of war. As industry enjoys full capacity operation and high profit yields, many Americans are asked to sacrifice their health and possibly their lives in the service of their country.

It has been the consistent avowed policy of this Nation to see that no one makes unrealistic profits from war—while thousands of our young men are dedicating an important portion of their lives at inconsequential pay.

That was the policy for World War I, when an excess war profit tax was applied to corporate income between 1917 and 1921.

It was the policy for World War II, when a 90-percent rate was applied to adjusted excess profits. From 1940 to 1946, this corporate tax charge yielded over $40 billion for the allied war effort.

It was the course we pursued during the Korean war, when the Congress passed an excessive war profits tax 6 months after the Communist invasion of South Korea. The 1950 tax measure, which yielded some $8 billion, is the prototype for the bill I am introducing today.

This is the course we should be pursuing now. The war in Vietnam, whether we measure it by the number of bombs dropped or the number of lives lost or the number of dollars spent, has been a more costly national experience than Korea.

Yet—continually primed by the infusion of military spending—the industrial economy has boomed. The record last quarter of 1968 brought corporate profits after taxes to a high of $51 billion for the year, as against the 1963 level of $33.1 billion.

There are, of course, other factors behind the surge of corporate profits besides defense spending, but the economic impact of the war has been the most significant.

According to Moody's Industrials, the

major defense contractors have experienced unparalleled growth in profits since escalation of the war began. General Dynamics, for example, had a 22-percent increase between 1963–65 and 1966–67. General Electric went up 21.7 percent. United Aircraft went up 56 percent, and Boeing reaped a 65-percent increase.

Adm. Hyman Rickover in testimony before the House Banking and Currency Committee, April 1968, noted that profits on defense contracts were 25 percent higher in 1964–67 than in 1959–63.

The war has generated an unprecedented increase in military prime contract awards: from fiscal 1965 to 1966 the awards figure rose 36 percent, from $28 billion to $38.2 billion. The 17-percent rise from fiscal 1966 to 1967 produced a $44.6 billion level, exceeding the high mark reached during Korea—$43.6 billion in fiscal 1952.

After the Revenue and Expenditure Control Act of 1968 recommended across-the-board recision in Federal spending, awards dropped slightly in fiscal 1968, but still remained above the Korea high at $43.7 billion.

There is no reason why the profits growing out of this increase in prime military spending should be treated differently than excess profits during every previous war since 1913—when the 16th amendment first empowered the Federal Government to lay a tax on income.

The equities in support of the profits tax are not just strong, they are overwhelming. Our predecessors in the Senate found this to be the case in 1917, in 1929, and again in 1950. Our successors will surely find it hard to understand why we have exempted Vietnam from a tradition so demonstrably fair and equitable.

THE ECONOMY TODAY

On two occasions in the last decade, the Congress has enacted tax programs to encourage economic stabilization.

In January 1963 President John Kennedy proposed across-the-board reductions in personal and corporate tax rates. The President's economic advisers were anxious at the persistence of high unemployment and idle production capacity at a time of general prosperity.

President Johnson inherited that concern, and in 1964 he shepherded an $11.5 billion tax reduction through Congress. With the resulting increase in disposable income and aggregate demand, our economic performance approached its full potential.

But the war escalation in 1965 quickly diverted the economy to an unbalanced prosperity and introduced problems of price-wage inflation, domestic, and balance-of-payments deficits, higher interest rates, and skilled labor shortages.

The threat of inflation and the mounting costs of waging war 10,000 miles from our shores led President Johnson in 1967 to request a surtax charge on personal and corporate income.

Congress resisted for 18 months, but the growing threat of a ruinous inflationary spiral finally prompted approval of the 10 percent surtax in June of 1968.

President Nixon, in his message of March 26, cited the continuing imperative of providing revenue for our combat support. He has requested extension of a modified surtax plan, with an expected yield of $9.5 billion.

Mr. President, the bill I am proposing will bring in a similar level of revenue, by taxing a fair measure of the wartime increase in net corporate profits.

That increase is the most dramatic in our recent economic history. From 1961 to 1964—the base period for computing excess profits—the average yearly level of corporate profits before taxes was $57.8 billion; after taxes, the average retention was $32.5 billion.

For the post-escalation years, 1966–68, gross profits have soared to an average of $84 billion per year; and after taxes to an average of $50 billion. Net corporate profits, after taxes, for 1968 reached a high level of $51 billion—despite the imposition of the surtax on corporate earnings. This represents an increase of $18.5 billion or 53 percent from the base period average.

The quantum jump in corporate profits during this period greatly exceeds the Korean war increase, which last prompted an excess profits tax. During the 1946–49 base period, average profits before taxes were $29 billion; and $17.6 billion after taxes. For the 1950–54 tax years, profits increased to $37.9 billion per year; with an average after-tax level of $18.3 billion.

Net profits for the war years were only $1.3 billion higher than the base period average—but the Congress overwhelmingly approved a new tax on excess profits.

Today, the tax base for an excess profits levy is over 10 times as great—and the equities in support of such a tax are correspondingly greater. We have countenanced the accumulation of excessive war profits for the first time in our national history. And we have presided over this unconscionable assemblage of profits without even seriously considering a special tax charge program.

We can correct that oversight now, with enactment of a temporary tax on excess war profits.

TAX REFORM

Mr. President, at the same time corporate profits are skyrocketing to new high levels, the individual taxpayer is growing angry and impatient with the imbalances which characterize much of the Federal tax system.

He is angry when he reads of loopholes by which wealthy taxpayers avoid an estimated $50 billion in tax liabilities annually.

He is angry when he hears of the "hobby farmer" who deducts over $1 billion a year in "farm losses" from his nonfarm income.

And he is angry when he sees the well to do avoid tax responsibility altogether, while 2 million families with gross income below the poverty level pay more than $1 billion in Federal taxes.

Above all, the middle-income citizen is tired of the tax squeeze which restrains his own best efforts to provide for his family, to arrange for the education of his children, and to prepare for years of retirement.

The time for comprehensive tax reform is at hand; and termination of the surtax charge, with the temporary imposition of an excess profits tax should be a part of that reform.

I do not think that a tax structure which burdens the individual taxpayer with a regressive surtax while it rewards extravagantly the capacity of American industry to expand and enjoy economies of scale with wartime defense spending is an appropriate institution in a country with our ideals and public commitments.

We have imposed a surtax on personal income at a time when some sectors of the economy are in a slump—even though we are involved in a major war. We are, for example, in the midst of a unique experience in agriculture. Prices are declining and farmers are continuing to be forced off the land. The rural economy is depressed, and the people it supports are migrating to the cities. Only one out of every 10 boys growing up on the farms of America will find a living in agriculture.

Still, we seek to extend the surtax on personal income, in spite of the "taxpayer's revolt" against high Federal taxes and in spite of the spiralling excess corporate profits.

When he proposed the war profits tax act of 1950, Senator Tom Connally of Texas asked:

> Does not the making of such excesses affect the ability to pay? Does it not affect the whole basis and the whole justice of laying a tax on profits?

I think it does. I think that the surtax as a means of balancing a war-inflated budget should be discarded and that we should move to "lighten the burden on those who pay too much, and increase the taxes on those who pay too little."

INFLATION

There is another side of the economic picture which demands our attention—the steady menacing rise in consumer prices.

The war in Vietnam has generated a hazardous inflationary situation. The cost of living has been going up 4 to 5 percent a year; while the gross national product for 1968 grew 9 percent, only 5 percent of the rise was real gain, the other 4 percent was inflation.

Using the 1957–59 price average as a base, the picture is even gloomier. By that reckoning, inflation as a percentage of the total increase in gross national product has grown from 35 percent in the first quarter of last year to 60 percent in the first quarter of this year.

Consumer prices have been moving up rapidly, jumping eight-tenths of 1 percent in March to 125.6 percent of the 1957–59 average—the biggest 1-month jump since the Korean war. Wholesale prices, whose rate of growth slowed much of last year, are now rising alarmingly, promising further increases in future consumer costs.

Inflation is a cruel, unconscionable form of taxation. Its effects are most immediately and severely felt by the elderly who must live on fixed-income retirement payments. But its secondary and tertiary effects touch all of us in some manner.

Prohibitively high interest rates are preventing some State and city school districts from raising funds for school construction. The interest squeeze hinders efforts to finance the construction of decent housing to replace our urban slums. Ordinary consumers, particularly the young, who are most likely to buy on installment loans, are asked to pay more than they can afford for basic living appliances. The small businessman most desperately in need of credit is forced to pay rates which make it impossible for him to survive.

All of these burdens are the consequences of our current anti-inflationary fiscal and monetary policies—in the context of swollen war expenditures.

I think we can apply a more effective fiscal brake to this inflation than the imposition of a surtax on the general consumer. A tax on excess corporate profits would cool off the economy at its most overheated sectors, by removing the "high velocity" investment dollar early in the cycle.

In his tax message, President Nixon spoke of the urgent need to "dampen demand in a sector of the economy that is moving much too fast—the market for business equipment." The excess profits tax would do just that.

We are experiencing a war-induced inflation, fed by mounting military expenditures which in turn stimulate industrial expectations of further military demand.

I think that the way to curb this kind of inflation—short of ending the war—is to minimize the effects of the defense primer on aggregate demand, by drawing off the excess profit yield in higher corporate taxes.

This was the judgment of the Congress in 1950, when the excess profits tax was labeled a "weight to hold down inflation." It should be the judgment of this Congress.

TERMS OF THE BILL

The bill I am proposing would amend the Internal Revenue Code of 1954 by adding at the end of subtitle A a new section, the Temporary Excess Profits Tax Chapter.

A new tax would be imposed on the taxable income of every corporation, for the taxable years beginning January 1, 1969, and ending December 31, 1970. The tax would be equal to 37 percent of the excess profit taxable income—that part of income which exceeds the deduction adjustment for the taxable year.

This deduction adjustment, computed according to the 1950 Tax Act formulas, approximates that amount of income which is not attributable to special wartime spending levels. The taxpayer may either deduct the average annual intake for the 4-year base period, 1961–64. Or he may deduct a normal return on invested capital, as calculated on the graduated scale of the 1950 act. In any event, no corporation with excess profits under $25,000 per annum is liable for the extra tax under this bill.

Special relief for corporations experiencing abnormal growth during the emergency period is provided by section 1606(a)(3) which empowers the Secretary of Treasury to make rules comparable to provisions of the 1950 act. These rules would prescribe certain special modifications for nondefense growth industries, for corporations which installed new product lines or new factories during the base period, and for corporations which experienced damaging fires, long-term labor strikes, or other severe abnormalities during the base period.

These special adjustments are designed to focus the excess profits tax as precisely as possible on the war-created increment of corporate income. It is a "surgical strike" taxation scheme; we are not interested in those profits which are a normal yield on capital and ingenuity.

We all pray that the stalemate in Paris will be broken, that the killing will end, and that American troops will be returned to our own shores. But for now, the war goes on and its costs continue to rise.

Mr. President, it is time now to shift more of that cost to those industries that are deriving excessive profits from a tragic war.

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

The bill (S. 2277) to impose an excess profits tax on the income of corporations during the present emergency, introduced by Mr. MCGOVERN (for himself and other Senators), was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 2277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Excess War Profits Tax Act of 1969".

Sec. 2. (a) Subtitle A of the Internal Revenue Code of 1954 (relating to income taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 7—TEMPORARY EXCESS PROFITS TAX

"SEC. 1601. IMPOSITION OF TAX.

"(a) General Rule.—In addition to the other taxes imposed by this subtitle, there is hereby imposed on the income of every corporation, for each taxable year ending or beginning in the emergency period, a tax equal to 37 percent of the excess profits taxable income for the taxable year.

"(b) Taxable Years Partly in Emergency Period.—In the case of a taxable year which begins before the emergency period or ends after the emergency period, the tax imposed by subsection (a) shall be an amount equal to 37 percent of the excess profits taxable income for the taxable year multiplied by a fraction the numerator of which is the number of days in the taxable year within the emergency period and the denominator of which is the total number of days in the taxable year.

"SEC. 1602. DEFINITIONS.

"(a) Excess Profits Taxable Income.—For purposes of this chapter, the term 'excess profits taxable income' means taxable income (computed with the adjustments provided in section 1603 or 1604, but otherwise as computed for purposes of the tax imposed by chapter 1) reduced by the higher of—

"(1) $25,000, or

"(2) the sum of—

"(A) the excess profits deduction for the taxable year, and

"(B) the unused excess profits deduction adjustment for the taxable year.

"(b) Emergency Period.—For purposes of this chapter, the term 'emergency period' means the period beginning on January 1, 1969, and ending December 31, 1970.

"(c) Base Period.—For purposes of this chapter, the term 'base period' means the period beginning on January 1, 1961, and ending on December 31, 1964.

"SEC. 1603. ADJUSTMENTS TO INCOME FOR YEARS IN EMERGENCY PERIOD.

"(a) General Rule.—For purposes of this chapter, in determining the taxable income of a corporation for a taxable year ending or beginning in the emergency period, the following adjustments shall be made:

"(1) Dividends received.—The deduction for dividends received shall apply, without limitation, to all dividends on stock of all corporations, except that no deduction for dividends received shall be allowed with respect to dividends (actual or constructive) on stock of foreign personal holding companies or dividends on stock which is not a capital asset.

"(2) Disallowances of certain deductions.—The deductions provided in section 247 (relating to deduction for dividends paid on certain preferred stock) and section 922 (relating to special deduction for Western Hemisphere trade corporations) shall not be allowed.

"(3) Gains and losses from sales or exchanges of capital assets.—There shall be excluded gains and losses from sales or exchanges of capital assets.

"(4) Income from retirement or discharge of bonds, etc.—There shall be excluded, in the case of any taxpayer, income derived from the retirement or discharge by the taxpayer of any bond, debenture, note, or certificate or other evidence of indebtedness, if the obligation of the taxpayer has been outstanding for more than 6 months, including, in case the issuance was at a premium, the amount includible in income for such year solely because of such retirement or discharge.

"(5) Deductions on account of retirement or discharge of bonds, etc.—If during the taxable year the taxpayer retires or discharges any bond, debenture, note, or certificate or other evidence of indebtedness, if the obligation of the taxpayer has been outstanding for more than 6 months, the following deductions for such taxable year shall not be allowed:

"(A) The deduction allowable under section 162 for expenses paid or incurred in connection with such retirement or discharge;

"(B) The deduction for losses allowable by reason of such retirement or discharge; and

"(C) In case the issuance was at a discount, the amount deductible for such year solely because of such retirement or discharge.

"(6) Recoveries of bad debts.—There shall be excluded income attributable to the recovery of a bad debt if the deduction of such debt was allowable from gross income for any taxable year ending before January 1, 1969, or if such debt was properly charged to a reserve for bad debts during any such taxable year.

"(7) Nontaxable income of certain industries with depletable resources.—In the case of a producer of minerals, a producer of logs or lumber from a timber block, a lessor of mineral property or a timber block, and a natural gas company, there shall be excluded income exempt from the provisions of this chapter under the regulations prescribed by the Secretary or his delegate under section 1606.

"(8) Net operating loss deduction adjustment.—The net operating loss deduction under section 172 shall be properly adjusted in accordance with regulations prescribed by the Secretary or his delegate.

"(9) Taxes paid by lessee.—If under a lease for a term of more than 20 years entered into prior to January 1, 1969, the lessee is obligated to pay any portion of the tax imposed by this subtitle upon the lessor with respect to the rentals derived by such lessor from such lessee, or is obligated to reimburse the lessor for any portion of the tax imposed by this subtitle upon the lessor with respect to the rental derived by such lessor from such lessee, such payment or reimbursement of the tax imposed by this subtitle shall be excluded by the lessor and a deduction therefor shall not be allowed to the lessee. For purposes of this paragraph, an agreement for lease of railroad properties entered into prior to January 1, 1969, shall be considered to be a lease including such term as the total number of years such agreement may, unless sooner terminated, be renewed or continued under the terms of the agreement, and any such renewal or continuance under such agreement shall be considered part of the lease entered into prior to January 1, 1969.

"(10) Bad debts in case of banks.—In the case of a bank (as defined in section 581) using the reserve method of accounting for bad debts, there shall be allowed, in lieu of amount allowable under the reserve method for bad debts, a deduction for debts which became worthless within the taxable year, in whole or in part, within the meaning of section 166.

"(11) Blocked foreign income.—There shall be excluded income derived from sources within any foreign country to the extent that such income would, but for monetary, exchange, or other restrictions imposed by such foreign country, have been includible in the gross income of the taxpayer for any taxable year which preceded its first taxable year under this chapter. In determining the taxable year for which income derived from foreign sources would have been includible (but for such restrictions) in cases where specific identification can not be made, such determinations shall be made in accordance with regulations prescribed by the Secretary or his delegate. Where income derived from sources within any foreign country is includible (without regard to this sentence) in a taxable year succeeding the first taxable year under this chapter, and but for monetary, exchange, or other restrictions imposed by such foreign country would have been includible in the gross income of the taxpayer for its first taxable year under this chapter, such income, in case such first taxable year began before January 1, 1969, shall be considered (in the application of this paragraph) as having been includible in gross income of a taxable year which preceded such first taxable year in an amount equal to that portion of such income as the number of days prior to January 1, 1969, in such first taxable year bears to the total number of days in such first taxable year. Deductions properly chargeable and allocable to income excluded under this paragraph shall not be allowed.

"(12) Interest.—The deduction for interest shall be reduced, with respect to interest on the indebtedness included in daily amounts of borrowed capital, in accordance with regulations prescribed by the Secretary or his delegate.

"(13) Payments from foreign sources for technical assistance, etc.—In the case of a domestic corporation which renders to a related foreign corporation technical assistance, engineering services, scientific assistance, or similar services (such services or assistance being related to the production or improvement of products of the type manufactured by such domestic corporation), there shall be excluded the remuneration for such services or assistance if such remuneration constitutes income derived from sources without the United States. Any deductions in connection with or properly allocable to the rendering of such services or assistance shall not be allowed. For purposes of this paragraph, a foreign corporation shall be considered to be a 'related foreign corporation' if the domestic corporation at the time it renders such services or assistance owns 10 percent or more of the outstanding stock of such foreign corporation.

"SEC. 1604. ADJUSTMENTS TO INCOME FOR YEARS IN BASE PERIOD.

"For purposes of this chapter, in determining the taxable income of a corporation for a taxable year ending or beginning in the base period, the following adjustments shall be made:

"(1) Net operating loss deduction.—The net operating loss deduction provided by section 172 shall not be allowed.

"(2) Gains and losses from sales or exchanges of capital assets, etc.—There shall be excluded gains and losses from sales or exchanges of capital assets and gains and losses to which section 1231 is applicable.

"(3) Income from retirement or discharge of bonds, etc.—There shall be excluded, in the case of any taxpayer, income derived from the retirement or discharge by the taxpayer of any bond, debenture, note, or certificate or other evidence of indebtedness, if the obligation of the taxpayer has been outstanding for more than 6 months, including, in case the issuance was at a premium, the amount includible in income for such year solely because of such retirement or discharge.

"(4) Deductions on account of retirement or discharge of bonds, etc.—If during the taxable year the taxpayer retires or discharges any bond, debenture, note, or certificate or other evidence of indebtedness, if the obligation of the taxpayer has been outstanding for more than 6 months, the following deductions for such taxable year shall not be allowed:

"(A) The deduction allowable under section 162 for expenses paid or incurred in connection with such retirement or discharge;

"(B) The deduction for losses allowable by reason of such retirement or discharge; and

"(C) In case the issuance was at a discount, the amount deductible for such year solely because of such retirement or discharge.

"(5) Dividends received.—The deduction for dividends received shall apply, without limitation to all dividends on stock of all corporations, except that no deduction for dividends received shall be allowed with respect to dividends (actual or constructive) on stock of foreign personal holding companies or dividends on stock which is not a capital asset.

"(6) Installment sales.—In the case of a taxpayer which has made an election under the regulations prescribed by the Secretary or his delegate under section 1606, income from installment sales and from installment sales obligations shall be computed under the accrual method without treating any portion of such income as unrealized at the close of any period and as if the taxpayer had reported such income on such accrual method for all taxable periods.

"(7) Long-term contracts.—In the case of a taxpayer which has made an election under the regulations prescribed by the Secretary or his delegate under section 1606, income from long-term contracts shall be computed under the percentage of completion method and as if the taxpayer had reported such income on the percentage of completion method for all taxable periods.

"(8) Judgments, intangible drilling and development costs, casualty losses, and other abnormal deductions.—If, for any taxable year beginning or ending within the base period, any class of deductions for the taxable year exceeded 115 percent of the average amount of deductions of such class for the four previous taxable years (not including deductions arising from the same extraordinary event which gave rise to the deduction for the taxable year), the deductions of such class shall, subject to the rules provided in paragraph (9), be disallowed in an amount equal to such excess. For the purposes of this paragraph, each of the following groups of deductions shall constitute a class of deductions:

"(A) Deductions attributable to claims, awards, judgments, and decrees against the taxpayer, and interest on the foregoing;

"(B) Deductions attributable to intangible drilling and development costs paid or incurred in or for the drilling of wells or the preparation of wells for the production of oil or gas, and for development costs in the case of mines; and

"(C) Deductions under section 165 for losses arising from fires, storms, shipwreck, or other casualty, or from theft, or arising from the demolition, abandonment, or loss of useful value of property, not compensated for by insurance or otherwise. The class of deductions under this subparagraph for any taxable year shall not include deductions which are excludible under paragraph (2) or which would be so excludible if such paragraph were applicable with respect to such taxable year.

The classification of deductions of any class not described in subparagraph (A), (B), or (C), shall be subject to regulations prescribed by the Secretary or his delegate.

"(9) Rules for application of paragraph (8).—For the purpose of paragraph (8)—

"(A) If the taxpayer was not in existence for four previous taxable years, then the average amount specified in such paragraph shall be determined for the previous taxable years it was in existence and the succeeding taxable years which begin before the beginning of the taxpayer's second taxable year under this chapter. If the number of such succeeding years is greater than the number necessary to obtain an aggregate of four taxable years, there shall be omitted so many of such succeeding years, beginning with the last, as are necessary to reduce the aggregate to four.

"(B) Deductions of any class for any taxable year shall not be disallowed under such paragraph unless the amount of deductions of such class to be disallowed for such year exceeds 5 percent of the average excess profits taxable income for the taxable years beginning or ending within the base period, computed without the disallowance of any class of deductions under such paragraph. Such average excess profits taxable income shall, for the purposes of this subparagraph, be computed by aggregating the excess profits taxable incomes of all such taxable years, dividing such aggregate by the total number of months in such years, and multiplying the quotient by 12. For the purposes of this subparagraph, the excess profits taxable income for any taxable year shall in no case be less than zero.

"(C) Deductions of any class shall not be disallowed under such paragraph unless the taxpayer establishes that the increase in such deductions—

"(i) is not a cause or a consequence of an increase in the gross income of the taxpayer in its base period or a decrease in the amount of some other deduction in its base period, which increase or decrease is substantial in relation to the amount of the increase in the deductions of such class, and

"(ii) is not a consequence of a change at any time in the type, manner of operation, size, or condition of the business engaged in by the taxpayer.

"(D) The amount of deductions of any class to be disallowed under such paragraph with respect to any taxable year shall not exceed the amount by which the deductions of such class for such taxable year exceed the deductions of such class for the taxable year for which the tax under this chapter is being computed.

"(10) Taxes paid by lessee.—If under a lease for a term of more than 20 years entered into prior to January 1, 1969, the lessee is obligated to pay any portion of the tax imposed by this subtitle upon the lessor with respect to the rentals derived by such lessor from such lessee, or is obligated to reimburse the lessor for any portion of the tax imposed by this subtitle upon the lessor with respect to the rentals derived by such lessor from such lessee, such payment or reimbursement of the tax imposed by this subtitle shall be excluded by the lessor and a deduction therefor shall not be allowed to the lessee. For the purposes of this paragraph, an agreement for lease of railroad properties entered into prior to January 1, 1969, shall be considered to be a lease including such term as the total number of years such agreement may, unless sooner terminated, be renewed or continued under the terms of the agreement, and any such renewal or continuance under such agreement shall be considered part of the lease entered into prior to January 1, 1969.

"(11) Bad debts in case of banks.—In the case of a bank (as defined in section 581) using the reserve method of accounting for bad debts, there shall be allowed, in lieu of the amount allowable under the reserve method for bad debts, a deduction for debts which became worthless within the taxable year, in whole or in part, within the meaning of section 166.

"(12) Payments from foreign sources for technical assistance, etc.—In the case of a domestic corporation which rendered to a related foreign corporation technical assistance, engineering services, scientific assistance, or similar services (such services or assistance being related to the production or improvement of products of the type manufactured by such domestic corporation), there shall be excluded the remuneration for such services or assistance if such remuneration constituted income derived from sources without the United States. Any deductions in connection with or properly allocable to the rendering of such services or assistance shall not be allowed. For purposes of this paragraph, a foreign corporation shall be considered to be a 'related foreign corporation' if the domestic corporation at the time it rendered such services or assistance owned 10 percent or more of the outstanding stock of such foreign corporation.

"(13) Adjustment for base period losses from branch operations.—In the case of a taxpayer which during two or more taxable years beginning or ending within the base period operated a branch at a loss, the excess profits taxable income for each such taxable year (determined without regard to this paragraph) shall be increased by the amount of the excess of such loss above the loss, if any, incurred by such branch during the taxable year for which the tax under this chapter is being computed. For purposes of this paragraph, the term 'branch' means a unit or subdivision of the taxpayer's business which was operated in a separate place from its other business and differed substantially from its other business with respect to character of products or services. A unit or subdivision of the taxpayer's business shall not be considered to differ substantially from the taxpayer's other business unless it is of a type classifiable by the Standard Industrial Classification Manual in a different major industry group or in a different subgroup of the taxpayer's major industry group than that in which its other business is so classifiable. This paragraph shall not apply unless the sum of the net losses of such branch during the base period exceeded 15 percent of the aggregate excess profits taxable income of the taxpayer during the base period. For the purposes of this paragraph, the aggregate excess profits taxable income of the taxpayer during the base period shall be the sum of its excess profits taxable income for all years in the base period, increased by the sum of the net losses of such branch during the base period.

"(14) Rules for application of paragraph (13).—For the purposes of paragraph (13)—

"(A) A branch shall be deemed to have been operated at a loss during a taxable year if the portion of the deductions under section 162 for such year which is determined, under regulations prescribed by the Secretary or his delegate, to be the portion thereof properly allocable to the operation of such branch exceeds the portion of the gross income during the taxable year which is determined under such regulations to be the portion thereof properly allocable to the operation of such branch; and the amount of the loss shall be an amount equal to such excess.

"(B) If the portion of the gross income determined to be properly allocable to the operation of the branch is a minus quantity, the amount of such excess shall be the sum of the deductions under section 162 determined to be properly allocable to the operation of the branch plus an amount equal to such minus quantity.

"SEC. 1605. UNUSED EXCESS PROFITS DEDUCTION ADJUSTMENT.

"(a) Computation of Unused Excess Profits Deduction Adjustment.—The unused excess profits deduction adjustment for any taxable year shall be the aggregate of the unused excess profits deduction carryovers and unused excess profits deduction carryback to such taxable years.

"(b) Definition of Unused Excess Profits Deduction.—For purposes of subsection (a), the term 'unused excess profits deduction' means the excess, if any, of the excess profits deduction for any taxable year over the excess profits taxable income for such taxable year, computed on the basis of the excess profits deduction applicable to such taxable year, and computed without the allowance of any deduction under section 172 (relating to net operating losses). The unused excess profits deduction for a taxable year of less than 12 months shall be an amount which is such part of the unused excess profits deduction determined under the preceding sentence as the number of days in the taxable year is of the number of days in the 12 months ending with the close of the taxable year. The unused excess profits deduction for a taxable year beginning before or ending after the emergency period shall be an amount which is such part of the unused excess profits deduction determined under the preceding provisions of this subsection as the number of days in such taxable year in the emergency period is of the total number of days in such taxable year. There shall be no unused excess profits deduction for any taxable year for which the taxpayer is exempt from taxation under this chapter.

"(c) Amount of Carryback and Carryover.—

"(1) Unused excess profits deduction carryback.—if for any taxable year the taxpayer has an unused excess profits deduction, such unused excess profits deduction shall be an unused excess profits deduction carryback to the preceding taxable year.

"(2) Unused excess profits deduction carryover.—If for any taxable year the taxpayer has an unused excess profits deduction, such unused excess profits deduction shall be an unused excess profits deduction carryover to each of the 5 succeeding taxable years, except that the carryover in the case of each such succeeding taxable year (other than the first succeeding taxable year) shall be the excess, if any, of the amount of such unused excess profits deduction over the sum of the excess profits taxable incomes for each of the intervening taxable years computed—

"(A) by determining the unused excess profits deduction adjustment for each intervening taxable year without regard to such unused excess profits deduction or to any unused excess profits deduction for any succeeding year, and

"(B) without regard to section 1602 (a) (1). For purposes of the preceding sentence, the unused excess profits deduction for any taxable year beginning after January 1, 1969, shall first be reduced by the amount, if any, of the excess profits taxable income for the preceding taxable year computed—

"(C) by determining the unused excess profits deduction adjustment for such preceding taxable year without regard to such unused excess profits deduction, and

"(D) without regard to section 1602 (a) (1). If such preceding taxable year began prior to January 1, 1969, the reduction referred to in the preceding sentence shall be an amount which is such part of the reduction determined under the preceding sentence, or such part of the unused excess profits carryback to such preceding taxable year, whichever is the lesser, as the number of days in such taxable year after December 31, 1968, is of the total number of days in such preceding taxable year.

"(d) No carryback to Taxable Years Ending Prior to January 1, 1969.—For purposes of this section, the term 'preceding taxable year' does not include any taxable year ending prior to January 1, 1969.

"(e) Unused Excess Profits Deduction of Year of Liquidation.—For any taxable year during which the taxpayer (1) completes the distribution of substantially all of its assets in liquidation, or (2) completes the conversion of substantially all of its assets into assets not held in good faith for the purposes of the business, then the unused excess profits deduction for such year shall be an amount which is such part of the unused excess profits deduction determined under the preceding provisions of this section as the number of days in the taxable year prior to the date of the completion (described in (1) or (2), whichever is earlier) is of the total number of days in the taxable year, and no part of the unused excess profits deduction for such year shall be an unused excess profits deduction carryover to any succeeding year.

"SEC. 1606. EXCESS PROFITS DEDUCTION.

"(a) Computation under Regulations.—The excess profits deduction for a taxable year shall be an amount computed under regulations prescribed by the Secretary or his delegate which (subject to the provisions of subsection (b)) shall provide—

"(1) a deduction based on average base period taxable income comparable to the excess profits credit provided for in section 435 of the Internal Revenue Code of 1939,

"(2) a deduction based on invested capital comparable to the excess profits credit provided for in section 436 of the Internal Revenue Code of 1939, and

"(3) rules comparable to the provisions of sections 437 through 459 (other than subsections (a), (c) and (d) of section 459) and of parts II, III, and IV of subchapter D of chapter 1 of the Internal Revenue Code of 1939.

"(b) Exceptions and Modifications.—The regulations prescribed under subsection (a) shall—

"(1) use the base period defined in section 1602(c) (in lieu of the base period defined in section 435(b) of the Internal Revenue Code of 1939),

"(2) provide for computing the deduction described in subsection (a)(1) by taking into account 100 percent of the average base period taxable income (in lieu of the per-

centages provided in section 435(a) of the Internal Revenue Code of 1939), and

"(3) provide rules containing such modifications in or such additions to the rules set forth in the provisions of the Internal Revenue Code of 1939 referred to in subsection (a) as the Secretary or his delegate determines necessary to carry out the purposes of this chapter."

(b) The table of chapters for subtitle A of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"CHAPTER 7. TEMPORARY EXCESS PROFITS TAX."

SEC. 3. The amendments made by this Act shall apply to taxable years ending after December 31, 1968.

Mr. YARBOROUGH. Mr. President, I am proud to cosponsor Senator McGOVERN's bill to establish an emergency excess war profits tax.

When James Otis observed in 1764 that "taxation without representation is tyranny" he had in mind the taxation of those without the voting franchise. With the franchise as broad as it is in America, no one can argue that taxes have been extracted from the people without their opportunity to exercise their right to vote.

But a more subtle variation of those famous words has sprung from the complexities of modern society. It is unfortunate, but true, that the development and passage of legislation through the halls of Congress depends a great deal upon which of contesting groups can generate the most clamor and pressure. In this context, those with large and lucrative Government contracts have certainly been well represented. But, who, I ask, represents the low- and middle-income taxpayers when it comes to placing or adjusting the tax burden?

From the way today's tax structure places the greatest load upon those people, it becomes obvious that they have been heard but little at the bar of Congress.

President Nixon says he wants to "lighten the burden on those who pay too much, and increase the burden on those who pay too little." The time to do that is now.

The way to begin the reform of our tax system—which the people now demand and which is long overdue—is by enacting a tax upon those who have reaped high profits off the war in Vietnam, hoping that this move will open the door to eventual repeal of the regressive surtax.

Equity and fairness demand this. I have with me some tables from articles in the April 21, 1969, issue of U.S. News & World Report reflecting the exhorbitant nature of the earnings directly and indirectly flowing from the war. I ask unanimous consent that these tables be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. YARBOROUGH. Mr. President, when the blood of American lives washes into the Mekong or the Song Ba or the Song Cai, each of us is solemnly reminded of the sacrifice so many have made for a cause which many question or do not understand. The dreadful conflict is far too distant for it to be much of a reality to most of America.

But it is a sad reality and one that cost money as well as lives. Historically, we have always sought—with fairness and reason—to impose an appropriate tax burden upon those corporate enterprises which acquire extraordinary profits during wartime. If this was the road to equity during World War I, World War II, and the Korean war, it is the road to equity now. And we did have an excess war profits tax during those three wars.

I supported such an excess war profits tax in the 90th Congress. Unfortunately, it failed. It is long overdue. If we fail to pass it, we value the profits of the war profiteer higher than the blood of the men fighting and dying in Vietnam.

Mr. President, I support the adoption of this vital piece of legislation.

Mr. President, I want to read the amounts of money spent by the Government each year in defense contracts from the year 1960 to 1969. I read from the U.S. News & World Report of April 21, 1969, the amounts of money spent by the U.S. Government:

During 1960, $22.5 billion.
During 1961, $24.3 billion.
During 1962, $27.8 billion.
During 1963, $28.1 billion.
During 1964, $27.5 billion.
During 1965, $26.6 billion.
During 1966, $35.7 billion.
During 1967, $41.8 billion.
During 1968, $41.2 billion.
During 1969, $42.3 billion (estimated).

In 9 years, the contracts for goods and services by the armed services have increased, from $22.5 billion in 1960 to an estimated $42.5 billion in 1969.

I am now going to read from page 63 of U.S. News & World Report of April 21, 1969, under the title "Who Gets the Big Arms Contracts?" This is the amount of money involved in contracts with the 25 biggest contractors:

General Dynamics Corporation, $2,239 million.
Lockheed Aircraft Corporation, $1,870 million.

This is in a year, Mr. President.

General Electric Company, $1,489 million.
United Aircraft Corporation, $1,321 million.
McDonnell Douglas Corporation, $1,101 million.
American Telephone & Telegraph Company, $776 million.
Boeing Company, $762 million.
Ling-Temco-Vought, Inc., $758 million.
North American Rockwell Corp., $669 million.
General Motors Corporation, $630 million.
Grumman Aircraft Engineering Corp., $629 million.
AVCO Corporation, $584 million.
Textron, Inc., $501 million.
Litton Industries, Inc., $466 million.
Raytheon Company, $452 million.
Sperry Rand Corporation, $447 million.
Martin Marietta Corporation, $393 million.
Kaiser Industries Corporation, $386 million.
Ford Motor Company, $381 million.
Honeywell, Inc., $352 million.
Olin Mathieson Chemical Corporation, $329 million.
Northrup Corporation, $310 million.
Ryan Aeronautical Company, $293 million.
Hughes Aircraft Company, $286 million.
Standard Oil Company (New Jersey), $274 million.

These 25 companies got $17.7 billion, or more than 45 percent, of the prime military contracts awarded to U.S. firms during the year ended June 30, 1968.

The Congress of the United States has authorized the expenditure of $9 billion this year for education. In April, the administration sent to Congress a revised budget recommending that we appropriate only $3.2 billion to educate the 52 million schoolchildren and the 7.6 million in college—nearly 60 million students—counting those in grade schools, high schools, and colleges. For every Federal education program, for student loans, for work-study programs, for building elementary and secondary schools, for everything under the many complex education programs, the administration says, "Appropriate only $3.2 billion."

Of the 25 prime defense contractors, the top two get over $4 billion a year. These are only 2 contractors out of the 25 prime contractors. Yet there is no excess war profits tax, such as was imposed in World War I, World War II, and the Korean conflict. And yet we are told to appropriate only $3.2 billion for 60 million schoolchildren. When we ask for these appropriations, certain persons say, "Do gooders. That is a giveaway program."

I ask, what are we doing with the estimated $42.3 billion for this year? When we spend an estimated $42.3 billion in 1 year, for weapons procurement and we say to 60 million students, "We will spend less than 10 percent of that amount for you." Where are we placing our values in America?

We are doing the same for health. Fifty-nine Job Corps camps for the underprivileged, for those without hope, are being closed. Two narcotic research centers are being closed. That is what this administration is doing. It is pulling down every program for the progress, health, and hope of our people.

This administration says that there shall be no new starts in many needed projects. It has cut by 90 percent moneys already authorized for projects on the gulf coast to protect the people from hurricanes and for many other worthwhile projects.

We should closely search the budget. It contains far beyond 50 percent for military contracts and similar expenditures, and far less than half—only about one-third—for land and water projects and the cleaning up of the pollution of air and water necessary for our 200 million people.

EXHIBIT 1

Trends in defense contracts, 1960–69

	Billion
1960	$22.5
1961	24.3
1962	27.8
1963	28.1
1964	27.5
1965	26.6
1966	35.7
1967	41.8
1968	41.2
1969 (est.)	42.3

"Armed forces' contracts for goods and services in the U.S. have nearly doubled in nine years . . . ."

Source: U.S. News & World Report, April 21, 1969, p. 61.

WHO GETS THE BIG ARMS CONTRACTS

Total awards of prime defense contracts

[In millions of dollars]

1. General Dynamics Corp.	2,239
2. Lockheed Aircraft Corp.	1,870
3. General Electric Co.	1,489
4. United Aircraft Corp.	1,321
5. McDonnell Douglas Corp.	1,101
6. American Telephone & Telegraph Co.	776
7. Boeing Co.	762
8. Ling-Temco-Vought, Inc.	758
9. North American Rockwell Corp.	669
10. General Motors Corp.	630
11. Grumman Aircraft Engineering Corp.	629
12. Avco Corp.	584
13. Textron, Inc.	501
14. Litton Industries, Inc.	466
15. Raytheon Co.	452
16. Sperry Rand Corp.	447
17. Martin Marietta Corp.	393
18. Kaiser Industries Corp.	386
19. Ford Motor Co.	381
20. Honeywell, Inc	352
21. Olin Mathieson Chemical Corp.	329
22. Northrop Corp.	310
23. Ryan Aeronautical Co.	293
24. Hughes Aircraft Co.	286
25. Standard Oil Co. (New Jersey)	274

These 25 companies got $17.7 billion—or more than 45 per cent—of the prime military contracts awarded to U.S. firms during the year ended June 30, 1968.

Source: *U.S. News and World Report,* April 21, 1969, p. 63.

Mr. YOUNG of Ohio. Mr. President, the Senate should refuse to continue the abominable 10-percent surtax. This tax upon a tax expires June 30. Instead, Congress should go along with 14 Senators who sponsored a bill to impose excess profits taxes on businesses benefiting from the Vietnam war. I am one of those 14 Senators and it is my belief that a clear majority of the Senate favor this legislative proposal and will so vote. This proposed tax makes a lot of sense to millions of Americans, too.

It is estimated that this tax would yield $10 billion a year—the same as the 10-percent surtax. The excess profits tax would be a substitute for the 10-percent income tax surcharge. Similar excess profits taxes were imposed during both World Wars and the Korean conflict. From 1940 to 1946 the excess profits tax brought in more than $40 billion.

Under the plan corporations pay in taxes 37 percent of the income which stems from war-induced profits. This tax plan would be more in keeping with proposed reform of the Federal tax structure than continuation of the atrocious 10-percent surtax. American families should not be burdened with a regressive surtax while defense contractors enjoy unparalleled profits.

S. 2278—INTRODUCTION OF A BILL TO TRANSFER FROM THE ARCHITECT OF THE CAPITOL TO THE LIBRARIAN OF CONGRESS THE AUTHORITY TO PURCHASE OFFICE EQUIPMENT AND FURNITURE FOR THE LIBRARY OF CONGRESS

Mr. JORDAN of North Carolina. Mr. President, I am introducing today a technical amendment to title 2, United States Code, section 141, that would transfer from the Architect of the Capitol to the Librarian of Congress the authority to purchase office equipment and furniture for the Library of Congress. A companion bill is being introduced in the other body by Representative SAMUEL N. FRIEDEL, chairman of the Joint Committee on the Library, of which I am vice chairman this year.

The budgets of the Architect of the Capitol and the Librarian of Congress are both reviewed by the Subcommittee on Legislative Branch Appropriations of the Committee on Appropriations. The amendment would not involve any additional expenditures nor would it change the authority of the Architect in respect to structural, mechanical, and maintenance work on the Library's buildings and grounds. This amendment is designed only to simplify and make more economical the procedure by which furniture and equipment is acquired for the Library of Congress.

In reviewing the history of the authority of the Architect with respect to purchasing furniture and equipment for the Library, there appears to be no reason for this awkward arrangement. The annual budget estimates and justifications are prepared by the Library because only it knows its own special needs. Testimony at the hearings is also chiefly presented by the Librarian and his staff. Even the requisitions for the items authorized are prepared in the Library and are transmitted to the Architect's office for handling.

Congress would continue, of course, to have review over furniture and equipment requests made by the Library.

The Librarian of Congress and the Architect of the Capitol support this amendment.

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

The bill (S. 2278), to transfer from the Architect of the Capitol to the Librarian of Congress the authority to purchase office equipment and furniture for the Library of Congress, introduced by Mr. JORDAN of North Carolina, was received, read twice by its title, and referred to the Committee on Rules and Administration.

S. 2279—INTRODUCTION OF A BILL FOR THE ISSUANCE OF A SPECIAL SERIES OF POSTAGE STAMPS IN COMMEMORATION OF THE 100TH ANNIVERSARY OF THE BIRTH OF NEBRASKA NOVELIST WILLA CATHER

Mr. CURTIS. Mr. President, I am pleased to introduce a bill, for myself and Senator HRUSKA, to provide for the issuance of a series of postage stamps marking the centennial of novelist Willa Cather's birth.

I need not tell the Members of this distinguished body the importance that Miss Cather holds in American and world literature.

It is eminently appropriate both that her achievements be recognized by a commemorative stamp and that her Nebraska associations be recognized.

Therefore, the bill provides for first-day covers to be issued at Red Cloud, Nebr., where she spent her formative years and where she found the setting for many of her writings.

Miss Cather was born on December 7, 1873, near Winchester, Va. She moved with her family to Catherton Precinct in Webster County, Nebr., in April 1883. In September 1884 the family moved to Red Cloud and Miss Cather lived there and in Lincoln where she graduated from the Universtiy of Nebraska until June of 1896, when she went to Pittsburgh to edit a magazine.

She considered Nebraska her home, returning again and again to Red Cloud for long stays, although she lived in Nebraska continuously for only 13 years. Our State and our people were a primary and continuing inspiration for her work.

One renowned literary historian has written that the three most famous literary villages in America are the Concord of Emerson and Theoreau, Mark Twain's Hannibal, Mo.; and Willa Cather's Red Cloud, Nebr.

At Red Cloud the Willa Cather Pioneer Memorial and Educational Foundation has been established. Under the presidency of Mrs. Mildred R. Bennett, the foundation has moved a long way toward fulfilling its fourfold aim of housing a permanent art, literary, and historical collection relating to the life, times, and work of this famous novelist, identifying and restoring to their original condition places made famous by the writings of Miss Cather, providing a living memorial in the form of scholarships, and perpetuating interest throughout the world in the work of Miss Cather.

Thousands of people come to Red Cloud every year to visit the Willa Cather Museum, the restored Cather home and other historical sites connected with her work. In 1966 the western one-half of Webster County officially was designated "Catherland" and a marker dedicated by the Historical Landmark Council and the Cather Foundation was erected.

In letters to friends, and in talking with friends and reporters, Miss Cather stressed repeatedly that the prairies of Nebraska were her country. It was there that she grew up, received her education, wrote and published her first work and began her professional career. Before her name became established in the East she had become known as one of Nebraska's leading newspaper women and had become recognized throughout the West as an outstanding drama critic.

Her death on April 24, 1947, was not followed by a reduction in popular interest in Miss Cather's writing. Rather, her reputation and literary popularity has grown steadily, both in the United States and abroad. In England, all of her novels recently have been reprinted. Cather books are especially popular in France, Germany, Czechoslovakia, the Scandinavian countries, and Japan, I am told. Her work is studied widely in elementary schools, high schools and universities. She won a Pulitzer prize in 1923 for "One of Ours," an award from France in 1931, the Mark Twain Society Silver Medal for the most memorable and representative novel since 1900 for "My Antonia" in 1934 and the Gold Medal of the American Academy of Arts and Letters in 1944.

She was the first woman to receive an honorary degree from Princeton University. She also held honorary degrees from California, Creighton, Columbia, Michigan, Nebraska, Smith, and Yale.

The passage of this bill would pay tribute to the memory of perhaps the finest woman novelist that America has produced.

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

The bill (S. 2279) to provide for the issuance of a special series of postage stamps in commemoration of the 100th anniversary of the birth of the great Nebraska novelist, Willa Cather, introduced by Mr. CURTIS (for himself and Mr. HRUSKA), was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

S. 2280—INTRODUCTION OF A BILL TO AMEND SECTION 103(c) OF THE INTERNAL REVENUE CODE

Mr. BAKER. Mr. President, I introduce, for appropriate reference, a bill to amend section 103(c) of the Internal Revenue Code.

This amendment relates to the Federal income tax treatment of interest on industrial development bonds. The primary purposes of this proposal are to redefine the term "industrial development bond" as it appears in section 103(c) of the Internal Revenue Code, to alter the present 3-year before and after limitation on exempt $5 million industrial development bonds provided for by that section, and to require registration with the Securities and Exchange Commission only for those bonds defined as industrial development bonds under the Code.

Mr. President, during the 90th Congress a provision submitted by the distinguished junior Senator from Connecticut (Mr. RIBICOFF) revoking the tax exempt status of industrial development bonds was enacted and signed into law by President Johnson as section 107 of the Revenue and Expenditure Control Act of 1968. This measure originated by way of amendment on the Senate floor without the benefit of hearings in either House and was adopted after brief debate. Subsequent to adoption by the Senate of the Ribicoff amendment, a provision imposing the 10-percent surtax was also added to the same bill, and the attention of the Senate-House conferees, the other Members of Congress, and the country at large was naturally and appropriately focused on the all-important issues of the surtax and expenditure cut and not on the scope of the definition relating to industrial development bonds.

Many Members of Congress who supported the taxation of industrial development bonds later came to realize that, as a result of the cursory treatment given this subject, Congress had by means of the definition employed in the act gone much further than was ever intended. It became generally acknowledged that Congress had not only provided for the taxation of industrial development bonds but had also made a wholesale attack on numerous State and local obligations completely unrelated to industrial development. Chairman Wilbur Mills of the House Ways and Means Committee, stated this fact on the floor at the time of passage of the conference report and invited the National Governors Conference and others to provide corrective legislation.

Subsequently, the National Governors Conference; the National Association of Attorneys General; the National Association of State Auditors, Comptrollers and Treasurers; the Council of State Governments; the National League of Cities; the U.S. Conference of Mayors; the Municipal Finance Officers Association, and the National Institute of Municipal Law Officers did propose corrective legislation, and late in the second session of the 90th Congress I introduced an amendment to provide for a redefinition of the term "industrial development bond" in accordance with the common parlance of the investment and local government communities. I attempted to attach this provision as an amendment to a measure pending before the Senate on the day prior to adjournment. However, a number of Senators were of the opinion that before adopting corrective legislation, hearings should be held on this important question. Accordingly, I did not call up my amendment for a vote, but assurances were given on the Senate floor by the distinguished chairman of the Committee on Finance, the Senator from Louisiana (Mr. LONG), and by the ranking minority member of the committee, the distinguished Senator from Delaware (Mr. WILLIAMS), that if this matter were raised during the 91st Congress, the Finance Committee would study and hold hearings on this question.

The bill which I introduce today is essentially a revised version of the measure that I introduced late in the last session. Its purpose is to correct what most believe is clearly a distorted definition of the term "industrial development bond" as presently set forth in the statute.

I want to emphasize that this is in no way an attempt to allow a tax exemption for bonds to finance a true industrial facility under the terms of which a local government is serving substantially as a conduit for private borrowing for private persons. To the contrary, this bill would provide for the taxation of interest on such industrial facilities, but the definition of industrial bonds would be limited to those for industrial development and would not be, as is presently the case, so broad as to include bonds to finance facilities for many acknowledged and traditional State and local functions. The practical effect of the presently enacted definition is to include within that definition bonds for numerous State and local governmental purposes if the financed facility has private occupants paying to use it. Of course, there are an abundance of instances where traditional Government facilities serving a public purpose operate by means of a private business tenant. Such is the case, for example, with regard to bus and truck transportation terminals. But bonds to finance such terminals are presently covered by the statutory definition of "industrial development bond" if the governmental owner of the terminal collects rentals or other charges from the transportation company and applies the revenues to the payment of debt service on the bonds.

The present statutory provision also contains a subdivision entitled "Certain Exempted Activities" under which some bonds that are included within the industrial development bond definition nevertheless remain exempt if they are issued for certain stated activities. What the act does is set up a list of approved purposes labeled "exceptions." Bonds for these purposes remain exempt and those for all other State and local governmental purposes are, as I have said, taxable when private occupants pay to use the financed facilities.

By establishing this honor roll rating, the Congress purported to classify as "good" or "bad" many legitimate functions of State and local governments, rewarding "good" purposes with exemption and penalizing "bad" purposes with taxation. Among the "bad" purposes are such fundamental governmental functions as education and health care, which obviously are totally unrelated to the development of new industrial plants, but the interest on the facilities of which is taxable if they are maintained by private occupants.

The honor roll list of enacted exceptions presents substantial difficulties. For example, as originally passed by the Senate there was an exception for property "to provide entertainment—including sporting events—or recreational facilities for the general public." As provided for in the conference report, this provision applied only to sports facilities with the curious result that an exemption is currently provided for bonds to finance a stadium built for rental to a professional baseball team shopping for a more lucrative franchise, but no exemption is provided for a theater for lease to a company providing concerts and drama.

As another example, the exception in the present act for terminal facilities includes airports and piers for air and marine vehicles, but does not include terminals for land vehicles such as buses, trucks or railroads. Finally, facilities for education or health care are not among the listed exceptions in section 103(c)(4).

In my judgment, this type of continuing Federal regulation by the honor roll regulation of State and local governmental functions has no proper place in our federal system and accordingly should be abandoned.

The bill which I introduce would provide a general redefinition of "industrial development bond" in accordance with the generally accepted meaning of the term. The measure requires that some private person who is not an "exempt person" must be the apparent "beneficial obligor" and that the bond be issued to finance "industrial property" of "independent wholesale or retail property." "Industrial property" would be limited to its natural meaning of factorytype structures and equipment. It would not include facilities in factories for the abatement of air or water pollution, waste disposal, or other health or safety functions. "Industrial wholesale

or retail property" includes structures for shops as well as retail department stores and similar mercantile establishments. The definition of "exempt person" is retained from the present act and includes governmental units and educational, charitable, and other tax-exempt institutions.

The requirement of a private, taxable, "beneficial obligor" is critical. So long as the Congress does not propose to challenge the long-standing constitutional rule of the States and local governments' immunity from taxation of their obligations, the only basis for taxing any bonds issued by State or local governments is that they are the issuers' obligations in name only, that the issuer is disassociated from the obligation and from the facility financed, and the investor considers the private user as the true obligor.

The attributes of such a disassociation, as set forth in the amendment are, first, that the putative private obligor will be using the property financed under lease or other contractual arrangement which requires him to pay all or most of the funds needed to meet debt service on the obligations; and, second, that the putative private obligor and his contractual arrangement are identified in the bond agreement or in the offering prospectus, and his payments thereunder and/or the financed property are specifically pledged or mortgaged to secure the bonds.

In addition to the redefinition the bill also contains a proposed modification of a restriction in section 103(c)(6) of the Code relating to the $5 million exemption for certain industrial development obligations. As originally passed, the Ribicoff amendment provided for an exemption from taxation of interest on industrial obligations which do not exceed $1 million. The distinguished junior Senator from Nebraska (Mr. CURTIS) subsequently introduced as an amendment to the Renegotiation Amendments Act of 1968 a provision to increase this small issue exemption from $1 to $5 million. The Senate passed and the conferees accepted the $5 million exemption. However, the conference report contained certain restrictions, one of which specified that the $5 million ceiling should apply for a 6-year period beginning 3 years before the tax exempt bonds were issued and ending 3 years after they were issued. The 3-year period following issue means that a bond issue which originally is tax exempt can lose this status if the company later invests additional money which pushes total capital expenditures above the $5 million ceiling.

The result of the 3-year-after restriction has been, for all practical purposes, to prevent a State or local government from utilizing the $5 million ceiling. Naturally, no tax-exempt bond with low interest rate is marketable when the investor knows that the security might very well lose its tax exempt status if the company provides additional capital outlays and exceeds the $5 million ceiling.

The measure which I introduce would eliminate the 3-year limitation after an obligation is issued but would extend the limitation before issue to 5 years. Under the scope of this measure no more than $5 million in exempt securities for an industrial development facility could thus be issued in any 5-year period. The basic purpose of assisting only small businesses would be retained and the marketability of the obligations would be enhanced.

The final section of the bill which I introduce provides for a requirement of registration of State and local securities with the Securities and Exchange Commission only in such instances as the obligations are defined as industrial development bonds and taxable under the Internal Revenue Code. On January 31, 1968, the Commission established a registration requirement even though the Securities Act of 1933 and the Securities Exchange Act of 1934 specify that obligations of State governments and their local entities are exempt from registration. This bill provides that those obligations that are taxable under the Internal Revenue Code be registered with the Securities and Exchange Commission while those obligations that the Congress has specified are not taxable under the Code would not have to be registered. In my judgment, this would relieve an unwarranted and costly restriction that the Commission has imposed on State and local securities.

Mr. President, I recognize that over the past several years there has been some abuse in local industrial development bond financing. The bill which I introduce would require the taxation and registration of bonds for industrial development in cases of acknowledged abuse but would not include bonds issued for traditional State and local governmental functions. I strenuously object to any legislation which attempts to repeal outright the tax exemption on State and local bonds or to any legislation which penalizes or rewards the States and their local entities by taxation or exemption depending on whether the Federal Government approves or disapproves of the purpose for which the bond is issued. This method of classifying various bond issues as acceptable or unacceptable to the Federal Government is a dangerous development and an unwise precedent.

Mr. President, I sincerely hope that the Committee on Finance will, as the Chairman assured last fall, study and hold hearings on this important question. I am also hopeful that prompt and incisive action will be taken to achieve the result that Congress intended during the last session.

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

The bill (S. 2280) to amend section 103(c) of the Internal Revenue Code of 1954 relating to the income tax treatment of interest on industrial development bonds and for other purposes, introduced by Mr. BAKER, was received, read twice by its title and referred to the Committee on Finance.

S. 2283—INTRODUCTION OF THE EAST-WEST TRADE RELATIONS ACT OF 1969

Mr. MAGNUSON. Mr. President, I introduce, for appropriate reference, a bill to promote the foreign policy and security of the United States by providing authority to negotiate commercial agreements with Communist countries, and for other purposes, to be popularly known as the East-West Trade Relations Act of 1969.

Mr. President, this proposal is modest and conservative in substance, but of profound significance as a symbol of this Nation's commitment to the pursuit of peaceful and mutually beneficial international relations. It is at the same time a practical measure, dictated by commonsense, which will remove a senseless handicap which binds American businessmen in their competition for world markets.

The essential provisions of the act would restore to the President the authority to grant nondiscriminatory tariff treatment for the goods of those Communist countries willing to enter into commercial agreements providing basic protection for U.S. commercial interests. Such authority would however not extend to Communist China, North Korea, North Vietnam, Cuba, or the Soviet Zone of Germany. Moreover, the President would retain the authority to suspend or terminate the grant of nondiscriminatory tariff treatment, whenever he determines that suspension or termination is in the national interest.

The tariff restrictions which we placed upon our trade with the Soviet Union and Eastern Europe were the products of the agony and frustration of the cold war. They were a form of moral protest against the aggression of the Soviet Union in subjugating Eastern Europe. These tariff restrictions were also imposed in the vague hope that they would exert economic pressure on the Soviet Union, forcing it to abandon its aggressive behavior or suffer economic hardship as a consequence.

This policy has proved, for the most part, self-defeating. U.S. trade with Eastern Europe and the Soviet Union has indeed been reduced to insignificant levels. But there is little evidence that the economies of the Soviet Union and the Eastern European countries have been retarded by the absence of trade with the United States. Instead, the extraordinary growth and development of Western Europe and Japan as industrial giants and world traders has provided vast open markets to which the Communists could sell and from which they could buy freely and without discrimination.

In 1967 this steadily growing exchange produced $4.2 billion of exports from the industrial West to Eastern Europe and $4.5 billion of imports into the West—the U.S. share in this trade amounted to less than 5 percent, although the United States accounts for 16 percent of world exports.

Plainly our unilateral tariff barriers have not crippled East-West trade. Instead, we have simply abandoned a segment of international trade competition to our competitors in Western Europe and Japan. At a time when our balance of trade has suffered a serious decline, it is difficult to justify this arbitrary denial to American business of the right to engage in peaceful nonstrategic trade

with the Communist countries of Eastern Europe.

But commercial considerations are, necessarily, secondary. The principal reason for abandoning this self-imposed straitjacket, is that we are thereby inhibiting the ability of the President to take advantage of significant opportunities to influence the course of events in Eastern Europe.

For more than a decade we have witnessed growing internal ferment and the centrifugal forces of decentralization in Eastern Europe. Particularly in Czechoslovakia and Rumania, the decade has been marked by the persistent impulse to obtain economic and political independence from the Soviet Union. In Yugoslavia, where we removed our discrimination by tariff and moved wisely and judicially to provide free access to our nonstrategic goods and services, significant steps have been taken to eliminate central state controls over the economy and to establish a substantial measure of internal freedom.

We should be doing everything possible to encourage this trend toward a free market system. Yet while the Czech government struggled to liberalize its politics and its economy prior to the Russian military intervention, the United States was unable to offer any tangible assistance, at least in part because of the shackles placed upon the freedom of the President to facilitate trade in such circumstances.

Charles Bartlett in last Saturday's Washington Star noted that West Germany did seize upon the opportunity to expand trade with Czechoslovakia and that the Russian reaction to Czech liberalization may well have been touched off by fear of excessive West German involvement in the Czech economy—fear which might well have been offset if Czech trade had been more evenly parceled out among the countries of Western Europe and Japan and with the United States as a significant though not dominant trading partner.

Today as our negotiators meet in Paris and as the administration actively seeks means of reducing international tensions and of opening up peaceful and constructive contacts with the countries of the Communist world, I believe that the time is right for favorable congressional consideration of this legislation. By normalizing our trade relationships with the Communist countries, we hasten the day when they join in the world economic system and undertake the commitments now characteristic of the free and open economies which are susceptible to the stabilizing influences of economic interdependence.

By its terms alone this legislation will change no tariff nor affect our relations with any country. The President may choose not to exercise the authority which the act will restore. But he will be free, in the course of developing his foreign policy, to utilize the opportunity for expanded trade as an instrument of that foreign policy. The question ultimately comes down to this: Are we willing to trust the President to formulate commercial policies with respect to Communist countries which will advance as well as protect our national interest? The sponsors of this bill are willing to trust the President to do just that.

In 1966, together with the majority leader (Mr. MANSFIELD) and the Senator from New York (Mr. JAVITS), I introduced a bill identical with the one we are introducing today. I ask unanimous consent that the statements we made at that time be reprinted at the close of my remarks. In addition, I ask unanimous consent that the text of a letter by Secretary Rusk, together with the text of the act and summary of its provisions, be printed in the RECORD. Finally, I ask unanimous consent that a memorandum by the brilliant specialist in Soviet economics of the Library of Congress, Mr. Leon M. Herman, entitled "Current Trends and Prospectives in East and West Economic Relations" also be printed in the RECORD.

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

The bill (S. 2283), to promote the foreign policy and security of the United States by providing authority to negotiate commercial agreements with Communist countries, and for other purposes, introduced by Mr. MAGNUSON (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Finance.

The material presented by Mr. MAGNUSON follows:

STATEMENT OF SENATOR MONDALE

Mr. MONDALE. Mr. President, I am delighted to join as a co-sponsor with the Senator from Washington (Mr. MAGNUSON) in introducing to this Congress the East-West Trade Relations Act of 1969.

Enactment of this legislation is long overdue.

With the exception of Yugoslavia and Poland, Eastern European nations pay the prohibitively high Smoot-Hawley rates for their products. If Eastern sellers reduce their prices in order to overcome the tariff barrier, they are subject to the sanctions of Anti-Dumping legislation. The lack of Most-Favored-Nation treatment, a routine concession to most nations of the world, is a serious barrier to U.S. participation in East-West trade.

A high Romanian trade official told me last year that lack of Most-Favored-Nation treatment by the United States means that Romanian exports are directed to Western Europe, thereby limiting the potential for import of goods from the United States.

The Most-Favored-Nation clause has been gradually extended to most of the Eastern countries by a very large number of Western countries. Refusal to apply it may be regarded as an exception except in the case of the United States.

This bill gives the President the authority to extend Most-Favored-Nation tariff treatment to individual countries when this is determined to be in the national interest. The authority can be exercised only in a commercial agreement with a particular country and the granting of MFN would be in return for equivalent benefits to the United States.

In the past year I have heard a number of discussions on East-West trade. In the winter of 1968 I travelled to Western Europe and to Russia, Romania and Czechoslovakia. Last summer we had five days of hearings in the Subcommittee on International Finance to consider the general problems of East-West trade. Three weeks ago we had six days of hearings in the same Banking and Currency Subcommittee to discuss liberalization of the control of exports to Eastern Europe.

Every person I have listened to says one thing: that in order for the United States to have its share of the Eastern European market, trade must be conducted under normal conditions. Normal conditions include the Most-Favored-Nation trading status.

One witness in the most recent set of hearings described what the United States might buy from Eastern Europe if it were not for the high duty barriers. He listed raw materials, consumer goods, and technological processes. For example, the Russians have developed technological methods valuable to the steel industry, such as the continuous casting process and highly computerized operations for various metallurgical procedures.

Despite the high tariffs, some Eastern European products have been of commercial interest in the United States. The Russian film "War and Peace" won the Oscar as the best foreign film of 1968; the Czechoslovak film "Closely Watched Trains" won the same award in 1967.

It should be remembered that Russia is supplying the United States with a substantial portion of certain strategic raw materials without which American industries would be in considerable difficulty. The United States must rely on imports for a supply of platinum and chrome ore. We bring in several million dollars worth of platinum from Russia each year which serves many basic military and space industries. The metallurgical grade chrome consumed in the United States normally comes from two main sources: Rhodesia furnishes one-third, Russia one-third, and the balance from the rest of the world.

The importance of platinum and chrome ore to our industries is well known to the Russians. I think that some of those who worry about our "national interests" should note that Russia has continued to supply us when our demand is large because of the Vietnamese War while at the same time our supply is low as a result of the sanctions on trade with Rhodesia.

The statistics show how effectively U.S. tariff policy toward Eastern Europe has cut the United States' share of the market. Western European and Japanese firms have engaged in brisk trade with countries once considered by the outside world to be unreachable behind an Iron Curtain. American businesses now fear that West Europeans are so established in the market as to have literally closed the Americans out.

Total East-West trade in 1967 was over $15 billion, which means that the market grew by 24 per cent over 1966, a typical rate of growth. In 1966 the United States had 4 percent of this market; in 1967 the U.S. share of the market decreased between 2.5 and 3 percent of total East-West trade. Testimony at the recent International Finance Subcommittee hearings set the 1968 U.S. share of trade with Eastern Europe at 2.3 percent of the total.

If present trends continue, Eastern Europe by 1980 will have a market the same size as the United States' market today. From a business standpoint the United States cannot ignore Eastern Europe. We need to examine the relevancy of our trade policies—to events in Eastern Europe, to our payments problems, to the competitive position of American business, and to the positions taken by our allies concerning the United States Cold War stance.

Congress must enable the President to take actions indicating that our government believes increased East-West trade in peaceful goods to be in the best interests of the United States. Only then will we overcome the psychological barriers to such trade arising from an uncertain government policy. Only then will we begin to develop the type of economic ties and dependencies which can assure peace.

STATEMENT BY SENATOR MAGNUSON

Mr. MAGNUSON. Mr. President, Abraham Lincoln was greatly troubled by his inability to build bridges of friendship and understanding between North and South.

"I once knew a good, sound churchman, whom we'll call Brown," Lincoln was quoted, "who was on a committee to erect a bridge over a dangerous and rapid river. Architect after architect failed, and at last Brown said he had a friend named Jones who had built several bridges and could build this. 'Let's have him in,' said the committee. In came Jones. 'Can you build this bridge, sir?' 'Yes,' replied Jones, 'I could build a bridge to the infernal regions, if necessary.' The sober committee were horrified, but when Jones retired Brown thought it fair to defend his friend. 'I know Jones so well,' said he, 'and he is so honest a man and so good an architect that, if he states soberly and positively that he can build a bridge to Hades—why, I believe it. But I have my doubts about the abutments on the infernal side.' "So," Lincoln added, "when politicians said they could harmonize the Northern and Southern wings of the democracy, I believed them. But I had my doubts about the abutments on the Southern side."

So today we have our doubts about the "abutments" in Communist Eastern Europe. But we also have a President with the courage and the determination to build bridges of trade and understanding if it is possible to build them on a sound foundation.

Probably no piece of legislation in this Congress has less of a constituency, yet few bills can ever hope to rival this one in its potential for contributing to the peace and stability of the world in what is left of the 20th century.

But we cannot begin to realize the wisdom and propriety of the legislation until we see the Communist world as it exists today in actuality, not as it took shape in our fears of 10 or 20 or 30 years ago. Let us make no mistake about it: The Communist bloc will not crumble if we choose to withhold our trade. At $280 million, our total trade with the Warsaw Pact countries in 1965 was an insignificant fraction of the total free world trade of about $11 billion. There is little likelihood that trade with the bloc will ever reach proportions of strategic significance either to us or the Communists.

I recently received a complaint from a Washington citizen that we had sold quantities of "inedible tallow" to the Communists. She was concerned because the tallow could be used to produce glycerine—an ingredient of many explosives. But the simple fact of the matter is that a country capable of developing a hydrogen bomb and vast missile power—and a country which produces and exports great quantities of oil—from which glycerin is easily and economically extracted—does not need U.S. tallow to maintain its military might, any more than we need Soviet platinum to maintain our stockpile of strategic metals.

The President believes, and I share his belief, that a broad and continuing exchange of nonstrategic goods and technology between East and West raises the stake of the individual Eastern European countries in stable East-West relations and inevitably acts as a damper upon the appetite of the bloc for aggressive adventures.

Though peaceful and stable international relations are our primary goal, we cannot be unmindful of the vital role which exports can play in restoring our balance of payments. There is an enormous appetite for American goods and technology in Eastern Europe—an appetite limited only by the ability of some of the still underdeveloped economies to generate sufficient hard currency.

Again, by opening up sources of supply independent of the Soviet Union, increased East-West trade necessarily reduces the economic dependence of the smaller Eastern European countries upon the Soviet Union.

Expanded East-West trade also leads to greater contact and understanding of both Western peoples and the products of Western institutions. Because we are convinced that our economic and political institutions are best designed to satisfy the universal rising tide of expectations, we expect these contacts to stimulate the increasing economic liberalization of the internal economies of Eastern Europe.

There is ample evidence that we are not whistling in the dark. Each day brings to light new cracks and crevices in the Iron Curtain. Poland joins and lives up to the requirements of the Paris Convention for the protection of industrial property and applies for membership in GATT. Rumania criticizes the Soviet Union for interfering in the internal affairs of her neighbors—such as Rumania—and praises the United States for its liberal trade policies. Hungary withdraws its rigid bureaucratic planning from major exporting enterprises—replaces the "plan" with profit incentives—and gives the managers freedom to try their wings in a competitive market economy—at least for exports. Bulgaria—for long years standing with her back to the West—displays a new eagerness to increase trade and contact with the West.

The countries of Eastern Europe come seeking the tourist dollar: "Fly to Moscow" reads an ad in the New York Times, "and paint the town Red." An American soft drink bottling plant springs up on the Black Sea, and rock 'n' roll blares forth from state-controlled radio stations.

The largest Moscow department store succumbs to what I was about to describe as the Western "vice" of charge accounts. I believe that is an inappropriate word; I should say "Western practice" of charge accounts. If the Russians are succumbing to capitalism, they are succumbing to capitalism in the American way. The people's appetite for consumer goods grows and feeds on itself. Motorcycles and leather jackets—rather than Communist Party membership cards—become the status symbols among the young. We may be witnessing what some observers have called creeping capitalism.

And, ironically, there is probably no area in the world today where American commercial and economic prestige is as high as among the peoples of Eastern Europe.

What the President seeks in this legislation is not concessions to the Communists but tools with which to shape mutually advantageous trade relations. We have tied the President's hands and frustrated the development of a flexible policy in an area in which the President must be able to act flexibly if we are to forge a successful policy. With the authority contained in this bill, the President will be able to develop conditions for trade with each of the Communist countries on a country-by-country basis—responsive to the inevitable flux in Government policies and international relations. As Secretary Rusk indicates, this legislation would "strengthen, not weaken the President's authority to deal with the Communists."

The act in its principal substantive provision would authorize the President to use most-favored-nation tariff treatment as a bargaining point in negotiating commercial agreements with individual Communist countries. The importance of flexible authority to grant or withhold most-favored-nation status is well illustrated by a look at our recent trade relations with Rumania.

In June 1964 the United States reached a series of "understandings" with Rumania. The Rumanians have lived up to their side of those "understandings." Pursuant to the "understandings," Rumania has guaranteed the protection of patents and other industrial property; the Rumanians have entered into satisfactory arrangements with us for the settlement of financial claims. They have extended hospitality and freedom of movement to the American trade mission and to businessmen generally. They have expanded trade and tourist facilities, facilitated the exchange of trade exhibits and the publication of trade promotion materials and have upgraded our diplomatic presence in Rumania from a legation to a full-fledged embassy.

By August 1964 Rumania had granted amnesty to virtually all of her political prisoners—an estimated 11,000. She had put an end to jamming of Voice of America broad casts and had begun limited sales of Western newspapers. At the time of the "understandings," the U.S. delegation took note of the concern of the Rumanian delegation at the maintenance of the discriminating tariff wall. That wall still stands.

Today the duty on Rumanian caviar remains 30 percent higher than Iranian; the tariff on Rumanian cheese is 7 cents a pound—for its competitors, 5 cents a pound. On Rumanian glassware—both plateglass for industrial use, and tableware—the tariff is 60 percent while other countries bear only a 15- to 50-percent tariff.

"We are between the anvil and the hammer," says the Rumanians. "If we lower our prices sufficiently to overcome the tariff barrier, then we are accused of dumping."

Undoubtedly, the inability of the President to grant the most-favored-nation treatment to Rumania has greatly impaired the effectiveness of our efforts to assist Rumania in steering the independent course which she seeks for herself.

The Senate Commerce Committee has long maintained a deep interest in the development of mutually advantageous East-West trade relationships. Last fall the committee was represented by staff counsel who served as a consultant to the U.S. trade mission to Poland and Rumania—the first such mission sponsored by the U.S. Government—and at the invitation of the Department of Commerce, the committee will again be represented in October as the United States sends its first trade mission to Hungary and Bulgaria.

Mr. President, in his letter of transmittal, Secretary Rusk predicted that expanded East-West trade would produce a "growing understanding of the skills, opportunities, and earnings of free labor in the United States." The U.S. trade mission to Poland and Rumania last fall reported several instances which dramatize the growth of such understanding.

Mr. James O. Ellison, of San Francisco, for example, was the trade mission's machine tool expert.

I am told that no one who witnessed his electrifying tours through Rumanian and Polish factories could doubt the wisdom of promoting commercial contacts between American businessmen and their Communist counterparts. From the moment he crossed the threshold of a plant, it became evident that this man embodied that quality—American know-how—which the Europeans most covet. The Rumanian expression for know-how is know-how. Quietly, politely, not unlike a patient teacher, Jim Ellison would thread his way through each factory, pausing to acknowledge and praise that which was sound, but seeing with a comprehending eye and identifying those gaps which were the product of technological isolation.

At the Red Star truck plant in Brashov, Rumania, the technical director sought his advice on the possibility of licensing American technology to solve a persistent production problem. The plant had begun producing a high-speed engine which wore out its camshaft in 4 to 5 months. Ellison paused for a moment and then replied that they did not really need a license—the problem could be simply solved by redesigning the camshaft

with double, rather than single lobes, so that it need revolve only half as fast.

In the Nova Huta Works, near Krakow, Poland, the mission watched an American rolling mill smoothly and effortlessly turning out galvanized steel, while nearby a new piece of Russian equipment had broken down. I could give many other examples such as these.

In neither country could one tell where admiration for the American and his machines ended and where admiration for the economic and political system which produced them began.

I think it is high time that we take a step forward on this road toward better world understanding. As I have stated on so many occasions, legitimate trade, nonstrategic trade, is a tool for peace.

Mr. President, the Senate should know that the Senator from Montana [Mr. MANSFIELD] would be here this afternoon were he not confined to the Bethesda Naval Hospital with a slight touch of the flu. He has prepared a statement on the bill which he has asked me to make for him.

STATEMENT BY SENATOR MANSFIELD READ BY SENATOR MAGNUSON

Mr. MANSFIELD. Mr. President, I am about to introduce a bill which is reported to have been already consigned to the legislative junkheap. And, indeed, that may prove to be the case. At this point, certainly, there is far more reason than not to concur in the bleak journalistic forecasts of the future of the so-called East-West trade relations bill.

That is a most unfortunate situation especially since the measure has been requested by the President and asked for by the Secretary of State in letters to the Vice President and the Speaker of the House.

I do not suppose that in the great equations of peace and war a few million dollars of trade with Bulgaria or Rumania looks like a very urgent or major matter. In the rising flames of the Vietnamese conflict, it appears almost incongruous to put forth a legislative effort which has as its purpose the enlargement of commerce with some countries in Eastern Europe.

Nevertheless, the leadership is going to introduce this East-West trade relations bill. It will be introduced now because the President and the Secretary of State have asked for it. It will be introduced now because the majority leader welcomes an initiative along lines which he has believed desirable for many years. The measure will be introduced now because even the act of doing so or failing to do so does have some relevance to the great equations of peace and war. It will be introduced now, not in spite of the Vietnamese war, but, if anything, because of it.

Finally, Mr. President, the leadership will introduce this measure because it is an entirely proper vehicle for a hard legislative look at the incongruities and anachronisms which have long characterized the policies of the United States toward Eastern Europe. These barnacles on American commerce not only plague businessmen, they also hamper the diplomacy of the President and the Secretary of State in seeking to develop useful and peaceful relations with various nations in that region.

Whatever their original justification, certain of the conditions which we ourselves imposed on our commerce years ago and with which this act, in effect, is designed to deal have become self-defeating, often meaningless, and very costly to individual Americans and to the Nation as a whole. The measures were largely an expression of the fear, hostility, disgust, or whatever with which the United States greeted the appearance of certain systems of government and economics in Eastern Europe. They were in the nature, too, of reprisals for hostile acts against us. And they were, finally, vaguely designed to defend the West against communism from the East.

I think, by this time, it is clear that while many factors may be involved in determining the future of communism in Eastern Europe, the trade policies of the United States are at or near the bottom of the list in terms of significance. I would point out, in this connection that, for many years, we have had no trade to speak of with certain of the Eastern European countries but, at last report, they still had Communist governments. And the truth is that over the years we have had trade with Yugoslavia and Poland and even aid but, at last report, they, too, still had Communist governments.

Let us, therefore, if we are going into a consideration of this bill, go in with our eyes open. Let us not tilt with windmills. If past trade policies have had little significance for the future of communism in Eastern Europe one way or the other, it may be said that this bill does not have much significance either, one way or the other. I doubt that it will strike very much terror or very much joy in the hearts of the Communist purists of Eastern Europe.

The basic question in this bill, in short, is not what it will do to communism in Eastern Europe. The basic question is what this bill will do for the United States.

The bill has no automatic and direct effect on trade between Eastern Europe and the United States. Rather, the bill deals with the relationship of the President and the Congress in delineating the patterns of that trade. It gives the President substantially the same kind of control over U.S. commerce with the entire region of Eastern Europe that he now has by law over trade with Yugoslavia and Poland.

The bill says to the President, in effect, if opportunities present themselves to enlarge the trading relationship in peaceful goods with various Eastern European countries, go ahead and explore them. If the occasion arrives to promote better and more stable relations by adjustments in peaceful trade with these nations do not hesitate to take advantage of the occasion. In short, this act would authorize the President to use his judgment in setting certain rules and approaches for the conduct of trade with Eastern Europe. The passage of this act would make clear that the President is trusted by the Congress to act in this connection in the best interests of the United States.

Now, Mr. President, Congress has not hesitated to place an immense trust in the Presidency in matters involving war. It has done so in connection with Vietnam. And, indeed, in the matter of nuclear war we have, literally, entrusted the whole fate of the Nation and the world to the Presidency.

Yet, it is obvious that we tremble with mistrust, now, as an elephant before a mouse, when it is a question of entrusting to the Presidency certain very limited and highly circumscribed tools which may be useful to him in advancing the commercial interests of the United States. We tremble with mistrust at the possibility of a President, on his own, making a small contribution to the building of peaceful economic relations with a major area of the globe. And may I say, Mr. President, that that trembling in itself can have a far more adverse significance for the interests of the United States in the world than this bill could ever have, even in the wildest imagining of its misapplication by a President. How incongruous, indeed, is it to stand dauntless and courageous in support of the President in the war in Vietnam while suffering the pangs of terror, revulsion or suspicion at the prospect of the President seeking to promote a little more peaceful commercial relations with Bulgaria or Rumania or some such nation.

The irony, Mr. President, is that the cost of this reaction, the cost of this failure to face up to the implications of this proposed act falls heavily, not on others, but on citizens of this Nation.

If we refuse even to consider action on this measure in this session, we are putting off coming to grips with the incongruities and anachronisms of our present trade policies respecting Eastern Europe for that much longer. And these are damaging, not to Eastern Europe, but to the economy of the United States of America.

Here are some of the more flagrant indications of the distortions which result from these policies.

Does the Senate know that there is a basic list of strategic goods which allied countries join with us in more or less excluding from normal trade channels to Eastern Europe? Beyond this limited listing, however, anything goes and devil take the hindmost, who, in this instance, is guaranteed by our own trade policies to be the American trader. In these circumstances, it is not surprising that the Netherlands or Sweden do about the same amount of business with the Communist countries as does the United States. It is not surprising either that the total exports of Western Europe and Japan to the Communist countries amounted to $3.8 billion in 1965, while the total of U.S. exports to these countries added up to the grand total of $140 million.

Does the Senate know that our present restrictive trade policies do not deny Eastern Europe access to very many of the products of the ingenuity of modern industry? They tend, rather, to turn Eastern Europeans to Western European and Japanese sources rather than to the United States for these items. And let us not delude ourselves; they find them. Even insofar as choice and exclusive American nonstrategic products may be concerned, which we chooose not to ship to Eastern Europe, these may not necessarily be denied to Eastern Europe. At the end of my remarks, Mr. President, I shall insert an article from the Wall Street Journal which appeared in the May 10 issue and which shows in detail, Mr. President, how time and again American firms operate through Western European branches or other corporate arrangements in order to sell such products in Eastern Europe.

I do not blame the American businessmen. They are compelled to this course by the intense competition and the demands of modern world-scale business. Many are prepared to sell and ship from the United States directly to Eastern Europe, but for a variety of reasons are unable to do so. In short, Mr. President, the policies and attitudes on trade with Eastern Europe have now become a stimulus for American business to export investments and jobs to Western Europe and elsewhere.

The stigma for this state of affairs, I repeat, does not attach to business. It attaches to the Congress and the executive branch for the reluctance or inertia in facing up to the facts of a changed commercial world, especially in Europe. In this connection, I need not dwell at length on the Firestone fiasco of last year. You know the sorry circumstances which compelled that company to cancel an arrangement which it had made in good faith with the Rumanian Government. The Firestone Co. had encouragement and approval from the executive branch in its proposal to supply the technical resources for the construction of a synthetic rubber plant in Rumania. But in the end, the Firestone Co. was victimized for its efforts by a scurrilous private boycott which was set in motion here at home, according to some reports, with the encouragement of one of Firestone's competitors.

While on the subject of Rumania, I would point out, further, that the United States is obviously not that country's principal capitalist trading partner. But does the Senate know which country has the largest volume of trade with Communist Rumania

after the Soviet Union? Poland? Eastern Germany? Outer Mongolia? China, or some other Communist state? No, Mr. President, Rumania's second largest trade is now with Western Germany. Nevertheless, we still cling to the practice of sharp restriction on trade with Rumania—and, even worse, shift the trade signals uncertainly, as in the Firestone affair.

The Senate, Mr. President, has heard of the recent arrangement whereby Fiat of Italy contracted to build an entire automobile assembly plant in Russia and of the West German agreement to undertake to erect a whole steel complex in Communist China. These are only striking examples in the long list of spectacular trade arrangements whereby Western Europe and Japan are moving into expanding and advantageous economic relations with the nations of the Communist bloc.

I could go on, Mr. President, citing illustration after illustration in a similar vein. All serve merely to underscore the anomalies which arise from a vastly altered trading situation in Europe coupled with a substantially unaltered pattern of trade policies and attitudes on the part of the United States. The anomalies clearly affect in a most adverse fashion the commercial interests of American citizens.

But, in the end, Mr. President, we will not act or fail to act on this bill merely for the commercial advantages which may be involved. And that is as it should be. In the end, the larger international equations cannot be ignored, even in a minor bill of this kind. And in the larger equations, the fundamental factor, today, is Vietnam.

I said at the outset, Mr. President, that in my judgment, the tragedy of Vietnam is not a factor which argues against this measure but rather one which, if anything argues for it. I say that notwithstanding the fact that the nations which would be most constructively affected by this measure are sharply antagonistic to our policies in Vietnam. But they are not alone in that attitude. It would be an irresponsible self-immolation of this nation's commerce to require approval of Vietnamese policy as a basis for mutually advantageous commercial relations with nations elsewhere. And it is akin to that immolation to reject better commercial relations with nations where they can be but have not yet been established because those nations disapprove of these policies.

Far more important, however, than the limited increase in trade it promises to bring, is the great significance which attaches to this measure as a clear-cut act of peace in the midst of the blurred and bloody act of the Vietnamese war. It is a tangible affirmation of American words of peace which will rise above the cannonades of that conflict. It says, as no words can say, that peace and not war is what the United States wants. It says that the Congress of the United States trusts the President to pursue the one even as it upholds his hand in the other.

It is in that vein that I introduce the East-West Trade Relations Act at this time. I endorse fully the purpose of this bill and will support its enactment.

I say in all frankness, however, that the hope of action is dim, and I have no desire to stimulate false hopes. My purpose, today, is to bring the matter into the open. The questions which this bill raises should be faced. They ought not to be swept under a rug of indifference. They ought not to be obscured by the Vietnamese conflict.

It is my personal judgment that if we examine these questions, whether in the minute details of commercial value to individual American citizens and companies or in the vast context of the search for world peace, this proposed trade act has a part to play which serves the interests of the United States. I am persuaded, moreover, that the sooner this act is permitted to play that part, the better it will be for this nation and the world.

STATEMENT BY SENATOR JAVITS

Mr. JAVITS. Mr. President, with France, now dropping out of the NATO alliance, there is little chance of accomplishing such trade without some assistance. I have recently come back from service as a rapporteur of the NATO Conference. Things can be done now in Europe which could not be done before. One of the most important things is to have harmonious relations between East and West trade with our allies, Germany, Great Britain, the low countries, Italy, and our other allies. All of these allies sell infinitely more goods than we do to Central Europe.

Without this bill, we cannot do that, because with it we can do things we cannot otherwise do or agree to. We cannot deal with dumping, we cannot deal with patents, we cannot deal with offices in which sales can be made, we cannot deal with arbitration of commercial disagreements, and a dozen other things.

Therefore, Mr. President, I say that the things I have mentioned flag this as one of the most important bills before us. I have asked the Senator from Washington [Mr. MAGNUSON] if I could join as a sponsor of this bill.

Mr. President, I am grateful to the Senator from Washington [Mr. MAGNUSON], not only for introducing the bill, but for making the fine statement he has made. I think an esssential supplement to that statement, which is not mentioned in it, but is very important, is that this will form the basis by which we can at long last have a common policy with our allies of the Atlantic community with respect to East-West trade; and that common bond is just as important as is this bill, giving the necessary power to the President of the United States.

Mr. MCGOVERN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from South Dakota.

Mr. MCGOVERN. Mr. President, I should like to associate myself with the splendid statements by the Senator from Washington (Mr. MAGNUSON) and the Senator from New York (Mr. JAVITS), who has long been an advocate of greater East-West trade. I agree enthusiastically with what they have said. I think the President's message and his request on East-West trade represents the most constructive initiative for better international relations that has come to Congress this year.

In a sense, the Senator from New York has said we have been cutting off our noses to spite our faces by denying ourselves access to the very promising market in Eastern Europe. I hope that we cannot only give heed to the President's request with greater flexibility and more commonsense in this area, but that we can also make progress in the months ahead, toward resolving the stalemate that has made it difficult for us to carry on wheat sales to the Soviet Union.

CURRENT TRENDS AND PERSPECTIVES IN EAST-WEST ECONOMIC RELATIONS

(By Leon M. Herman, Senior Specialist in Soviet Economics, Apr. 24, 1969)

I. A BRIEF REVIEW OF RECENT TRADE RETURNS

A. *The Industrial West and the European East*

It is a well-known fact that the main component of the annual trade flow between the so-called "East" and "West", i.e. between the communist and non-communist countries around the world, is represented by the exchange between the Industrial West on the one hand and Eastern Europe on the other. It also so happens that the latter two groups of countries, respectively, make up the membership of OECD[1] and CEMA.[2] These 29 countries account for about one-half of the entire exchange of commodities between communist and non-communist countries in the world. In 1967, this steadily growing exchange came to: 4.2 billion dollars of exports from the Industrial West to Eastern Europe; 4.5 billion dollars of imports into the OECD countries.

The growth record of the commodity trade between the members of these two organizations show the following results: during the past 5 years (1962–67), the out-flow of merchandise from the OECD countries increased at the rate of 11.4 percent yearly. Imports into the same group of countries during the same period expanded at an even more rapid annual rate, namely 12.2 percent.

As growth rates go, this is an impressive performance indeed. By comparison, world trade as a whole during the same period grew in volume at an annual rate of 8.8 percent.

B. *The United States and Eastern Europe*

The United States at present ranks among the least active participants in East West trade. Our share in the $4 billion annual export by OECD to East Europe amounts to less than 5 percent. This is a far cry from our share in world exports, which measures some 16 percent.

The picture is even darker when we look at our position as an exporter of machinery to Eastern Europe. With an export figure of only $30.6 million, our share of that market for Western machinery comes to no more than 2 percent. As a machinery exporter on a world scale, however, our annual share comes to 25 percent of the market for Western machinery; in dollar terms, to 12 out of a total of 48 billion dollars in 1967.

TOTAL TRADE OF SELECTED INDUSTRIAL COUNTRIES WITH THE "EAST," 1967

[Dollar amounts in millions]

	Exports to all Communist countries		Imports from all Communist countries	
	Amount	Percent of total national export	Amount	Percent of total national imports
United States	$195	0.6	$180	0.7
United Kingdom	587	4.1	781	4.4
France	540	4.7	411	3.3
Japan	565	5.4	868	7.4
Italy	520	6.0	744	7.7
West Germany	1,465	6.6	1,060	5.9

Source: U.S. Department of Commerce.

II. OUR ECONOMIC POTENTIAL FOR TRADE WITH EASTERN EUROPE

For all that, most American businessmen agree that our prospects for gaining a substantial position in the machinery import markets of Eastern Europe are quite favorable. In this connection, they generally cite the following reasons:

In the first place, U.S. subsidiaries in Europe have, for some time, been successfully selling their manufactured products, largely capital goods, in the Eastern half of the continent. These products, moreover, are known to have earned for themselves a favorable reputation in that market. Although it is impossible to obtain a hard figure on the dollar value of all finished goods exported by U.S. subsidiary firms to the East, available estimates on the magnitude of that trade, recently worked out by the Department of State, show that in 1967 affiliates of U.S. firms in Europe sold a volume of commodities worth approximately $225 million. This outflow may be compared with $63 million of

[1] Organization for Economic Cooperation and Development, located in Paris.

[2] Council for Economic Mutual Assistance, located in Moscow.

direct U.S. exports of manufactured goods to Eastern Europe. These firms, incidentally, feel very strongly that they have been more than holding their own in the good fight to preserve the competitive position of our industry in East Europe, and that the least their government in Washington can do for them is to legitimize their constructive commercial activities.

Secondly, U.S. business firms with recent experience in selling machinery to the CEMA countries report that the USSR in particular is quite keen on establishing direct contact with American manufacturers on their home grounds. Thus, for example, when they buy a turn-key plant, they are most eager to see a comparable U.S. plant "in the flesh", so to speak, in its natural setting and under normal operating conditions. They are thoroughly persuaded that the combination of the ever-changing American machine technology and the innovative methods employed in the organization of production hold the key to their eventual attainment of U.S. levels of labor and capital productivity. These businessmen agree, furthermore, that the Soviet engineers who are engaged in the procurement of industrial machinery are unusually competent in their respective fields, and are sensitive to the difference between the highly research-intensive production equipment manufactured in the United States and its European counterpart. They also tend to prefer the relatively more massive scale on which production is organized and managed in the U.S. economy. They are, of course, not unaware of the management gap between Europe and the United States.

On this particular point, it is interesting to cite a speech made by Soviet Premier Kosygin in the city of Minsk several months ago. In one of the themes of his address, Mr. Kosygin urged the official planners to reduce the "lead time" at present consumed in developing technical innovation in industry. "At the present pace" he warned, "we may be left behind." He then proceeded to spell out the problem as follows:

"In capitalist countries, the monopolies (i.e. the giant corporations) are under pressure to conduct a keen battle for profits. They, therefore, tend to react speedily to consumer demand, turn out modern types of products, and search for the most rational forms of production organization and management."

From this observation, Kosygin proceeded to draw the conclusion that:

"It would be short-sighted on our part not to utilize the latest foreign scientific and technical achievements . . . We must make use of all the best new technology, utilize every opportunity to purchase licenses in order to accelerate technical progress in our economy."

There is also a third consideration that bears importantly on the outlook for future U.S. trade with East Europe. There is, as we know, an active official drive throughout the region to increase their capacity for earning hard currencies. One of the more publicized devices used for that purpose is to build resort hotels in the Western style as a way to attract Western tourists. Two such hotels are fairly close to completion in Budapest, both by American firms—Hilton and Inter-Continental. The latter company is also in the process of building hotels in Prague and Bucharest. These hotels, operated under Western management, are expected to attract a large body of tourists from the hard currency countries. In this total inflow, the share of dollar-spending tourists should be substantial. The normally close connection between the U.S. hotel managers and the operators of package tours, may be expected to keep East Europe well supplied with American tourists.

Nor does the pursuit of the tourist dollar stop at the hotel door. In late April 1969, the official Soviet Tourist agency made a surprise move and signed a contract with Hertz International. Under this contract, Hertz will provide management counselling and know-how to the Soviet car-rental facility, along with its world-wide reservation services, its experience and professional prestige. For its part, the Soviet tourist agency is looking forward to a larger volume of hard currency revenue.

On the basis of the above three considerations it is reasonable to deduce that any positive action taken on our part to align our trade policy with that of Western Europe could produce some tangible results in expanding two-way trade within the years ahead. Presumably, a level of exports equal to that of either France or Italy, i.e. in the neighborhood of $500 million, would not be an unrealistic expectation during the next three to five years.

III. THE SMALL COUNTRIES LEAD THE WAY

A. More active in trade

It is worthy of note that the small countries of Eastern Europe, rather than the Soviet Union, are clearly a leading factor in this two-way trade, especially in regard to their exchanges with Western Europe. The latest full returns available at this time show that between 1963 and 1967, the small East European countries doubled the annual value of their exports to partners in the Western half of the continent. In dollar figures, this steep rise in sales was from 1.5 to 3.0 billion rubles. On this score, in fact, they did far better than the USSR, which also increased its exports to Western Europe, by a margining of 50 percent. i.e., from 1.2 to 1.8 billion dollars.

EXPORT TRADE OF EASTERN EUROPE [COMECON]

[In millions of dollars]

	1963	1967	1967–63
Exports of the U.S.S.R.:			
To the world	7,270	9,650	132.7
To OECD	1,358	2,238	104.8
To OECD Europe [1]	1,210	1,820	150.4
Exports of rest of Eastern Europe:			
To the world	9,730	13,170	135.4
To OECD	2,093	3,268	156.1
To OECD Europe [1]	1,508	2,985	197.9
East Europe as percent of U.S.S.R.:			
To world	133.8	136.5	-------
To OECD	154.1	146.0	-------
To OECD Europe [1]	124.6	164.0	-------

[1] Including Finland and Yugoslavia.

Source: United Nations, "Monthly Bulletin of Statistics."

The above figures also help to underscore another important feature of this trade, namely that the smaller countries, as a group, are conspicuously more active in foreign trade than their giant neighbor. In the commodity exchange with Western Europe in 1967, for example, their export exceeded that of the USSR by 64 percent, despite the fact that they represent a total population of 103 million persons, as compared with 235 million for the Soviet Union.

B. Technical cooperation with Western firms

Within the recent past, a notable degree of disillusionment has come to surface in Eastern Europe with respect to the official policy of conspicuous production that has long been pursued in this region, largely under the influence of the USSR. Economic growth at the highest possible rate had become the overriding objective in production. As a result of this policy, a number of important values in modern production management have lost their force in East Europe. The economic authorities of the region now find, for example, that their enterprises have fallen behind the times with respect to prevailing techniques in management, in production organization, in quality control, marketing and customer service.

Yet, these countries are not without certain comparative advantages of their own in the production process. They work in many production areas with low costs in labor, energy, and materials. For that reason, in particular, they have been able to evoke a favorable interest on the part of a number of Western firms in developing various forms of technical cooperation at the enterprise level. In general, this type of arrangement provides for roughly the following division of labor: the Western firm supplies the capital equipment, the licenses and knowhow; the enterprise in the East provides the physical plant and the labor needed to organize the manufacturing process. The latter also often uses the finished product to repay for the imported equipment.

There are many variations of this basic pattern. Thus, for example, a truck (or a mining machine) will be assembled by a factory in East Europe on the basis of components supplied in part by a Western firm. The latter will supply, say, the diesel engine along with other precision components, while the less sophisticated parts will be produced at home. The final product will be sold in the countries (and regions) of the two partners as well as in third markets.

Another example of such technical cooperation may be presented by citing a recent contract under which the Swedish Company Alfa Laval filled a huge order for slaughterhouses to be installed in the Soviet Union, at the same time placing several sub-contracts with Polish factories.

By all accounts, these direct contacts with Western production units are highly regarded in the East. As a long-term proposition, they provide a valuable opportunity to counter-act some of the consequences of their prolonged isolation from the world industrial community. More immediately, they promise to raise the productivity of economic processes in the region by way of closer familiarity with standards attained in the West. To date, Hungary alone has reported to be engaged in 15 joint enterprises in Western Europe alone.

This new type of technical cooperation at the plant level is also reported to have a tangible pay-off in the sphere of human relations. They palpably help to build good will and trust among the participants despite existing ideological barriers. Gradually, according to U.S. business people with experience in this field, it is getting easier to dispel initial suspicions in the process of negotiations, and it takes less time to reach agreement on substantive commercial issues.

IV. THE APPEAL OF AUTOMOBILE OWNERSHIP IN THE EAST

Despite their control over all mass media, the authorities in East Europe have been unable to prevent the break-through of rising expectations among their own people. The urban elements of the population, first of all, are surprisingly well-informed about living conditions, styles, and tastes in the industrialized countries to the West. There is, therefore, very little these governments can do but to accommodate to the pressures for improved standards of consumption. It is obvious, for example, that the elite elements of the labor force, who have the kind of talents and skills that are most appreciated by the government, must in the near future be provided with the kind of incentive goods that bear some resemblance to those enjoyed by their counterparts abroad.

In this quest for a better life, the political leaders of the region have encountered their most vexing problem in regard to the automobile. Under their distinctive twin economic conditions of high production costs and low wage payments, the automobile is clearly too expensive a luxury item for the lean pocket-book of the average wage-earner. But the matter does not seem to end with such a simple calculation. Somehow, every one of these countries is plagued by a thriv-

ing black market in new and used cars, imported as well as domestic. Yet, to this day, they have been unable either to reduce the rising car fever among their citizens or to bring down the cost of mass producing the automobile.

This dilemma was recently discussed by the prominent Polish economist Pajestka. He came up with a calculation designed to show that a popular price automobile could be produced in Poland. He saw no reason why the price could not be brought down to some 40,000 zloty. An imported Fiat car now sells for 180,000 zloty.

What Mr. Pajestka liked about the price of 40,000 zloty is the fact that it came to "only" twenty times the current monthly wage of an average wage-earner in domestic industry. To apply his calculation to our own setting, expressed in terms of average industrial earning in the United States, this would be equivalent to a price of 10,000 dollars per mass-produced vehicle.

V. U.S. IMPORTS OF STRATEGIC COMMODITIES FROM THE EAST

If we examine our own trade statistics, we will find that machinery exports make up only 15 percent of all exports to that market as a whole. In our exports to the USSR specifically, this percentage figure rises somewhat, namely to 20 percent. In terms of dollars, machinery items accounted for 11.5 out of the total of $60.3 million exported in 1967.

This is the component that is generally considered to be most essential in terms of its economic value to the Soviet Union. What is generally overlooked, however, is that we import, on a regular basis, a substantial range of essential metals from the Soviet Union. These include: chrome ore, platinum, iridium, palladium, rhodium, and others. In 1967, the dollar value of these metals came to 21.4 million dollars or 52.1 percent of all imports from the USSR. In 1965, the comparable figure was $28.6 million, representing 67.2 percent of all imports from that country.

VI. OUR LIMITED OBJECTIVES IN THE SPHERE OF EAST-WEST TRADE

It should be quite clear by now to every well-informed citizen that the present proposals to relax our restrictions on trading with East Europe are modest in their nature. They do not call for a drastic departure from prevailing commercial practice in the rest of the Western World. On the contrary, they represent nothing more than a long overdue effort to bring our national trade policy in closer alignment with that of the West as a whole, including our traditional neighbor to the North (Canada) and our new neighbor across the Pacific (Japan).

We believe that the time has come for the Western community to resolve its differences in this policy area, and to work out a common approach to the matters at issue in trading with the CEMA countries. Such a concerted approach would not only generate a larger flow of trade, in both directions, but would also help to reduce to a minimum such political hazards as this trade may contain. We can assuredly more easily avoid such hazards together than separately. Moreover, if we succeed in working together toward an agreed purpose, we can eliminate some of the friction that breaks into the open from time to time over our conflicting trade policies toward the East. At this juncture, when other great international issues are clamoring for attention, we ought to try disengage ourselves from the dogmas of the past, from our reputation for negativism in this segment of world trade. We ought to be prepared to acknowledge the fact that the collective economic strength of the West is not in any immediate danger of being undermined by a more enterprising exchange of commodities with the East.

We should also make it clear to all concerned that it is not the intent of these proposals to use our economic strength for any negative political objective. We need to indicate plainly that we are interested in more trade for the positive benefits it can yield to both sides in the exchange. Our policy has no ulterior purpose in this regard. It is not our aim to expand trade in order to break up the Soviet-led alliance in Eastern Europe. We are aiming at a more active peaceful economic engagement with all the countries of the region, to the extent that they will respond, on the basis of the belief that continuing discussions and fruitful negotiations about our mutual economic requirements might prove to be a constructive alternative to the present barren climate of distrust, or worse yet, the periodic exchange of threats implicit in the endless accumulation of ever more deadly weapons of mass destruction.

EAST-WEST TRADE RELATIONS ACT OF 1966

LETTER OF TRANSMITTAL [1]

MAY 11, 1966.

DEAR MR. SPEAKER: At the direction of the President, I am sending to the Congress proposed legislation to provide the President with the authority necessary to negotiate commercial agreements with the Soviet Union and other nations of Eastern Europe to widen our trade in peaceful goods, when such agreements will serve the interests of the United States.

This authority is needed so that we may grasp opportunities that are opening up to us in our relations with the Soviet Union and the countries of Eastern Europe. It is needed, at a time when we are opposing Communist aggression in Viet-Nam, in order to carry forward the balanced strategy for peace which, under four Presidents, our country has been pursuing toward the Communist nations. It is needed to play our part with the NATO nations in reducing tensions and establishing normal and lasting peaceful relations between the West and East in Europe.

New opportunities

It is the normal and traditional practice of the United States to encourage peaceful trade with other countries—even those with which we have serious differences. Yet for nearly two decades, we have put major restrictions on our trade with the Soviet Union and Eastern Europe. We applied these restrictions only when the Soviet Union extended control over its Eastern European neighbors and embarked on a course of aggressive expansionism. They properly signified our moral protest against the subjugation of half a continent and gave our protest practical economic effect. Now, however, the hopes that guided our policy have begun to be realized.

In recent years, there have been substantial changes among the Communist nations, within themselves, and in their relations to the nations of Western Europe. Windows in Eastern Europe are being gradually opened to the winds of change. Most of the countries of Eastern Europe have shown signs of increasing independence in guiding their own economic and political courses. They have shown greater concern for the needs of their citizens as consumers. A growing trade in peaceful goods has sprung up between Eastern Europe and the Western world. The Soviet Union itself has recognized this need for more responsive action in its own country as well as in Eastern Europe.

This process of change is continuing. It presents growing opportunities for the United States and for the cause of freedom. But we are not now able to take full advantage of these opportunities. Our trade policies which once served our national interest no longer do so adequately.

What then is needed?

The weakness in our position is the outdated, inflexible requirement of law that we impose discriminatory tariffs on the import of goods from Communist countries. All imports from the Soviet Union and Eastern Europe, excepting Poland and Yugoslavia, are subject to the original rates of duty in the United States Tariff Act of 1930. The President has no authority to negotiate with any of these countries for the advantages that we can gain from offering them the more favorable rates that have been negotiated under reciprocal trade agreements over the last thirty years and that now apply to imports from all other nations with whom we trade. We alone of all the major Free World countries have so tied our hands.

The inability of the President to negotiate on this matter sharply reduces his power to use the great economic power of our trade as a bargaining instrument.

In the light of this situation, the President said in his 1965 State of the Union Message: [2]

"In Eastern Europe restless nations are slowly beginning to assert their identity. Your government, assisted by leaders in labor and business, is exploring ways to increase peaceful trade with these countries and with the Soviet Union. I will report our conclusions to the Congress."

Accordingly, to supplement the studies being made in the Government, on February 16, 1965, the President appointed a Special Committee on U.S. Trade Relations with Eastern European Countries and the Soviet Union under the Chairmanship of Mr. J. Irwin Miller. Each member was a widely respected and experienced leader from business, labor or the academic world.

The Special Committee made its report to the President on April 29, 1965.[3] That report provides a searching and balanced analysis of this complex and important subject. It deserves careful study by all citizens and members of the Congress interested in this subject and in this proposed legislation.

The Special Committee concluded that to accomplish our purposes in Eastern Europe we must be able to use our trade policies flexibly and purposefully. The Committee recommended, specifically, that the President should be given discretionary authority to negotiate commercial agreements with individual Communist countries when he determines any such agreement to be in the national interest and to grant them in such agreements the tariff treatment we apply to all our other trading partners.

The Administration agrees with this recommendation of the Special Committee and this is the principal authority asked in the proposed legislation.

Benefits of the legislation

We must consider the potential benefits and liabilities that may flow from enacting or failing to enact the proposed legislation.

There is abundant evidence that without the authority this legislation would provide, we are losing and will continue to lose significant opportunities to influence the course of events in Eastern Europe. By denying ourselves the ability to enter into meaningful commercial agreements with these nations, we deprive ourselves of the economic benefits that will come to us from increasing trade. More important, we deprive ourselves of a bargaining tool of considerable strength and utility. We unnecessarily limit our influence in Eastern Europe relative to the influence of other nations engaged in or opening wider trade there.

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[1] An identical letter was sent to the President of the Senate.

[2] For text, see Bulletin of Jan. 25, 1965, p. 94.

[3] See Bulletin of May 30, 1966, p. 845.

The enactment of the proposed legislation would not weaken or injure the position of the United States in any way. The legislation does not in itself make any grant or concession of any kind to the Soviet Union or any Eastern European country. It would not weaken our legislation, our policy or our controls on exports of strategic goods to Communist countries. Its sole effect would be to give the President added strength to negotiate with these Communist countries to obtain concessions and benefits that will serve the national interest of our country in return for granting the same tariff arrangements already available to other countries.

The benefits of the legislation could be numerous and valuable.

First, improving our trade relations with these countries would be profitable in itself. As their national economies turn more and more toward consumer needs and desires, they will become more attractive markets for our exports. We lead the world in the efficient production of goods which enrich the quality of everyday life. We can expect that new and increasing export opportunities will open up for American industry, American agriculture and American labor. While this trade potential may be modest for the foreseeable future in relation to total United States exports, it could, nevertheless, be significant over the years and of particular importance to American agriculture and to certain American industries.

Although any agreement with any individual nation will necessarily and properly open the way for increased sales of that nation's products to Americans who want to buy them, we have no reason to fear such trade. American industry is the most competitive in the world and thrives on the stimulus of competition.

Second, authority to relax tariff restrictions will give the President the ability to negotiate more effectively for any of several objectives important to the United States. These might include, for example, provisions for the settlement of commercial disputes, the facilitation of travel by United States citizens, the protection of United States copyrights, patents and other industrial property rights, assurances to prevent trade practices injurious to United States labor and industry, settlement of financial claims and lend-lease obligations, more satisfactory arrangements in cultural and information programs—and others of our economic, political and cultural objectives. These possibilities are of course only illustrative and it is improbable that all of them could be dealt with in a single agreement. We will need to test each negotiation for the gains to be made in it.

The Congress may be confident that no agreement will be made under this authority except in return for benefits of equal importance to the United States. Moreover, each agreement will include a provision for suspension or termination upon reasonable notice, so that the President may—and the Congress may be certain he would—suspend or end the obligations of the United States if he determined the other party were not carrying out its commitments.

Third, the most important benefits from any such agreements would develop more slowly. We cannot expect trade alone to change the basic nature of the Communist system in any Eastern European country nor to settle fundamental differences between us. We can, however, expect that the many close relationships normally growing out of trade will provide opportunities for influencing the development of their societies toward more internal freedom and peaceful relations with the free world.

A healthy growth of trade will help to reduce the present dependence of these Eastern European countries on each other and the Soviet Union. They will be encouraged to rebuild the friendly ties they have historically had with the West. Independent action will become more attractive and more feasible. The conclusion of an agreement with any of these countries will be an inducement to others to seek the same benefits.

The very nature of trade, the necessity to follow established rules of behavior, the increased contact with the West, the increasing use of Western goods, the growing appreciation of their quality and of the efficient methods of their manufacture, the growing understanding of the skills, opportunities and earnings of free labor in the United States and other Western nations, the greater exposure to the miracles of American agriculture—all these things could encourage increasing liberalization of the internal economies of the Eastern European nations.

The Soviet Union and other nations of Eastern Europe are increasingly conscious of their stake in stability and in improving peaceful relations with the outside world. Progress toward normal trade relations will increase that stake.

Under the terms of the proposed legislation, each agreement would be only one step in the process of reducing tensions. Agreements would not be of indefinite duration but would be subject to periodic review and to renewal at regular intervals. Each review could become a new opportunity for a useful dialogue with a Communist country. Each renewal could be adapted to encourage the further peaceful evolution of that individual country and the improvement of our relations with it.

There is wide and growing understanding throughout the country that improved conditions for peaceful trade with the Soviet Union and the countries of Eastern Europe would be in the national interest and should be a proper subject of negotiation with those countries. Many business, industrial and agricultural leaders and other expert witnesses who testified in the extensive hearings held on this subject by the Senate Foreign Relations Committee and the House Foreign Affairs Committee concluded that the United States could benefit from the possibility of wider peaceful trade with the Eastern European countries under proper safeguards. So too have a number of leading private organizations that have studied the problem.

To fulfill his Constitutional responsibilities for the conduct of our foreign policy in this complex era, the President must have available to him every appropriate bargaining tool. Nowhere is this need more critical than in our relations with the Communist countries. Granting this flexible authority to the President would not be a concession to the Communist world. Rather, it would give him a valuable instrument of foreign policy to be used where and when it will advance the interests of the United States.

Conducting a balanced strategy

In addition to the gains already stated which the proposed legislation can help to realize, it can be an important element in our balanced strategy for peace.

We are reaffirming in Viet-Nam—as we have on many earlier battlefields—our determination to aid free and independent nations to defend themselves from destruction by Communist aggression or subversion. But determined resistance to such force is only a part of our strategy to maintain a peaceful world.

It has equally been our purpose to demonstrate to the Communist countries that their best interests lie in seeking the well-being of their peoples through peaceful relations with the nations of the free world. We want the Soviet Union and the nations of Eastern Europe to understand that we will go step by step with them as far as they are willing to go in exploring every path toward enduring peace. We require only that our willingness and our actions be genuinely matched by theirs.

We are confident that this policy is sound even when we are fighting against Communist weapons in Viet-Nam. Indeed, it is when we are resisting force with force that it is most important to hold open every possible avenue to peace. We need to make unmistakably clear to all the Communist nations of Eastern Europe that their best interests lie in economic development and peaceful trade, not in support of futile attempts to gain advantage through the use of force.

The legislation

The proposed legislation contains five principal provisions.

The first states the purpose of the Act, particularly to use peaceful trade and related contacts with Communist countries to advance the long-range interests of the United States.

The second authorizes the President to enter into a commercial agreement with a Communist country when he determines it will promote the purposes of the Act, will be in the national interest and will result in benefits to the United States equivalent to those provided by the agreement to the other party.

The third states some of the benefits we may hope to gain in such agreement.

The fourth limits each agreement to an initial period of three years, renewable for three-year periods. It requires that each agreement provide for regular consultations on its operations and on relevant aspects of United States relations with the other country. It also requires that each agreement be subject to suspension or termination at any time on reasonable notice.

The fifth is the central provision recommended by the responsible groups studying this matter: the President would have authority to proclaim most-favored-nation treatment for the goods of Communist nations with which a commercial agreement is made under the Act. Such MFN treatment would continue only so long as the agreement is in effect.

The President would have the authority to suspend or terminate any proclamation made pursuant to this Act. The President should do so whenever he determines that the other party to the agreement is no longer fulfilling its obligations under the agreement, or that suspension or termination is in the national interest.

As part of his negotiating power with respect to a commercial agreement with the Soviet Union, the President would have authority to terminate the existing provisions of law excluding certain furs of Soviet origin.

The authority of the Act would not extend to Communist China, North Korea, North Viet-Nam, Cuba or the Soviet Zone of Germany.

The bill expressly provides that it does not modify or amend the Export Control Act or the Battle Act which together control the export of military articles and strategic goods and technology which would adversely affect the national security and welfare of the United States.

The bill does not change in any way existing laws and regulations prohibiting aid and limiting credit to Communist countries.

All agreements will be promptly transmitted to both Houses of Congress.

Conclusion

In 1958 President Eisenhower made it clear that "the United States favors the expansion of peaceful trade with the Soviet Union"[4] and spoke of the importance of trade

[4] For text of President Eisenhower's letter of July 14, 1958, to Soviet Premier Khrushchev, see Bulletin of Aug. 4, 1958, p. 200.

as a means of strengthening the possibilities for independent actions by the countries of Eastern Europe.

President Kennedy in his first State of the Union Message [5] declared his determination that "we must never forget our hopes for the ultimate freedom and welfare of the peoples of Eastern Europe."

In December, 1964, President Johnson expressed our wish "to build new bridges to Eastern Europe—bridges of ideas, education, culture, trade, technical cooperation and mutual understanding for world peace and prosperity." [6] In May of this year, the President again referred to the way in which "the intimate engagement of peaceful trade, over a period of time, can influence Eastern European societies to develop along paths that are favorable to world peace."

The authority asked in this legislation will help attain these goals.

In Greece, Berlin, Korea, Cuba, and, now, Viet-Nam we have tried to convince the Communist countries that the road of aggression and subversion has a dead end. This legislation will help us provide the positive counterpart to that lesson. It will give the President a vital instrument of negotiation to maintain essential balance in our relations with the Soviet Union and with the Communist countries of Eastern Europe and to respond to their growing desire and opportunity for wider contacts with the West. It will thereby serve our own interests and the cause of peace and stability.

Sincerely yours,

DEAN RUSK.

TEXT OF PROPOSED LEGISLATION

A bill to promote the foreign policy and security of the United States by providing authority to negotiate commercial agreements with Communist countries, and for other purposes

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

Short Title

SECTION 1. This Act may be cited as the "East-West Trade Relations Act of 1969."

Statement of Purposes

SEC. 2. The purposes of this Act are—

(a) to use peaceful trade and related contacts with Communist countries as a means of advancing the long-range interest of the United States in peace and freedom;

(b) to promote constructive relations with Communist countries, to contribute to international stability, and to provide a framework helpful to private United States firms conducting business relations with Communist state trading agencies by instituting regular government-to-government negotiations with individual Communist countries concerning commercial and other matters of mutual interest; and

(c) to increase peaceful trade and related contacts between the United States and Communist countries, and to expand markets for products of the United States in these countries by creating similar opportunities for the products of Communist countries to compete in United States markets on a nondiscriminatory basis.

Authority To Enter Into Commercial Agreements

SEC. 3. The President may make a commercial agreement with a Communist country providing most-favored-nation treatment to the products of that country whenever he determines that such agreement—

(a) will promote the purposes of this Act,

(b) is in the national interest, and

(c) will result in benefits to the United States equivalent to those provided by the agreement to the other party.

[5] For text, see *ibid.*, Jan. 13, 1961, p. 207.

[6] For text, see *ibid.*, Dec. 21, 1964, p. 876.

Benefits To Be Provided by Commercial Agreements

SEC. 4. The benefits to the United States to be obtained in or in conjunction with a commercial agreement made under this Act may be of the following kind, but need not be restricted thereto:

(a) satisfactory arrangements for the protection of industrial rights and processes;

(b) satisfactory arrangements for the settlement of commercial differences and disputes;

(c) arrangements for establishment or expansion of United States trade and tourist promotion offices, for facilitation of such efforts as the trade promotion activities of United States commercial officers, participation in trade fairs and exhibits, the sending of trade missions, and for facilitation of entry and travel of commercial representatives as necessary;

(d) most-favored-nation treatment with respect to duties or other restrictions on the imports of the products of the United States, and other arrangements that may secure market access and assure fair treatment for products of the United States; or

(e) satisfactory arrangements covering other matters affecting relations between the United States and the country concerned, such as the settlement of financial and property claims and the improvement of consular relations.

Provisions To Be Included in Commercial Agreements

SEC. 5. A commercial agreement made under this Act shall—

(a) be limited to an initial period specified in the agreement which shall be no more than three years from the time the agreement becomes effective;

(b) be subject to suspension or termination at any time upon reasonable notice;

(c) provide for consultations at regular intervals for the purpose of reviewing the operation of the agreement and relevant aspects of relations between the United States and the other party; and

(d) be renewable for additional periods, each not to exceed three years.

Extension of Benefits of Most-Favored-Nation Treatment

SEC. 6. (a) In order to carry out a commercial agreement made under this Act and notwithstanding the provisions of any other law, the President may by proclamation extend most-favored-nation treatment to the products of the foreign country entering into such commercial agreement: *Provided, That* the application of most-favored-nation treatment shall be limited to the period of effectiveness of such commercial agreement.

(b) The President may at any time suspend or terminate any proclamation issued under subsection (a). The President shall suspend or terminate such proclamation whenever he determines that—

(1) the other party to a commercial agreement made under this Act is no longer fulfilling its obligations under the agreement; or

(2) the suspension or termination of the agreement is in the national interest.

Advice From Government Agencies and Other Sources

SEC. 7. Before making a commercial agreement under this Act, the President shall seek information and advice with respect to such agreement from the interested Departments and agencies of the United States Government, from interested private persons, and from such other sources as he may deem appropriate.

Transmission of Reports to Congress

SEC. 8. The President shall submit to the Congress an annual report on the commercial agreements program instituted under this Act. Such report shall include information regarding negotiations, benefits obtained as a result of commercial agreements, the texts of any such agreements, and other information relating to the program.

Limitation on Authority

SEC. 9. The authority conferred by this Act shall not be used to extend most-favored-nation treatment to the products of areas dominated or controlled by the Communist regimes of China, North Viet-Nam, North Korea, Cuba, or the Soviet Zone of Germany.

Relation to Other Laws

SEC. 10. (a) This Act shall not apply to any agreement made with a country whose products are receiving, when such agreement is made, the benefits of trade agreement concessions extended in accordance with section 231(b) of the Trade Expansion Act of 1962 (19 U.S.C. sec. 1861(b)).

(b) Nothing in this Act shall be deemed to modify or amend the Export Control Act of 1949 (50 U.S.C. App. sec. 2021 *et seq.*) or the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. sec. 1611 *et seq.*).

(c) The President may by proclamation terminate headnote 4 to schedule 1, part 5, subpart B of the Tariff Schedules of the United States (77A Stat. 32, 19 U.S.C. sec. 1202) with respect to the products of any country to which it is applicable upon the entry into force of a commercial agreement made under this Act with such country.

(d) Any commercial agreement made under this Act shall be deemed a trade agreement for the purposes of title III of the Trade Expansion Act of 1962 (19 U.S.C. sec. 1901 *et seq.*).

(e) The portion of general headnote 3(e) to the Tariff Schedules of the United States that precedes the list of countries and areas (77A Stat. 11; 70 Stat. 1022) is amended to read as follows:

"(e) *Products of Communist Countries.* Notwithstanding any of the foregoing provisions of this headnote, the rates of duty shown in column numbered 2 shall apply to products, whether imported directly or indirectly, of the countries and areas that have been specified in section 401 of the Tariff Classification Act of 1962, in sections 231 and 257(e)(2) of the Trade Expansion Act of 1962, or in actions taken by the President thereunder and as to which there is not in effect a proclamation under section 6(a) of the East-West Trade Relations Act of 1966. These countries and areas are:"

SUMMARY OF PROPOSED EAST-WEST TRADE RELATIONS ACT OF 1966

(NOTE.—Following are a summary and analysis of the principal features of the proposed East-West Trade Relations Act of 1966, which has been prepared in the Department to provide information on the main effects the legislation would have.)

Summary

The proposed East-West Trade Relations Act would give the President authority to use trade with Eastern European countries and the Soviet Union as a flexible tool in the conduct of relations with these countries. As a companion to existing provisions of law which use the negative power of trade denial—the Export Control Act, the Battle Act, and restrictive provisions of other laws—the East-West Trade Relations Act would equip the President to use the positive aspects of trade to serve our national objectives.

The major substantive provision would be authority to extend most-favored-nation (MFN) tariff treatment to certain individual Communist countries when this is determined to be in the national interest. The authority could be exercised only in a commercial agreement with a particular country in which such MFN treatment would be granted in return for equivalent benefits to the United States. MFN treatment for the products of any country would stay in effect

only as long as the commercial agreement with that country would be in effect.

The purpose of these commercial agreements would be both to facilitate individual business transactions and to afford the United States Government an opportunity to deal with individual Communist countries on a variety of matters in the context of periodic trade negotiations. Agreements made pursuant to the act would set the framework for trade, but the trade itself—both exports and imports—would depend on decisions of individual firms.

Analysis of principal features

Statement of Purposes

The stated purposes of the proposed act are to use trade with Communist countries as a means of advancing the national interests of the United States, to provide a framework for U.S. firms to conduct business with Communist state trading agencies, and to expand markets for U.S. products in those countries by giving their products an opportunity to compete in U.S. markets on a nondiscriminatory basis.

MFN Trade Treatment

The act would give the President authority to use most-favored-nation treatment as a bargaining instrument in negotiating commercial agreements with individual Communist countries. The authority to conclude agreements could be exercised only upon a determination by the President that an agreement with a particular country would promote the purposes of the act, would be in the national interest, and would result in benefits to the United States equivalent to those provided by the agreement to the other country. The act would not permit negotiation of individual tariffs. It would not permit negotiating or granting of tariff rates lower than those agreed on an MFN basis and set out in column 1 of the Tariff Schedules.

Exchange of Benefits

Commercial agreements under the act would be made only on the basis of exchange of benefits. The proposed act sets forth by way of illustration a number of benefits that might be obtained by the United States in exchange for most-favored-nation trade treatment. Among the possible benefits are arrangements for protection of industrial property, settlement of commercial disputes, promotion of trade and tourism, trade fairs, trade missions, entry and travel of commercial representatives, most-favored-nation treatment for United States products, other arrangements to secure market access and assure fair treatment for United States products, improvement of consular relations, and settlement of claims. Agreements authorized by the act would provide for regular consultations. Such periodic review and confrontation procedures could cover not only commercial matters but also relevant aspects of overall relations between the United States and the other country.

Safeguards

The act would provide that before the President would enter into any agreement under the act, he should seek information with respect to it from all of the United States Government agencies concerned, interested private persons, and other appropriate sources. Since the act would not authorize negotiation on individual tariffs and would not authorize reductions in tariffs below the prevailing most-favored-nation rates, there is no special provision for prenegotiation procedures. However, the procedures for adjustment assistance and escape-clause relief set forth in the Trade Expansion Act would be applicable in the case of articles imported in increased quantities as a result of most-favored-nation tariff treatment extended to a country in accordance with an agreement pursuant to the act. Antidumping laws and all other laws for the protection of United States industry, agriculture, and labor would remain in full effect. In addition, problems of interest to American businessmen could be dealt with under the consultation procedures or in the periodic negotiations to be provided for in agreements under the act.

Any initial agreement would be limited to 3 years and could be renewed for periods not to exceed 3 years each. Any agreement could be suspended or terminated at any time on reasonable notice. MFN would apply only while an agreement was in effect. The President would be directed to suspend or terminate MFN whenever he determined that the other party was no longer fulfilling its obligations under the agreement or that the suspension or termination was in the national interest.

Countries Covered by the Act

The act would apply with regard to Communist countries *except* Cuba, Communist China, North Korea, and North Viet-Nam, and the Soviet Zone of Germany. Existing law and regulations will assure that no benefits of the act will be made available to these countries.

Poland and Yugoslavia now receive most-favored-nation treatment under section 231 (b) of the Trade Expansion Act, and they could continue to do so.

Relation to Other Laws

The act would provide that the President could terminate the prohibition on the import of furs from the Soviet Union if an agreement with that country is concluded pursuant to the act.

The act would not disturb the Battle Act, the Export Control Act, or regulations thereunder. Thus, controls on strategic exports would remain in effect, and there would be a continued prohibition on aid to any of the Communist countries concerned.

S. 2284—INTRODUCTION OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Mr. WILLIAMS of New Jersey. Mr. President, the Subcommittee on Labor has now concluded 9 days of hearings on coal mine health and safety legislation. Seven bills have already been introduced. In addition to myself, the ranking majority and minority members of the subcommittee, Senators RANDOLPH and JAVITS have introduced bills. As chairman of the subcommittee I wish to thank them for bringing the views reflected in the various bills to the subcommittee's attention. I also wish to thank the hard-working members of the subcommittee. They have attended the hearings and through their perceptive questions helped to develop the useful record documenting the health and safety hazards facing the Nation's coal miners.

I have now carefully studied the testimony before the subcommittee and the extensive record of hearings. I have reflected on all we have learned from the subcommittee's field trips to coal mines. I have also reviewed the seven bills now pending before the subcommittee. Each of these bills contain provisions which are sound. However, there are also, in my judgment, deficiencies in each of the bills, including the two bills, S. 1094, and S. 1178, which I have previously introduced.

As chairman, I was prepared to lay before the subcommittee for its executive consideration, a committee print embodying those provisions which, in my judgment, would provide the greatest possible protection to the coal miners' health and safety. However, because of the interest and concern in this important public question, and because of my desire to be able to obtain the views of all those concerned, including the industry, the coal miners and the relevant Government agencies, I have prepared and now introduce a bill which, I believe, embodies those provisions offering the greatest protection to our men in the coal mines. The bill, which recognizes and protects the basic rights of the miners and reflects the judgment that health and safety are primary considerations, will be submitted to the industry, the United Mine Workers of America, the Department of the Interior, the Surgeon General and other interested parties for their suggestions for improvement and strengthening provisions.

This bill reflects 10 major points, most of which are based on the various bills already introduced, or on matters brought to light during the hearing. In brief, my bill, which I shall submit to the subcommittee as the legislative vehicle for subcommittee consideration, will do the following:

First. Three milligram per cubic meter coal dust level: My proposal provides, effective 6 months after enactment, for an interim mandatory coal dust level of no greater than 3.0 milligrams of coal dust per cubic meter of air. This bill will also require the Surgeon General to promulgate, in as timely a manner as possible, lower standards to offer even greater protection against pneumoconiosis to our miners, and ultimately, complete prevention of this dreadful disease. The bill reflects the testimony of the Nation's highest medical officer, U.S. Surgeon General, William H. Stewart. According to Dr. Stewart's testimony before the subcommittee, not only is a 3.0 level attainable, not only is it preferable from a medical standpoint because the health of the coal miner is better protected, but "ideally" he would "recommend no dust."

Second. Health standards set by Surgeon General: The bill assigns responsibility to the U.S. Surgeon General for, first, establishing lower dust levels, second, approving the type of respirator device and its use, and third, conducting annual medical examinations. The United Mine Workers of America, as well as every doctor and medical group, small coal mine operator, and rank and file miner who directed attention to this question for the record, agrees that such health matters should be assigned to the Surgeon General for final decision, rather than to the Secretary of Interior. The Secretary of Interior will be responsible for enforcing the standards set by the Surgeon General and for approving the devices for measuring the dust level.

Third. Gassy mines: The bill will end the unwarranted distinction, in current law, between so-called gassy and nongassy mines. In recognition of the Department of Interior's persuasive position that all coal mines are potentially gassy, this bill would require all mines to use equipment which is constructed and maintained in a permissible manner.

My proposal will have the effect of closing two major loopholes in the current law. First, under the current law,

85 percent of the mines are classified as nongassy in this country and are permitted to use potentially dangerous equipment, equipment which may release the sparks which can cause disastrous ignition. Indeed, there have been 52 such ignitions in so-called nongassy mines causing death to 27 miners. Second, by eliminating the existing grandfather clause, the bill will close the loophole which allows 37 large, gassy mines, each of which produce more than 1 million tons of coal annually, to use 541 pieces of nonpermissible equipment right at the coal face, the most dangerous spot in the mine.

Fourth. Abolition of the existing Board of Review: The existing Coal Mine Safety Board of Review will be abolished. Appeal from an inspector's order will lie to the Secretary of Interior whose decision will be subject to judicial review.

The current Board is by law composed of two representatives of coal mine operators, one large mine operator—15 or more employees and one small mine operator—14 or fewer employees—two representatives of coal mine employees, one representing employes in large mines, one representing employees in small mines, and one chairman, the most recent chairman having been a former vice-president of Consolidation Coal Co. This Board has the power to veto the health and safety enforcement orders of both Federal and State authorities.

One of the Nation's foremost authorities on administrative practice and procedure, Louis L. Jaffe, Byrne professor of administrative law at Harvard University's Law School, has stated:

> The Board is a very questionable device. What is needed here is a vigorous and coordinated administrative attack on the problem. This means that the ultimate authority should be in a disinterested public officer of high standing and caliber.

Professor Jaffe could "see very little warrant for placing over" the Secretary of Interior "an appeal to a board constituted of industry representatives whether employer or employee. The only seeming purpose of such a device would be to water down the Secretary's judgment by considerations of expediency having little to do with health."

Professor Jaffe continued:

> The process precisely inverts what should be the proper sequence. There might be some warrant for an initial industry judgment prior to a final decision by the public officer, but it is difficult to see what legitimate interest is served by subjecting the Secretary's judgment to the final decision of an industry board.

Fifth. Health and safety research and research trust fund: The bill calls for greatly increased research in health and safety by the Secretary of Interior with special attention to research in roof control to prevent one of the greatest hazards in coal mining. The bill also directs the Secretary of the Interior to assess producers and importers an amount, beginning at 1 cent per ton and increasing to 4 cents per ton over a 4-year period, to be earmarked for health and safety research.

When the subcommittee visited a mine referred to as one of the best in the country, I was struck by the incongruous, relatively primitive state of the art of coal mine health and safety. I cannot believe that a Nation, which fortunately has enough technical capability to bring two men within 10 miles of the moon and back safely, cannot produce the technical competence to send men a few hundred feet into the earth and bring them back safely. I cannot believe that this Nation which can see and hear the activities in outer space and below the ocean, which has the technical equipment to detect earth tremors and underground nuclear explosions thousands of miles away, cannot produce a more modern and safe method of detecting unsound mine roof conditions than the tapping of a miner's pick on the roof of a mine.

The problem lies not in the lack of technical competence but in the lack of will to invest in health and safety; while we have been willing to spend money on developing techniques to increase production, we have not been willing to spend money to apply known safety techniques and to improve them for even greater safety.

In the past 16 years, according to Secretary of Interior Hickel, the coal industry has spent $195 million on research and development. Though figures were not available, he estimated that less than $15 million was spent by the industry on health and safety research. During that same period of time, the Department of the Interior has spent $188 million of the taxpayers' money for research and development in coal mining, only $20 million of which went into health and safety research. And of that $20 million $5 million went, not for development of new protective measures, but for the testing of permissible equipment.

It is late, but not too late, for our funds to be used to save the lives of our men in the mines.

Sixth. Limitations on the granting of temporary relief: This bill will prohibit both the Secretary and the courts from temporarily allowing a closed mine to open if the mine was closed because of an imminent danger. If the mine was closed because of a violation which does not constitute an imminent danger, the Secretary and the courts may grant temporary relief but only if the mine operator can demonstrate that opening the mine will not affect the health or safety of any person who may enter the mine, and that he is likely to succeed in demonstrating that the inspector erroneously ordered the mine closed.

Seventh. Employee complaints and right of appeal: Employees who believe that an imminent danger exists or that a health or safety standard is being violated may complain to the Secretary. Furthermore, they are given the same rights to appeal as the operators have, respecting the decision of either an inspector, the Secretary, or a court.

Eighth. Inspections: The bill, although providing for cooperation between the Federal and State agencies, discontinues the right of a State mine inspector to veto the decision of the Federal inspector.

Ninth. Liability for violations: Since the basic business judgments which dictate the method of operation of a coal mine are made directly or indirectly by persons at various levels of corporate structure, this bill will place the responsibility for compliance with the act and the regulations, as well as the liability for violations on those who own, control, or lease coal mines as well as on those who operate them.

Tenth. Penalties: Both civil and criminal penalties are provided with criminal penalties attaching to willful violations. Fines up to $50,000 and imprisonment for between 1 and 5 years are prescribed for any individual corporate director, officer or employee who is responsible for the criminal conduct. Fines up to $50,000 are also prescribed for the corporate entity.

In addition to these 10 major points, the bill directs the Secretary of Interior, generally and the Surgeon General, with regard to dust level and respirators, to promulgate additional or revised standards to provide the greatest possible protection to the health and safety of miners. My proposal also concerns itself with numerous other important health and safety matters. Without being exhaustive, some of them are, first, a prohibition against granting operators extensions of time in which to install safe, permissible equipment, second, a requirement that the most effective self-rescuers be made available to all coal miners, third, the use of brakes on all cars, not just locomotives, fourth, the requirement of rescue chambers, and fifth, the payment of salary to miners who are withdrawn from the mines because of an operator's violations.

I believe the bill I am introducing today, of all the bills introduced so far, offers the strongest, most effective approach by which to achieve meaningful, long overdue, healthful and safe underground working conditions for the Nation's coal miners. I would be the last to contend that my bill provides a perfect health and safety bill of rights for the men who go down in our mines. The bill can be further improved and I intend to consider carefully, and include for the public record, all ideas and suggestions serving that objective. I particularly welcome comment from knowledgeable technicians to insure that no weakening of the safety provisions occurs by inadvertence.

Mr. President, I recognize that some of these basic policies will require the industry to undertake new expenditures. However, we, the Congress, cannot permit any person to profit at the expense of our miners' health and safety. Indeed, the coal industry spokesman, Mr. Stephen F. Dunn, president, of the National Coal Association, in testifying before the Subcommittee on Labor, stated:

> The industry does not believe profits should be put ahead of the health and safety of mine workers.

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

The bill (S. 2285), to improve the health and safety conditions of persons working in the coal mining industry of the United States, introduced by Mr. WILLIAMS of New Jersey, was received, read twice by its title and referred to the Committee on Labor and Public Welfare.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

Mr. MUSKIE. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from California (Mr. MURPHY) be added as a cosponsor of the bill (S. 7), to amend the Federal Water Pollution Control Act, as amended, and for other purposes.

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

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the bill (S. 1591) to establish an American Folklife Foundation, and for other purposes.

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

Mr. MANSFIELD. Mr. President, at the request of the Senator from Washington (Mr. JACKSON), I ask unanimous consent that, at its next printing, the name of the Senator from Georgia (Mr. TALMADGE) be added as a cosponsor of the bill (S. 1708) to amend title I of the Land and Water Conservation Fund Act of 1965 (78 Stat. 987), and for other purposes.

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

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Washington (Mr. JACKSON), I ask unanimous consent that, at its next printing, the names of the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Texas (Mr. YARBOROUGH) be added as cosponsors of the bill (S. 1708), to amend title I of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), and for other purposes.

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

Mr. SCOTT. Mr. President, at the request of the Senator from Oregon (Mr. HATFIELD), I ask unanimous consent that, at its next printing, the name of the Senator from Alaska (Mr. GRAVEL) be added as a cosponsor of the bill (S. 1801) to establish the Federal Medical Evaluations Board to carry out the functions, powers, and duties of the Secretary of Health, Education, and Welfare relating to the regulation of biological products, medical devices, and drugs, and for other purposes.

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

Mr. MANSFIELD. Mr. President, at the request of the Senator from Washington (Mr. JACKSON), I ask unanimous consent that, at its next printing, the names of the Senator from Texas (Mr. YARBOROUGH), and the Senator from Texas (Mr. TOWER) be added as cosponsors of the bill (S. 2000), to establish the Lyndon B. Johnson National Historic Site.

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

Mr. EAGLETON. Mr. President, I ask unanimous consent that, at its next printing, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. MAGNUSON), the Senator from Indiana (Mr. BAYH), the Senator from Wisconsin (Mr. NELSON), the Senator from Connnecticut (Mr. DODD), the Senator from Wyoming (Mr. MCGEE), the Senator from Oregon (Mr. HATFIELD), the Senator from Montana (Mr. METCALF), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Alaska (Mr. STEVENS), the Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. TYDINGS), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Alaska (Mr. GRAVEL), and the Senator from New Mexico (Mr. MONTOYA) be added as cospsonsors of the bill (S. 2147), to consider children living in federally-assisted public housing as federally connected children for purposes of educational assistance to federally impacted areas.

I must say that I mentioned the names of these cosponsors in my introductory remarks on the bill but they were inadvertently omitted from the original printing thereof.

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

Mr. MANSFIELD. Mr. President, at the request of the Senator from Washington (Mr. JACKSON), I ask unanimous consent that, at its next printing, the name of the Senator from Texas (Mr. TOWER) be added as a cosponsor of the joint resolution (S.J. Res. 26), to provide for the development of the Eisenhower National Historic Site at Gettysburg, Pa., and for other purposes.

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

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Alaska (Mr. GRAVEL), I ask unanimous consent that, at its next printing, the name of the Senator from Texas (Mr. YARBOROUGH), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Ohio (Mr. SAXBE) be added as cosponsors of the joint resolution (S.J. Res. 108), to provide for a study and evaluation of the relationship between underground nuclear detonations and seismic disturbances.

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

SENATE RESOLUTION 205—SUBMISSION OF A RESOLUTION TO SET FORTH AS AN EXPRESSION OF THE SENSE OF THE SENATE A BASIC PRINCIPLE REGARDING THE RECOGNITION BY THE UNITED STATES OF FOREIGN GOVERNMENTS

Mr. CRANSTON (for himself and Mr. AIKEN) submitted the following resolution (S. Res. 205); which was referred to the Committee on Foreign Relations:

S. RES. 205

To set forth as an expression of the sense of the Senate a basic principle regarding the recognition by the United States of foreign governments

Whereas official statements over the last fifty years concerning the policy of the United States in granting or withholding recognition of a foreign government have given rise to uncertainty as to whether United States recognition of a foreign government implies approval of such a government, and

Whereas recognition by the United States of foreign governments has been interpreted by many Americans and by many foreigners as implying United States approval of those foreign governments, and

Whereas such uncertainty adversely affects the interests of the United States in its relations with foreign nations: Now, therefore, be it.

Resolved, That it is the sense of the Senate that when the United States recognizes a foreign government and exchanges diplomatic representatives with it, this does not imply that the United States necessarily approves of the form, ideology, or policy of that foreign government.

PROMOTION OF PUBLIC CONFIDENCE IN THE INTEGRITY OF CONGRESS AND THE EXECUTIVE BRANCH—AMENDMENT

AMENDMENT NO. 24

Mr. CASE (for himself, Mr. HART, Mr. BELLMON, Mr. COOK, Mr. CHURCH, Mr. GOODELL, Mr. HARRIS, Mr. HATFIELD, Mr. JAVITS, Mr. KENNEDY, Mr. MANSFIELD, Mr. MATHIAS, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. PERCY, Mr. PROXMIRE, Mr. SCOTT, Mr. SPONG and Mr. TYDINGS submitted an amendment intended to be proposed by them jointly to the bill (S. 1993) to promote public confidence in the integrity of Congress and the executive branch, which was ordered to be printed, printed in the RECORD, and referred to the Committee on Rules and Administration.

(See reference to the above amendment when submitted by Mr. CASE, for himself and other Senators, which appears under a separate heading.)

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, May 27, 1969, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 99) to authorize the President to issue a proclamation designating the first week in June 1960 as "Helen Keller Memorial Week."

NOTICE OF HEARING CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ERVIN. Mr. President, the following nomination has been referred and is now pending before the Committee on the Judiciary:

Christian Hansen, Jr., of Vermont, to be U.S. marshal for the district of Vermont for the term of 4 years, vice Thomas W. Sorrell.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on

or before Tuesday, June 3, 1969, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARINGS

Mr. RIBICOFF. Mr. President, the Subcommittee on Executive Reorganization will hold hearings on S. 740 on June 11 and 12, 1969. The hearings will be held in room 1318, New Senate Office Building and will begin each day at 10 a.m. The bill would establish an Interagency Committee on Mexican-American Affairs.

NOTICE OF HEARINGS ON THE JUDICIAL REFORM ACT BILLS (S. 1506 THROUGH S. 1516)

Mr. TYDINGS. Mr. President, as chairman of the Judiciary Committee's Subcommittee on Improvements in Judicial Machinery, I wish to announce hearings for the consideration of S. 1506, S. 1507, S. 1508, S. 1509, S. 1510, S. 1511, S. 1512, S. 1513, S. 1514, S. 1515, and S. 1516. These bills would provide for improvements in the administration of the courts of the United States, and for other purposes.

The hearings will be held at 10 a.m. on June 2, and 4, 1969, in the District of Columbia Committee hearing room, 6226, New Senate Office Building.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to a concurrent resolution (H. Con. Res. 277) stating that when the House adjourns on Wednesday, May 28, 1969, it stand adjourned until 12 o'clock meridian, Monday, June 2, 1969, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 9328) to amend title 37, United States Code, to provide special pay to naval officers, qualified in submarines, hwo have the current technical qualification for duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants, who agree to remain in active submarine service for one period of 4 years beyond any other obligated active service, and for other purposes, and it was signed by the Vice President.

RECESS

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair, but in no event later than 2 o'clock this afternoon.

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

Thereupon (at 1 o'clock and 7 minutes p.m.) the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 1 o'clock and 59 minutes when called to order by the Presiding Officer (Mr. HUGHES in the chair).

IOWA INSURANCE INSTITUTE CALLS FOR BROAD AUTO POLICY REFORM

Mr. MILLER. Mr. President, there has been rising public concern over automobile insurance practices, including high costs, slowness of claims settlements, and arbitrary cancellations. In many instances, this criticism has been justified, pointing up the necessity of the industry to look within itself and institute reforms—or have the Government do so. The Iowa Insurance Institute, representing more than 24 Iowa-based companies writing more than a third of a billion dollars of car insurance annually, has moved ahead in this direction of initiating reforms. Its program could very well serve as the model for the industry nationwide.

The institute has advanced a program, the first in the Nation, to assure prompt medical payments in accident cases and lower claims expenses by putting restraints on legal costs and arbitrating many claims. In addition, the plan will still permit action against the driver at fault in the accident and will safeguard the policyholder against arbitrary cancellations.

I ask unanimous consent that two articles on the reforms initiated by the Iowa Insurance Institute be placed in the RECORD.

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

[From the Des Moines Register, Mar. 22, 1969]

INSURANCE GROUP CALLS FOR BROAD AUTO POLICY REFORM

(By Jerry Knight)

A sweeping plan for revamping car insurance was advocated Monday by the Iowa Insurance Institute.

The plan calls for insurance companies to speed up payment of claims and for changes in state law which the companies say will hold down insurance costs.

IOWA COMPANIES

The Iowa Insurance Institute represents more than two dozen Iowa-based companies which together write more than a third of a billion dollars worth of car insurance a year.

The group's proposals are aimed at answering growing criticism of insurance practices, said the institute's president, J. S. Tressler of Des Moines, president of Hawkeye Security Insurance Co. and United Security Insurance Co.

Skyrocketing insurance costs and slow settlement of claims have promoted nationwide criticism and congressional investigations of car insurance practices.

A "position statement" adopted Monday by executives of the Iowa-based insurance firms endorsed a "limited no-fault" plan for settling claims for injuries from car accidents.

Under "no fault" plans, the insurance company pays for injuries to its customers, regardless of who caused the accident.

At present, the insurance company of the driver who caused the accident pays the bills—but law suits are often needed to determine who was at fault. While the suit is in court, the injured person waits.

The plan advocated by the Iowa Insurance group follows the pattern set last Friday by a Des Moines firm, Preferred Risk Mutual Insurance Co., which was given permission by the State Insurance Department to offer what was described as the first "no fault" policy in the nation.

ASK APPROVAL

Several other Iowa insurance companies have plans under development and some companies are going to ask approval for their "no fault" plans within a few days, said Tressler.

In general, the Iowa companies will follow Preferred Risk's plan, which costs about $7 a year more than conventional medical and disability coverage. Under these plans, the insurance company will automatically pay medical and disability benefits to insured persons who are involved in accidents.

The insurance company and the injured person, however, will still be able to sue for damages if the other driver in the accident was at fault.

This system was described as an alternative to other proposals which would do away entirely with the concept of "fault."

Tressler said the Iowa plan would "provide quick payment for out-of-pocket economic losses while preserving the traditional right of the innocent victim to receiver."

The Iowa Insurance Institute plan also includes an eight-point legal reform program which Tressler said is intended "to hold down on the costs of settlements" from accident injury lawsuits.

KEY PROVISION

"Adoption of standards which reasonably measure and limit pain and suffering" claims from accidental injury or death is one of the key provisions of the Iowa insurance industry's legislative proposal.

Claims for "pain and suffering" have been one of the factors which have resulted in expensive lawsuits after accidents. The insurance industry says these costly claims are one reason for rising insurance costs.

Also designed to keep down lawsuit costs is a proposal for "regulation of attorney's contingent fees." Under a contingent fee arrangement, the lawyer gets paid only if he wins the case, then he gets a percentage of the settlement.

Also proposed is a mandatory arbitration system for small claims—under $2,500—which is designed to settle these claims out of court.

Iowa should also adopt "comparative negligence" statutes, such as 20 other states have done, the insurance industry group said. These statutes would allow a driver who was "a little negligent" to collect damages from another driver who was "extremely negligent," an insurance spokesman said.

[From the Des Moines Register, Mar. 22, 1969]

A "PAY-NOW" PLAN DESPITE DRIVER FAULT

(By Jerry Knight)

A new kind of car insurance that pays for accident injuries regardless of who was at fault was approved Friday by Iowa Insurance Commissioner Lorne Worthington.

Permission to offer the new coverage was given to Preferred Risk Mutual Insurance Co. of Des Moines.

The "no-fault" accident injury policy approved by the Iowa Insurance Department is the first such plan in the nation, said Worthington.

Preferred Risk, which sells insurance only to non-drinkers, will seek permission Monday to offer the new policy in 29 other states where it does business, said the firm's president, Bernard Mercer.

OTHER FIRMS

Other insurance companies headquartered in Des Moines are considering similar policies and will announce their plans Monday, it was learned.

Under the Preferred Risk plan, the insurance company will automatically pay the direct cost of accident injuries for insured persons, regardless of who caused the accident.

The insurance company, and the injured persons, however, will still be able to sue for damages if the other driver in the accident was at fault.

There has been pressure across the nation to eliminate the concept of fault in accidents because of the delays sometimes caused by long and costly law suits to determine who was at fault and which insurance company must pay the bills.

Mercer said the new policy is an alternative to proposals for doing away entirely with the question of fault in accident insurance.

ENDS DELAYS

Mercer said the plan ends delays by giving prompt payment to the injured, then deciding who was at fault.

He said the new plan "goes a considerable distance towards removing a great deal of the current criticism against the problems inherent in the fault system.

"It provides a substantial remedy to the insured where 'no fault' is involved, yet it still preserves our deeply rooted principle of holding the 'at-fault' driver responsible for his actions."

Mercer said his firm—like many insurance companies and lawyers—is opposed to doing away with the concept for fault liability for accidents and having all insurance companies pay only for their own clients.

He said his firm opposes such a plan "because it requires that innocent victims give up all right of claim against the wrongdoer."

Mercer said basic $10,000 personal injury coverage under the new plan will cost a Des Moines driver, who uses his car to go back and forth to work, $19.60 a year.

THE OTHER "WAR" IN SOUTH VIETNAM

Mr. MILLER. Mr. President, too infrequently do we hear about the other "war" in Vietnam—the war to improve the lot of the Vietnamese people. This is most unfortunate, since American citizen-volunteers are doing so much to bring technical aid and advice to those peoples.

For example, rural electrification specialists of the National Rural Electric Cooperative Association are playing a vital role in furnishing aid and advice to rural areas in South Vietnam. Through their efforts, three rural electrical cooperatives have been formed and by June 1970, will be serving 40,000 families.

The NRECA should be commended for what it is doing; and I ask unanimous consent that an article entitled "Electric Cooperatives Serve Vietnam's Rural Population," published in the May issue of Rural Electrification, be printed at this point in the RECORD.

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

ELECTRIC COOPERATIVES SERVE VIETNAM'S RURAL POPULATION

(By Roger Williams)

Three rural electrical cooperatives in South Vietnam are serving electricity to members in Tuyen Duc, Bien Hoa, and An Giang Provinces.

The cooperatives, which will serve 40,000 families by June 1970, are located at Long Xuyen in An Giang Province, 150 kilometers southwest of Saigon, Duc Tu in Bien Hoa Province, 25 kilometers north of Saigon, and at Dalat in Tuyen Duc Province, 125 kilometers northeast of the capital. They now serve 2,500 members.

The Vietnam electric co-op project is a joint effort of the United States Agency for International Development (USAID), the National Rural Electric Cooperative Association (NRECA), and Vietnam's National Union of Electrical Cooperatives (NUEC). USAID is paying initial costs, along with the Government of Vietnam, while NRECA furnishes rural electrification specialists. The cooperatives provide personnel and management. GVN has set aside 162-million piasters for the program and USAID provides $3.9-million. This money is lent directly to co-op associations on a 35-year, 2% interest basis. As loans are repaid, this money will be used to finance other cooperatives. Hugh Bush, supervisor of the NRECA team, explains that Vietnam's co-ops are being set up just as they were in the United States during the thirties.

Feasibility studies in 1965 determined locations for three pilot projects in three distinctly different areas: rice-growing lowlands, rural and semi-urban industrial plateau, and garden farming highlands, including secure and insecure districts. These three co-ops, now nearing completion, will serve as models for a continuing program. Based on the experience of successfully organizing and building electrical cooperatives in these provinces, representative of Vietnam as a whole, it is expected that new projects will begin all over the country. "A cooperative is never really finished, it is a growing thing," says Phan Van Tri, general manager of the National Union of Electrical Cooperatives.

Besides lighting houses, electricity will be an economic blessing to rural people. Shops can stay open later, tailors and craftsmen can work into the evening, small workshops can produce more. For lighting, co-op electricity is far cheaper than kerosene; in industry, electric motors operate at less cost than gasoline engines. Cooperatives provide power for new enterprises in areas which never before had electricity. Although two of the co-op headquarters are located in Long Xuyen and Dalat, towns already served by Electricity of Vietnam, the new stations are strictly for rural areas. And with newer materials and facilities, power is often more dependable in rural villages than in cities still strapped with old systems. Urban people, however, may not become members and tie into the co-op because the cooperative franchise does not include the cities. This is an advantage to the farmer, the village craftsman, and new, small industries.

IMPROVED SECURITY

Another advantage for co-op members is that children can study after dark, and the family can be together longer. Security will be improved; it will be more difficult for Viet Cong tax collectors and terrorists to move in the glow of a brightly lit window. Also, 500 mercury vapor lights are awaiting installation in villages and hamlets of the three co-ops to provide well lighted streets. Not least of the rewards for starting a cooperative is the sense of community-mindedness it instills. Often hamlets, although located near one another, remain aloof. Working together in a cooperative brings these people of the hamlets into close relationship where they discover that together things get done.

According to Dr. Thomas M. Venables, NRECA's global coordinator for International Programs, "Organizing a cooperative is an experience in practical democracy. For many south Vietnamese long under Viet Cong domination, the election of their cooperative association's director has been their first experience with an election of any kind." And, observed Dr. Venables, "The Viet Cong know that if they destroy electrical facilities, they are acknowledging that their claim of seeking to improve the lot of the people is false."

FIRST ELECTRIFIED HAMLET A SUCCESS

In mid-1966, Phat Chi in Tuyen Duc Province received electricity for the first time. For power, the 30-kv line between Dalat and Don Duong from the Danhim Dam was tapped. All that was required was organizing the cooperative stringing wire, and wiring homes. Forty-five families joined initially, but with the influx of refugee families common to this area, demand rose quickly. The newcomers built sturdy, permanent houses, began farming the rich soil, and soon joined the cooperative. Now 82 homes are connected in Phat Chi. "We are watching Phat Chi closely," says Hugh Bush, the NRECA Country Supervisor. "There has been a 400% greater use of electric power in the hamlet than we anticipated. The people are averaging 40 kilowatt-hours a month per family. With that consumption, their loan will be repaid in no time." Phat Chi was also watched because it is in the center of a strongly-held Viet Cong area. But the VC have not bothered Phat Chi.

The Tuyen Duc project is an excellent example of rural electrification. Members are spread over a wide area and along a river valley for about 60 kilometers. In the United States, rural cooperatives average 2.8 members per kilometer, but in Vietnam they average 27. This assures low-cost distribution, and purchase of power from the established source—in Tuyen Duc, from the Electricity of Vietnam (E.O.V.) diesel and hydro-electric plants—assured an adequate, dependable, low-cost source of wholesale power.

Power for the Thuyen Duc cooperative now comes from the 30-kv line running down from Lake Ankoret's hydro plant north of Dalat, through Dalat where the city's power is boosted by diesel generators, and on to the Danhim Dam. The Viet Cong blew up the pentstocks at Danhim, and so the hydro plant is under repair. To supplement the Ankoret and Dalat power sources, the co-op has temporarily installed a 1200-kv diesel plant at Don Duong.

At Don Duong cooperative headquarters, 42 people are employed, and at Fimnon, a second headquarters will employ 20 workers. Because of the good living which can be made farming along the valley, new families move into the hamlets daily. Thanks to unlimited power soon to be provided by the Danhim plant, these people will become members. It is expected that by mid-1970, eight to ten thousand members will be served in Tuyen Duc Province.

Small industry and agriculture are great beneficiaries in Tuyen Duc. Already, several sawmills have been connected, including one in a small Montagnard hamlet 25 kilometers north of Dalat. After homes are hooked up, people want the cooperative to string wire out so they can convert their small gasoline-driven water pumps to electricity. With a cheaper source of irrigation power, vegetable growing becomes more profitable. Everyone benefits.

On December 21 last year electricity was turned on at Thai Phien, five kilometers north of Dalat. Thai Phien is a model of prosperity, but people never thought they could afford electricity. Now they have it. Thai Phien is typical of all the hamlets and villages to be served in Tuyen Duc. In two

years the village grew from 98 to 250 families as people moved to take advantage of the government land distribution program. The cooperative helped these people develop into a village with a sense of pride and accomplishment. Fully 250 families in Thai Phien are members receiving electricity from the cooperative. Although large Viet Cong units operate in the area, they have not disturbed the power installations at Thai Phien. "Viet and their sympathizers, we assume, are also using electricity and perhaps are members of the co-op; why should they wreck it?" asks NRECA Specialist Edward Martin.

But electricity has had some disastrous consequences. All over town, the lines are tangled with dozens of children's kites.

DUC TU REFUGEES SERVED

The villages of Honai and Trong Bom in Duc Tu district, Bien Hoa Province, boast 2,000 homes served by the Duc Tu Electric Cooperative. Of Honai's 7,000 families, 5,218 signed up. Sign-up has just begun in Trong Bom, but similar results are expected.

The two villages, composed of 15 hamlets, include groups of refugees who came from the north in 1954. They named their new hamlets after villages they left behind. Hard-working and enterprising, they had not succeeded in integrating themselves into the community life in the south. They remained apart. The successful new cooperative has given them a tie to the GVN and people of the south. They now have a leading role in helping the other 270,000 people of Duc Tu district organize their own electric co-ops.

Although Honai and Trong Bom villages stretch along a 24-kilometer route, they are essentially a semi-urban people and own many small industries. Originally from a rural background, they have taken to commerical interests and electricity helps them. There are many small weaving mills, a nylon factory, charcoal kilns, sawmills and wood-working shops, tile kilns, and small wood handicraft shops. The people of Honai and Trong Bom raise coffee, sisal, jute, and they produce vegetable oils, pine resin, and rubber.

First lights were turned on in November, 1968, and the people were elated. To express appreciation for electricity, Nguyen Van Phuc, a prominent pig farmer in Ham Hai hamlet, invited the managers, secretaries, accountants, and advisors to a grand luncheon feast at his home. Five new electric fans kept everyone cool during the 12 course meal. NRECA's Louie Sansing said afterwards, "I have never known a program to evoke such a tremendous response or be so appreciated by the people it is helping."

District Chief of Duc Tu district, Captain Tran Mong Di, says "Notables and government representatives in Duc Tu have been more than enthusiastic about the project. The main plank of the legislators elected from Duc Tu was electrification and now it is getting done. As far as I'm concerned, electrification gets first priority in this district because electrification helps provide security, and providing security is the GVN's first priority. We hope to electrify the entire Than Hiep township in Duc Tu the way Honai and Trong Bom have done. Their success sets a good example."

Dave Brown, Senior CORDS District Advisor explains, "Cooperative planning makes sense. Electrification done cooperatively develops a community consciousness and promotes urban planning which we desperately need."

AN GIANG ELECTRIFIED

An Giang is Vietnam's most pacified province and without the setbacks at Tet, 1968, suffered by the other cooperatives, the Long Xuyen Electrical Cooperative is nearing completion. Some 500 homes are being served, 4,000 poles are up, much of the 500 kilometers of main line and secondary wire has been strung.

The cooperative in this beautiful, rich, rice-growing province is serving three rural villages. Thot Not, Nui Sap, and Chou Duc, the latter near the Cambodian border. Main feeder lines to these distant villages are being strung on giant, wooden H-frames. Linemen must perch precariously in the air, 15 meters above the ground, while attaching the 15,000-volt main line.

To provide power for 20,000 families the cooperative will reach two 1500-kilowatt diesel generators have been installed in Long Xuyen. The cooperative, under direction of Huynh Van Chuan and Rural Electrification Specialist Robert Manning, has provided impetus for installation of the new plant. USAID has supplied the generators as part of the long-term loan. The government's Electricity of Vietnam will repay the cooperative for installation of the generators and take over operation and maintenance.

Being a rice-growing area, the rice farmers of An Giang will benefit most from electrification. The land of An Giang can produce three tons of rice per hectare a year. With a second season made possible by electric water pumps and controlled moisture, production can increase to 5.5 tons a hectare per year. Rice mill owners are interested in 220/380-volt current to power their operations. Many new rice mills are expected to spring up with a supply of cheap power now available.

A sign of the times was evident at a restaurant near Long Xuyen. The owner has installed five new electric ranges to replace his charcoal stoves. A blacksmith shop, a woodshop, and a fertilizer plant have been electrified. Several new ice plants will soon open.

The An Giang Cooperative is a manifestation of what the people can do for themselves with assistance from their own government and the United States. None of the long feeder lines has been cut by the Viet Cong, which is an indication the cooperative is successful propaganda. "The importance of the electric cooperative," explains Mr. Chuan, the general manager, "is that it gives an opportunity for the people to do something which will immediately improve their lives instead of waiting for someone to do it for them. Neutralists and Viet Cong sympathizers must naturally be impressed, and we feel that even those who have not before supported the government want the project to be a success. The cooperative is larger than politics."

POLE-TREATING PLANT

In September 1968, the new pole-treating plant at Phan Rang produced its first "charge," chemically treated wood poles which can stand in the ground for 35 years. The plant has been under construction since 1966 and has been financed by USAID. It now is an independent operation under direction of Vietnam's National Union of Electrician Cooperatives. Plant superintendent Vo Trinh Trong says the plant, only one of its kind in Vietnam, has a capacity of 75 cubic meters or 9,000 board meters of poles, pilings, and posts a day.

The poles are cut from tall yellow pine trees near Dalat at Da Tho, and taken by truck to Phan Rang to be treated. At Da Tho, an independent contractor strips the bark and cuts the poles to proper length, about 12 meters. NUEC General Manager Phan Van Tri recently signed an agreement with the Government of Vietnam allowing for cutting trees in a 15,000 hectare site in Tuyen Duc Province. About 100 persons are employed in the timbering operation for the pole plant.

Plant Manager Trong points out advantages of using wooden poles for electric lines: "They are 50% stronger for their weight than either concrete or steel and are 50% to 75% cheaper than anything else." And he says, "They are easier and quicker to set up. We will be selling poles to all three cooperatives and will also be providing cross ties, pilings, and fence posts for Vietnam. We can supply electric poles endlessly until all of Vietnam is electrified." The pole plant has a capacity of 30,000 to 50,000 poles a year.

The poles are treated in two huge 25-meter-long cylinders. For 24 hours, pentaclorophenol is applied under pressure and then the poles are ready. They are "framed" and drilled and stacked in the yard to await bundling and shipping. Some will move by barge south to the delta. Others will go overland by truck. The plant is equipped with its own complete chemical analysis laboratory for testing and mixing preservatives. The odiferous, oily wastes from treating cylinders are disposed of in a late-model wasteburner. Nothing is left, no smoke nor oils which could pollute fishing streams. "All in all," says Tom Cook, advisor for the plant's beginning operation and on loan from the American wood treating industry, "this is a very sophisticated plant."

VISIT TO THE SENATE BY THE LEADER OF THE HOUSE OF COMMONS

Mr. PELL. Mr. President, it is my pleasure to say that we have as our guest in the Chamber today a gallant and learned Member of Parliament from Great Britain, Mr. Frederick Peart, who is the leader of the House of Commons and Lord President of the Council.

He is traveling for a few days through the United States, and it is with pleasure that I introduce him to my colleagues. [Applause, Senators rising.]

ORDER OF BUSINESS

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

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

RE-REFERRAL OF S. 2114 FROM COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO COMMITTEE ON GOVERNMENT OPERATIONS

Mr. INOUYE. Mr. President, the bill (S. 2114), a bill relating to the transfer of certain lands in Hawaii, was inadvertently referred to the Committee on Interior and Insular Affairs.

I wish to have this bill, S. 2114, re-referred to the Committee on Government Operations and ask unanimous consent for that request.

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

ORDER OF BUSINESS

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

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

VISIT TO THE SENATE BY VENEZUELAN LEGISLATORS

Mr. CHURCH. Mr. President, we are privileged today to be hosts to a distinguished group of parliamentarians from Venezuela. It is a special privilege to welcome them here to the Senate of the United States, inasmuch as Venezuela is leading the way toward the strengthening of democratic government in Latin America, which augers well, certainly, for the future of that country, and we hope will furnish an example for all of the hemisphere.

With the exception of Senator Rumbos, who is the recipient of an International Visitors' grant, these gentlemen are members of a delegation of political and public opinion leaders participating in the ninth annual such visit sponsored by the North American Association of Venezuela. It has been my privilege as chairman of the Foreign Relations Subcommittee on Western Hemisphere Affairs to meet this afternoon with this distinguished delegation from Venezuela, and I am pleased to present them to my Senate colleagues at this time.

They are: Senator Luis B. Guerrero, a member of the Christian Democratic Party; Deputy Simon Antoni, Democratic Republican Union; Deputy Edilberto Escalante, Christian Democratic Party; Deputy Armando Sanchez, Democratic Action Party; Deputy Arturo Hernandez, Democratic Action Party; Deputy Miguel Vaimberg, Christian Democratic Party; Deputy Angel Zambrano, Popular Democratic Force Party; and Senator Omar de Jesús Rumbos Morón, Democratic Republican Union Party.

It is a pleasure to welcome them all to the Senate of the United States this afternoon. [Applause, Senators rising.]

RECESS

Mr. CHURCH. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes, so that Senators may personally greet our guests.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will stand in recess for 2 minutes.

Thereupon, at the hour of 2 o'clock and 42 minutes p.m., the Senate took a recess for 2 minutes, and the visitors were greeted by Senators.

The Senate reconvened at 2 o'clock and 44 minutes p.m., upon the expiration of the recess, when called to order by the Presiding Officer (Mr. HUGHES in the chair).

ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES FROM MAY 28, 1969, to JUNE 2, 1969.

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 277.

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution 277, which was read by the legislative clerk, as follows:

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Wednesday, May 28, 1969, it stand adjourned until 12 o'clock meridian, Monday, June 2, 1969.

Mr. MANSFIELD. Mr. President I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

There being no objection, House Concurrent Resolution 277 was considered and agreed to.

S. 2276—INTRODUCTION OF A BILL TO EXTEND THE PROVISIONS OF SECTION 104 OF THE AIR QUALITY ACT OF 1967 THROUGH FISCAL 1970

Mr. RANDOLPH. Mr. President, I introduce, for appropriate reference, a bill to extend section 104 of the Air Quality Act of 1967 through fiscal 1970 at the current level of authorization.

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

The bill (S. 2276) to extend for 1 year the authorization for research relating to fuels and vehicles under the provisions of the Clean Air Act, was received, read twice by its title, and referred to the Committee on Public Works.

Mr. RANDOLPH. Section 104 provides for research into and development of new and improved methods for the prevention and control of air pollution resulting from the combustion of fuels.

With the Senate's unanimous passage of the Air Quality Act of 1967, we entered into a new phase in our national effort to control and abate air pollution. In that legislation, Congress set forth a blueprint for a truly systematic effort to cope with the long-term threat of air pollution to the public health and welfare. The Department of Health, Education, and Welfare, which is the leading agency in this effort, has made substantial progress in implementing the provisions of the act. I have been gratified that Secretary Finch, as one of his first official tasks, issued air quality criteria, summarizing available medical and scientific knowledge of the effects on public health and welfare of two air contaminants; namely, sulfur oxides and particulates. At the same time, he issued reports on the control techniques applicable to these atmospheric contaminants.

Thus, the stage has been set for States to adopt regional air quality standards for sulfur oxides and particulate matters. In due course, after several months, the States will begin adopting standards and plans for sulfur oxide and particulate control in accordance with the Air Quality Act of 1967.

Initial attention will be devoted to the Air Quality Control regions as designated by the Secretary of Health, Education, and Welfare. He has designated several of the Nation's largest metropolitan areas, and is expected to designate 32 such regions before the end of this year, and an additional 25 regions by the summer of 1970.

I think it is important, Mr. President, for us to realize that the total population of these 57 regions is 97 million persons. It comprises 70 percent of the total population of this country. All 50 States are represented, as well as the District of Columbia, Puerto Rico, and the Virgin Islands.

Once criteria control data for contaminants or a group of contaminants are issued, and an air quality control region is designated, the States represented have 90 days to signify their intent to set air quality standards for that contaminant and the designated area. They then have 180 days to hold public hearings and adopt standards, and another 180 days to adopt plans and schedules to implement and enforce those standards.

The successful implementation of this national effort to control and abate air pollution depends at least in considerable degree on the development of adequate control technology. Adequate control technology is necessary, not only to reduce the atmospheric emissions from what we know as the existing sources, but to counteract the increasing number of new sources. There is already available knowledge to reduce air pollution to a significant degree, but there are many control problems for which we do not now have long-term solutions.

In particular, I think that the effective control of air pollution emissions from motor vehicles and sulfur oxide pollution from the combustion of fuel will require further intensive research and development, which I believe will require several years.

This need was reflected in the Air Quality Act of 1967 when we included section 104. The provisions were defined to lay special emphasis on the research and development activity into those new and improved methods for prevention and control of air pollution resulting from the combustion of fuel.

The Congress authorized for the specific purpose $35 million for fiscal year 1968 and $90 million for fiscal year 1969 and we appropriated all sums for section 104 to remain available until expended. In this way, projects initiated for terms of more than 1 year would be assured of what is necessary in this type of effort—continuing support.

Mr. President, unfortunately programs and activities that have been carried on under section 104 have not been adequately funded—with approximately $9 million and $14 million expended in the fiscal years of 1968 and 1969 respectively.

I am encouraged—and I am gratified to say to my colleagues—that the administration has been giving increased attention to system studies for the design and research and development needs and plans.

I was particularly impressed with the plan for research on sulfur oxide control methods developed with the assistance of the Standard Research Institute. That was entitled "Sulfur Oxides Pollution Control Planning and Program—1968–72."

I think this report will be valuable in the development of control technology for sulfur oxides. As the plan is revised and updated, I have reason to believe that the administration will continue to make full use of available expertise within the Government, as well as nongovernmental sources.

Mr. President, we must caution that this plan is implemented and similar

plans are developing in other problem areas. For example, National Research and Development plans should be considered in our efforts to control nitrogen oxides emission, to control particularly materials that are almost eluding the current control efforts, to reduce the emissions from the moving sources—automobiles, buses, trucks, ships, and aircraft—and to provide for the continuation of all these necessary and vital activities.

Mr. President, the bill I introduce today would extend section 104 authorization through fiscal year 1970 at the currently authorized level of expenditures. There is a vital need for continuing these activities. And I believe that passage of the legislation presented today is necessary.

Mr. President, I commend all Senators—there were no votes against the Air Quality Act of 1967—who joined me in supporting this section of the bill.

Later this year the Committee on Public Works and the subcommittee chaired by the able and knowledgeable Senator from Maine (Mr. MUSKIE), who has given intensive study and great leadership to air and water pollution control, will look at all of the possible extensions of the authorization of the total act beyond 1970.

I only refer, as I have indicated, to the research and development program this afternoon. The authorizations for the other sections, of course, are provided for in the Air Quality Act at the present time. However, there is a need now to take action with respect to section 104.

Air pollution control and abatement is something that the country believes in and the Senate and the House of Representatives have been directing their attention to the fact that an imperative need must be met by continuing constructive legislation and forceful implementation by the States in this vital matter.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. MUSKIE. Mr. President, as chairman of the Subcommittee on Air and Water Pollution, I am delighted to support the amendment which the distinguished Senator, the chairman of the Committee on Public Works, has just introduced and discussed this afternoon.

It seems to me that this would be an appropriate time to comment upon the substance of an attack which was directed against the distinguished Senator from West Virginia last week in connection with the Air Quality Act of 1967.

In the language used in that attack, the Senator was first accused of "gutting the Air Pollution Act" of 2 years ago.

I feel compelled to speak on that point this afternoon, because such an attack is a reflection not only on the distinguished Senator from West Virginia, but is also a reflection from every member of the Committee on Public Works and on every member of the Subcommittee on Air and Water Pollution which I am privileged to chair.

The accusation also stated that the distinguished Senator from West Virginia "killed the Air Quality Act of 1967."

The accuser continued:

> The reason you don't have any air pollution control in most of the States of the Union, and that is practically all of them, is because the original act was cut so that the quality criteria that the Government was to set up, so that the States would have some guidelines as to how much pollution they would allow—sulfur dioxide, nitrous oxide were removed from the bill with the precision of a surgical knife.

The fact is that the exact reverse is true. The original act submitted by President Johnson in 1967 contained no provision for setting air quality criteria. The proposal contained in the Johnson administration bill was to establish national standards for control by controlling the emissions of industries that could be described as national polluters. Those standards would have to be compromised by the results of technological and economic feasibility. Moreover, the industries involved would be relatively few in number and would not necessarily be involved in or relevant to the air pollution problems of a given metropolitan or urban area. Instead of following that technique, the subcommittee as a whole chose to adopt a different technique.

May I say, incidentally, that the work and the decisions of the subcommittee for the past 6 years have been characterized by remarkably full participation on the part of all members of the subcommittee in considering the testimony presented and the dimensions of the problem with which we were trying to deal in the writing of the legislation. The Air Quality Act of 1967 was not the product or the work of the distinguished Senator from West Virginia, with all due deference to the contributions he made. Rather, it was the product or the work of all the members of that subcommittee.

The bill was unanimously reported by the subcommittee to the full committee. It was reported by the full committee to the Senate unanimously. And it was adopted by the Senate unanimously.

What does the Air Quality Act of 1967 do? The distinguished Senator, discussing his amendment of this afternoon, has discussed this in part.

The first objective of the bill was to identify every problem area in the country, and the Secretary was directed to do this. The administration bill to which I have referred had no such proposal.

The second step required by the Air Quality Act of 1967 is to identify the health and welfare effects of the various pollutants. These were not to be compromised in any way; the national standards of the administration bill would have been compromised by considerations of technological and economic feasibility. The bill required that the Secretary tell the country what health effects would come from given concentrations of specific pollutants. This we felt was an essential starting point for any effective control measure.

So the Secretary has been involved in publishing what are called criteria, and two have been published, one of them having been mentioned by the distinguished Senator's accuser—sulfur oxide.

Mr. RANDOLPH. The first part of this year.

Mr. MUSKIE. Yes, the first part of this year, under the Air Quality Act of 1967.

Mr. RANDOLPH. The Senator is correct.

Mr. MUSKIE. Yet, the Senator's accuser says that these requirements were cut from the bill with the precision of a surgical knife. The requirement is in the bill, and pursuant to that bill, the first two sets of criteria have been published.

The bill also required that the Secretary publish—for the benefit of the municipal governments, State governments, and control agencies and officials of the problem areas—the technology available to deal with the pollutants which were the subject of the published criteria. The Secretary has done this, under the Air Quality Act of 1967; and, as a result, States and communities have the two sets of criteria required to move and the technology available to implement them. So, under the provisions of the bill, State and local governments now are under a mandate to proceed with the setting of timetables for control of pollution, not just from a few national industries but from every source of pollution within all the problem areas.

Mr. RANDOLPH. These moving problems are with us.

Mr. MUSKIE. Every source of pollution, but automobiles, contrary to the original administration bill, is subject to control under the Air Quality Act of 1967. And automobiles are subject to national standards established by other legislation. If the States and communities fail to meet the responsibilities imposed upon them by the 1967 act, then the Federal Government is given the authority, under that act, to do the job itself. I believe it is given much more effective and meaningful authority under this bill than it would have been given under the bill originally sent up by the Johnson administration.

More than that, under the Air Quality Act of 1967, the Federal Government is given the authority—notwithstanding the responsibility of the States under the act—to move in directly whenever there is imminent and substantial endangerment to health or welfare. In such a situation, the Federal Government is given the authority to move in immediately and directly control sources of pollution. That type of emergency authority was not contained at all in the administration bill.

Discussing legislation of this kind is a complicated process, because it does involve difficult technological problems and specific technologies. So when an accusation such as that directed against the distinguished Senator from West Virginia is made, it is more difficult to analyze the bill in a way that will throw light upon the accusation.

In addition to what I have already said, Mr. President, I wish to point out that the Air Quality Act of 1967 was regarded by me, by all members of the subcommittee, and by all members of the full committtee, as a strong meaningful bill which had the capacity to arm the country with the tools to deal with the air pollution problem from coast to coast.

What has been done under its provisions already has put in motion the control methods and, hopefully, the control technology which will enable us to come to grips with air pollution.

May I say that no piece of legislation works automatically. Whether or not that piece of legislation is going to work depends upon the extent to which State and local governments across this country are willing to assume the responsibility and do what is necessary.

But, recognizing the shortcomings which may limit the capacity of States to respond, the bill nevertheless places effective residual authority in the Federal Government to do the job, if that becomes necessary. So it was a good bill; it is a good bill; and it can be made to work, given good will, dedication, and determination on the part of all concerned.

Now, the question of making it effective certainly is not served by an uninformed and inaccurate evaluation of what the bill contains and what it provides. There can be, as there was in 1967, an honest difference of opinion as to whether the national standards approach would be best or whether the approach that the bill takes would be best. That difference of opinion was discussed in full, in public. It was given full exposure. It was after that full discussion that the committee finally opted for the approach it took; and I still think that, as between the two approaches in the two bills, the Air Quality Act which finally was passed by Congress was a more meaningful and a more effective piece of legislation than the one that was introduced in the first instance.

May I say to those who accuse the Senator of West Virginia of "gutting" the bill that they might do well to refer to the comments made by President Johnson on the Air Quality Act of 1967 when he signed it into law, notwithstanding the fact that it differed from the approach his bill had taken. Notwithstanding the fact that it modified his approach, he hailed it as a significant step forward in the fight against air pollution.

May I say to the distinguished Senator from West Virginia that I hope that this colloquy will be of assistance in throwing light upon that accusation which was directed against him.

However, my response this afternoon has not been entirely unselfish. Although I was not named in the attack, the attack was such as to involve me. So, for selfish reasons as well this afternoon, I have undertaken to say what I have.

Mr. RANDOLPH. Mr. President, in response to the words of the Senator from Maine, I wish the RECORD to reflect that in this discussion of the Air Quality Act of 1967, the remarks of the chairman of our Subcommittee on Air and Water Pollution are the most knowledgeable and informed of any Member of this body. I am very grateful for the explanation and the clarification, because in a sense the intemperate and false accusations against me are not of substance. I joined in support of the legislation. I helped to draft well reasoned legislation, and I think the country and our people will profit by what has been done. Again, my thanks to the Senator from Maine.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE AMERICAN MERCHANT MARINE

Mr. TYDINGS. Mr. President, the United States traditionally has had a merchant marine second to none. In ports of call around the globe American-flag ships were to be found engaged in commercial enterprises that brought goods, profit and employment to people everywhere.

Home of the magnificent Clipper ships, the sturdy war-tested Liberties, and the world's first nuclear-powered commercial ship, the *United States*, once led the world in shipbuilding. Our Nation's growth and prosperity was due in no small part to the strength of its merchant marine.

From earliest colonial days we have been a Nation of sailors. Our heritage is one of the sea, and now, more than ever, must remain so.

Yet this proud tradition is now in jeopardy.

The American merchant marine today faces a major crisis. Of the 965 merchant vessels in our fleet today, 682 of them, or approximately 70 percent, are 20 years or older. The United States has declined from first to sixth place among merchant fleets of the world. U.S.-flag ships carried only 9 percent of America's oceangoing trade. Our shipyards, those that remain open, are simply not turning out the 40 new ships we need each year. The maritime industry itself is unbelievably fragmented and divided as to policies and programs.

What all this means is that our merchant marine is in serious trouble.

We can no longer afford to ignore this alarming state of affairs nor permit it to continue.

Our merchant marine must be rebuilt and rejuvenated, from the keel up. The United States must regain a position of maritime preeminence.

I think the people of our country do not fully realize the extent to which our merchant marine has declined.

I recently sought and received assignment to the Merchant Marine Subcommittee. From this position I intend to try to ensure that our maritime affairs are put in order.

The principal governmental agency charged with the responsibility to promote and develop a modern merchant marine is the Federal Maritime Administration, located in the Department of Commerce.

MarAd, as it is sometimes known, administers programs authorized by the Merchant Marine Act of 1936, as amended. This act is the principal maritime legislation and includes the operating-differential and construction-differential subsidy programs, ship mortgage insurance, vessel exchange, cargo preference, research and development, maintenance of the reserve fleet, maritime training and promotion of the U.S. merchant fleet.

In 1968 MarAd subsidized the construction of 12 new ships valued at $250.5 million of which $124.8 million was the Federal subsidy. Fourteen lines operating about 300 ships received $200.1 million in operating subsidy payments for amounts due in 1968 and prior years. Under the ship exchange program, 22 privately owned ships were exchanged for 22 newer ships from the reserve fleet. Under the Federal ship mortgage insurance program, which permits the Government to insure commercial loans obtained to aid in shipbuilding, new applications to insure 15 ships for a total of $121 million were approved.

The National Defense Reserve Fleet is maintained to provide ships available for use in a national emergency. At the present time there are 628 mothballed ships in six anchorages around the country. The fleet has served the Nation well. Some 168 ships were withdrawn from the NDRF for service in Southeast Asia. Reserve ships were also used during the Korean war and the Suez crisis of 1956.

However, the condition of these ships and thus the utility of the fleet itself is now called into question. The ships are all old and expensive to make ready for service. Estimates run anywhere from $350,000 to $650,000 for reconditioning of each reserve vessel. The Propeller Club of the United States recently said:

> The NDRF . . . today is composed mainly of old ships which are obsolete, unreliable and expensive to maintain or preserve. Many of these ships are at the end of their useful physical life and should be scrapped.

I note with satisfaction that legislation now before the Merchant Marine Subcommittee calls for a fiscal year 1970 authorization of $30 million for reconstruction of the reserve fleet. This is probably not enough, but it is certainly a step in the proper direction.

The value to the Nation of the NDRF cannot be overemphasized. Emergencies may well arise when the United States must transport vast supplies across the oceans. A reserve fleet provides the capability to do this and this capability provides the country with a source of strength and flexibility.

I do not think there can be any doubt that the United States needs a reserve fleet. The view that future strategic requirements can be met by aircraft such as the C–5A is a myth. Vietnam has shown that ships are essential for major logistic operations. Over 90 percent of the material sent to Vietnam went by sea. Airlifts stress speed but simply cannot handle the heavy hardware now in use. Ships can and do. Aircraft deal with pounds; ships deal with tons.

In recent years considerable concern has been expressed over the decline of shipbuilding in America. One hears that it is dead, dying, or moving to Japan. Hysteria is often present in the position of both those who say that the United

States can no longer afford shipbuilding and must build overseas, as well as those who want present ship construction to match the fantastic output of the war years of 1944 and 1945.

What is required, I think, after recognizing of course that all is not well, is a calm and reflective review of the maritime industry.

The shipbuilding industry is a $3.7 billion annual operation. Of this, Navy contracts comprise about three-quarters. For 1968 MarAd reported 69 commercial vessels, both subsidized and nonsubsidized, under contract in private U.S. shipyards. This, of course, is not enough. We need to build more ships than we are at present. The United States now ranks eighth in merchant ship tonnage under actual construction. This is at least indicative that shipbuilding is still active here. It may be down but it is not out.

Late last month I took a tour of the Sparrows Point Shipyard of Bethlehem Steel Corp. in Baltimore. If the industry is dying, they have not heard about it at Sparrows Point.

The yard is its busiest in 20 years. It has $214 million worth of contracts and is building both civilian and military ships, tankers and dry cargo, vessels, as well as container ships. I walked along the construction ways and in the assembly sheds and saw activity that indicated a heavy load of business. Additionally, Sparrows Point is now building a special $15 million construction dock capable of handling tankers of the 100,000 to 200,000 range which the yard expects to construct in the near future.

With shipyards like Baltimore's Sparrows Point, with the entry into the shipbuilding business of technologically sophisticated aerospace industries, with the increasing obsolescence of the U.S. merchant fleet, and the growing demand for larger ships, particularly tankers, there is every reason to believe that the U.S. shipbuilding industry can have a prosperous future.

It will not be economically possible for the United States to dominate the world market in ship construction nor to regain our position of 1944–45. But it is possible for this Nation to maintain an active and viable shipbuilding industry. A major rejuvenation will have to take place first and many difficult problems will have to be resolved, but it can be done.

One way that it can be done is by stressing multiple procurement. The construction of single ships is no longer desirable. An order for a single ship is simply too expensive. What is required is an order for several vessels of the same design to be built at one yard. As you would expect, this drives down the cost per ship considerably.

An example of this was a container vessel ordered by one of the major shipping lines. It happened to be identical in design to five other ships already under construction and thus cost $2 million less than the others which were priced at $17.9 million each. The saving, thus, was considerable.

Another example of cutting costs through multiple procurement involves a recent contract for 11 cargo ships for two steamship companies. Originally the companies wanted to build five vessels of one design and six of a slightly different one. However, they were persuaded to agree on identical ships which could be ordered from one yard. The savings to the Government alone of ordering the ships in one package with one basic design has been estimated at approximately $6.9 million.

If our merchant marine is to be properly rejuvenated, our shipyards must receive orders for several ships. Instead of putting together one ship, they must assemble a series of them. The shipyards must be oriented toward production, not construction.

One way to do this is by making the construction differential subsidy available to private shipyards as well as proposed shipowners, to whom it is now limited, and to compute this subsidy on the type of vessel involved rather than on a particular individual ship. This will provide an incentive for the industry as a whole to get away from overly expensive custom-designed vessels. Once again, I am pleased to note that the legislation now before the Merchant Marine Subcommittee does exactly this.

Another requirement for a rejuvenated merchant marine is a period of peaceful labor-management relations. It is time for industry and labor, and elements within both, to work together and advance a common cause. The country cannot afford the luxury of disruptive labor relations in the maritime industry. In 1968 commercial shipping was plagued by various strikes which resulted in a loss of 69,100 seafaring man-days, 468,900 longshoreman man-days, and 542,000 shipyard man-days. Surely this is too much. I need not add that the country cannot afford a maritime strike in June, of which there is now some talk.

I think the new Maritime Administrator, Andrew Gibson, was entirely correct when he said in April that the Nation's merchant marine policy was imperiled by unstable labor prospects.

One disturbing aspect of our maritime policy is the undisputed decline in passenger ship service. Many of the liners have either been beached or are operating at a substantial loss. Through the courtesy of the Maryland Port Authority, I recently viewed the port of Baltimore from the water. What struck me immediately was the presence of the liner *Independence*, now inactive and up for sale. Moreover, the president of Moore-McCormack Lines has stated that the line's two passenger ships are losing $2.7 million per year, despite an annual subsidy payment of almost $7.5 million.

Clearly something must be done. The Nation must decide whether to maintain U.S.-flag passenger service. To do this will require a great sum of money. Not to do it will result in reliance on foreign-flag liners or transportation by air. A basic decision has to be made and made soon. The Italians have invested in two modern passenger liners, the *Raphaello* and *Michelangelo*. The French have their *France* and the British their new *Queen Elizabeth II*. We must decide whether to stay in competition with them. Factors of high cost, national prestige, and leisure time all enter the picture. The decision is not an easy one, but it must be made. Moreover, it should be decided consciously and carefully, not by default or neglect.

Another extremely disturbing aspect in this area is the emergence of the Soviet Union as a major maritime power. The stationing of a Russian naval fleet in the Mediterranean is but a military manifestation of this. Of equal significance, however, is the ever-increasing size of the Soviet merchant fleet. This fleet is now the sixth largest in the world, and, according to Viktor G. Bakayev, the Russian Merchant Marine Minister, is expected to grow by more than 50 percent during the next 6 years and reach a total of 17 million tons by 1975.

The Soviets already have one of the finest commercial fishing fleets in the world, and I think it is obvious that they are now attempting both to extend their sphere of influence and create a more favorable trade position through accelerated activity on the part of their merchant marine.

The question is what should the reaction of the United States be to this attempt.

I believe it should not be one of panic. The seas belong to everyone and the Soviet Union has a legitimate right to build up its merchant marine. This is particularly so since in 1967 alone just under half the total of 124 million tons of goods shipped to and from Russia was carried by foreign vessels.

Yet, the United States should not ignore this activity. An enlarged Soviet merchant marine is a commercial threat to our maritime industry and must be recognized as such. It is simply not sufficient to be concerned with or aware of this fact. Action is required. Yet the action must be effective and sensible. There is no need for cold war rhetoric or provocative policies. What is needed is more and better American ships that will gain a larger share of world markets.

Let us accept the challenge offered to us by the Soviets in this area of the merchant marine and then simply beat them at it. Build better vessels, build more vessels, and then outbid the Russians for trade contracts. We have the heritage, we have the desire, we even have the ability. All we lack is the will.

One area of maritime policy where the U.S. already leads the world is in the development and operation of container ships. These are vessels built specifically to handle standard-sized containers, which are nothing more than large boxes, prepacked with cargo, that transfer easily to trucks or trains for land transit. Containerization facilitates the shipping of cargo and is having a revolutionary impact on the industry. A container ship spends half the time in port that a normal ship does, and thus earns a greater profit for it is costly to keep a ship tied up in port. One line has found that with seven container ships it can carry more cargo during 1 year than it used to carry with 20 conventional freighters. Some experts are even predicting that within 10 years half the North Atlantic break bulk trade will be in container ships.

Last month I had the honor to witness

the launching of the world's largest container ship. The $20 million, 34,700 deadweight ton, *Hawaiian Enterprise,* slid down the ways at Sparrows Point in Baltimore and will soon proudly join the American merchant marine. She is a beautiful ship and represents what our maritime industry at its best is capable of producing. Moreover, it is significant to note that she was built without a construction subsidy for a line which does not receive an operating subsidy.

Mr. President, I have previously mentioned that currently there is legislation before the Merchant Marine Subcommittee. This is major legislation, providing for a new national maritime program. It is the result of extensive consultations with all segments of the maritime industry.

The legislation doubles the construction differential subsidy for the next 5 years and broadens its eligibility. It authorizes $25 million per year for the research and development and sets aside $30 million per year for reconstruction of the reserve fleet. It renews and strengthens our commitment to the development of nuclear-powered ships. It establishes a new experimental operating subsidy and creates a Commission on American Shipbuilding to review the private shipbuilding industry and report to the President and Congress as how best to enhance its competitive position.

I fully support the basic thrust of this legislation and urge its enactment.

Of particular significance is the scope of the legislation. It treats the merchant marine as a whole and offers proposals that encompass a full range of maritime problems. It does not attack these problems in piecemeal fashion nor seek to advance the interests of one segment of the industry to the detriment of others. It views the merchant marine as one and tries to realize our common interest in rebuilding our entire merchant fleet. This approach is essential. We must address ourselves to the entire problem and stop offering only partial solutions that in the long run may be no solutions at all.

If the American merchant marine is to be rejuvenated, Congress must consider the full scope of the problem and act accordingly.

Mr. President, the United States is now at a crossroads. The decisions made or not made by this Congress will determine whether in fact America remains a major maritime nation.

A rich tradition of maritime preminence has been squandered. We no longer have a first rate fleet of merchant vessels. The U.S. flag is seen less and less in ports of call around the world. I do not enjoy playing the role of alarmist but the country must realize the shocking decline in our merchant marine.

I believe that the United States must embark on a major rejuvenation of our merchant fleet. I feel this effort must have a high national priority. Not to do this would be to court disaster. Our country's growth and prosperity depend on our having a strong merchant marine.

As I said at the beginning of my remarks, America's heritage has been one of the sea. This now we must not betray.

DISCHARGE OF THE COMMITTEE ON BANKING AND CURRENCY FROM FURTHER CONSIDERATION OF S. 2236 AND REFERRAL OF THE BILL TO THE COMMITTEE ON COMMERCE

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Washington (Mr. MAGNUSON) and the Senator from Alabama (Mr. SPARKMAN), I ask unanimous consent that the Committee on Banking and Currency be discharged from the further consideration of S. 2236, to create a Federal Insurance Guaranty Corporation to protect the American public against certain insurance company insolvencies, and that the bill be referred to the Committee on Commerce.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT TO THURSDAY, MAY 29, 1969

Mr. KENNEDY. Mr. President, I move that the Senate stand adjourned until noon on Thursday next, in accordance with the previous order.

The motion was agreed to; and (at 3 o'clock and 31 minutes p.m.) the Senate took an adjournment until Thursday, May 29, 1969, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate May 27, 1969:

DIPLOMATIC AND FOREIGN SERVICE

Joseph J. Jova, of Florida, a Foreign Service officer of class 1, to be the Representative of the United States of America on the Council of the Organization of American States, with the rank of Ambassador.

David D. Newsom, of California, a Foreign Service officer of class 1, to be an Assistant Secretary of State.

HOUSE OF REPRESENTATIVES—*Tuesday, May 27, 1969*

The House met at 12 o'clock noon.

The Reverend J. B. Reid, pastor of Shalom Baptist Church, Newport News, Va., offered the following prayer:

Our Father God, we are humbly grateful for Thy loving kindness and Thy gracious mercy. In the midst of change and conflict, Thou hast produced men of courage. Their hearts have been imbued by Thy quickening spirit. With Thine assurance they gird themselves for the Herculean tasks incumbered upon them today and the challenges of tomorrow.

Thou who searchest the hearts of nations, give us the power to do Thy will. We acknowledge our sins. Forgive us. We are cognizant that: "Righteousness exalteth a nation; but sin is a reproach to any people."

Sinister forces, O Lord, from within and from without are seeking to destroy the foundation upon which our liberties rely. Protect our Representatives by Thy grace. Thou hast brought them to serve Thy people for such a time as this.

We ask for Thy guidance and Thy strength this day, in the name of Jesus Christ, our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on May 15, 1969, the President approved and signed bills of the House of the following titles:

H.R. 3548. An act for the relief of Dr. Roberto de la Caridad Miquel; and

H.R. 4064. An act for the relief of Ana Mae Yap-Diangco.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 133. An act to authorize the vessel *Orion* to engage in the coastwise trade;

S. 753. An act to authorize and direct the Secretary of Transportation to cause the vessel *Cap'n Frank,* owned by Ernest R. Darling, of South Portland, Maine, to be documented as a vessel of the United States with full coastwise privileges;

S. 826. An act to designate certain lands in the Seney, Huron Islands, and Michigan Islands National Wildlife Refuges in Michigan, the Gravel Island and Green Bay National Wildlife Refuges in Wisconsin, and the Moosehorn National Wildlife Refuge in Maine, as wilderness; and

S. 2224. An act to amend the Investment Company Act of 1940 and the Investment Advisers Act of 1940 to define the equitable standards governing relationships between investment companies and their investment advisers and principal underwriters, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 408) to modify eligibility requirements governing the grant of assistance in acquiring specially adapted housing to include loss or loss of use of a lower extremity and other service-connected neurological or orthopedic disability which impairs locomotion to the extent that a wheelchair is regularly required, with amendments in