Mark-12 breechblock lock now has encountered competition from 11 other prospective suppliers in a competitive procurement. And competitive bidding cut the cost of the breechblock lock to less than one-third the price paid last year.

Congressman MOORHEAD's discoveries regarding the fantastic cost escalation of the C-5A transport underscore the critical need for vastly improved spending controls within the Defense agencies. I include the Mankiewicz-Braden column in the RECORD at this point because I believe every Member of the Congress is concerned about the continuing series of revelations regarding waste in defense spending.

[From the Allentown (Pa.) Evening Chronicle, May 6, 1969]

PENTAGON IN DEEP TROUBLE IN C-5A CONTRACT

(By Frank Mankiewicz and Tom Braden)

WASHINGTON.—A memo by Defense Secretary Melvin Laird and an exasperated speech by Sen. Harry Byrd, Jr., to point up the mounting crisis facing the Pentagon.

Both involve the major scandal unearthed this week by Rep. William Moorhead, D-Pa., concerning the Air Force's huge C-5A transport. The contract will cost some $2 billion more than estimated, and the Air Force, it seems, covered this up for more than two years, at least in part over concern for the financial position of Lockheed Aircraft, the prime contractor.

In March, Laird sent a memo to his top assistants.

"I am increasingly concerned," he wrote, "about the allusions in the press and elsewhere to 'runaway' costs on such key or major programs as the C-5A." He asked which studies and reviews were under way on program costs. He also asked, significantly, "What can and-or should be said publicly about these costs?" And finally, "What sorts of actions on DOD's (Defense's) part can be taken to thwart or ameliorate the continuing adverse commentary on program costs and suspect technical effectiveness."

At the time he wrote the memo, Laird must have known the fantastic cost overrun had been apparent for two years and that Air Force reports had been changed to conceal this fact for more than one year. The cost, in fact, had gone from $2.9 billion to over 5.2 billion, with the end not in sight.

Sen. Byrd took another tack. "The entire military establishment," he said, "has the responsibility to handle tax funds as a public trust—and drive hard bargains with the manufacturers."

It is, alas, an empty wish, as Sen. Byrd, perhaps the Senate's leading advocate of both economy in government and defense preparedness, must know. The unfortunate fact, as the C-5A flap and others reveal most clearly, is that the Pentagon cannot drive hard bargains with the manufacturers—it is the manufacturers who drive the hard bargains.

For example, an assistant secretary of the Air Force wrote his chief on March 15, 1967, expressing concern that Lockheed's trouble with the C-5A might damage its standing in the financial community. Lockheed was about to issue $125 million of convertible debentures. People might think, he said, that the C-5A contract was "in serious trouble," since by this time the Air Force had sent Lockheed a "cure notice," a device by which the Pentagon hints that a contract may even be terminated if deficiencies are not corrected.

This is, in fact, precisely what is meant by "the military-industrial complex." It is a complex in which buyers and sellers move easily back and forth across the lines, in which each is intimately involved in the financial and public relations welfare of the other and in which arms-length bargaining is quite impossible.

Rep. Otis Pike, D-N.Y., has also been doing some digging. The contract with Lockheed for the ill-starred Cheyenne helicopter, he says, was entered into by the Army at a time when the assistant secretary of the Army for research and development was a former vice president of Lockheed—who has since returned to the corporation. That contract, for 375 helicopters, had an original cost estimate of less than $1 million per helicopter. The cost is now estimated at more than $2.8 million each, and a spare-parts contract has yet to be negotiated.

It is a bad season for the men who now will try to cap these triumphs with an ABM system. No one here has ever talked about a "Labor Department-poor complex" or an "Agriculture Department-hungry complex" or, for that matter, a "HEW-dependent child complex" for a very good reason: they do not exist. In those areas, as is right and proper, bargains are hard and dollars are watched. But if you are a defense manufacturer and you run over a few billion dollars, or the thing won't work, your friends will cover up and the extra cost can be added to the next contract. Elsewhere in the federal budget the law is a terrible, swift sword.

PARENT POWER—AN AMERICAN TRADITION

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 28, 1969

Mr. RARICK. Mr. Speaker, once again some of the American people, asserting themselves at the polls in a typically American manner, have eliminated what they regarded as a threat to the safety and well-being of their children. By a landslide vote they replaced two school board members who were obviously not representing them to their satisfaction. In their places they elected two men who campaigned for the wishes of the great majority of the electorate.

The lesson is plain—that the American people will not be perpetually conned into school policies, whether it be in the guise of "balance," of "sex education," or any other do-gooder gimmick, which they know to be dangerous to their children.

I insert a clipping from Time magazine for May 30, 1969, as follows:

INTEGRATION—THE DREAM IS OVER

Because they regard the city as an ideal mirror of U.S. tastes, dozens of companies use Denver to test-market new products. If the same holds true of racial attitudes, then a key election in Denver last week suggests that Americans oppose school integration (at least via bussing) by 2½ to one.

The vast majority of Denver's elementary schools are *de facto* segregated. Almost two-thirds of the white pupils attend schools that are more than 85% white; in predominantly black schools, the pupils are rapidly falling behind in their studies. Goaded by the murder of Martin Luther King last year, the Denver school board sought a drastic remedy: make each Denver school reflect the overall ethnic composition of the city's 96,000 pupils—65% white, 20% Mexican-American and 15% Negro.

By a vote of 5 to 2, the board approved a bussing plan, due to start next fall, that would have sent more than 500 whites to predominantly black schools and guaranteed, that no minority-area school would be less than 70% white. The plan was less than satisfactory to the Rev. Jesse R. Wagner, co-chairman of a black-white group called Citizens for One Community that wanted fuller integration. Still, he worked hard for the bussing scheme—in contrast to Denver's black separatists, who told Wagner, in effect: "Do your things and you'll see."

What he and other Negro integrationists saw was a strong backlash by anti-bussing whites. Last week the whites got a chance to express their feelings when a record 50% of Denvers registered voters turned out for the schoolboard election. At issue were two six-year seats on the seven-member board. In seeking those seats, Lawyer James C. Perrill and Frank K. Southworth, a real estate man, ran primarily "against forced bussing and for neighborhood schools." They won by a landslide, switching the board majority to 4 to 3 against integration.

In Negro precincts, the pro-integration vote ran as high as 10 to 1; the heaviest vote against it came from white precincts that were totally unaffected by bussing now but fearful of it in the future. As a result, bussing is highly unlikely in Denver. Said Jesse Wagner: "The dream is over. The white majority is not willing to take on the commitment and make our country one."

SENATE—*Thursday, May 29, 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:

Eternal God, Father of our spirits, we give Thee thanks for the blessed memories and enduring hopes which bind us to the unseen world of the heroic dead who encompass us now like a cloud of witnesses. We thank Thee for all who have nobly lived, bravely died, and kept the faith. May we who have entered into the heritage of their heroism and self-sacrifice so honor their memory and so preserve and further their high purposes that the Nation they served may stand evermore for righteousness and peace.

We remember before Thee all whom war has left weakened in body, mind, and spirit and pray that they may live brave, cheerful, and useful lives amid grateful regard and deserved honor.

Bless the work of the peacemakers and by Thy grace put down the pride and anger that turn man against man and nation against nation, so that Thy kingdom may come and Thy will be done on earth.

In the name of the Prince of Peace. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 27, 1969, be dispensed with.

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

FOREIGN AID—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT (H. DOC. NO. 91–122)

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, received on May 28, 1969, under authority of the order of the Senate of May 27, 1969, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Americans have for many years debated the issues of foreign aid largely in terms of our own national self-interest.

Certainly our efforts to help nations feed millions of their poor help avert violence and upheaval that would be dangerous to peace.

Certainly our military assistance to allies helps maintain a world in which we ourselves are more secure.

Certainly our economic aid to developing nations helps develop our own potential markets overseas.

And certainly our technical assistance puts down roots of respect and friendship for the United States in the court of world opinion.

These are all sound, practical reasons for our foreign aid programs.

But they do not do justice to our fundamental character and purpose. There is a moral quality in this Nation that will not permit us to close our eyes to the want in this world, or to remain indifferent when the freedom and security of others are in danger.

We should not be self-conscious about this. Our record of generosity and concern for our fellow men, expressed in concrete terms unparalleled in the world's history, has helped make the American experience unique. We have shown the world that a great nation must also be a good nation. We are doing what is right to do.

A FRESH APPROACH

This administration has intensively examined our programs of foreign aid. We have measured them against the goals of our policy and the goad of our conscience. Our review is continuing, but we have come to this central conclusion:

U.S. assistance is essential to express and achieve our national goals in the international community—a world order of peace and justice.

But no single government, no matter how wealthy or well-intentioned, can by itself hope to cope with the challenge of raising the standard of living of two-thirds of the world's people. This reality must not cause us to retreat into helpless, sullen isolation. On the contrary, this reality must cause us to redirect our efforts in four main ways:

We must enlist the energies of private enterprise, here and abroad, in the cause of economic development. We must do so by stimulating additional investment through businesslike channels, rather than offering ringing exhortations.

We must emphasize innovative technical assistance, to ensure that our dollars for all forms of aid go further, and to plant the seeds that will enable other nations to grow their own capabilities for the future.

We must induce other advanced nations to join in bearing their fair share—by contributing jointly to multilateral banks and the United Nations, by consultation and by the force of our example, and by effective coordination of national and multilateral programs in individual countries.

We must build on recent successes in furthering food production and family planning.

To accomplish these goals, this Administration's foreign aid proposals will be submitted to the Congress today. In essence, these are the new approaches:

1. ENLISTING PRIVATE ENTERPRISE

I propose the establishment of the Overseas Private Investment Corporation.

The purpose of the Corporation is to provide businesslike management of investment incentives now in our laws so as to contribute to the economic and social progress of developing nations.

The majority of the Board of Directors, including its President, will be drawn from private life and have business experience.

Venture capital seeks profit not adventure. To guide this capital to higher-risk areas, the Federal Government presently offers a system of insurance and guaranties. Like the Federal Housing Administration in the housing field here at home, the Overseas Private Investment Corporation will be able to place the credit of the United States Government behind the insurance and guaranties which the Corporation would sell to U.S. private investors.

The Corporation will also have a small direct lending program for private developmental projects. It will carry out investment survey and development activities. And it will undertake for A.I.D. some of the technical assistance required to strengthen private enterprise abroad. The financial performance of OPIC will be measurable: It is expected to break even or to show a small profit.

The Overseas Private Investment Corporation will give new direction to U.S. private investment abroad. As such, it will provide new focus to our foreign assistance effort.

Simultaneously, I propose a mandate for the Agency for International Development to direct a growing part of its capital, technical and advisory assistance to improving opportunities for local private enterprise in developing countries—on farms as well as in commerce and industry.

We do not insist that developing countries imitate the American system. Each nation must fashion its own institutions to its own needs. But progress has been greatest where governments have encouraged private enterprise, released bureaucratic controls, stimulated competition and allowed maximum opportunity for individual initiative. A.I.D.'s mandate will be directed to this end.

2. EXPANDING TECHNICAL ASSISTANCE

I propose a strong new emphasis on technical assistance.

Over one-fifth of the funds requested for fiscal year 1970 are for technical assistance activities. Imaginative use of these funds at the points where change is beginning can have a gradual but pervasive impact on the economic growth of developing nations. It can make our dollars for all forms of aid go further.

Technical assistance takes many forms. It includes the adaptation of U.S. technical knowledge to the special needs of poor countries, the training of their people in modern skills, and the strengthening of institutions which will have lives and influence of their own. The main emphases of technical assistance must be in agriculture, education, and in family planning. But needs must also be met in health, public administration, community action, public safety, and other areas. In all of these fields, our aim must be to raise the quality of our advisory, training and research services.

Technical assistance is an important way for private U.S. organizations to participate in development. U.S. technical assistance personnel serving abroad must increasingly come from private firms, universities and colleges, and nonprofit service groups. We will seek to expand this broad use of the best of our American talent.

A.I.D. is preparing plans to reorganize and revitalize U.S. technical assistance activities. A new Technical Assistance Bureau headed by an Assistant Administrator will be created within A.I.D. to focus on technical assistance needs and ensure effective administration of these activities. The bureau will devise new techniques, evaluate effectiveness of programs, and seek out the best qualified people in our universities and other private groups.

To make it possible to carry through these plans most effectively, I am requesting a two-year funding authorization for this part of the A.I.D. program.

3. SHARING THE ASSISTANCE EFFORT

I propose that we channel more of our assistance in ways that encourage other advanced nations to fairly share the burden of international development.

This can be done by:

—Increasing jointly our contributions to international development banks.

—Increasing jointly our contributions to the United Nations technical assistance program.

—Acting in concert with other advanced countries to share the cost of aid to individual developing countries.

Most development assistance—from other advanced nations as well as the United States—is provided directly from one country to another. That is understandable. Such bilateral programs provide assistance in accordance with each country's own standards, make the source more visible to the recipient's people and can reflect historical political ties.

But assistance through international

development banks and the United Nations is approaching a fifth of total world-wide aid for development and should be expanded. Multilateral programs cushion political frictions between donors and recipients and bring the experience of many nations to bear on the development problems. Moreover, they explicitly require shared contributions among the advanced nations. This calls for funds in addition to those which I am proposing today.

I appreciate the prompt response by the Congress to my earlier proposal authorizing the United States to join with others in the second replenishment of the International Development Association. I urge early passage of appropriations for this contribution so that we may meet our pledge.

I reaffirm my request for appropriations in Fiscal 1970 of $20 million for the ordinary capital of the Asian Development Bank, and $300 million for our scheduled contribution to the Fund for Special Operations of the Inter-American Development Bank.

In separate legislation I will submit a new proposal for a U.S. contribution of $25 million to the Special Fund of the Asian Development Bank in FY 1970. I am convinced that a fairly-shared Special Fund, to enable the Bank to provide concessional financing for priority needs, is a necessary supplement to the Bank's ordinary lending facilities. The United States should join with other donor countries in establishing this Special Fund, and strengthen the Bank so that it can better deal with Asia's current development problems and future needs.

The United States will consult with the management of the African Development Bank and with other potential donors, to identify the most appropriate way we can support the objectives of African development and assist in meeting the needs of that continent.

Today's proposed legislation includes a 43 per cent increase in the U.S. contribution to multilateral technical assistance through the United Nations Development Program. Our contribution will be on the same sharing basis as in the past.

4. FURTHERING FOOD PRODUCTION AND FAMILY PLANNING

This Administration, while moving in the new directions I have outlined, will apply the lessons of experience in our foreign aid programs.

One basic lesson is the critical importance of releasing the brakes on development caused by low agricultural productivity. A few years ago, mass starvation within a decade seemed clearly possible in many poor nations. Today they stand at least on the threshold of a dramatic breakthrough in food production. The combination of the new "miracle" seeds for wheat and rice, aid-financed fertilizer, improved cultivation practices, and constructive agricultural policies shows what is possible. They also demonstrate the potential for success when foreign aid, foreign private investment and domestic resources in developing countries join together in a concerted attack on poverty.

The experience of this decade has also shown that lower rates of population growth can be critical for speeding up economic development and social progress. An increasing number of countries have adopted national family planning programs to attack the problem. At least another decade of sustained hard work will be needed if we are to win the battle between economic development and population. But our assistance to voluntary family planning programs and support for the work of the United Nations and other international organizations in this field must continue to have high priority, as will our support of efforts to increase food production.

Another important lesson is that our aid programs need better means of continuous management inspection. We are creating a new position of Auditor-General in the Agency for International Development. His job will be to make sure that A.I.D.'s funds are used for their intended purpose and that A.I.D.'s operations are managed as tightly and efficiently as possible. He will report directly to the A.I.D. Administrator.

LEGISLATIVE AND BUDGET REQUESTS

The proposed legislation revises that part of the present Foreign Assistance Act which deals with economic aid, to reflect the priorities of this Administration. The proposals are designed to accomplish the following:

—Create the Overseas Private Investment Corporation and authorize its programs for an initial five years.

—Strengthen A.I.D.'s mandate to use official aid to stimulate private initiative in development.

—Expand the role of technical assistance under consolidated legislation and a two-year authorization.

The proposed budget includes new appropriation of $2,210 million for A.I.D., $138 million below the January budget request of the previous Administration. In addition, the budget includes $75 million to augment existing reserves for guaranties to be issued by the proposed Overseas Private Investment Corporation.

The appropriation request for economic assistance will support these regional programs:

—For Latin America, $605 million.

—For the Near East and South Asia, $625 million.

—For Africa, $186 million.

—For East Asia, $234 million.

—And for Vietnam, $440 million.

In order to protect the U.S. balance of payments at the same time we are providing assistance abroad, goods and services will be purchased in the United States wherever practicable. Over 90 percent of all A.I.D. expenditures and virtually all purchases of goods will be made in the United States. The remaining funds that are spent abroad are mainly for living expenses of U.S. personnel and for other local expenditures in support of technical assistance programs.

For military assistance, the proposed budget includes $375 million, the same as in the January budget. Maintenance of a climate of international security still calls for military strength sufficient to deter aggression. Seventy-seven percent of the total amount available for the military assistance program will be allocated to four of our long-standing allies—Korea, the Republic of China, Turkey and Greece. The balance of the request will be used to provide modest amounts of training and equipment to 44 other countries where our security and foreign policy interests are partially met by this form of assistance. We are negotiating a renewal of our base agreement with Spain. If these negotiations succeed, we shall then need to request an amendment to this authorization asking for additional funds to cover our year's needs for Spain.

The United States will continue to provide military assistance from the U.S. Armed Services budget to Vietnam, Laos and Thailand.

I am also asking in separate legislation for $275 million for credit necessary to facilitate the purchase of essential military equipment by countries now able to buy all or a growing part of their defense requirements. These funds will be returned to the United States during the next few years as the purchasing countries meet their repayment obligations.

PLANNING FOR THE 1970'S

I believe these proposals for fiscal year 1970 are sound—and necessary to make clearly desirable improvements in our foreign aid program.

But we need to learn more about the role which foreign assistance can play in the development process, and the relationship between development and overall U.S. foreign policy.

I am therefore establishing a task force of private citizens to make a comprehensive review of the entire range of U.S. aid activities, to consider proposals of the United Nations bodies and international commissions, and to help me determine what our national policies should be toward the developing countries in the decade of the 1970's. I will look to the task force's report in developing the program next year, in my response to the Javits Amendment to the Foreign Assistance Act, and in considering the recommendations of the internationally-sponsored Pearson Commission report to be published in the fall.

TOWARD A WORLD OF ORDER

Foreign aid cannot be viewed in isolation. That is a statement with a double meaning, each side of which is true.

If we turn inward, if we adopt an attitude of letting the underdeveloped nations shift for themselves, we would soon see them shift away from the values so necessary to international stability. Moreover, we would lose the traditional concern for humanity which is so vital a part of the American spirit.

In another sense, foreign aid must be viewed as an integral part of our overall effort to achieve a world order of peace and justice. That order combines our sense of responsibility for helping those determined to defend their freedom; our sensible understanding of the mutual benefits that flow from cooperation between nations; and our sensitivity to the desires of our fellow men to improve their lot in the world.

In this time of stringent budgetary restraint, we must stimulate private investment and the cooperation of other governments to share with us in meeting

the most urgent needs of those just beginning to climb the economic ladder. And we must continue to minimize the immediate impact on our balance of payments.

This request for foreign economic and military assistance is the lowest proposed since the program began. But it is about 900 million dollars more than was appropriated last year. I consider it necessary to meet essential requirements now, and to maintain a base for future action.

The support by the Congress of these programs will help enable us to press forward in new ways toward the building of respect for the United States, security for our people and dignity for human beings in every corner of the globe.

RICHARD NIXON.

THE WHITE HOUSE, *May 28, 1969.*

REPORT OF THE OFFICE OF ECONOMIC OPPORTUNITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT (H. DOC. NO. 91-128)

The VICE PRESIDENT laid before the Senate the following message from the President of the United States received on May 28, 1969, under authority of the order of the Senate of May 27, 1969, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am transmitting herewith the fourth annual report of the Office of Economic Opportunity, covering that office's activities during Fiscal Year 1968.

RICHARD NIXON.

THE WHITE HOUSE, *May 28, 1969.*

REPORT OF THE RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

The VICE PRESIDENT laid before the Senate the following message from the President of the United States received on May 28, 1969, under authority of the order of the Senate of May 27, 1969, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am pleased to transmit to you the Annual Report of the Railroad Retirement Board for fiscal year 1968. During that year, retirement and survivor benefit payments totaled $1,403 million and were paid to over one million beneficiaries. Unemployment and sickness benefits provided by the Railroad Unemployment Insurance Act amounted to $76 million and were paid to almost 300,000 beneficiaries. I commend this report to your attention.

RICHARD NIXON.

THE WHITE HOUSE, *May 28, 1969.*

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT—NOMINATIONS

Under authority of the order of the Senate of May 27, 1969, the Secretary of the Senate, on May 28, 1969, received messages in writing from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received on May 28, 1969, see the end of proceedings of today, March 7, 1969.)

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of May 27, 1969, the Secretary of the Senate on May 28, 1969, received a message from the House of Representatives which announced that the House had agreed to the amendments of the Senate 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.

PROPOSED LEGISLATION TO REVISE THE LAWS RELATING TO POST OFFICES AND POST ROADS AND FOR OTHER PURPOSES

Under authority of the order of the Senate of May 27, 1969, the Secretary of the Senate, on May 28, 1969, received a communication from the President of the United States, transmitting a draft of proposed legislation to revise the laws relating to post offices and post roads and for other purposes which, with the accompanying papers, was referred to the Committee on Post Office and Civil Service.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 4204. An act to amend section 6 of the War Claims Act of 1948 to include prisoners of war captured during the Vietnam conflict, and for other purposes;

H.R. 11582. An act making appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1970, and for other purposes; and

H.R. 11612. An act making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1970, and for other purposes.

ENROLLED BILLS SIGNED

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

S. 278. An act to consent to the New Hampshire-Vermont Interstate School Compact; and

S. 408. An act to liberalize the eligibility requirements governing the grant of assistance in acquiring specially adapted housing for certain service-connected disabled veterans, to increase the amount of such grant, to raise the limit on the amount of direct housing loans made by the Veterans' Administration, and for other purposes.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 4204. An act to amend section 6 of the War Claims Act of 1948 to include prisoners of war captured during the Vietnam conflict, and for other purposes; to the Committee on the Judiciary.

H.R. 11582. An act making appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1970, and for other purposes; and

H.R. 11612. An act making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1970, and for other purposes; to the Committee on Appropriations.

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.

ORDER FOR ADJOURNMENT UNTIL MONDAY, JUNE 2, 1969

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

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

AUTHORITY TO RECEIVE MESSAGES AND FILE REPORTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, during the adjournment of the Senate from today until noon on Monday next, all committees be authorized to file their reports, including any minority, individual, or additional views; 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.

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

MILITARY DICTATORSHIP IN SAIGON

Mr. YOUNG of Ohio. Mr. President, it is startling to read in the Washington Post of May 29, 1969, that Truong Dinh Dzu, who ran second to Thieu in the September 1967 elections in Saigon, is still serving time in jail at hard labor. We remember that President Johnson proudly asserted "one man, one vote" as the principle to be followed by the rulers of the Saigon government, which we were and still are supporting with our Armed Forces.

In that election, Truong Dinh Dzu, the peace candidate, ran second of some seven candidates. The ticket headed by Thieu and Ky received but 34 percent of the vote. We now know that this election was rigged. We know that Thieu and Ky denied the right to vote to many thousands of men and women they termed neutralists. They denied the right to vote to all men and women they termed Communists. They denied a place on the presidential ticket to "Big Minh" the popular former President of South Vietnam. His civilian government was overthrown by the midnight coup in June 1965 led by 10 generals, nine of whom, including Thieu and Air Marshal Ky, were born in North Vietnam; and these men, including Ky, fought along with the French Armed Forces against their fellow countrymen seeking national liberation. They arrested Big Minh, and he was exiled to Thailand. Fearing his popularity, they barred him from becoming a candidate in the 1967 election.

The regime in Saigon is a military dictatorship maintained in office by our Armed Forces and CIA, and despised by 80 percent of the people of South Vietnam. It is notoriously corrupt. Freedom of speech is suppressed. The number of political prisoners languishing in Saigon jails is unknown, but is certainly in the thousands. It includes many of South Vietnam's leading intellectuals, religious leaders, lawyers, students, newspaper editors, and anyone who has dared to advocate measures to end the war. The militarist leaders of the Saigon government represent an old and vanished order. It is a certainty that they will be ousted the moment the South Vietnamese people again regain control of their own affairs.

We Americans support a militarist dictatorial government in South Vietnam where the runner-up for president lands in jail. Truong Dinh Dzu advocated negotiations with leaders of the National Liberation Front of South Vietnam to form a coalition government in Saigon. For this "crime" he was arrested. After a trial of 5 hours, he was immediately found guilty by the military judges and sentenced to 5 years at hard labor in an island prison. Now "generous" leaders of the Saigon government our GI's are maintaining in power have transferred him from that island prison to the Saigon jail as he had suffered a severe heart attack and no doctor was available there to treat a prisoner seriously ill with heart disease.

Mr. President, I ask unanimous consent that the news item in the Washington Post referring to this matter be printed in the RECORD at this point.

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

VIETNAM PEACE CANDIDATE DZU TO BE MOVED FROM ISLAND JAIL

SAIGON, May 28.—Truong Dinh Dzu, runner-up to President Thieu in the 1967 elections, is being transferred from an island prison to Saigon for treatment for a heart disease, a government spokesman said today.

Dzu was sentenced to five years at hard labor in July, 1968, for advocating negotiations with the National Liberation Front. Five months later, Saigon's representatives at Paris entered into the peace talks with NLF delegates, but Dzu remained confined on Conson, 65 miles off the southeast coast of Vietnam.

The spokesman, questioned on this today, replied that Dzu had proposed recognition of the NLF and "we would never recognize the NLF."

The spokesman told newsmen Dzu's transfer had been requested by the prison doctor and approved by Prime Minister Tan Van Huong. He said Dzu will be flown from Conson to Chihoa jail in Saigon as soon as a plane is available.

U.S. officials are believed to have been pressing Thieu's government to release Dzu, whose imprisonment has been the subject of criticism in Saigon and abroad.

South Vietnamese sources connected Dzu's removal from his island prison with the impending arrival of an American delegation of religious figures and civil libertarians to investigate political and religious prisoners here.

This group, the U.S. Study Team on Religious and Political Freedom in Vietnam, is scheduled to arrive on Thursday, and already has indicated an interest in Dzu's case.

THE STORY BEHIND THE PERU SITUATION

Mr. CHURCH. Mr. President, international problems, as a rule, do not flare into the newspaper headlines until they reach the point of severe crisis. When this happens, reporting naturally focuses on the immediate drama, and less attention is given to essential background information, to the history of the problem, and to its root causes.

This, however, is not the case with the current crisis in our relations with Peru, thanks to a timely and penetrating article by Richard N. Goodwin, which appeared in the May 17 issue of the New Yorker magazine. I commend it to all of my colleagues as a comprehensive review of how the present crisis developed between the American and Peruvian Governments.

Mr. Goodwin finds errors of judgment on both sides of the question, but—more than most interpreters—he has tried to understand the Peruvian viewpoint. This was expressed to him by a prominent newspaper editor, Don Luis Miro Quesada, who said:

I am a nationalist. That doesn't mean I am against other countries, but I am for my own country. There is nothing wrong with that.

Mr. Goodwin concentrates on the troubled relationship that existed between the American-owned International Petroleum Co. and Peru's volatile political climate, prior to last year's military takeover and the company's seizure.

Now the principal difficulty, of course, involves the Hickenlooper amendment to the U.S. Foreign Assistance Act. As Mr. Goodwin observes:

The amendment gives the President no power he did not already have to cut off or suspend aid. It does, however, strip him of flexibility.

I ask unanimous consent, Mr. President, to have this important article printed in its entirety at this point in the RECORD.

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

LETTER FROM PERU

Early in the morning of October 3, 1968, the armed forces of Peru overthrew that country's government. Six days later, a thousand troops of the New Revolutionary Government seized the oil complex surrounding the northern city of Talara. Within a few months, the junta had taken over that complex and all other assets of the International Petroleum Company (or I.P.C.), a wholly owned subsidiary of Standard Oil of New Jersey The United States government now has until early August to decide whether to reply with economic sanctions that might seriously undermine the Peruvian economy in an effort to force the junta to pay for what it has seized. "We told them we would apply sanctions if they took I.P.C.," explains a high U.S. official in Peru. "Now the deterrent has failed. Our credibility is involved, and if we don't do what we said, it might have harmful consequences, and nationalist forces might start after other companies. On the other hand, if we do act, our relations with Peru will deteriorate. It could strengthen nationalist forces and jeopardize other American interests." Far less ambivalently, another U.S. official complains, "The trouble with American business is they don't stick together. That's what happened in Cuba, and they all went down one by one." Yet the government of Peru is made up of officers who have defeated two Communist guerrilla movements, and they have pledged that they will not nationalize any other foreign company. The Foreign Minister, General Edgaro Mercado Jarrín, a lean, intense officer trained in U.S. military schools, whose friendship for the United States is matched by his hatred of Communism, explains, "We are not acting against the people of the United States. We are not acting against the government of the United States. We are not acting against any other company. Just a single company, which has claimed sovereignty over the soil, refused to pay taxes, corrupted government, and acted as a law unto itself. If you apply sanctions, the people will be uncontrollable. Anything could happen, and not only against America but against all the structures. We will fight against it, but I do not know if we can really stop it."

It is helpful to understand how small and poor a country now awaits, with growing apprehension, the outcome of its clash with the dominant power of the Western Hemisphere. Sprawled along the western coast of South America, Peru can be roughly pictured as an upright rectangle about twelve hundred miles high and eight hundred miles at its widest point, similar in shape to California, although about three times as large. It is not one country but three. Nature has divided this rectangle from top to bottom, or north to south, into three distinct and unequal segments. Along the coast is a narrow ribbon of desert, broken by fifty small rivers on their way from the Andes to the sea. To the east, the desert yields to the great sierra, seat of the Inca Empire, a land of deep valleys and high plateaus bounded by the two great ranges of the Andes. And on the other side of the Andes turbulent rivers rush toward a huge and almost empty land of dense tropical forest—the westernmost demesne of the Amazon, whose jungle basin, stretching from Peru across Brazil, covers an area almost as large as the United States. Peru has a population of about twelve million—a few more than that of New York City's metropolitan area. About a third of the Peruvians are Andean Indians who live outside the national economy and society and many of whom speak only their ancient Indian languages. Peru is one of Latin America's poorer countries. The average yearly income is about two hundred and eighty dollars per person, and the total national production is worth approximately four billion dollars; that makes the nation of Peru a little more than a fourth as productive as

Standard Oil of New Jersey, whose total revenues last year were more than fourteen billion dollars.

In 1914, Robert Lansing, then Counselor for the Department of State and soon to be Wilson's Secretary of State, worrying about the possibility that European powers might undermine the Monroe Doctrine through economic imperialism, wrote, "A . . . power whose subjects own the public debt of an American state and have invested there large amounts of capital may control the government of the state as completely as if it had acquired sovereign rights over the territory through occupation, conquest, or concession." Today, in Peru, United States interests own, *inter alia*, nearly all of the copper, probably the country's most valuable natural resource; about a quarter of the sugar and fishing industries; nearly all of the shipping; much of the oil; the telephone company; and many of the major retail establishments, including Sears, Roebuck and Coca-Cola—although the more popular Inca Cola is owned by a Peruvian family. Moreover, Peru is almost totally dependent on the American government and private banks for the refinancing of its large external debt and for the funds necessary to expand its mining.

The present Peruvian government is ready to admit the self-evident—that Peru cannot develop without the continued infusion of private capital from the United States. Still, the sheer weight of the American presence undoubtedly heightens Peruvian sensitivity to our every act and proclamation. "We want to be friends and we want American investment," the head of one of Peru's oldest and most powerful families told me. "But we cannot have *'paternalismo.'* You are big enough to be the father, but we are too old to be a son."[1]

Peru is no banana republic carved from the wilderness by Spanish conquerors. The road from Lima to the oil fields passes only a hundred miles from the plaza at Cajamarca, where, on the evening of November 16, 1532, Pizarro the Conqueror ambushed and captured the chief of the Incas and in a single stroke destroyed the power of the vast Inca civilization, whose roots reached back into still older societies that were building temples and organizing society in the eighth century B.C.

After four hundred years of Westernization, of foreign aid and private investment, of the Good Neighbor Policy and the Alliance for Progress, Peru is far less developed in many respects than it was during the Inca rule. Today, there are rocks and brush where an efficient net of roads once united an empire; desert has reclaimed large stretches of land that were once fruitfully irrigated; and the sierra is populated by the scattered and impoverished descendants of a civilization that was highly organized for productivity and common action. The sense of this great past, the mingled blood of conquered and their heroic conquerors, is a source of strengthening pride for the educated Peruvians. Long before American blacks discovered the need for black studies, Peruvians had turned to their Indian past to help them heighten and assert their dignity.

From this past derives another experience that helps illuminate the intensities of feeling behind the present dispute. The history of Peru is, in large measure, the history of the soil and its riches. For centuries the Indians mined and worked the gold that lured their conquerors to Peru. In 1534, a poster in Lyons announced an exhibition of "much inestimable wealth of gold and silver and precious stones found in that province and brought here from that country." The Peruvians' economy has nearly always rested on mineral wealth—gold and silver, copper and nitrates, pitch and oil—although in recent years they have also uncovered the riches that lie beneath the seas in the great fishing grounds of the Humboldt Current. Much of this wealth is still untouched. The copper companies plan a six-hundred-million-dollar expansion of their mining facilities. The jungle lands east of the Andes are thought to conceal enormous and diverse riches. And the oil companies know that Peru contains one of the largest unexplored sedimentary beds in the world. The sense that minerals were the foundation of the state helps explain why under the Incas, the Spanish, and under the Republic of Peru, the state alone could own the Peruvian subsoil and what it contained. Individuals and private companies could secure the right to explore and often received sweeping concessions to mine and refine, and to profit from sales and commerce. But in Peru, as in most of Latin America, no private person could own the subsoil rights. To this traditional law, for almost a century and a half, there was one exception: the La Brea y Pariñas oil field of Standard Oil of New Jersey. That exception has now been ended by the Revolutionary Government of Peru.

Now the United States must decide whether to retaliate by invoking the Hickenlooper Amendment to the Foreign Assistance Act, which directs the President to cut off all foreign aid to any country that expropriates a United States company without taking "appropriate steps" toward "speedy compensation" within six months. The amendment was enacted in 1962 over the opposition of the Kennedy Administration and has never been applied in Latin America. The original deadline was April 9th, six months after the seizure of Talara. But as that date approached without progress toward settlement, the Nixon Administration averted a clash by deciding that Peru's willingness to permit I.P.C. an administrative appeal constituted "appropriate steps" within the meaning of the Hickenlooper Amendment. Thus, the new deadline for decision is early August, when the appeal will be decided not by the courts but by Peruvian administrators, and ultimately by the President of Peru.

The Peruvian government freely admits the company's right to compensation for its seized assets, and has offered to pay a fair amount as soon as the company pays its own alleged debt to Peru. However, this claim of debt—which is the subject of the I.P.C. appeal—is based on the theory that the company had been operating the La Brea field illegally for forty-four years and therefore owes Peru the value of everything produced by that field, which amounts to a good deal more than the value of the assets. Thus, in fact, I.P.C. would get nothing. Imposition of the Hickenlooper Amendment and allied legislation would have serious and perhaps crippling consequences for the entire Peruvian economy. Formally, it would cut off aid and halt United States purchases of Peruvian sugar, which are a major source of foreign exchange. In practice, it would dry up American financing, public and private, of badly needed industrial expansion as well as the refinancing of present debts. An Inter-American Bank expert has estimated that the amendment could cost Peru a hundred and eighty million dollars in a year—an amount roughly equivalent to all of the country's financial reserves and about two-thirds as much as the total aid Peru has received since the Alliance for Progress began, in 1961.

Almost inevitably, such Draconian strokes would provoke some form of economic retaliation, perhaps against other American companies, and bright young colonels of the Presidential staff are preparing contingency plans to halt the flight of foreign currency and assets. Even more serious are the potential political consequences. The justice of the seizure is probably the only conviction that unites the historically divided and fragmented parties and classes of Peru. Peace Corps volunteers report that for the first time they hear hostile mutterings about the "gringos" as they walk through the streets of Lima slums or ride the rickety buses of the poor. Applying the Hickenlooper Amendment "would probably increase nationalistic and anti-American feeling," says the American Ambassador, John Wesley Jones. "Blood will flow in the streets," gloomily predicts President Juan Velasco Alvarado. "Peru could become another Cuba," says a high official of the exiled civilian government. Apocalyptic prophecies about Latin America are usually wrong. Still, there is little doubt that application of Hickenlooper would damage our relationships with Peru and with other countries of Latin America. Beyond that, the outcome is highly speculative, but the risks are there. And for President Nixon the choice must have especially ironic overtones. It was in Peru, in May, 1958, that angry, shouting crowds transformed Vice-President Nixon's good-will tour into a dramatic display of rising anti-Americanism that shocked the United States and became one of John F. Kennedy's campaign issues in 1960. When I tried to explain to a Peruvian official that the new Administration had just taken office and probably needed time to study the dispute, he replied unsmilingly, "That's not necessary. Mr. Nixon is very well informed about Peru." In 1958, Mr. Nixon was only a symbol. Now, as President, he faces a decision that could well bring the same mobs into the same streets, shouting his name again.

Over the years, few nations have been friendlier to American investment than Peru, and the present government proclaims its intention to continue that friendship. Why, then, did a government that is fundamentally pro-American and anti-Communist seize this company at this time? "In my six years," Ambassador Jones says, "the company has been totally generous and reasonable in trying to reach a settlement with Peru." "If you want to know what I think," another American told me, "Velasco just saw this was a good nationalistic issue and grabbed it to stay in power." On February 6, 1969, President Velasco himself declared, "The case of the International Petroleum Company is the problem of a company that has transgressed and offended our laws, usurped our rights by using all available means, and one that is determined to create conflict between two friendly governments. The case of the International Petroleum Company is unique. It is a singular case." The Foreign Minister, General Mercado, asks, "How can you apply the amendment on behalf of a company that is so bad?" And then, in the soft tones of submerged fury, he said, "The story of I.P.C., is a black chapter in the history of my country."

The story starts long before the International Petroleum Company came to Peru, and long before men knew of petroleum and the

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[1] Some cautions for the reader. Facts in Latin America, historical and otherwise, are often elusive. In some cases, the best one can do is make a reasoned judgment. In others, it is enough to show that uncertainty exists and that the evidence is not clearly and irrefutably in favor of one side or the other. It is also necessary to be aware that a sentence in an American publication can become a banner headline in Lima and an instrument of political purpose or of vengeance. Therefore, it is sometimes necessary to conceal the precise source of information and attitudes. In this exploration, I talked with the President and high officials of the present government, the President and supporters of the deposed government, the principal civilian allies of the military coup, and with the top officers of Standard Oil, its I.P.C. subsidiary, and the United States Embassy, along with many other concerned citizens of the United States and Peru. Where there is no name given, the individual has been judged well informed or a qualified representative of attitudes and convictions.

riches it would bring. Some six hundred years ago, a group of pre-Inca Indians in the remote northern reaches of Peru discovered at the foot of the Amotape Mountains, about thirteen miles from the Pacific, a cluster of small pools filled with a dark, heavy liquid that seemed to ooze mysteriously from the center of the earth. They skimmed the oil from the surface and used it to line clay jars and to mummify the dead. After the Conquest, the Spanish dug trenches, and as the oil seeped into the excavations they combined boiling with natural evaporation to leave a thick, scummy black residue known as *brea*, or pitch. Transported down the coast, the pitch was used to caulk the hulls and tar the rigging of the Spanish fleet. During this period, the pitch mine, like all the mineral properties in Spanish America, remained the property of the crown, which granted often sweeping concessions to favored individuals and companies. In 1821, after declaring its independence of Spain, Peru reconfirmed the colonial mining ordinances, which provided that ownership of the subsoil rights to all minerals, and to other substances in the earth, belonged to the state. And in 1824 Bolívar drove the last Spanish troops from the country. Like revolutionaries before and since, Bolívar needed money to finance his struggle. One of those who helped him was Don José de Quintana.

In 1826, to discharge its debt to de Quintana, the new Peruvian government deeded him the pitch mine at Amotape. The deed declares that the agents of the Peruvian government "abdicate, strip, and separate from the state which they represent all right, title, and dominion held by or appertaining to it over the said mine of 'pitch,' and they cede, renounce, and transfer the same to the purchaser." It is on the basis of this 1826 deed that successive owners have claimed a unique ownership of the subsoil rights, and for forty-five years the deed has been the legal basis of I.P.C.'s claim to title. Peru's denial of that title is the legal foundation of the claim against I.P.C., which is the principal issue of the current crisis. Peruvian experts argue that even if the deed did grant ownership to subsoil rights in the pitch mine—which they do not admit—it could not have included ownership of petroleum, a substance whose use and value were then unknown. However one interprets the deed itself, the history of this claim is entangled with the entire history of Peru and illuminates both the tenacity of its holders and the resistance of many Peruvians to an assertion of private dominion that they have found deeply offensive to their concept of national sovereignty. As Peru became more nationalistic and more sensitive about its independent sovereignty, that resistance increased.

By 1830, Don José de Lama had merged ownership of the mine—which he had acquired in 1827—with the huge estate on which it was situated, thus creating the property known from then on as La Brea y Pariñas.

Thirty-eight years later, only a decade after the world's first oil well was drilled in Pennsylvania, his daughter struck oil on the La Brea property. Shortly afterward, the Peruvian government took a new interest in this distant northern province. In the eighteen-seventies, Peru passed its first mining laws since independence. They required, *inter alia*, that all "owners of mining claims . . . of coal or petroleum . . . present their title . . . for revalidation" and registration within four months or the claims would be declared void. The laws also set up a new system of taxation. With some exceptions, all mines were to be divided into arbitrary sections of ten acres each, known as *pertenencias*, and a flat tax would be imposed on each *pertenencia*. The then owner of La Brea, Don Genaro Helguero, neither registered his title nor paid any tax, presumably on the ground that as the absolute owner of the subsoil rights he was immune from the new national mining legislation. However, in the next decade a British group became interested in buying the oil field, and we can reasonably conjecture that before making the purchase they wanted some official confirmation of Helguero's special rights and tax status other than the 1826 deed. In any event, Helguero, after a decade of indifference to the law, petitioned a local court for judicial confirmation of his title. What happened next is obscured by time and the baffling intricacy of nineteenth-century Peruvian bureaucracy. Although the judge said that Helguero was indeed the absolute owner of the subsoil, the decree of a local magistrate was clearly not enough protection. Therefore, in 1887, Helguero petitioned the Department of Mines of Peru to recognize that no tax or mining law could apply to his property, since it came to him by the "real and perpetual sale" of Bolívar's government. After the Department reported in his favor, a higher official, the Attorney General of the Supreme Court, found that "the government cannot and should not admit in the Republic rights over mines other than those stipulated by the law." There then followed a series of petitions and official decrees that registered the mining claims in Helguero's name and divided the entire property into ten *pertenencias* for purposes of taxation.

None of the official acts or decrees refers to Helguero as the absolute owner of subsoil rights, and, in fact, the final decree of 1888 calls him "the concession holder." Moreover, if he was the owner there was no need for him to register his claim or pay any tax at all, since those requirements of the mining law depended on the legal proposition that the state, as owner of the subsoil, was regulating the concessionaires. Later proprietors of La Brea have argued that Helguero accepted all these conditions because he was in a hurry to sell the property.

However, to the outside observer this episode would seem to provide the strongest legal argument against later claims to ownership of the subsoil, although it is hardly mentioned in the lengthy Peruvian accounts. It could be strongly argued, at least before an American court, that even if Helguero had been the owner he had exchanged that ownership for official recognition of his rights and for a special tax status. For even though the standard *pertenencia* was ten acres, Helguero had managed to have his huge estate, of over four hundred thousand acres, divided into only ten *pertenencias*, which meant that for the next thirty-four years the annual tax on the oil field was about a hundred and fifty dollars. One could even maintain that it was then, in 1888, that the state exercised its legal right to expropriate the subsoil rights. In any event, five days after Helguero received the government's final decree he sold the property to two British citizens—a Mr. Tweddle and a Mr. Keswick—who, a year later, leased it to the London & Pacific Petroleum Co. for ninety-nine years. It may help us to guess at the atmosphere surrounding these intricate machinations to know that this was a period in Peruvian history when an American soldier of fortune named Henry Meiggs took over the construction of railroads for the entire nation, bribing politicians and importing coolie labor until his empire collapsed, leaving him to die a penniless derelict. The atmosphere of the time has been described somewhat harshly by the nineteenth-century Peruvian political leader Gonzalez Prada: "Riches served as an element of corruption, not of material progress. . . . No means of acquisition seemed illicit. The people would have thrown themselves into a sewer if at the bottom they had glimpsed a golden sol. Husbands sold their wives, fathers their daughters, brothers their sisters."

The next serious eruption of the now historic problem of La Brea began in the early nineteen-hundreds when an official mining engineer reported to the Peruvian government that somehow a serious mistake had been made in measuring the property: it appeared to be far larger than the figure of ten *pertenencias* would indicate. The government agreed, and on March 31, 1911, decreed that the owners "of the said mine do not pay the amount of taxes . . . corresponding to the number of lawful *pertenencias*" because of an "error" made in measurement. The London & Pacific Petroleum Co. protested the decree, and matters took their customary leisurely course until April of 1914, when Peru rejected the protest and ordered surveyors to remeasure the property. The argument might have dragged on for years, except that by this time London & Pacific had urgent reasons to press for a settlement. For in 1914 the International Petroleum Company had taken over the oil field, intending to buy the property. But even Mr. Herbert Hoover, then the consulting engineer and chief negotiator for the British interests, could not persuade I.P.C. to complete the purchase until there had been a final settlement of the legal and tax status of La Brea y Pariñas. By early 1915, the surveyors had remeasured the property, and in March a Peruvian decree specifically rejected British protests that the sale to de Quintana in 1826 had given absolute ownership of the subsoil and thus exempted the old field from mining taxes. The decree asserted that "the rights acquired by that sale could not be other those conferred by the Mining Ordinances in force when the . . . contract was made . . . nor did it confer any greater rights . . . than those which any private individual could grant, nor was there any declaration that the absolute ownership thereof was granted." Therefore, as the remeasurement showed, the tax should be paid not on ten *pertenencias* but on 41,614. Once again the Peruvian government had denied the special and unique claim to private ownership of the subsoil rights of La Brea y Pariñas.

London & Pacific, however, had resources not available to previous Peruvian owners, and for the first time the La Brea y Pariñas problem evoked the concern and pressure of a foreign government. The British Ambassador in Lima, acting on instructions from London, delivered a note to the Peruvian Foreign Office protesting the decree. The dispute dragged on for years, with neither side willing to yield, although there is no record that the higher taxes were ever paid. Suddenly the prospects for the oil company brightened when, in 1919, dictatorial power was seized by Augusto B. Leguía y Salcedo, whose rule was to bring a large expansion of American private investment into every sector of the Peruvian economy. Two years later, the long-smoldering dispute was submitted to a three-man arbitral tribunal consisting of representatives of Peru and Great Britain and the president of the Swiss Federal Court, Dr. Fritz Ostertag. For almost half a century, this arbitration has been the subject of debate and agitation. Lawyers and politicians have built reputations and careers analyzing, attacking, and defending the award of the tribunal. It has continually antagonized the many Peruvians who have firmly believed that a specially privileged oil company was forced on them by illegal and coercive pressures from abroad. Much of the present dispute revolves around the Peruvians' contention that the award was illegal and thus I.P.C. owes them the profits of its entire operation since the time it bought the field in 1924.

And the Peruvian government points out that the arbitration took place at about the time that Harding's Secretary of the Interior, Albert B. Fall, was accepting the bribes from American oil interests that later sent him to prison. Even a high official of the deposed civilian government, which was attacked for its supposed generosity to I.P.C., says that "everyone knew that the arbitration was no good." I.P.C., of course, denies this, and

claims that in any event it acquired its ownership of La Brea y Pariñas not through the award but by virtue of the deed of 1826. At this point in time, no one can evaluate the charges of fraud and corruption, but the actual decisions of the arbitration are another matter. Even before the tribunal met, the representatives of Peru and Great Britain had worked out their own private agreement, which, in 1922, was dutifully incorporated by Dr. Ostertag into an international decree. One of the most important and puzzling aspects of this decree is what it failed to decide. Although the ancient issue of subsoil ownership had helped to evoke the controversy, it is left unresolved by the final document. The most probable conclusion is that the arbitrators could find no way to resolve the question. Nor did it seem necessary. For the decree recognized the British right to La Brea y Pariñas and provided that for fifty years—until 1972—virtually the only tax the oil company had to pay (with some slight exceptions) was about fifteen dollars a year for each of the 41,614 *pertenencias* it was actually exploiting and about fifty cents for those it was not working. This special tax status, with its exemption from all other levies, inevitably was to become a source of increasing discontent. Ten years later, after the dictator Leguía had been driven from office, the new Peruvian government attacked the award and made a futile effort to bring the matter before the World Court. As late as 1959, only the appearance of the Peruvian Foreign Minister before a secret session persuaded Peru's Congress to reject a resolution annulling the arbitration.

And on November 6, 1963, that Congress finally enacted a law providing that "the so-called . . . Award (arbitral) on La Brea y Pariñas for having violated the pertinent legal requirements [is] null *ipso jure* and [does] not obligate the Republic." But by this time Fernando Belaúnde Terry had been elected President of Peru and had begun the five-year effort to reach an accommodation with I.P.C. that ended only when the armed forces overthrew his government and seized the oil field.

No formal historical sketch can fully explain the clashing passions and interests that shaped and colored the negotiations of the Belaúnde period. For by then I.P.C. had come to occupy a special position in Peruvian life, and one seen very differently by I.P.C., the American government, and Peruvian nationalists. "We were the largest taxpayer in Peru and our labor practices were a model for the country," accurately reports an official of I.P.C., while the American Embassy asserts that over the last several years "I.P.C. was always very generous, and honestly worked hard to reach a settlement." Yet on December 4, 1968, the Peruvian general who seized I.P.C. summed up the feelings of many Peruvians when he said, "No people can live in dignity and with respect for its sovereignty . . . when it tolerates the insolent arrogance of another state within its own frontiers." It is not that the truth lies somewhere in between. Rather, it is a case of parties whose assumptions, needs, and habits of action were so divergent that a conflict seemed almost inevitable. Perhaps I.P.C. did not act wisely, but it acted as an oil company might be expected to act, pressing every advantage and withholding every concession within the limits of its power and the sometimes sordid possibilities of Peruvian politics and intrigue. If at the end overconfidence and shortsightedness helped undo I.P.C., it must be remembered that the company had prospered and maintained its special privileges amid growing agitation for almost half a century. And it has not lost everything yet. Peru, on the other hand, is not a business but a country and a people. The mass of Peruvians hardly knew of I.P.C.'s existence. Yet among many of those most sensitive to the dignity and independence of their country the activities of I.P.C., combined with its unique claim to a part of the Peruvian dominion, planted seeds of hatred which the years were to nourish.

Only United States policy could have reconciled these diverging perceptions, for only the United States could command the respectful attention of both I.P.C. and the Peruvian government. This force was not brought to bear, and today's crisis is in large measure a result of that failure.

In the decades preceding the crucial 1963 election of Belaúnde, I.P.C. steadily expanded its operations. By the time of the seizure, the company's interests in Peru extended far beyond the La Brea y Pariñas field near Talara. It also owned a half interest in the more productive Lobitos field. It had a refinery in operation at Talara and controlled fifty-five per cent of the marketing and sale of gasoline in Peru. In addition, I.P.C. had reasonable expectations of obtaining concessions to explore for oil in the potentially rich jungle lands east of the Andes. (Mobil Oil has already invested twenty million dollars in the search.) Obviously, I.P.C.'s other assets were far more valuable than the increasingly less productive La Brea y Pariñas field (now producing at about half its former peak), yet only La Brea claimed exemption from the normal requirements of Peruvian law. Moreover, history was reshaping traditional attitudes. Throughout the nineteen-fifties, poor nations asserted with increasing intensity their right to be independent of the historical domination of the Western powers. This was the decade that brought the final disintegration of the great colonial empires, the Bandung Conference, Algeria, the retreat from Suez, and Castro. Peru, like much of Latin America, was touched by this global surge, and a mounting nationalism was combined with an anger at the United States that erupted dramatically during the Nixon trip. There was some justice to the specific grievances that fed anti-Americanism, but equally important was the fact that Latin America, alone among the underdeveloped continents, was not made up of colonies and could only assert its nationalism against the historically dominant, if noncolonial, power of the Western Hemisphere. I.P.C. was presumably aware that in such a changing environment the privileged position of La Brea y Pariñas endangered the company's whole position in Peru. In 1951, the company submitted to the regular fifty-per-cent income tax on profits, a tax it had protested, with limited success, since 1934.

In 1957, for the first time, I.P.C. offered to "assign" its subsoil ownership to the state in return for an "exploitation concession" covering the same field along with expanded concessions for its other activities. The company did this, the official I.P.C. history reports, because it realized that "ownership of the petroleum property was a cause of resentment in Peru [and] inconsistent with the general pattern of petroleum legislation . . . in South America." The offer was rejected, apparently because by 1957 the Peruvian government felt it could not afford to grant further concessions for rights that many Peruvians believed to be already theirs. In this period, not only had I.P.C. made some gesture toward relinquishing its subsoil ownership but it had become an exemplary employer. Housing and working conditions at Talara were the best in the country, and the company paid excellent wages and benefits. Still, as Peru entered the nineteen-sixties the accumulated grievances of decades were steadily building.

It is not difficult to find illustrations of the process that transformed these grievances into personal convictions and a political weapon. One can leave the heart of Lima, emerge from the nest of tourist shops stocked with trinkets of copper from American-owned mines, and drive past neon Coca-Cola and Esso signs before entering the pleasant suburbs of Miraflores and San Isidro. From there, as the city thins, the road widens to four lanes, cutting through occasional *barriadas*—fields of houses huddled around dirt streets and open sewage, where six hundred thousand migrants and children of migrants from the distant mountains live in poverty. Ahead are the hills of the gray, barren coastal desert, which stretches two thousand miles from northern Chile to Ecuador relieved only by an occasional stand of trees—the fruits of experimental irrigation systems that are only a miniature replica of the great Inca waterways that once conquered much of the desert. Shortly after passing an American satellite-tracking station, the road moves down a long hill to the town of Ancón, where layered cooperative apartments overlook a small beach on which thin strips of gray-black sand can barely be glimpsed among the thousands of outstretched Peruvians who come here each summer weekend.

Here, on the concrete patio of a twelfth-story apartment thrust out over the crowded Ancón beach, sits Don Luis Miro Quesada, a slight man in his eighties, with light skin like a fragile, roughened parchment, who heads one of the oldest families in Peru. He also directs the powerful newspaper *El Commercio*, which has led the attack on I.P.C. for more than thirty years, and whose violent assaults in 1968 were to precipitate the military coup and the seizure. "I know America well and I have many friends there," he told me, "but there is a difference between your country and the State Department—which cares mostly about the welfare of American companies. It is a great country, but"—he smiled—"that is not the same thing as I.P.C., is it? I first became interested in I.P.C. about forty years ago, when I came back from a trip to Europe on a Grace ship. We landed at Talara, where the refinery is, and the landing papers said 'Talara-Puerto Norteamericano.' I crossed out 'Norteamericano' and wrote in 'Peruano.' When we landed, they had separate dining rooms for Peruvians and North Americans. So when I got home, I began to read about I.P.C. It's not enough for an oil company to pay taxes and salaries. Peru should get a share of the profits. Once minerals are taken, they are gone. They don't grow—not like trees. I am a nationalist. That doesn't mean I am against other countries, but I am *for* my own country. There is nothing wrong with that. I am anti-Communist. They have some good criticisms, but they do not have liberty, and that is the most important thing to men. Especially to journalists. A journalist is nothing without the ability to write freely." Later, he said, "Our people are terribly poor. I don't think the United States will apply Hickenlooper."

However distorted by time and anger, similar recollections, usually vageuly documented, can be elicited throughout Peruvian society. At the home of an American Embassy official, a successful Peruvian lawyer listened politely to his host's prediction of a settlement and then, when the official had moved on, related a transaction between one of his clients and I.P.C. "They didn't even want to talk," he said. "They just told me, 'This is the way it is,' and walked out." Indeed, it is difficult to hear a good word spoken for the company anywhere. Even many officers of other substantial American businesses grumble privately about I.P.C. and claim that its conduct has endangered all foreign investment in Peru. "They got what was coming to them," said one American businessman, while another, with a genius for understatement, said, "They had bad public relations." An I.P.C. official recalled a visit twenty or more years ago by a young Colombian, Alberto Lleras Camargo, who was later to be President of Colombia and host to President Kennedy's triumphant visit in 1962. "Lleras looked at all our installations and had long talks with our managers. As he left, we asked him how he liked it. 'It's a wonderful, progressive place,' he said, 'but I didn't meet any Peruvians.' "

In evaluating the stories told by Peruvians to illustrate I.P.C. misdeeds and arrogance,

one must remember that the oil company, in most cases, was behaving no differently from many large foreign enterprises at various periods in Peruvian history. "Why don't you like I.P.C.?" I asked a Peruvian general who is now an important official. He replied angrily, "They bribed ministers, corrupted governments, and promoted revolutions." Yet even if this is true, it takes two to make a bribe and you cannot corrupt the incorruptible. Certainly, to the mass of Peruvians, I.P.C. was just another company. But in the present period of emerging nationalism these tales and complaints fueled the resentments created by the economic power of the company and its claim to special status for La Brea.

Only two years ago, there was an incident that illustrates the inevitable clash between the logical business practices of the company and Peruvian pride. It was an event, moreover, that was to have a special impact on the present crisis. In 1967, a serious inflation had forced the government to cut the value of Peruvian money almost in half. I.P.C. then applied for an increase in the government-fixed price of gasoline. "Because of the change in the value of currency, we were actually losing money on each gallon we sold—not much, but a little," explains a company official. The government refused the increase, and I.P.C. threatened to stop importing the gasoline needed to make up the difference between the country's own production and its needs. Why, the company asked, should it import gasoline to sell at a loss? Finally, the general manager of I.P.C. was summoned to a meeting with the Minister of War, General Julio Doig Sanchez, and angrily told that if importation stopped the company would be seized. When the I.P.C. manager proposed to fly to the company's Florida headquarters for consultation, he was ominously told that such a trip was not necessary, that he could use the telephone. After the Florida headquarters became convinced that the generals were indeed "serious," I.P.C. withdrew its threat, and a few months later it was allowed to raise its prices. However, sitting beside General Doig throughout the meeting, in sullen fury, was General Juan Velasco Alvarado, now the President of Peru, who later explained that this event helped fortify his resolve to bring I.P.C. under national control. To Velasco and others, it was intolerable that Peru should be vulnerable to the acts of a foreign company acting under the partial protection of a foreign government. To I.P.C., on the other hand, a price rise was economically necessary, and an interruption in imports was a logical and just response to Peruvian unfairness. Perhaps the gap in understanding is best summed up in lines from a ballad of student dissent:

"Please don't burn that limousine,
Don't throw tomatoes at the submarine.
Think of all we've done for you.
You've just got those exploitation blues."

Yet despite these resentments—which were shared, one must remember, by only a small, but influential, group of Peruvians—it is probable that the government and I.P.C. could have resolved their dispute peacefully any time between the election of Belaúnde, in 1963, and the decline of his political strength, which began in late 1966. In retrospect, the failure to do so seems like some Harvard Business School version of a Greek drama, with all parties steadfastly honoring their prescribed duties while rushing toward a foreseeable fate. Except, of course, since modern man is more given to wishful thinking, they did not foresee it. That story began in July of 1962, when elements of the Peruvian armed forces crossed the broad Plaza de Armas, in the heart of Lima, entered the Presidential Palace, and took over the country. An extremely close three-cornered Presidential election had just taken place, and although none of the candidates had received the necessary plurality, it was clear that the two candidates least acceptable to the armed forces—one a historic enemy and the other a former dictator—had agreed to combine forces in order to keep the military's favorite, Fernando Belaúnde Terry, the candidate of the Popular Action Party, from winning. Under great pressure from the United States to resume constitutional government, the military leaders scheduled a new election for June, 1963. This time, Belaúnde won a clear-cut victory, and on July 28th he took office for a six-year term.

An architect and politician, a man of the people who can trace his family back fourteen generations to the first mayor of Lima, Belaúnde had campaigned on a liberal and progressive platform of economic development and social reform. Although many later criticized his abilities as a leader, there is no doubt about his personal belief in the principles of the Alliance for Progress. A visionary, he nurtured farflung plans to build a great highway to unite the lands on the far side of the Andes and open the rich interior to settlement. Recently, in a Lima drawing room, a guest began to criticize Belaúnde in the presence of General Velasco, the man who drove him from office. "Don't talk that way," said the General. "He was a great man. Only he was a dreamer." Dreamer or not, Belaúnde was just the sort of national leader that the United States was hoping for in Latin America, and a logical recipient of generous American assistance.

Therefore, immediately after Belaúnde's inauguration, Teodoro Moscoso, President Kennedy's Coördinator for the Alliance for Progress, flew to Peru with offers of immediate and substantial United States aid. There was only one problem. On taking office Belaúnde had promised to resolve the La Brea y Pariñas question within ninety days. Moscoso realized that even the most reasonable settlement would create political difficulties for Belaúnde, so he decided to withhold action until the ninety days were up. Thus, the announcement of aid could be used by the Peruvian government to help blunt any opposition. No effort was made to pressure Belaúnde, and the aid was to flow whatever the outcome might be. Negotiations between Peru and I.P.C. began in early August, and by the end of October they had broken down. As a result, on November 6, 1963, the Peruvian Congress passed the law declaring that the arbitration award of 1922 was null and void and did "not obligate the Republic." Meanwhile, changes were occurring in the United States that were to have a profound impact in Peru. After President Kennedy's death, Latin-American affairs came under the direction of Assistant Secretary of State Thomas C. Mann, a former Ambassador to Mexico. Mann decided to suspend all foreign aid to Peru until Belaúnde reached an agreement with I.P.C., but to do so without delivering an ultimatum or even telling Peru that aid had been stopped. "The idea," one U.S. aid official has explained, "was to put on a freeze, talk about red tape and bureaucracy, and they'd soon get the message. Unfortunately, they believed we were as inefficient as we said, and it took about a year for them to get the message." In fact, virtually no aid went to Peru for two full years as negotiations with I.P.C. dragged on, broke down, and began again. (A few token loans were made, in an effort to insulate the State Department from the charge that it had frozen aid to Peru; but the freeze was real and intentional.)

No provision of United States law and no principle of foreign policy required us to suspend aid in order to compel a Latin-American country to negotiate an agreement with a private American company. Nor is there any evidence that I.P.C. ever asked that any such measure be taken. Throughout this whole period, the oil-and-gas business in Peru continued as usual, and none of the company's operations were disturbed. The negotiations themselves were complicated by Peruvian claims for back taxes and alleged debts, along with a host of technical details.

On the surface, the major point at issue concerned the way in which the profits should be split between the company and the government—that difference amounted, at most to a few million dollars a year, and no other I.P.C. operations in Peru were affected. Yet during this period of discussion Peru lost up to a hundred and fifty million dollars in aid because of its failure to agree with the company. However, behind the price dispute—and probably far more important—there was the ancient question of who owned La Brea y Pariñas. The company offered to cede its ownership rights, but it insisted on retaining operating control of the field and receiving a cancellation of all alleged debts. This was obviously a sticking point with a government that had promised to "recover La Brea y Pariñas" for the nation. The manager of I.P.C. saw President Belaúnde sixty times, and each time the President said, "Just cede me your rights and assets in La Brea, and you'll see that everything will be all right." Finally, in 1968, the company offered to do just that, but it was too late.

Toward the end of 1965, the United States began to reconsider its policy. It was obvious that the aid cutoff was not forcing an agreement; nor was it advancing the broader interests of the United States. Economic development was virtually at a standstill in Peru, and although there were other reasons for this, the aid cutoff was clearly a factor. In village after village, one could see children crowded into a single dim room where a teacher struggled to keep order, while, outside, a half-finished schoolhouse stood open to the dry sierra winds. In these villages, the end of aid had meant no education, or no pure water, or a half-built road. Moreover, extremist attacks were increasing against a Belaúnde administration that had proved unexpectedly conservative in office. And Communist guerrilla movements, soon to be crushed by the U.S.-trained counterinsurgency forces of the Peruvian military, had sprung up in the Andes. "We knew we had a losing aid policy," said a high U.S. official. "But we'd said we couldn't give them loans unless they settled, and so we couldn't back down."

By early 1966, however, Lincoln Gordon had become Assistant Secretary for Inter-American Affairs, and in March the State Department sent Walt Rostow to Peru. Rostow told Belaúnde that if he was not going to confiscate the company we would go ahead with aid. A surprised Belaúnde responded that he had never intended to take the company. So aid was resumed, but not for long. However, this time oil was not the reason. In 1967, the Peruvian Air Force decided that it needed supersonic jet fighters, and, after the United States turned down the request, it contracted with the French for Mirages. (At one point, United States officials told the Peruvians that if they insisted on jets they could buy some cheaper American-made F–5s.) First in order to try and prevent the purchase and later as punishment for having gone ahead anyway, the United States reversed a decision to make program loans to Peru during 1967 and 1968 (which probably cut our aid to about half of the total we expected to give). "We just didn't think the Latins were ready for supersonics," a United States official explained. The cost of the Mirages was about twenty million dollars. The loss in aid was probably about sixty million dollars. Thus, because of our oil policy and our "supersonic" policy, Belaúnde faced a complete or partial suspension of United States aid for four of his five full years in office—a fact that certainly did not lessen his economic problems and did nothing to enhance Peruvian confidence in Amer-

ican dedication to the goal of strengthening progressive and democratic governments.

For a while in 1966, the I.P.C. problem receded, as Belaúnde seemed to tire of the effort to reach a settlement. In August, he even concurred in an I.P.C. plan to expand its refinery at Talara, but protest from opposition political parties and newspapers compelled a cancellation. Sporadic discussions continued as the company diligently examined various proposals for tax and profit splits. In the background, however, was the unyielding issue of ownership and control. By the summer of 1967, the deterioration of the Peruvian economy had seriously weakened Belaúnde's general political position. And criticism of his delay in solving the La Brea y Pariñas problem became part of a general assault on his leadership.

Once more, in meetings with the company, the President returned to his earlier demand that the field be ceded outright to Peru, and once more the company refused. And although another year of debate and negotiation lay ahead, the stage was now set for the final act. For in the pleasant suburbs of Lima a small group of military officers and their civilian friends were beginning to plan the overthrow of the Belaúnde government and the establishment of long-term military rule. And when the revolution came, the principal actors would be the same armed forces and the same newspaper, *El Commercio*, that had fought so effectively to help install Belaúnde in the Presidential Palace five years before. Oil was among the least of their motives, but oil was to give them their opportunity to strike.

No one knows exactly when specific plans for a *golpe* (the Spanish term for "coup") began to precipitate out of the vague mist of military power that necessarily enshrouds any civilian government in Peru. One of the best-qualified U.S. observers says that it was early in 1968 when a group of officers around Minister of War Doig started to prepare contingency plans for a takeover. One of the closest advisers to the new government has said the decision began to take shape in a private conversation between General Velasco and a Colonel Rodriguez, who is one of the most brilliant and influential members of the Palace staff. However the revolutionary plans began, two of the motives were the same as those that had led the military to support Belaúnde in the first place: the desire to modernize the country and hatred of the APRA Party.

For decades, the Peruvian armed forces have nourished a deep and furious hostility toward one of Peru's most distinguished leaders, Victor Raúl Haya de la Torre, founder of the APRA Party, and Belaúnde's chief opponent in the 1962 and 1963 Presidential elections. As the disciple of a Peruvian poet whose slogan, "Old men to the tomb, young men to work," was the ultimate expression of the generation gap, Haya was exiled to Mexico in 1923 after leading a protest meeting of students and workers against an alliance between the Peruvian dictatorship and the Catholic Church. There he founded the American Popular Revolutionary Alliance, or APRA, whose adherents were known as *Apristas*. Although APRA disavowed Communism, it called for an overthrow of feudal structures, adopted an anti-imperialist policy, and was the first party to identify itself with the desires of the miserably oppressed Indian masses. As a result, APRA was hated and feared by the governing classes of Peru, and its history was scarred by repeated and often bloody clashes with the Peruvian military. "I want to see the point of each bayonet red with *Aprista* blood," ordered the dictator Luis M. Sánchez Cerro, before a 1932 massacre of *Aprista* rebels in the city of Trujillo. Because of this hostility, Haya has spent much of his life in exile, and at one time lived for five years in the Colombian Embassy in Lima while Peruvian troops constantly aimed rifles at the windows across a trench they had dug around the building. Yet the size and ardor of his popular following persuaded occasional Peruvian governments to let him come home. And when he did return, Indians and workers poured from the hills to crowd the roads to Lima, waving white handkerchiefs as Haya conducted a triumphant procession from the place of landing to downtown Lima, where crowds of a quarter of a million and more waited to cheer his eloquence. His APRA Party was the principal source of the entire popular democratic movement in Latin America, and most observers would agree with Robert Alexander that "Haya de la Torre remains the most significant single spokesman for the social revolution in Latin America during the first half of the twentieth century."

Yet although his ideas are now widely accepted, even by the Peruvian armed forces, the anger and resentment bred of those earlier clashes make the thought of an APRA government—especially under Haya, who is seventy-four and vigorous—intolerable to the military. This hatred of APRA has been shared by *El Commercio*, which has warred against APRA ever since Don Luis's brother and his brother's wife were slain by a young *Aprista* assassin on a street in downtown Lima. In order to understand the depth of such feelings—whether against APRA or I.P.C.—it is important to realize that Lima is a small and ancient city, more like nineteenth-century Boston than modern New York or Washington. The number of influential families is small, and the lines of hostility, clashing interests, or diverging beliefs, once drawn, are likely to persist for generations. Opposing factions representing opposing economic interests are often referred to by family names, and certain names recur with great frequency in positions of commercial and political leadership. This is not to say that the country is dominated by an unchanging oligarchy. Peru is more complicated than that, and, as has been frequently demonstrated, the military represents a distinct and powerful force. Still, ancient attitudes persist, including an often violent animosity toward APRA.

The other reason for military support of the liberal Belaúnde was the change in the convictions and the nature of the armed forces. Until the late nineteen-fifties, the Peruvian armed forces, in the historic pattern of most Latin-American countries, represented a static or reactionary social force. They were, in the words of a young Peruvian colonel, "the strong right arm of the oligarchy." But in recent years a quiet shift has taken place in some Latin-American military establishments which may have profound consequences for the future of the hemisphere. In Peru, the unexpected focus of this potentially revolutionary change is a sprawling complex of brick buildings on the outskirts of Lima known as the Center of Higher Military Studies. There, and in other military schools, officers spend two years in advanced study.

For a decade, the course material has given increasing emphasis to social and economic systems taught by civilian experts, some of whom are far to the left, and most of whom are disciples of a liberal, and highly technocratic, brand of development economics. In these schools, the importance of the military role in "social and economic progress" is constantly stressed—an approach that is fully in accord with the emphasis that the United States and its influential military missions have given to "civic action." Most officers have also received American training in doctrines of counter-insurgency. From the irrefutable thesis that guerrillas are fish that swim in the sea of people, they have drawn the inexorable conclusion: if they are to suppress guerrillas, they must win the support of the people. Most Latin-American officers, at one time or another, attend United States military schools and often develop close relationships with officers of our overseas missions. In recent years, it has been American policy to stress the role of the Latin-American military in economic progress. This has undoubtedly been a liberalizing influence, but it has also led many officers to believe that the job of modernization can only be accomplished under their own rule. The officers themselves are rarely oligarchs. For the most part, they are drawn from lower-middle-class families, or even from among the poor. And they believe, as one general explained, that they "are the only people who really have lived in all parts of Peru during their career, the only ones who know the country."

The emerging conviction that traditional, conservative thinking has been a source of explosive inequalities is coupled with a growing contempt for the inefficiency or corruption of civilian leadership and a mounting belief that it is the mission of the armed forces to take their country in a new direction. Although the new military leadership is fundamentally nationalistic and anti-Communist, many officers are coming to share Lenin's belief that "no revolution of the masses can triumph without the help of a portion of the armed forces that sustained the old regime." It was natural, therefore, that the military had been drawn to support Belaúnde, with his liberal and reformist beliefs and his emphasis on technology and construction.

Many of these same convictions and expectations that had attracted the military and other powerful supporters to Belaúnde in 1963 were transformed by the events of 1967 and 1968 into the motive for his overthrow. Even before 1967, many of Belaúnde's efforts to bring about moderate reform, especially land reform, had been blocked by the opposition parties, which, having more than a majority in Congress, could exercise control whenever they agreed. This opposition grew in strength and determination throughout 1967, as Peru entered a period of economic crisis. By November, the weakening position of the Peruvian sol, which had been stable for a decade, compelled a drastic devaluation. From a rate of twenty-seven to the dollar, the sol tumbled to forty-eight before stabilizing at about forty-two to forty-four in the middle of 1968. The result was a sudden and drastic increase in prices affecting every sector of the economy. The poor were especially hard hit as food prices soared. Business dropped, unemployment rose, and public discontent mounted. In 1968, the hard-pressed Belaúnde was further beset by a series of scandals involving smuggling and bribery. Though the scandals did not touch him or his top officials (some members of the military were involved), they further weakened public confidence. Some of these difficulties were undoubtedly due to bad management, as the President's opponents charged, but many also flowed from circumstances beyond his control. Also, by the fall of 1968 a new austerity program had apparently set the country on the way to financial stability, and a record volume of exports, along with the anticipation of a billion dollars in foreign private investment, strengthened hopes for better times. However, many of the military and important elements of the civilian population felt that Belaúnde had failed to fulfill their expectations. In their view, civilian politics had once again paralyzed the needed modernization of Peru, and, justly or unjustly, they believed that Belaúnde had lost his grip on the country and on his own government.

Moreover, growing dissension and functional splits within the Belaúnde party made it likely that the unacceptable APRA would win the Presidential election scheduled for the middle of 1969. To this explosive mixture of discontent was added an incalculable amount of personal ambition and a growing sense that the time had come for the armed forces to assume their predestined mission to create a "new" Peru. By the middle of 1968, the restaurants and clubs of Lima

were filled with talk of a *golpe*. It was widely known that the plans were ready and that the generals were anxious. But the moment never seemed right. The military, lacking popular support, hesitated to move arbitrarily against an elected President who still commanded a large following. They needed—depending upon your point of view—an event, a pretext, or a cause. It came when, after five years of negotiation, I.P.C. reached an agreement with Belaúnde.

In July, 1967, a restless Peruvian Congress passed a law declaring that the La Brea y Pariñas oil field belonged to the nation, and authorized the expropriation of the oil-field installation and the establishment of a "regime most consistent with the national interest." (The wording left open the possibility that I.P.C. might continue to operate the installation if that arrangement seemed "most consistent with the national interest.") Belaúnde was undoubedly reminded, as he had been before, that any expropriation would mean the application of the Hickenlooper Amendment, and the effort to reach an agreement continued throughout 1967 without any changes at La Brea. In that same year, however, the Peruvian Tax Court found that I.P.C. owed a hundred and forty-four million dollars to Peru. This figure was based on a judicial calculation of I.P.C.'s net profits for the previous fifteen years, on the theory that the company had been operating under the illegal and invalid award of an international arbitration. This money was never collected, and judicial appeals and counterclaims mounted in complexity.

Then, at the beginning of 1968, as General Doig and his staff were laying their plans for a *golpe*, President Belaúnde designated the Peruvian state oil company, Empresa Petrolera Fiscal, or E.P.F., "to represent the state in all acts related to the operation of the La Brea y Pariñas oil field, which belongs to the nation." The president of E.P.F., and from then on one of the chief Peruvian negotiators, was Carlos Loret de Mola. Technician and businessman, mild-mannered and never actively engaged in politics, Loret de Mola had been placed in charge of the state-owned company early in Belaúnde's administration. His knowledge of the oil business would strengthen the government in negotiations, while it could be expected that on any important issue he would yield to the President's wishes. Yet this routine appointment had unexpected consequences, for Loret de Mola was to prove unexpectedly stubborn, and eventually his public attack on the final agreement was to bring on the revolution. Shortly after the negotiations had been turned over to E.P.F., they broke down again. The issue was the same as that which had brought about previous failures: Peru insisted that I.P.C. turn over the oil field, while the company refused to do so unless it was allowed to operate the field as before. Thus, as I.P.C.'s official account reports, "at mid-April of 1968, there were no negotiations in progress with the Government's representatives."

Events in Peru were moving too fast to permit the impasse to continue. Belaúnde's economic and political problems were still acute, political attacks were mounting, and talk of a military *golpe* was in the air. On July 28th, Belaúnde was scheduled to make his annual address to Congress on the State of the Republic, and it was inconceivable that he should appear without announcing some solution of the La Brea y Pariñas problem. At the same time, and more ominously, a regularly scheduled change of command was being carried out in the Peruvian Army. The Minister of War, General Doig, reached retirement and lost his chance to lead a revolution.

Velasco, widely thought to be a candidate for the Cabinet position, did not get it. "Belaúnde did offer it to him, but he wouldn't take it," claims a Velasco associate. "The other officers said he didn't have the ability," says a high official of the deposed government. In any event, having failed to assume a Cabinet post that would have removed him from the command of troops, Velasco was now Commander-in-Chief of the Army and the senior general on active duty. Within a couple of months, he had placed officers loyal to him in charge of the Lima Military District and the Lima Armored Division, both of which would be essential to the success of a revolution. Then Velasco waited, although, with his own retirement scheduled for early 1969, he didn't have much time.

Amid the unmistakable signs of crisis, I.P.C. suddenly changed the position it had steadfastly clung to for years. On July 25, 1968, it sent Belaúnde a memorandum offering to transfer to the state "the surface area of La Brea y Pariñas and the installations" and to renounce "any rights it could allege over the subsoil or mineralized zone of La Brea y Pariñas." This memorandum, or proposal, was, with some modifications, the basis of the final agreement between Belaúnde and I.P.C. That agreement, in turn, was to precipitate the military *golpe* and the seizure of I.P.C. Few doubt that several years earlier the same terms would have been accepted, after some grumbling, and I.P.C. would have stayed and prospered in Peru. "It was an incredibly generous offer," says officials of the United States Embassy. "In fact," says one of our chief diplomats, "when the manager of I.P.C. told me about it I was so astonished I asked him, 'But what do you get out of it?'" And I.P.C. itself claims that it "gave Belaúnde everything he was asking for." Yet within a few weeks after its proclamation the agreement was assailed as a sell-out, a giveaway, and a fraud.

Undoubtedly, these assaults were greatly magnified by political passion, yet an examination of the terms of the agreement does not support a conclusion that I.P.C. was making a sacrifice. In return for La Brea y Pariñas, I.P.C. was to be allowed to expand and modernize its refinery, thus increasing the production of oil and gas. It would continue, on a regular business basis, all its other activities in Peru, including the marketing of fifty-five per cent of all gasoline sold there. (This monopolistic position seems less impressive when we know that there are only about two hundred and fifty thousand registered vehicles in Peru.) There would also be at least a "moral commitment" that I.P.C. could join Mobil Oil and Gulf in exploring for oil on the jungle slopes of the eastern Andes. And all claims for back debts would be cancelled, including the hundred and forty-four million dollars assessed by the Tax Court. In addition, I.P.C. could reasonably expect that the agreement would free it from most of the continual agitation and hostility that had often threatened, although it rarely interfered with, its activities. Certainly these terms were not onerous for I.P.C., and the refinery expansion, especially, was, in the company's words, "a consideration of value." Of course, Peru would receive all the benefits that flow to an undeveloped country from the investment and skill of a large modern enterprise, something Peruvians may miss in the days ahead. If we compare this offer, which would almost surely have been accepted by Belaúnde in 1964, with the proposals that were in fact rejected in 1964 and 1965, the difference appears so slight that the company's stubborn, and fatal, insistence on keeping control of the La Brea field baffles analysis. In earlier negotiations, I.P.C. had offered to give up its ownership rights but had insisted on operating the field. Now I.P.C. offered to give the field to E.P.F., which would then sell the crude oil to I.P.C., which would refine it and market the product.

Yet, as one plows through the elaborate maze of figures, it seems that the difference in cost for I.P.C. between operating the field itself (and paying a fifty-per-cent income tax on profits) and letting E.P.F. operate the field was about ten to fifteen cents a barrel. Since La Brea y Pariñas had been steadily running down and was producing only six or seven million barrels a year, the total increase in the cost of crude oil to I.P.C. would probably have been not much more than half a million dollars a year.[2]

Looking at this difference, which is all that separates the hopeful days of 1964, when Belaúnde was at the height of his strength, from the disaster of 1968, one can take some comfort in knowing that even at Standard Oil irrational convictions, bureaucratic inertia, or sheer delight in the exercise of power can override the logical conclusions of economic analysis.

On July 28th, three days after receiving I.P.C.'s confidential and unsigned memorandum, Belaúnde went before Congress and the nation to announce triumphantly that he had solved the ancient problem of La Brea y Pariñas. The oil field would now belong to Peru. He did not elaborate on the other elements of the proposal, and, intentionally or not, he left the impression that the take-

[2] The key fact in the calculation is that much of the company's operation was "vertically integrated;" i.e., the crude oil from La Brea y Pariñas was sold to the company's refinery at Talara, which then sold the gas and oil to the I.P.C. distributors and gas stations, which, in turn, sold them to the public at prices largely fixed by the government. I.P.C. was basically concerned with the total profit from the entire operation. In determining this profit, the important thing was not who owned the oil field but the cost to the company of each barrel of crude oil from La Brea y Pariñas, for its final profit depended on the price it received for gasoline minus the cost of producing the gasoline. Therefore, a comparison of the earlier offers with the 1968 settlement should be made in terms of the cost of crude oil to I.P.C. In 1964, the company offered to cede ownership of La Brea to Peru but insisted on operating control and splitting the profits. Under this offer, it would sell each barrel to the refinery at about $2.50. The cost of producing each barrel, was $1.50, leaving a profit of $1.00. Out of this, the company would receive a fee of twenty per cent of the price ($2.50), or $.50. The rest of the $1.00 profit would be split fifty-fifty, or $.25 to Peru and $.25 to the company. Thus, the company would receive $.75 of the $1.00 profit. However, it would have to pay a fifty-per-cent income tax on its profit, or $.375. So the Peruvian government would receive its $.25 share of the profits plus $.375 in taxes, for a total of $.625. The cost to the company, therefore, was the $1.50 in production costs plus the $.625 that went to the government, a total of $2.125 a barrel. This is roughly equivalent to a sixty-forty profit split. In 1968, the company offered to give the oil field to Peru and buy the crude oil for its refinery. It would pay, after certain discounts, $1.97 a barrel. However, since the refinery would be paying $.53 less for each barrel ($1.97 instead of $2.50), its cost would be less and so it could deduct less when it paid the fifty-per-cent income tax. Thus, it would have to pay $.265 more in taxes per barrel (or fifty per cent of the $.53 difference). This made the total cost to I.P.C. $1.97 plus $.265 in additional taxes, or $2.235 per barrel. The calculation is somewhat inexact, because of the difficulty in pinning down precise figures, but it can safely be assumed that the difference between the 1964 and 1968 offer was about ten to fifteen cents a barrel. Even this relatively small gap has to be computed on the assumption that I.P.C. could not find other ways to absorb some of this cost in its accounting, and does not take into account the intricate possibility that Standard Oil could decrease the amount even further by additional deductions or credits on its tax returns in the United States.

ver was almost unconditional. To almost nanimous acclaim, the negotiators then sat own to hammer out the complex series of ontracts necessary to transform the new roposal into an agreement. The pressure for wift action was intense, for in June the ongress had given Belaúnde extraordinary owers for sixty days that would permit him o solve the problem by executive decree. hen this period expired, it would be necesary to submit any agreement to an increasngly hostile Congress. Belaúnde could not fford to wait, and he told the negotiators hat he intended to fly to the oil city of alara on the morning of August 13th and roclaim the final and definitive solution.

For two weeks, as August 13th neared, awyers, businessmen, and politicians crowdd around tables in the Presidential Palace truggling to construct a new framework for he largest oil and gas enterprise in Peru. Beaúnde's Prime Minister as well as his Minster of Development continually joined ther government officials in the discussions. he chief negotiator for I.P.C. was the comany's gentle and dignified general manager, ernando J. Espinosa, who, after working s an economist for the New Deal, had spent wenty-three years with Standard Oil.

His principal adversary was the head of .P.F., Carlos Loret de Mola. Toward the nd, the negotiations kept breaking down ver one crucial point: whether I.P.C. was o guarantee a minimum price for the crude il it was to buy from La Brea. It was durng one of these breakdowns that an incient is said to have occurred that, true or ot, undoubtedly contributed to the difficulties of the days ahead, since it is widely elieved in Peru. Loret de Mola says that, sked by President Belaúnde to renew the alks, he went to the I.P.C. offices at about 0 p.m. Loret de Mola claims that, after ofering him a drink, a company executive (not spinosa) told him, "Standard Oil never gets ut of any place without getting all its oney, and the same is going to happen ere." The executive then handed him a copy f the confidential memorandum, saying, Here are our conditions. Your President houldn't have gone before Congress the way e did, because he deceived the people." What could I do?" asks Loret de Mola. "I ad to believe the word of my President beore an unsigned memorandum by a comany." Even if his story is true, the subtantive terms of the memorandum could not ave been a surprise, since those were preisely the subjects under negotiation. Howver, the suspicion that all the conditions f settlement had been laid down in adance might have had a stiffening effect on oret de Mola's attitude. In any event, the tory has added to the armory of anecdotes sed to justify the seizure.

Finally, at about 2 a.m. on August 13th, hinking that final agreement had been eached on the price to be paid by I.P.C. or the crude oil from La Brea, Espinosa went ome to prepare for the scheduled dawn flight o Talara. Soon afterward, Espinosa received call from the Peruvian Prime Minister, at he Palace, who told him there was still o agreement, and then, according to an mbassy official, said, in tones of mounting gitation, "If you don't come back, there'll e an expropriation," and hung up. Peruvian fficials then awakened Ambassador Jones, who called Espinosa and persuaded him to eturn to the Palace, where discussion reumed on the price to be paid for crude oil. s dawn approached, both Espinosa and oret de Mola, sitting in different rooms, igned the last of a series of contracts, and he entire group drove through the quiet treets to the Presidential airplane.

The problem was that each man had igned a very different contract, or so they ater claimed. Within a month, this differnce was to erupt as "the page 11 scandal," and that storm was to tumble the last flimsy barrier to a military *golpe* and the seizure of I.P.C.

The existing copies of the contract governing I.P.C.'s purchase of the crude oil to be produced by E.P.F. at its newly acquired La Brea y Pariñas field are ten pages long. If there was an eleventh page—and that is what the dispute is about—it contained the final disposition of the one problem that had seemed insoluble until the final hours: the price to be paid for the crude oil. Under the contract as it now exists, I.P.C. agrees to pay, after discounts, $1.97 a barrel for the crude oil. However, the contract also requires I.P.C. to provide certain essential services to the oil-field operation, such as water and gas, but leaves the details, including the costs of these services, to be worked out later. "You see," explains Loret de Mola, "since we didn't know what the services would cost, we couldn't tell how much they would pay for the oil. That's why I wanted a guaranteed minimum price, one they would pay no matter what they deducted for the services." An I.P.C. representative responds that "we couldn't possibly agree to a guaranteed price without knowing about the services." Therefore, as the hours wore on during that last night of negotiations, I.P.C. adamantly resisted Loret de Mola's demand for a guaranteed minimum of $1.0835 a barrel, although the company negotiators did agree to a clause allowing E.P.F. to cancel the contract after six months' notice in case the price fell below that amount. "What good was that?" asks Loret de Mola. "What would we do with the oil? They owned the refinery at Talara. We'd have to ship it down the coast." I.P.C.'s representatives recall that Loret de Mola bent and then yielded to the intense arguments of government officials desperate to reach an agreement as evening stretched into morning. Loret de Mola, on the other hand, says that it was I.P.C. that finally yielded. Neither Espinosa nor Loret de Mola can recall an explicit admission of defeat by the other.

Then, as the chief negotiators joined their aides in different rooms to go over the final documents, the crude-oil contract was brought to them for signature. The two men agree that the original contract was eleven pages long and that the text ended at the bottom of the tenth page. The eleventh page was bare except for a typed dateline—"Lima, August 12, 1968"—and had room for signatures.

According to Loret de Mola, when the contract came to him he wrote across the top of the eleventh page, "In any event, the price for crude oil shall be no less than $1.0835," and then signed. Two Xerox copies were made, and Loret de Mola was asked to initial or sign every page of these Xerox copies "for purposes of identification." The identifying initials or signatures are in the margin of each page. He did not sign either Xerox copy at the end of the contract, as he claims to have done on the eleventh page of the original. The documents were then taken from him, and the scene shifted to the room where Espinosa was waiting to sign the agreement. He says that he was brought only the two Xerox copies, and that they were only ten pages long. The eleventh page was no longer part of the contract, and Espinosa explains that when he asked about this "the lawyer said there was too much white space above the dateline on the eleventh page and the contract could be altered later." (Of course, a few lines drawn across the page would have prevented anyone from writing above the dateline.) Espinosa signed both contracts at the bottom of the tenth page, and wrote the date and place beside his signature. Within a month, Loret de Mola's accusation that the vital eleventh page had been removed and that I.P.C. and the government had conspired to defraud the Peruvian nation was to enlarge discontent to a critical mass which swiftly exploded into a military *golpe* and the consequent seizure of all the properties of the International Petroleum Company.

Was there a page 11? The American Embassy maintains flatly that there were only ten pages, and that Loret de Mola was lying for political purposes. This is, of course, possible, and yet—at least up until the time I asked about the matter, a couple of weeks ago—the Embassy had neither studied the documents nor discussed the matter with Loret de Mola, although he is more than willing to tell his story to any who ask. If you examine the documents, one thing is clear. On both Xerox copies of the contract, the only signature that appears at the bottom of page 10 is that of Fernando Espinosa. (Loret de Mola's signature or initial is in the side margin of every page.)

It is hardly conceivable that diligent lawyers should not have made sure that both parties signed so critical a contract, as they did in the case of other, far less controversial documents on that frenzied night—unless, of course, Loret de Mola had in fact signed an eleventh page. Meanwhile, the original has mysteriously disappeared. Unless there are other facts to be disclosed, one conclusion is clear: either there was an eleven-page contract or there was no agreement at all, since few courts would enforce a contract signed by only one party. This leaves open the question whether the "page 11" controversy flows from fraud, misunderstanding, or mistake. The accounts of Loret de Mola and Espinosa are consistent with perfect good faith by each of them, and in discussing the episode each of them gives an almost overwhelming impression of sincerity and honorable intent. Nor is there the slightest evidence that President Belaúnde was aware of any of this, although it might prove interesting to interrogate some of the lawyers who were keeping watch on the evening's transactions. A number of people were anxious to reach agreement before dawn, and the most likely possibility is that in the face of Loret de Mola's stubborn insistence on a clearly defined minimum price the eleventh page was removed as the contract went from one principal to the other. Whatever the facts, Peruvians were quick to believe the accusations of fraud by I.P.C. and the Peruvian government, and the American Embassy did not make the kind of investigation that might have convinced them otherwise. When asked what happened to the original, an Embassy official first responded that "there was no original." When it was pointed out that even Xerox's marvelous technology had not developed to this extent, he said that the original was too messy. But making a page neater while copying it is another feat that Xerox has not yet accomplished. If there were only ten pages, why didn't Loret de Mola sign at the bottom of the tenth page? "There was no room," it was explained. Yet one has only to glance at the page to see that there was plenty of room for an additional signature. None of this proves anything about "page 11," but perhaps it does illustrate some of the attitudes that have led many Peruvians to believe that the American Embassy is the faithful representative of Standard Oil.

As the dawn of August 13th approached, the weary group of negotiators rose from the table to join the President and congressional leaders for the flight to Talara. But there was, according to some of the Peruvian participants, one more ceremony to come. No formal agreement had been signed granting I.P.C. the right to explore the potentially rich jungle lands to the east. At the request of the oil company, therefore, the highest officials of the Peruvian government raised their right hands and gave a solemn oath to the representative of Standard Oil of New Jersey that a million hectares of Peru (about two and a half million acres) would be open to their exploration. Did it happen? Two

Peruvian eyewitnesses swear to it. I.P.C. says only, "We did get a moral commitment, but we never thought we could count on that." In any event, Peruvians believe the story.

On its flight north to Talara, the Presidential plane passed close to the city and plains where a few hundred Spaniards strangled the Emperor and plundered the gold of the Incas. Now, after a century-long dispute, Belaúnde was about to recover for Peru a more modern but equally legendary treasure. That morning, in the Act of Talara, he proclaimed that the oil field and its installations belonged to the nation, once again omitting any description of the rest of the agreement. However, it did not take long for the nation's applause to die out as details of the settlement began to emerge. In an effort to head off opposition, Belaúnde had previously secured the agreement of his APRA opposition to the compact with I.P.C., but unexpectedly the attack was to come instead from his former friends—the armed forces, *El Commercio,* and Loret de Mola.

Since E.P.F. could not take over the operations of La Brea y Pariñas immediately, the Act of Talara was followed by a rather vague decree permitting I.P.C. to continue operations during a transition period. Shortly thereafter, Loret de Mola wrote I.P.C. that since the oil now belonged to Peru, the total profits from its sale—about half a million dollars a month—should be turned over to E.P.F. On September 3rd, I.P.C. replied in a letter that, whatever its legal justification, could only worsen an already deteriorating situation. "We are in agreement [that La Brea y Pariñas is now] the property of the state [but until E.P.F. actually takes over, we intend to] operate the deposits . . . in the same way and with the same obligations which have governed our activities . . . up to the present time." On September 7th, the Peruvian government confirmed the resignation of Loret de Mola and the entire board of directors of E.P.F., and the next day Loret de Mola, according to an account in *El Commercio,* said that since I.P.C., "refused to pay E.P.F. the agreed-upon price of $1.0835 per barrel . . . the Act of Talara was an event of no consequence." That same week, the new Minister of War, Major General Roberto Dianderas Chumbianca, made the ominous announcement that "the Army was awaiting the official publication of all the annexes of the Act of Talara in order to study them and see if it should issue a statement on the matter."

Agitation grew as it became apparent that far more was involved in the Act of Talara than the recovery of La Brea y Pariñas, and that I.P.C. would continue to expand its activities in Peru freed of all claims for past debts. On September 8th, *El Commercio,* knowing of the plans for a *golpe,* began an editorial attack on the agreement, almost certainly intending to bring down the government. And a few days later Loret de Mola went on national television to make public his charges about the missing page 11. From this point on, the attacks mounted in intensity.

Thirty-six generals held a secret meeting, and a pleased General Velasco called the editor of *El Commercio* to report that the vote was "twenty-nine against the agreement and seven traitors." "For a little while," reports an observer, "there didn't seem there would be a coup, but there was no way to bring the thing to rest." Then, in the last week of September, the left wing of the President's own party rebelled against the agreement and demanded the resignation of the entire Cabinet, and APRA, reluctantly yielding to mounting political pressure, withdrew its support of the Act of Talara. On October 2nd, the Cabinet resigned and a new group of ministers was appointed. They stayed in office less than twenty-four hours. Following the long-prepared scenario, at about two o'clock on the morning of October 3rd a column of troops led by tanks of the Lima Armored Division moved across the Plaza de Armas and entered the Presidential Palace. President Belaúnde was roused and taken to the airport, where a large Peruvian jet was waiting to carry its solitary passenger to exile in Buenos Aires. General Velasco was the new President of Peru, and, except for some minor street skirmishing, the takeover was swift and peaceful. A revolutionary manifesto explained that "history will record . . . the loyalty and unquestioned support by the armed forces of the deposed government." However, it went on, the Belaúnde government had disappointed its followers and "these things are evidence of this: the indecision, conspiracy, immorality, surrender, bungling, improvisation, the absence of social sensitivity," culminating in "the false surrender solution given to the La Brea y Pariñas problem, which evidences that moral decomposition in the country had reached extremes so great that its consequences for Peru are unforeseeable."

The consequences for Peru are still unforeseeable, but the consequences for I.P.C. were, even then, quite predictable. A few days later, on October 9th, to the almost universal applause of press and political leaders, Peruvian troops took over the entire oil complex at Talara: the refinery, installations, and the La Brea y Pariñas oil field. "The revolution is on the march," said Velasco. When I.P.C. went to court to lodge a protest, hecklers threw coins at the feet of their lawyers. Of course, since only Talara had been taken, I.P.C. was still Peru's largest supplier of petroleum products, although it was now receiving gas and oil from a refinery that had been taken over by the government. In January, when I.P.C. protested a bill of eleven million dollars for petroleum products from Talara, the government moved to "attach" most of I.P.C.s remaining assets as "security" for this debt. Fruitless discussions continued until February 6th, when General Alberto Maldonado Yanez, Minister of Development and Public Works of the Revolutionary Government of Peru, summoned the manager of I.P.C. to his office and handed him a bill of slightly over six hundred and ninety million dollars: the total value, as calculated by the Peruvians, the I.P.C.'s production at La Brea y Pariñas since the company bought the field in 1924. All of I.P.C.'s assets, the General said, would be held as security. Most of I.P.C.'s top officials were already out of the country, many of them pursued by criminal warrants for fraud and tax evasion. That afternoon, General Velasco announced that "Peru has taken the final step to close definitely and forever this ignominous phase in its history." The long battle between I.P.C. and the Peruvian nation was now over. The dispute was now between Peru and the government of the United States.

The Revolutionary Government of Peru has said that it will be glad to pay compensation for the expropriation of I.P.C. but that I.P.C. must first pay its debt to Peru—an amount that comes to a great deal more than the value of the seized assets. A special Presidential emissary recently completed a mission to Peru in which he held discussions with the top officials of the Revolutionary Government. As a result, President Nixon postponed application of the Hickenlooper Amendment until August while I.P.C. appeals the claim of debt through the administrative machinery of the Peruvian government. Meanwhile, the nationalistic impulses behind that government have led to other changes in Peruvian policy. Peru has recognized the Soviet Union and begun to trade with it (but so have many Latin-American countries); and it has seized some American fishing boats to enforce its claim to sovereignty over the sea two hundred miles from its shores (but that dispute is an old one, and the same claim is made by Chile and Ecuador). These actions flow not so much from hostility to the United States as from the deeply felt nationalism of the armed forces, which have decided that they alone can unite the necessary talent for leadership with the power to reshape social structures. "This is not an interim government," one Minister-General told me. "We intend to remain in power until we have created the conditions for development." Asked how long that would be, he shrugged.

These convictions and expectations are fervently shared by the dark, compact President of Peru, Juan Velasco. A career soldier born into the lower middle classes—for whom the Army has been almost the only route to influence and power in a rigid society—Velasco moved slowly up the ladder through the formal hierarchy of the Army for decades, until, by 1967, he was the third or fourth general in seniority and could look forward to a dignified retirement in January of 1969. While stationed in Lima, and aided by a sophisticated wife, he began to mingle with members of old and wealthy families, many of whom had summer homes at Ancón. Their views and their growing discontent with Belaúnde undoubtedly influenced Velasco, along with other officers, whose appearance in Lima society in recent years had signalled an erosion of the social and personal barriers that had traditionally made strangers of the armed forces and most of civilian society.

This regular and leisurely rise was suddenly accelerated when he became Commander-in-Chief of the Army and then President of Peru, not so much by virtue of his personal qualities as because at the moment of revolution he was at the top of an institution traditionally deferential to formal organization and hierarchy. He is much more than that now. The I.P.C. seizure has made him a hero to many, and has—for the moment at least—paralyzed potential rivals and adversaries. "I didn't care about being President," he told me as he strode restlessly back and forth across the carpeted floor of the Presidential offices, pausing only to take an occasional message from one of the many uniformed aides who crowded an adjoining office. "I really wanted to go home and retire. Now I'm going to stay and work hard for the country, and when they want me to go I'll go." Then, slapping his desk, he said, "And I won't make any money while I'm here!" Waiving a thin green pamphlet, he explained, "We prepared plans in the military school, and we must develop the country. We are going to stay in office until there have been reforms, until we have created the conditions for development. You can read it." The document contains a generally unexceptionable program for social reform and economic development, reflecting liberal thought and the general philosophy of the Alliance for Progress.

When he was asked if he really hoped to accomplish what all previous civilian governments had failed to do, he replied sternly, "We will die trying. But we can do nothing until we end the I.P.C. matter. We are going to cooperate, and we have a commission to report on compensation. Why doesn't the United States send a group—a group of clean, fresh people without any ties to I.P.C.? I will open every door. They can see everything."

What about negotiations, he was asked. "This is an internal matter, and it must be soived internally. It is not between Peru and the United States. It is between Peru and a private company. We can't solve it in the O.A.S."—presumably because he shares the widespread, if distorted, view that the Organization of American States is a creature of the United States. "A lot of people thought that I.P.C. would overthrow this government, as it had in the past," he continued, "but it can't, because this revolution is in the minds and hearts of the people.

And we will be absolutely incorruptible, because that is the only way to fight Communism."

When asked if the coup had been prepared before the Act of Talara, Velasco said abruptly, "Of course." Then he asked, "But why does the Hickenlooper Amendment protect a company which corrupted the government and officials? If you apply Hickenlooper, the armed forces might not be able to control the nationalism of the people. We will try, but it will be very dangerous. You can be sure that there will be no other nationalization after this. This is a unique case." Then, nearing the door, he said passionately, "We cannot give in. We are not a colony. We cannot be a colony."

For a more academic approach to the hopes of the Revolutionary Government, one must go to a civilian—the young, intense editor of *El Commercio,* Augusto Zimmerman, whose editorials helped bring on the revolution. "You have to know," he explained to me, "that in Peru there are four major sectors: the military, the intellectuals, the economic power, and the people. If you have any three, you can make reforms, and we have three against the economic sector. I thought the same when Belaúnde took power and the military backed him, but he didn't have the courage. We need great structural changes that are still opposed by the privileged classes, but we do not need Communism. I believe in liberty."

Is there any solution to the oil crisis, he was asked.

"We could find a formula, but not compensation. We cannot compensate I.P.C., not even if you give us the money under the table for us to give them. We don't want Hickenlooper—it would be very bad, and we don't want to fight with the United States—but if you apply it, it might make reforms easier in the atmosphere of national unity that would be created. The Alliance for Progress was a great thing, but when Kennedy died the soul went out of it. It is gone. We have to re-create that spirit ourselves, here in Latin America. We all loved Kennedy."

What about Velasco personally, he was asked—can he do all this?

"He is not an expert," Zimmerman replied, "but he is strong and determined and"—he spoke tenderly—"he loves his country."

Similar convictions about the need to modernize Peru pervade every level of the government, and they are often coupled with a passionate anti-Communism. "The only way to fight Communism is through reform and development," a Minister-General patiently explained. "That's why we have a new organization for the *barriadas.* We fought the guerrillas in the Andes, and we know. We saw men so desperate that they faced certain death to fight for us, and we asked ourselves what made them so brave. Then, look at Vietnam. You can't win against guerrillas unless you have the support of the people."

General Velasco's government does not yet have the support of the people. Last January, in the midst of the crisis, the aging Haya de la Torre returned to Lima from Europe and was greeted by a huge and tumultuous crowd. The effort to mount a similar popular rally for Velasco, despite intense publicity, drew only a few thousand people. "In the *barriadas,*" a Peace Corps volunteer explained, "the people don't believe that any government will help them. They know they have to do it themselves." Still, this government is making some effort to win the support of the poor, and uniformed officers are descending on the crowded *barriadas.* "I have never been here," one colonel told a puzzled group, "and I don't know your problems, but maybe we can help." Among Velasco's supporters can also be found individuals who are more extreme and groups that are more conservative. There are, for example, some members of the extreme left among the small group of lawyers summoned for advice on the legal intricacies of La Brea y Pariñas. However, their influence does not seem to extend beyond the legal complexities of the oil problem. At the other end of the political spectrum, Velasco has found support among the conservative banking and commercial families, who see his accession as a way to increase their wealth and have encouraged him to place new restrictions on their foreign banking competitors. And even those who do not favor the Revolutionary Government support the action against I.P.C. To do otherwise publicly would mean political suicide, for few issues in Peruvian history have generated such unanimity of feeling.

Thus, it is virtually impossible for Velasco to back down or compromise. Should he do so, the passions that this issue has engendered could sunder his support and end his rule. For even within the ranks of the armed forces other ambitious officers are waiting for Velasco to falter, and if we do apply Hickenlooper, once the unity generated by shared resentment begins to fade the consequent distress will undoubtedly turn many elements of the "economic power" and some of the workers against him. "What will happen?" said a leading political rival. "Well, life is full of surprises. You've heard of Heisenberg and the uncertainty principle. That's the principle of Peru." In addition, there is always APRA, the only organized popular force in the country, still led by the eternally patient Haya de la Torre, who waits quietly in his simple house on the outskirts of Lima unshaken in his belief that democracy is the only road for men who wish both progress and freedom. There are even rumors in Lima that the C.I.A. is trying to overthrow Velasco. Although it is inherently incredible that we should promote a revolution on behalf of Standard Oil, the recent history of Latin America makes the rumors believable to many Peruvians. Thus, President Velasco is treading a fragile and uncertain path. Where it will lead him and Peru is largely in the hands of the United States government, which must bear the considerable burden of its past policies while seeking to resolve the present crisis.

On a recent cover of a leading Peruvian magazine was a picture of the American Ambassador to Peru, with the caption "The Ambassador from I.P.C." Undoubtedly, this is unfair to the Iowa-born John Wesley Jones, who has headed our Embassy since the beginning of the Belaúnde government. The dignified, slightly stiff, and soft-spoken Jones, serving in Latin America for the first time since 1930, was, in many instances, simply carrying out instructions from Washington.

Yet the caption reflects the almost universal opinion of knowledgeable Peruvians. Businessmen and politicians, military leaders and intellectuals, whether they support Velasco or doubt the wisdom of the seizure (none seem to doubt its justice), all believe that the dominant goal of United States policy was to advance the interests and desires of Standard Oil of New Jersey as embodied in its Peruvian subsidiary. The truth, as usual, is more complex. Yet the chronicle of the last five years does not make it easy to refute the Peruvian contentions. As we have seen, during the first two years of the Belaúnde government the United States suspended virtually all aid to Peru in an effort to compel an agreement between the country and the company. Although top Embassy officials had misgivings about this unprecedented and rather startling policy, there is no evidence that they fought it very vigorously. When asked what terms we had in mind, an Embassy official replied, somewhat righteously, "We never involved ourselves in the substance of negotiations—that was between I.P.C. and the Peruvian government." Yet the United States had staked its national policy toward Peru on the outcome of these negotiations. By failing to become "involved," the United States virtually entrusted the future of that policy to the negotiators for I.P.C. If they did not agree with the Peruvian government, Peru would receive virtually no aid from the United States. Even after 1966, when aid was resumed, there is no evidence that the United States even tried to persuade I.P.C. to modify its terms, although, on the other hand, we constantly reminded Belaúnde that any action resembling expropriation would call down the wrath and retaliation of the United States in the form of the Hickenlooper Amendment. When I.P.C. offered, in 1968, to turn over La Brea y Pariñas—a proposal that would probably have ended the entire dispute a few years earlier—a high Embassy official reports, he was "astonished at their generosity" when he was "told" of their intention. I.P.C.'s natural and warranted impression that it was backed by the full weight of the United States undoubtedly stiffened the company's attitude, just as it restrained, and perhaps intimidated, the Peruvians.

Ironically, this impression may have actually been a disservice to the oil company, leading it to an unjustified belief in its safety from arbitrary action. Throughout this whole period, many outside observers and some U.S. officials knew that a serious clash was always a possibility. Perhaps if the United States had acted as a neutral and actively influential mediator, an earlier agreement might have forestalled the present crisis. Certainly we could have tried, as we have done successfully in reconciling disputes between American enterprises and other countries of Latin America. I.P.C., after all, was a business, and it behaved as a business. On the other hand, it was the State Department's job to examine questions of wisdom and justice, and to measure the strengths and hazards of Peruvian nationalism against the clear American interest in a friendly and developing Peru. Signs of the failure to do this are everywhere. Even though the two top Embassy officials have given more time to this question than to any other aspect of U.S.-Peruvian relatoinships, up to a few weeks ago there was no United States government study of the complex legal and economic questions involved. When asked about the background of the La Brea problem, the best-informed Embassy officer produced a booklet written and published by I.P.C. (although he later uncovered a sketchy historical summary written almost a decade ago). On almost every issue, from "the page 11 scandal" to the I.P.C. debt, one found not an independent investigation but a flat undocumented statement of I.P.C.'s position. And despite the critical importance of the negotiations leading to the Act of Talara, U.S. "experts" were both hazy and inaccurate about the basic economic issues. Perhaps it makes little difference, and perhaps I.P.C. was mostly right, but the interests of the United States were so deeply involved that surely there was some responsibility to examine the issues with detachment and independence.

In talks with many Embassy officials, the interested American observer is told confidently that "there is a lot of *golpe* talk around," although it is hard to find anyone in Lima who talks seriously about the possibility of overthrowing Velasco at this time. Constantly, the motives of those who supported the seizure are referred to as "political," or worse, and their methods attacked as lying or demagogic. Each point of the dispute is presented not as I.P.C. itself presents it, for company officials can discuss the matter with a great deal of helpful calm and detachment, but as a lawyer for I.P.C. might present the case to a suspicious court. Some of this response undoubtedly flows from distrust of a journalistic observer. Most of it, however, is believed, just as the advocate

of a difficult legal case may come to believe in the absolute justice of his cause. "The worst lawyers," said Supreme Court Justice Felix Frankfurter, "not only want to win their case, they want to be told that they're right."

Some critics view our policy in Peru as just another and expectable example of an "immoral" dollar diplomacy or economic imperialism. Many of those who conducted that policy defend it as the "realistic" pursuit of self-interest. Thus, adversaries and advocates alike would agree on what is, in fact, the most doubtful proposition of all: that the United States was pursuing its national interest. In 1963, Peru had just elected its first progressive democratic government. Communist guerrillas were helpless against the Peruvian armed forces, I.P.C. was the largest producer of oil and gasoline, and other American enterprises were looking forward to large-scale expansion. For the next four and a half years, the dominant concern of our Peruvian policy was to protect the position of I.P.C.; and the threat of the Hickenlooper Amendment was one of the principal instruments of that policy. At least partly as a result, I.P.C. has been driven from Peru and its assets seized; Belaúnde's government was able to make little progress toward reform; democratic government has now been ended; Peruvian nationalists—including the armed forces—have concluded that their own national interest requires both increased defiance of the United States and more extensive relations with the Soviet Union; and other American investments in Peru are in danger of retaliatory measures in response to U.S. economic pressures. Throughout the hemisphere, the episode has somewhat fortified those who claim that the United States is more concerned with its business interests than with the welfare and freedom of its sister republics. Many events and forces contributed to these results, but our policy toward Peru was among them. It was, therefore, a policy damaging to our self-interest and harmful even to American investments.

It didn't work, and if it had succeeded the price would have been high. For we have interests in Peru far more significant than protection of the relatively small investment of Standard Oil. Among them are the social and economic progress of the Peruvian people, the strengthening of democracy, and the encouragement of political forces congenial—but not submissive—to the United States. Yet for half a decade United States policy in Peru, conducted at a level far below the President and Secretary of State, has allowed the interests of a private oil company to dominate pursuit of these vital long-range goals. And it was for that very reason that even I.P.C. was hurt. For it should be clear by now that foreign investment will be most secure in developing societies whose growing strength and self-confidence reduces the popular discontent and national distress that will often find a target in the activities of a foreign enterprise. Moreover, in an atmosphere of growing nationalism, political leaders find it difficult to yield the same concessions under pressure that they might readily grant to a business that had gracefully become part of the local economy, subject to the same terms and conditions that govern all enterprise in the country. It is difficult to explain such a policy except in terms of ignorance and timidity: ignorance of the true interests of the United States and timidity in pursuing long-range goals when confronted with more immediate pressures. There is also—among a, fortunately, dwindling number of diplomats—a certain disdain for Latin-American countries: a belief that we know what is best for them, and a misplaced confidence that others will yield to our will and power if we are stern enough. "You have to understand the Spanish mentality as I do," I was told by Frank Ortiz, of the American Embassy. "The conquerors came here, and they created a whole new breed of people, the kind of people who appreciate strong leadership." That appreciation, however, would seem to have diminishing relevance when applied to relations between the United States and the sovereign republics of Latin America in 1969.

Although President Nixon has postponed the deadline for applying the Hickenlooper Amendment until August, the crisis is far from resolved. Both parties continue to maintain their original positions—the United States demanding compensation and Peru insisting that I.P.C.'s debt to Peru far exceeds any possible payment for the seized properties. A special Peruvian delegation has arrived in the United States to continue discussions. Meanwhile, Peru will receive almost no aid, for, even without sanction of Hickenlooper, nearly all assistance has been halted since the seizure. Private sources of financing for Peru have virtually dried up pending the final action of the United States. Some are hopeful that this mounting economic pressure will compel Peru to change its mind before the deadline, while others suspect that increasing distress will only strengthen nationalist and anti-American forces. President Nixon has shown considerable reluctance to apply the Hickenlooper Amendment, and may yet find a way to avoid a dramatic clash regardless of the outcome of the present negotiations. From President Velasco down, Peruvian officials have expressed the hope that Hickenlooper will not be invoked, while affirming that they will take the consequences rather than yield to pressure. Only the extreme left is anxious for a clash that both U.S. and Peruvian officials know could have a serious, even revolutionary, impact. "The job of Peru is development," the Peruvian Foreign Minister told me, "but the job of the United States is world security. This is against the security of the hemisphere and of the United States, so why should you act in such a way?" Asking some of the same questions, a Senate subcommittee recently held hearings on Peru which questioned the wisdom of the Hickenlooper Amendment. The case of Peru should demonstrate that such a law can help defeat its own purpose—the protection of American enterprise. The threat of the amendment undoubtedly made it more difficult for Belaúnde and I.P.C. to reach agreement, since it made the company feel more secure and thus less willing to compromise. Now the amendment makes it extremely difficut for the Peruvian government to make any accommodation, since it would appear to be acting from fear of economic sanctions.

Moreover, the amendment gives the President no power he did not already have to cut off or suspend aid. It does, however, strip him of flexibility. After all, the United States has a large array of economic and political weapons that it can use to protect its interests, and they have proved adequate to deal with past expropriations. More often than not, the only effect of the Hickenlooper Amendment will be, as in the Peruvian case, to escalate a relatively minor matter into a major diplomatic crisis. Nor does the law permit the President to guide his actions by the manifold considerations of history and justice which make this case far more than a simple, arbitrary seizure of an American company.

If we do apply the amendment, Peru may well wish it had never heard of the Alliance for Progress. Stopping aid and sugar purchases is a hard blow, but one that Peru can probably sustain. Eliminating these benefits in such a dramatic and formal way, however, will deter other public and private financing institutions from investing in Peru. The consequent crisis and distress will affect not the United States and I.P.C.—and not even the Peruvian armed forces—but the workers, the slum dwellers, and the Indians of the countryside, who will have no comprehension of the issues or motives that have loosed upon them the wrath of their great and powerful neighbor to the north.

RICHARD N. GOODWIN.

UNTRUTHFUL ADVERTISING PROPAGANDA IN SUPPORT OF ABM

Mr. YOUNG of Ohio. Mr. President, it is really startling to read a full-page advertisement in the Washington Evening Star paid for allegedly by a Malcolm E. Smith, Jr., 527 Lexington Avenue, New York, N.Y. It is reported to me that he operates WLAX Radio on Long Island, and that he has been publicly identified with extreme rightwing fringe organizations. The author of this advertisement captioned it:

The Real Truth About How Many U.S. Senators Are Being Tricked By Russia.

The author had the effrontery to headline:

Every Citizen In America Will Be Told These Facts.

It is to be noted there is this further statement:

This Advertisement Is Going To Every Important Newspaper In America with special emphasis on those states where Senators are opposed to, or undecided on, the Safeguard anti-missile system.

Mr. President, this is a lying advertisement. If Malcolm E. Smith, Jr., wrote it, he is a liar, and he is guilty of seeking to mislead the general public. If not, it would be of interest to know who is paying for this lying propaganda. The trickster who wrote this is guilty of writing blatantly false statements which I am fearful will be accepted as true and cause concern in the minds of many good people throughout our Nation. An example of the falsity of statements in this advertisement is the following:

It is clear that America is in danger! The McNamara idea that Russia wanted "parity" is wrong! Russia is *racing* ahead of us! Khrushchev gave the reason: We will bury you.

So this liar, Malcolm E. Smith, Jr., publishes again this old statement attributing to Premier Khrushchev, who by the way was a guest of the late President Eisenhower, that he threatened war against the United States.

This fellow, Smith, Junior, is guilty of repeating false propaganda of rightwing splinter groups such as the Liberty Lobby and the John Birch Society. Some of our top generals have also been duped by reading propaganda issued by these extremist rightwing fringe organizations. Two top generals, highly respected leaders of our Armed Forces, accepted rightwing propaganda regarding former Premier Khrushchev's famous statement and ignored historic facts. They recently again quoted Khrushchev and stated that the Soviet Union is still seeking to bury us. They denied that danger of war with the Soviet Union is less now than when Stalin was dictator. In testimony before the Senate Armed Services Committee, one high-ranking general said that Premier Khrushchev threatened hostile action by his statement, "We will bury you." The truth is that of many remarks and wisecracks of

Russian Premier Khrushchev the one which most Americans remember best is "We will bury you." Taken in full context Khrushchev made it crystal clear at the time that he did not mean war. He said:

I do not mean war. I mean competition. You say your system is best. We say our system is the best. Let's compete and see which is best.

At that time the United States had a nuclear superiority of 3 to 1 over the Soviet Union. Now our supremacy is 5 to 1. If our generals sound off on matters pertaining to foreign policy, they should not distort historic facts. Former Premier Khrushchev and the present Premier represent the new order of Russians. Khrushchev was ousted from office to affluent retirement instead of being "liquidated." Indeed, the Communist world is breaking up. The Soviet Union, now a "have" nation, is increasingly hostile to Communist China, and veering toward capitalism.

Daily, we read in newspapers of hostilities between Chinese soldiers and Russian troops along the 6,500-mile common border separating the Soviet Union and Communist China. In fact, the Soviet Union months ago brought two divisions from Eastern Europe, and these divisions with other Russian soldiers are apparently occupying some territory from time to time claimed by Communist China. Very definitely, there is no monolithic conspiracy against the free world as some right-wing extremists have been claiming. The Communist world is breaking up as indicated by the invasion of Czechoslovakia and by hostilities between the Soviet Union and Communist China.

Malcolm E. Smith, Jr., and others of his ilk are doing a disservice to their country in distorting facts in their efforts to gain support for the Safeguard ABM boondoggle. If these are the best arguments that proponents of the ABM can muster, then this project is in even more trouble than heretofore suspected.

Smith's advertisement states:

It is clear that America is in danger!

Then he adds:

Khrushchev gave the reason: "We will bury you!"

This slick fellow Smith, Jr., omitted that part of Khrushchev's statement:

I do not mean war. I mean competition.

This fellow Smith, Jr., should be subpenaed before a Senate committee and compelled to state who actually paid for the advertisement published in various newspapers for which he alleges he paid. In other words, whose money was it that paid the cost of these false statements in full-page newspaper advertisements?

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

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed for not to exceed 7 minutes.

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

VIETNAM

Mr. MANSFIELD. Mr. President, Memorial Day holiday has become a time of exodus from place and pressure, even though it began as a day of quiet homage to those who paid the cost of war with their lives. It might be well for us to remember, then, at the "getting away," this year, those Americans who cannot join in the general escape. There are those who have already left their lives—in the tens of thousands in Vietnam and those whose lives—in the hundreds of thousands—are still being risked in that distant conflict.

The continuance of our involvement in Vietnam is a responsibility which the Senate shares with the President. Members of this body who are deeply concerned over the course of the war, therefore, have not only the right but the duty to seek out and to propose and to propound alternatives whether they are applicable to the diplomatic tables in Paris or to the battlefields in Vietnam. In my judgment, it is a mark not of disrespect but of the most profound appreciation for the fallen in battle to try to forestall the loss of additional American lives in Vietnam. Areas are won and lost many times on a temporary basis. Lives are lost but once and on a permanent basis.

When any Senator speaks out of his mind and heart on any aspect of this barbaric struggle, his words are not to be dismissed as irrelevant or less by others in this Government. Indeed, it would be the better part of wisdom to heed them carefully. They may be words which are not only in unison with the surge of sentiment throughout the Nation, they may also contain a basis for a more effective policy of peace.

Certainly one cannot say at this late date that the course we have followed in Vietnam—militarily or politically—has been a paragon of wisdom. At this late date, it ought to be obvious that there is no infallibility of ideas anywhere with respect to that course. We have had generals urging the bombing of Vietnam into the stone age—as though it had very far to go—and others urging extension of the war into Cambodia or wherever in Southeast Asia. Still others have asked that U.S. forces be concentrated into coastal areas, if not withdrawn from Vietnam entirely and without further delay.

Insofar as our Vietnamese policies are concerned, if Senators are fallible—and we are—so too is the Department of State, the Department of Defense, the National Security Council, and the Saigon Command.

I should add that while the military have been the recipient of late of much of the criticism for Vietnam, I think it only proper to put this criticism in context. The policy of "keeping the pressure on" so to speak, was ordained not by the men in the field, but here in Washington in the highest military and civilian circles of the executive branch. It is not even an original policy of the present administration, but rather a carry-over from one administration to the next. It has brought no curb in casualties and given no tangible indication of bringing the war closer to a conclusion.

It may well be that what we need is something of the courage which has been displayed on the battlefields to face up to our responsibilities here in Washington. It is time to consider adjusting these continuing policies—military and diplomatic—to the end that the loss of life and the hideous devastation may be reduced in Vietnam and the ground laid for a new effort of negotiations to terminate the conflict.

Speaking of courage, we might well note the birthday of one who possessed it in full measure, for the purposes of peace no less than for war, the 35th President of the United States, John Fitzgerald Kennedy. He would have been 52 years old, today, had not the shots which echoed out of another conflict—out of the conflict within this Nation—cut him down. Since his death—a death in the service of his country—this iceberg of inner dissension has emerged in its enormity to spread violence on campus and in city and town throughout the Nation. The disquiet deepens and the need to find solutions grows more urgent. As in Vietnam, there is no infallibility in any part of the Government with respect to a course which will lead to solutions. It is in order, however, for the Senate, no less than any other branch of the Government, to probe, to seek, and to urge rational alternatives.

Until a way is found to curb the violence within this Nation and to end it in Vietnam, there may be escape but there will be no surcease for any of us on this weekend or any other.

ORDER OF BUSINESS

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

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDING OFFICER (Mr. ALLEN in the chair) laid before the Senate the following letters, which were referred as indicated:

REPORT ON CERTAIN CONSTRUCTION PROJECTS PROPOSED TO BE UNDERTAKEN FOR THE NAVAL AND MARINE CORPS RESERVE

A letter from the Deputy Assistant Secretary of Defense (Properties and Installations), reporting pursuant to law, certain construction projects proposed to be undertaken for the Naval and Marine Corps Reserve within the uncommitted balance of lump sum authorization provided by section 701(2) of Public Law 88-390; to the Committee on Armed Services.

REPORT ON THE LOCATION, NATURE, AND ESTIMATED COST OF FACILITIES PROJECT PROPOSED TO BE UNDERTAKEN FOR THE AIR NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Properties and Installations), reporting, pursuant to law, the location, nature, and estimated cost of facilities project proposed to be undertaken for the Air National Guard within the uncommitted balance of lump sum authorization provided by the Reserve Forces Facilities Acts; to the Committee on Armed Services.

REPORT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Deputy Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for July 1968-February 1969 (with an accompanying report); to the Committee on Banking and Currency.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the audit of the Federal Deposit Insurance Corporation for the year ended June 30, 1968; to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the administration by the Small Business Administration of the disaster loan program in connection with the 1964 Alaska earthquake (with an accompanying report); to the Committee on Government Operations.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. LONG, from the Committee on Finance:

Murray L. Weidenbaum of Missouri, to be an Assistant Secretary of the Treasury.

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Arkansas (Mr. MCCLELLAN), I file a report on the nomination of Otto F. Otepka, of Maryland, to be a member of the Subversive Activities Control Board, and ask that this report from the Committee on the Judiciary, together with minority views by Mr. KENNEDY and Mr. TYDINGS, and individual views by Mr. BAYH and Mr. BURDICK, be printed.

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

PETITIONS AND MEMORIALS

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

By the PRESIDING OFFICER:

A concurrent resolution of the Legislature of the State of Minnesota; to the Committee on Finance:

"RESOLUTION 7

"A concurrent resolution memorializing Congress and the President to abolish an age requirement in the aid to the permanently and totally disabled public assistance program

"Whereas the United States has appropriated substantial money to the several states for programs to assist the rehabilitation and aid in the support of disabled persons; and

"Whereas federal law has restricted eligibility to persons 18 years of ago and older, and

"Whereas the several states must comply with the federal age requirements; and

"Whereas it would be of great value to persons otherwise qualified for assistance and to the public at large that eligible citizens of any age have rehabilitation and aid benefits under this program: Now, therefore, be it

"Resolved, by the Legislature of the State of Minnesota, That Congress amend the Social Security Act, Title XIV, Aid to the Permanently and Totally Disabled, by deleting an age requirement as an eligibility factor, be it further

"Resolved, That the Secretary of State of the State of Minnesota be instructed to transmit copies of this resolution to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, and to the Minnesota Senators and Representatives in Congress.

"JAMES B. GOETZ,
"President of the Senate.

"L. L. DUXBURY,
"Speaker of the House of Representatives.

"Passed the Senate April 29, 1969.

"H. Y. TORREY,
"Secretary of the Senate.

"Passed the House of Representatives May 16, 1969.

"EDWARD A. BURDICK,
"Chief Clerk, House of Representatives.

"Approved May 23, 1969.

"HAROLD LEVANDER,
"Governor of the State of Minnesota.

"Filed May 23, 1969.

"JOSEPH L. DONOVAN,
"Secretary of State."

A resolution adopted by the Ashtabula County Commissioners, County of Ashtabula, Jefferson, Ohio, requesting the Congress of the United States to refrain from enacting legislation that will directly or indirectly remove the tax exempt status of bonds and notes of Ashtabula County, Ohio; to the Committee on Finance.

A letter in the nature of a petition, from Clayton Dismas Knepfler, of Leavenworth, Kans., praying for a redress of grievances; to the Committee on the Judiciary.

A letter from Jon V. McNail, in the nature of a petition concerning a record which he felt should not be allowed to corrupt our American society and suggesting it should be censored; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 412. A bill to authorize and direct the Secretary of Agriculture to classify as wilderness the national forest lands known as the Lincoln Back Country, and parts of the Lewis and Clark and Lolo National Forests, in Montana, and for other purposes (Rept. No. 91-207).

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 684. An act to amend title 38 of the United States Code in order to make certain technical corrections therein, and for other purposes (Rept. No. 91-217);

H.R. 2718. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk (Rept. No. 91-218);

H.R. 4622. An act to amend section 110 of title 38, United States Code, to insure preservation of all disability compensation evaluations in effect for 20 or more years (Rept. No. 91-219);

H.R. 10015. An act to extend through December 31, 1970, the suspension of duty on electrodes for use in producing aluminum (Rept. No. 91-220); and

H.R. 10016. An act to continue until the close of June 30, 1971, the existing suspension of duties for metal scrap (Rept. No. 91-221).

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 5833. An act to continue until the close of June 30, 1972, the existing suspension of duty on certain copying shoe lathes (Rept. No. 91-222); and

H.R. 8644. An act to make permanent the existing temporary suspension of duty on crude chicory roots (Rept. No. 91-223).

By Mr. MCCLELLAN, from the Committee on the Judiciary, without amendment:

S. 83. A bill for the relief of certain civilian employees and former civilian employees of the Bureau of Reclamation (Rept. No. 91-208);

S. 275. A bill for the relief of the village of Orleans, Vt. (Rept. No. 91-209);

S. 499. A bill for the relief of Ludger J. Cossette (Rept. No. 91-244);

S. 868. A bill for the relief of the New Bedford Storage Warehouse Co. (Rept. No. 91-210);

S. 901. A bill for the relief of William D. Pender (Rept. No. 91-211);

S. 1010. A bill for the relief of Mrs. Alli Kallio (Rept. No. 91-212);

S. 1236. A bill for the relief of Homer T. Williamson, Sr. (Rept. No. 91-213); and

H.R. 2940. An act for the relief of Henry E. Dooley (Rept. No. 91-214).

By Mr. MCCLELLAN, from the Committee on the Judiciary, with an amendment:

S. 728. A bill for the relief of Capt. Richard L. Schumaker, U.S. Army (Rept. No. 91-215); and

S. 757. A bill for the relief of Yvonne Davis (Rept. No. 91-216).

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. MONTOYA:

S. 2285. A bill for the relief of Dr. Y. O. Amer; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 2286. A bill to include Guam within the purview of the Federal Unemployment Tax Act and related provisions of the Social Security Act, to the Committee on Finance;

S. 2287. A bill to provide that the unincorporated territory of Guam shall be represented in Congress by a Territorial Deputy to the House of Representatives, to the Committee on Interior and Insular Affairs; and

S. 2288. A bill to require the payment of prevailing rates of wages on Federal public works on Guam, to the Committee on Labor and Public Welfare.

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

By Mr. MAGNUSON (for himself, Mr. HARTKE, Mr. HART, Mr. MOSS, Mr. INOUYE and Mr. PROUTY):

S. 2289. A bill to amend the Interstate Commerce Act, as amended, in order to make unlawful, as unreasonable and unjust discrimination against and an undue burden upon interstate commerce, certain property tax assessments of common and contract carrier property, and for other purposes; to the Committee on Commerce.

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

By Mr. HARRIS (for himself, Mr. BAYH, Mr. CANNON, Mr. HART, Mr. INOUYE, Mr. MANSFIELD, Mr. MONDALE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. TYDINGS, and Mr. YARBOROUGH):

S. 2290. A bill to provide opportunities for American youth to serve in policymaking positions and to participate in national, State, and local programs of social and economic benefit to the country; to the Committee on Government Operations.

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

By Mr. CRANSTON:

S. 2291. A bill to authorize the Secretary of the Interior to establish a national wildlife refuge in the south San Francisco Bay area; to the Committee on Commerce.

By Mr. McCLELLAN (for himself and Mr. HRUSKA):

S. 2292. A bill to amend chapter 223, title 18, United States Code, to regulate litigation concerning source of evidence, and for other purposes; to the Committee on the Judiciary.

(See the remarks of Mr. McCLELLAN, which appear under a separate heading.)

By Mr. PELL (for himself, Mr. MAGNUSON, Mr. PASTORE, and Mr. FONG):

S. 2293. A bill to amend the National Sea Grant College and Program Act of 1966 in order to extend the authorizations for the purposes of such act; to the Committee on Labor and Public Welfare (by unanimous consent), and if and when reported, referred to the Committee on Commerce (by unanimous consent).

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

By Mr. MATHIAS:

S. 2294. A bill for the relief of Li Kam Lin; and

S. 2295. A bill for the relief of Chan Chung Sau; to the Committee on the Judiciary.

By Mr. CANNON (for himself and Mr. BIBLE):

S. 2296. A bill to authorize the Secretary of the Interior to grant easements with respect to public lands for certain purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. BYRD of West Virginia (for Mr. DODD):

S. 2297. A bill for the relief of Maria Lynch; to the Committee on the Judiciary.

By Mr. BYRD of West Virginia (for Mr. SPARKMAN):

S. 2298. A bill to amend the Federal Credit Union Act so as to provide for an independent Federal agency for the supervision of federally chartered credit unions, and for other purposes; to the Committee on Banking and Currency.

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

By Mr. HART:

S. 2299. A bill granting jurisdiction to the Court of Claims to render judgment on certain claims of the Algonac Manufacturing Co. and John A. Maxwell against the United States; and

S. 2300. A bill for the relief of Betty J. Neil; to the Committee on the Judiciary.

By Mr. HART (for himself, Mr. BURDICK, Mr. HATFIELD, Mr. INOUYE, Mr. JAVITS, Mr. MCCARTHY, Mr. MONDALE, Mr. NELSON, Mr. PROXMIRE, Mr. WILLIAMS of New Jersey, and Mr. YOUNG of Ohio):

S. 2301. A bill to abolish the death penalty under all laws of the United States, and for other purposes; to the Committee on the Judiciary.

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

By Mr. CRANSTON:

S.J. Res. 114. A joint resolution to honor the citizen-juror and the modern jury system; to the Committee on the Judiciary.

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

By Mr. MAGNUSON (for himself and Mr. JACKSON):

S.J. Res. 115. A joint resolution to authorize the President to designate the period beginning November 2, 1969, and ending November 8, 1969, as "National Executive Housekeepers Week"; to the Committee on the Judiciary.

S. 2286, S. 2287, AND S. 2288—INTRODUCTION OF BILLS CORRECTING INEQUITIES AGAINST GUAM

Mr. INOUYE. Mr. President, Guam has been a possession of the United States since December 1898 and achieved territorial status in 1950. However, despite the increasing assistance given to the Territory of Guam and its citizens, Guam has not been included under the provisions or benefits of a number of laws that other citizens of the United States enjoy. We in Hawaii fully understand the difficulties and peculiar status that the citizens of Guam must bear and, therefore, I am today introducing several bills to correct a number of inequities Guam's citizens face.

One measure would extend to Guam the provisions of the Davis-Bacon Act. The Davis-Bacon Act provides that laborers and mechanics employed on the construction or repair of public buildings of the United States and the District of Columbia be paid what is known as the "prevailing wage" in the area. My bill would include the Territory of Guam under the coverage of this act.

When both Hawaii and Alaska had territorial status, the provisions of the Davis-Bacon Act were extended to them in June of 1940. I am hopeful that my measure to include Guam under the coverage of this act will receive speedy consideration by the Congress.

Another measure I am introducing today would include Guam under the national unemployment compensation program that is administered by the Federal Government. Hawaii and Alaska were covered under the provisions of this act at the start of the program. The 10th Guam Legislature has petitioned the Congress to have Guam included under the benefits of this program. Enactment of this measure would be of minimal cost to the Federal Government since the employers and employees on Guam would pay into the fund and benefits would not be received until 2 years from the date the payments were first collected.

The PRESIDING OFFICER. The bills will be received and appropriately referred.

The bill (S. 2286), to include Guam within the purview of the Federal Unemployment Tax Act and related provisions of the Social Security Act, introduced by Mr. INOUYE, was received, read twice by its title and referred to the Committee on Finance;

The bill (S. 2287), to provide that the unincorporated territory of Guam shall be represented in Congress by a Territorial Deputy to the House of Representatives, introduced by Mr. INOUYE, was received, read twice by its title and referred to the Committee on Interior and Insular Affairs; and

The bill (S. 2288) to require the payment of prevailing rates of wages on Federal public works on Guam, introduced by Mr. INOUYE, was received, read twice by its title and referred to the Committee on Labor and Public Welfare.

S. 2289—INTRODUCTION OF A BILL TO ELIMINATE DISCRIMINATION TAXATION OF COMMON CARRIER PROPERTY

Mr. MAGNUSON. Mr. President, I introduce on behalf of myself and Senators HARTKE, HART, Moss, INOUYE, and PROUTY, for appropriate reference, a bill to amend the Interstate Commerce Act to provide a means to eliminate discriminatory taxation of common carrier property. The purpose of this bill is to eliminate the longstanding burden on our national transportation system arising out of discriminatory State and local taxation of interstate carrier property.

This proposed legislation contains two parts. The first part, to briefly summarize, makes it unlawful as a burden against interstate commerce for a State or locality to assess, collect, or impose a higher rate of property tax on interstate carriers than on other taxpayers. Unfortunately, interstate carriers, especially railroads, are easy prey for State and local tax assessors. They cannot just pull up their lines and terminals and leave a State when they are oppressively taxed. There is precedent for this provision in the language of section 13(4) of the Interstate Commerce Act, which declares unlawful a State's requiring a carrier to charge intrastate rates so low as to be unfair or to discriminate against, or to place a burden on interstate commerce.

The second part of the bill allows an aggrieved interstate carrier to bring suit in a Federal district court to challenge the excessive portion of a State or local transportation property tax. In such a suit, the carrier challenging any State or local tax would have the burden of proof.

In the past, I was reluctant to urge enactment of similar legislation because I believed the State taxing agencies and State courts should be given every opportunity to correct their outdated procedures which result in discriminatory taxation of carriers. But this problem is not a new one, and year after year has gone by without corrective State action. Some 9 years ago, pursuant to Senate Resolutions 29, 151, and 244 of the 86th Congress, the Senate authorized the establishment of a special study group on transportation policies in the United States. This study group submitted its national policy study report 8 years ago, including recommendations on means to eliminate State and local discriminatory taxation of carriers. This study group confirmed that there was a "studied and deliberate practice of assessing railroad property at a proportion of full value substantially higher than other property subject to the same tax rates." The study group favorably recommended a bill to eliminate this discriminatory state taxation.

Last year the Senate Commerce Com-

mittee favorably reported a bill, S. 927, identical to the one I introduce today. At the Commerce Committee hearings held during the 90th Congress on S. 927, States asked that they be given just a little more time to take care of this matter themselves. The committee agreed and amended S. 927 to allow the States 3 more years, after enactment, to correct this matter. Certainly if the States are ready and willing to provide equal justice in taxation to all their taxpayers, another 3 years should be sufficient for them to adjust their practices and laws.

As the Department of Transportation said in favorably commenting on legislation to eliminate discriminatory taxation:

> Reform in these aspects of property tax administration which affect interstate commerce should be accelerated. The present system in addition to its discriminatory aspect, results in the added burden of increased transportation costs to the consumer.

During the last Congress the Department of Transportation and the Interstate Commerce Commission expressed support for the objectives of this legislation to eliminate discriminatory State tax practices which weaken our national transportation system and burden our Nation's consumers.

I want to emphasize that this bill would in no way alter the freedom of a State to tax its taxpayers so long as interstate carriers are accorded equal tax treatment with other taxpayers. In the majority of States that now grant equal tax justice to all taxpayers, State property tax assessments and rates would in no way be touched by this bill. In the remaining States, 3 years would be provided by this measure for the States to adjust their tax practices. Even at the end of 3 years, no change would be required of any State unless and until an affected carrier could prove in court that State discriminatory tax practices exist. Only when a carrier proves in court that a State is discriminatorily taxing carrier property, would this statute have an effect on State tax practices.

Ultimately, the shipper and consumer pay the bill for discriminatory taxation of transportation. Not only are such taxes reflected in the transportation costs of goods purchased by the consumer, but also the consumers of States which do not discriminate are forced to share the cost of these burdensome tolls.

Mr. President, I ask unanimous consent that the text of the bill be printed at the close of my remarks on this proposed legislation.

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. 2289) to amend the Interstate Commerce Act, as amended, in order to make unlawful, as unreasonable and unjust discrimination against and an undue burden upon interstate commerce, certain property tax assessments of common and contract carrier property, and for other purposes, introduced by Mr. MAGNUSON (for himself and other Senators), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 2289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Interstate Commerce Act, as amended, is amended by inserting after section 25 thereof a new section 25a as follows:

"SEC. 25a. (1) Notwithstanding the provisions of section 202(b), the following action by any State, or subdivision or agency thereof, whether such action be taken pursuant to a constitutional provision, statute, or administrative order or practice, or otherwise, is hereby declared to constitute an unreasonable and unjust discrimination against and an undue burden upon interstate commerce and is hereby forbidden and declared to be unlawful: (a) the assessment (but only to the extent of any portion based on excessive values as hereinafter described), for purposes of a property tax levied by any taxing district, of transportation property pursuant to a constitutional provision, statute, or administrative order or practice, or otherwise, is hereby declared to constitute an unreasonable and unjust discrimination against and an undue burden upon interstate commerce and is hereby forbidden and declared to be unlawful; (a) the assessment (but only to the extent of any portion based on excessive values as hereinafter described), for purposes of a property tax levied by any taxing district, of transportation property owned or used by any common or contract carrier subject to economic regulation pursuant to the provisions of the Interstate Commerce Act at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other property in the taxing district subject to a property tax levy bears to the true market vaue of all such other property; (b) the collection of any tax on the portion of said assessment so declared to be unlawful; or (c) the collection of any ad valorem property tax on such transportation property at a tax rate higher than tax rates applicable to any other property in the taxing district.

"(2) Notwithstanding the provisions of section 1341, title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, upon complaint and after hearing, to issue such writs of injunction or other property process, mandatory or otherwise, as may be necessary to restrain any State, or subdivision or agency thereof, or any person from doing anything or performing any act declared by paragraph (1) hereof to be unlawful: *Provided, however,* That such jurisdiction shall not be exclusive of that which any Federal or State court may otherwise have: *And provided further,* That the provisions of this paragraph (2) shall not become effective until three years after the date of enactment."

Mr. HARTKE. Mr. President, I am pleased to join as a cosponsor of the bill to amend the Interstate Commerce Act to provide a means to eliminate discriminatory taxation of common carrier property.

The bill has both a substantive and a procedural aspect. First, it would amend the Interstate Commerce Act to declare unlawful, as an unreasonable and unjust discrimination against and an undue burden upon interstate commerce, the assessment of property of any common carrier which bears a higher ratio to its true market value than the assessed value of other property in the taxing district subject to the same property tax levy. Second, it would provide a remedy in the Federal courts for such carriers against the collection of any tax based on such unlawful assessments.

Like Senator MAGNUSON I hesitate to endorse any legislation that imposes Federal restrictions on State taxation policies. But in this case too many States have failed to take action to correct a manifestly inequitable taxation policy. By allowing the States 3 years within which to act after the legislation becomes law, this bill is eminently fair. It would be grossly unfair to the railroads and other carriers as well as to citizens of nondiscriminating States to allow the existing situation to continue unabated.

S. 2290—INTRODUCTION OF THE YOUTH PARTICIPATION ACT OF 1969

Mr. HARRIS. Mr. President, I introduce for appropriate reference the Youth Participation Act of 1969, a bill to provide increased opportunities for young people to serve and participate in the institutions which direct our society and control its quality.

The bill is cosponsored by Senators BAYH, CANNON, HART, INOUYE, MANSFIELD, MONDALE, RANDOLPH, RIBICOFF, TYDINGS, and YARBOROUGH.

A year ago, I introduced a similar bill. Many excellent suggestions concerning the legislation have been made since then and are incorporated in the act of 1969, resulting in a more responsive and positive program.

We cannot continue to describe or discuss America's young people in the cliches of the past.

It is not totally pertinent to say that today's young people are the best we have ever had. We do not know for sure if that is true. What is pertinent is that they are the only young people we have.

We can no longer say to youth: "The future is yours." Because today youth replies: "We don't want to wait until then."

They want to participate now.

This summer, as graduation exercises take place on the Nation's campuses, these restless young people will come forward to seek a role in our social institutions. They are vocal, well informed and well educated. They have learned the ways of power and they are impatient to exercise it.

We cannot agree with all the demands this new breed will make, nor can institutions tolerate violence or unlawful intimidation. Neither can we deny legitimate requests for a share in helping shape the policies and institutions that control their lives.

One of the most compelling facts about today's youth is their number. In 1940 the percentage of our population under 25 was 40 percent; today it is 47 percent By 1972, about half of our total population will be under 25.

This fact alone should encourage us to provide a significant role for the talents and energies of this potent natural resource.

And today's young people are more aware of the world at a much earlier age than the generations which preceded them.

At the earliest ages, they are instantly linked, through the most sophisticated communications with a starving African child, a war being fought on the other

side of the globe, a riot in a city hundreds of miles away—and, soon, with the surface of the moon.

Not too long ago, college was a privilege of the Nation's elite. Today, 6 million young people are in college. That represents more than half of all high school graduates.

Today's young generation, eager to assume responsibility, is also the best prepared one we have ever had.

With a superior education, earlier maturity and a much quicker and greater awareness of the world around them, today's youth often grasp the realities of society with more perception than many of us who are older.

The framers of our Constitution had faith in young people. One is eligible for election to the House of Representatives at the age of 25, the Senate at age 30 and the Presidency at 35.

America has always been a young nation; and America's greatest promise has always been to her youth. But now a cruel irony threatens us—some young Americans view our established institutions with distrust and hostility.

Some display what Dr. Erich Fromm calls an "irrational destructiveness" that comes when hope is gone.

Some are simply apathetic and alienated.

Most are concerned about America's future and are committed to improving the quality of life for all our citizens.

But they are frustrated because of a sense of powerlessness—an inability to influence policies or events.

Certainly such programs as the Peace Corps and Vista have been so successful because they give young people a chance to participate, to effect changes. Yet, they are not enough.

Today's youth want more. They want a voice in shaping policy and in making decisions.

But the longer we wait to recognize this need, the greater the possibility that the racial minority will grow, capturing imagination and commitment of more young people. If this happens, more of the zeal and vigor of youth, which our country so desperately needs, may be dissipated.

While we must find a way to create meaningful programs for youth, we must beware of institutionalizing youth. Neither should we structure programs that are suited only to college students. Youth programs must be flexible enough to use the talents of all of our young people—rich and poor, black and white, more educated and less educated.

There is truth, but no originality, in the statement that youth is this country's greatest resource. The originality will be in what we do with it.

I believe we are ready to use this resource now.

The bill I am offering attempts to increase opportunities for young people to have a responsible and creative role in this country's future.

The Youth Participation Act of 1969 calls for the establishment of a Foundation on Youth Participation and a National Advisory Commission on Youth.

The Foundation on Youth Participation would be composed of a 12-member board of trustees. Members would be appointed by the President and confirmed by the Senate. Each member would serve for 3 years and would be required to be under 36 years old at the time of his or her appointment.

Subject to supervision and direction by the board of trustees, the Foundation programs would be carried out by a Director and Deputy Director. Both the Director and his Deputy would also be appointed by the President and confirmed by the Senate.

The Foundation, as its primary function, would make grants to public and nonprofit agencies which sponsor programs for youth under 25 years of age.

The Foundation would also encourage Government and industry to invest in youth participation programs.

Another function of the Foundation would be to offer technical assistance to those public and private agencies which contribute to the Foundation efforts.

The Foundation would maintain an information center on youth programs. There are presently 98 youth programs operating in this country. We need to assemble the facts concerning these programs in a central location where they are more readily accessible and easier for a young person to learn about.

In addition, the Foundation would facilitate a free exchange of information and ideas among existing youth organizations, resulting in a more efficient use of already established programs.

In addition to the Foundation, the act provides for a National Advisory Commission on Youth.

The Commission, composed of nine members, would be appointed by the President. At least four of the nine Commission members would be under 25 years of age at the time of appointment.

The Commission would be called upon to investigate matters of concern to youth, and to the Nation, such as campus disorders, and also would investigate youth programs to determine that the programs are in fact providing opportunities for youth.

The Commission would be directly responsible to the President and the Commission would advise the President and the Foundation as to ways of increasing participation of youth in our society.

Many other actions, such as providing for 18-year-olds to vote, must be taken. But the act of 1969, establishing a Foundation and a Commission to perform the functions just described, would be an important part of an effective effort to involve youth in a meaningful manner in the affairs of our society, recognizing the faith and strong hope that a majority of youth have in the future of this Nation.

Dr. Erich Fromm, when discussing hope, stated:

> Those whose hope is weak settle down for comfort or for violence; those whose hope is strong see and cherish all signs of new life and are ready every moment to help the birth of that which is ready to be born.

I hope that during this session of Congress we can offer a sign of new life and take prompt and favorable action on the Youth Participation Act of 1969, which is ready to be born.

Mr. President, I ask unanimous consent that a summary of the bill and the bill itself be printed at this point in the RECORD.

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. 2290) to provide opportunities for American youth to serve in policymaking positions and to participate in national, State, and local programs of social and economic benefit to the country, introduced by Mr. HARRIS (for himself and other Senators), was received, read twice by its title, referred to the Committee on Government Operations, and ordered to be printed in the RECORD, as follows:

S. 2290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL PROVISIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "Youth Participation Act of 1969".

STATEMENT OF PURPOSE

SEC. 102. (a) The Congress finds that—

(1) encouragement of youth participation in national, State, and local programs of social and economic benefit to the country is an appropriate matter of concern to the Federal Government;

(2) American youth today are maturing—physically and intellectually—at earlier ages than ever before, yet technological and other advances have eliminated opportunities of work for an increasing proportion of the young, while requiring them to continue their education in order to acquire the skills and knowledge demanded by a sophisticated economy, and as a consequence, the period during which young people must wait to enter society as productive members in positions of power and responsibility lasts longer for youth today than for any previous generation;

(3) the extension of the period during which youth are waiting to enter society, the unprecedented rapidity of recent technological and social change and the emergence of huge, impersonal institutions have helped to produce social cleavages between older and younger Americans that are wider than the distances which separated past generations from one another, and these cleavages may grow unless the Nation deliberately creates a forum for a mutually respectful and meaningful exchange of opinions between old and young and develops viable means by which the young can participate more directly in American life and institutions and in decision making processes;

(4) acute problems of economic inequality, racial discrimination, and social inequity continue to burden the Nation and prevent it from achieving its full economic potential, from developing the full human resources of all of its citizens, and from fully realizing its democratic principles;

(5) in the idealism, energy, and imagination of American youth, the Nation possesses resources which can be mobilized to help relieve these problems, and are not now fully employed because the Nation lacks adequate institutions through which young people can channel their potential contribution to the national welfare; and

(6) programs at the national level, such as the Peace Corps, and programs at the State and local levels which rely heavily on the interest and participation of youth, now lack the necessary coordination to insure the maximum participation of youth.

(b) In order to implement the findings set forth in subsection (a), it is the purpose of this Act to create a new program, which will help to direct the resources of youth to the solution of critical needs of the country and encourage the fuller participation of youth in American public life, by offering young people opportunities to participate in the planning, administration, and operation of programs which benefit our society and economy, and by establishing national and State forums for the discussion and resolution of problems concerning youth.

DEFINITIONS

SEC. 103. As used in this Act—

(1) "youth program" means any program designed to provide opportunities for youth to serve or participate in projects of a social or economic benefit to the local community, the State, or the United States; and

(2) "private nonprofit organization" means any organization, including any organization owned or operated by one or more corporations, agencies, or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

TITLE II—FOUNDATION ON YOUTH PARTICIPATION

ESTABLISHMENT OF FOUNDATION ON YOUTH PARTICIPATION

SEC. 201. (a) There is hereby established in the executive branch of the Government an agency to be known as the Foundation on Youth Participation (hereinafter referred to as the "Foundation").

(b) The Foundation shall be subject to the supervision and direction of a Board of Trustees (hereinafter referred to as the "Board"). The Board shall be composed of twelve members appointed by the President by and with the advice and consent of the Senate, of whom at least eight shall be persons who at the time of their appointment have not attained thirty-six years of age. The Director of the Foundation shall be an ex officio member of the Board. In making appointments, the President shall consider recommendations from youth organizations, business and professional organizations, and from public agencies conducting or assisting programs relevant to young people.

(c) The term of office of appointed members of the Board shall be three years, except that—

(1) the members first taking office shall serve as designated by the President, four for a term of one year, four for a term of two years, and four for a term of three years; and

(2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(d) Members of the Board who are not regular full-time employees of the United States shall, while serving on business of the Foundation, be entitled to receive compensation at rates fixed by the President, but not exceeding $100 per diem, including travel time; and while so serving away from their homes or regular places of business. All members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(e) The President shall call the first meeting of the Board of the Foundation at which the first order of business shall be the election of a chairman and a vice chairman who shall serve for a term of one year. The vice chairman shall perform the duties of the chairman in his absence.

(f) Any vacancy in the Board shall not affect its powers and seven members of the Board shall constitute a quorum.

DIRECTOR AND DEPUTY DIRECTOR

SEC. 202. (a) There shall be a Director and a Deputy Director of the Foundation who shall be appointed by the President, by and with the advice and consent of the Senate. In making such appointments the President is requested to give due consideration to any recommendations submitted to him by the Board. The Director shall be the chief executive officer of the Foundation. Each shall serve for a term of four years unless previously removed by the President. The Deputy Director shall perform such functions as the Director, with the approval of the Foundation, may prescribe, and be acting Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

(b) The Director shall carry out the programs of the Foundation subject to its supervision and direction, and shall carry out such other functions as the Foundation may delegate to him consistent with the provisions of this title.

FUNCTIONS OF THE FOUNDATION

SEC. 203. (a) It shall be the function of the Foundation to—

(1) make grants to public agencies and nonprofit private organizations, upon such terms and conditions consistent with the provisions of this title as the Board deems appropriate, for—

(A) the establishment of State programs of youth participation approved by the Board;

(B) the development and operation, by public agencies and nonprofit private organizations, of programs under which young people who have not attained 25 years of age are recruited, selected, trained, and employed in social and economic programs of benefit to local communities, especially programs which concern youth generally and programs designed to reduce poverty and physical blight, improve health, education, and welfare of the people concerned, end racial discrimination, and achieve equal justice under law for all citizens; and

(C) the development of coherent plans and programs, by such public agencies and private nonprofit organizations, which ensure the meaningful participation of young people who have not attained 25 years of age in policy making positions of governmental and private organizations which administer social and economic programs, described in subparagraph (B);

(2) encourage private industry and charitable educational foundations to invest in youth participation programs;

(3) encourage State and local public agencies to develop and adequately fund youth participation programs;

(4) provide technical assistance, either directly or by way of grant or contract, to States and otherwise encourage the establishment of appropriate programs of youth participation at the State level;

(5) establish and maintain a national information center to collect, store, and analyze information with respect to youth programs and volunteer programs conducted by Federal, State, or local public agencies or private nonprofit organizations in order to disseminate appropriate materials concerning any such youth or volunteer program (including an evaluation thereof) which the Director determines is successful in carrying out the purposes for which it was established; and

(6) establish and encourage the adoption of procedures to assure the free exchange of information concerning volunteer opportunities in Volunteers in Service to America, the Peace Corps, the Job Corps, the Neighborhood Youth Corps, the Federal volunteer program established under this title and any other relevant Federal youth program, including making available streamlined application procedures for service in such programs.

(b) No payment may be made pursuant to paragraphs (1), and (5) of subsection (a) of this section, except upon application therefore, which is submitted to the Foundation in accordance with regulations and procedures established by the Board.

LIMITATION ON PAYMENTS

SEC. 204. (a) No payment shall be made pursuant to this title in excess of 90 per centum of the cost of the program, project, or activity for which an application is made.

(b) No compensation or stipend paid to any volunteer pursuant to this Act may exceed $4,000 in any fiscal year. This limitation shall not apply to medical or travel expenses and other necessary expenses as determined by the Foundation.

(c) Assistance pursuant to this Act shall not cover the cost of any land acquisition, construction, building acquisition, or acquisition of labor or equipment.

ADMINISTRATIVE PROVISIONS

SEC. 205. (a) In addition to any authority vested in it by other provisions of this title, the Foundation, in carrying out its functions, is authorized to——

(1) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) in the discretion of the Foundation, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)) money and other property donated, bequeathed, or devised to the Foundation with a condition or restriction, including a condition that the Foundation use other funds of the Foundation for the purposes of the gift;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this title;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(7) enter into contracts, grants or other arrangements, or modifications thereof to carry out the provisions of this title, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) or any other provision of law relating to competitive bidding;

(8) make advance, progress, and other payments which the Board deems necessary under this title without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(9) rent office space in the District of Columbia; and

(10) perform such other duties as are necessary to carry out the provisions of this title.

(b) The Foundation shall submit to the President and to the Congress an annual report of its operations under this title which shall include a detailed statement of all public and private funds received and expended by it and such recommendations, including legislative recommendations, as the Foundation deems appropriate.

TRANSFER OF FUNCTIONS

SEC. 206. (a) The functions of the President's Council on Youth Opportunity and the Citizens Advisory Board on Youth Opportunity established pursuant to Executive Order 11330, approved March 6, 1967, are transferred to the Foundation.

(b) All personnel, assets, liabilities, property, and records as are determined by the

Director of the Bureau of the Budget to be employed, held, or used primarily in connection with any function transferred by subsection (a) are transferred to the Foundation.

COMPENSATION OF DIRECTOR AND DEPUTY DIRECTOR

SEC. 207. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new clause:

"(54) Director, Foundation on Youth Participation.".

(b) Section 5315 of such title is amended by adding at the end thereof the following new clause:

"(92) Deputy Director, Foundation on Youth Participation.".

APPROPRIATIONS AUTHORIZED

SEC. 208. There are hereby authorized to be appropriated such sums, not to exceed $20,000,000 in any fiscal year, to carry out the provisions of this title.

TITLE III—NATIONAL ADVISORY COMMISSION ON YOUTH COMMISSION ESTABLISHED

SEC. 301. (a) There is established an Advisory Commission on Youth (hereinafter referred to as the "Commission"), composed of 9 members to be appointed by the President from among persons who are recognized as specially qualified to serve on the Commission. In making such appointments the President shall give consideration to any recommendations submitted by the Board, and to the appointment of individuals who collectively will provide a broad range of experience, backgrounds, educational levels, occupations, age groups, ethnic origins, and regional representation. At least 4 members appointed to the Commission shall not have attained 25 years of age on the date of appointment.

(b) The terms of office of each member of the Commission shall be 3 years, except that—

(1) the members first taking office shall serve, as designated by the President, 3 for a term of 1 year, 3 for a term of 2 years, and 3 for a term of 3 years; and

(2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(c) The President shall designate one of the members of the Commission to serve as Chairman. Each Chairman shall serve for a term of two years.

(d) Any vacancy in the Commission shall not affect its powers, and 5 members of the Commission shall constitute a quorum.

FUNCTIONS OF THE COMMISSION

SEC. 302. It shall be the function of the Commission to—

(1) investigate issues of concern to youth in America, including, but not limited to, student unrest, higher educational opportunities for blue collar youth, youth working conditions, and employment opportunities for youth in government;

(2) investigate, study, and evaluate youth programs conducted or assisted under any provision of Federal law to determine if such programs are—

(A) being planned and administered so as to furnish substantial opportunities for the participation of young people;

(B) engaging volunteers in ways that permit and encourage them to assist in the planning, administration, and evaluation of policies and programs;

(C) where appropriate, assigning young volunteers to work directly with clients and beneficiaries of federally assisted or conducted programs; and

(D) providing experience which leads to careers for volunteers in the fields in which they work;

(3) investigate federally conducted or assisted programs which directly affect the lives of young people, including, but not limited to, programs under the jurisdiction of the Selective Service System, the Justice Department, the Civil Service Commission, and the Office of Economic Opportunity, and determine ways of improving such programs in order to make them more responsive to the needs and concerns of young people;

(4) advise the President, the Board, and the Foundation, after consideration of the findings of the Commission, with respect to ways of increasing the participation of youth in programs administered by the Foundation;

(5) consult with the President, Federal, State and local public agencies with respect to governmental programs affecting youth in order to recommend how such programs can be made more responsive to the needs and concerns of young people; and

(6) prepare and transmit to the President and to the Congress at least twice in each fiscal year a detailed report on the activities of the Commission during the 6-month period prior to the preparation of the report, together with such recommendations, including legislative recommendations, as the Commission deems appropriate, and may, at its discretion, prepare and transmit to the President and to the Congress such interim reports as are necessary to carry out the objectives of this title.

ADMINISTRATIVE POWERS

SEC. 303. (a) The Commission is authorized to—

(1) appoint and fix the compensation of such staff personnel, including an Executive Secretary, as it deems necessary;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code;

(3) conduct such hearings as may be required for the performance of the functions of the Commission, administer oaths for the purpose of taking evidence in any such hearings and issue subpenas to compel witnesses to appear and testify and to compel the production of documentary evidence in any such hearings;

(4) issue, amend, and revoke such regulations as may be necessary for the performance of the functions of the Commission;

(5) enter into contracts and other agreements with Federal, State, and local public agencies, private firms, institutions and individuals for the conduct of such research or surveys as may be required in the performance of the functions of the Commission;

(6) secure from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the United States Government, or of any State, or political subdivision thereof, information, estimates, and statistics required in the performance of the functions of the Commission; and

(7) delegate to any member of the Commission any of the foregoing functions.

(b) (1) Subpenas issued pursuant to paragraph (3) of subsection (a) shall bear the signature of the Chairman of the Commission and may be served by any person designated by the Chairman of the Commission for that purpose.

(2) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowances of witnesses so summoned under authority conferred by this section shall be paid from funds appropriated to the Commission.

(3) Any person who willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify, or to produce any evidence in obedience to any subpena duly issued under authority of this section shall be fined not more than $500, or imprisoned for not more than six months, or both. Upon the certification by the Chairman of the Commission of the facts concerning any such willful disobedience by any person to the United States attorney for any judicial district in which such person resides or is found, such attorney shall proceed by information for the prosecution of such person for such offense.

(c) Each department, bureau, agency, board, Commission, office, independent establishment, or instrumentality referred to in paragraph (6) of subsection (a) is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission upon written request made by the Chairman of the Commission.

COMPENSATION OF MEMBERS

SEC. 304. Members of the Commission who are not regular full-time employees of the United States shall, while serving on business of the Commission, be entitled to receive compensation at rates fixed by the President, but not exceeding $100 per diem, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

APPROPRIATIONS AUTHORIZED

SEC. 305. There are authorized to be appropriated such sums not to exceed $5,000,000 in any fiscal year, to carry out the provisions of this title.

The material presented by Mr. HARRIS follows:

SUMMARY OF YOUTH PARTICIPATION ACT OF 1969

Section 101 provides that the act may be cited as the "Youth Participation Act of 1969."

Section 102 sets forth the purposes of the act which are primarily related to providing better opportunities for American youth to serve in policy-making positions and to participate in National, State, and local programs of social and economic benefit to the country.

Section 103 simply defines "youth programs" and "private nonprofit organization."

Section 201 establishes a Foundation on Youth Participation in the Executive Branch of the government which would be subject to the supervision and direction of a Board of Trustees composed of 12 members appointed by the President and confirmed by the Senate. Eight of the 12 members of the Board shall be persons who have not attained 36 years of age at the time of their appointment. The members of the Board are to serve for three year terms.

Section 202 provides for a Director and Deputy Director of the Foundation to be appointed by the President and confirmed by the Senate. The Director would be the Chief Executive Officer of the Foundation and would be responsible for the programs of the Foundation subject to its supervision and direction.

Section 203 lists the functions of the Foundation which are in part: to make grants to public agencies and nonprofit private organizations for programs of youth participation; to encourage private industry and charitable foundations to invest in youth programs; to provide technical assistance to those conducting youth programs; to provide an information center for youth programs; and to encourage the adoption of procedures to assure the free exchange of information between Federal agencies having programs primarily involving youth.

Section 204 limits the payment to a program or project to 90% of the cost and also limits the compensation or stipend paid to any volunteer to $4000 in any fiscal year.

Section 205 gives the Foundation the administrative powers essential to the accomplishment of its functions.

Section 206 provides for the transfer to the Foundation the functions of the President's

Council on Youth Opportunity and the Citizens Advisory Board on Youth Opportunity.

Section 207 establishes the compensation of the Director and Deputy Director.

Section 208 provides for an authorization of funds for the Foundation not to exceed $20,000,000, to carry out the provisions of this title.

Section 301 provides for a National Advisory Commission on Youth to be composed of 9 members appointed by the President. At least 4 of the members shall not have attained 25 years of age on the date of appointment. The term of office for a Commission member shall be three years.

Section 302 sets forth the functions of the Commission. These functions in part are: to investigate issues of concern to youth; to investigate and study youth programs; and to consult with and advise the President and make reports to the President.

Section 303 of the Act gives the Commission the administrative powers essential to carrying out its functions.

Section 304 of the Act provides for the compensation of the members of the Commission.

Section 305 of the Act provides for an authorization of $5,000,000 to carry out the provisions of this title.

S. 2292—INTRODUCTION OF A BILL TO REGULATE LITIGATION CONCERNING SUPPRESSION OF EVIDENCE

Mr. McCLELLAN. Mr. President, each morning, each afternoon, and each evening bring us new evidence from the streets of our cities, the campuses of our colleges, and the metropolitan strongholds of organized crime, that our system of criminal justice, as administered, is weak and needs strengthening. Muggings and robberies continue unabated, forcible rape, too frequently, is committed with impunity, criminal trespassing goes unpunished, and the hijackers of organized crime threaten to close down whole segments of our transportation industry. Few, if any, reputable commentators today seriously quarrel with those of us who suggest the need for wise and imaginative new legislation on topics touching law enforcement.

Earlier in this session of the Congress, along with several of my distinguished colleagues—men who share my concern about the quality of our law-enforcement efforts—I introduced S. 30, the Organized Crime Control Act of 1969, and S. 1861, the Corrupt Organizations Act of 1969. Those two bills are designed to deal forcefully with certain clearly defined needs of our criminal justice system. The Subcommittee on Criminal Laws and Procedures is now working to perfect these bills and to report them to this body at an early date.

Today, however, I wish to speak of a situation which has deteriorated recently, and on which the need for remedial action now is most pressing. I refer to the procedural problems surrounding the implementation of the so-called suppression sanction in our courts—a practice whereby logically relevant and manifestly probative evidence is excluded during the trial of an issue—as a technique of discipline for the allegedly unlawful manner in which such evidence was obtained.

Mr. President, on March 11, 1969, I addressed this body on the special challenge posed by organized crime. At that time, I expressed my concern that the administration of justice might be harmed by the Supreme Court's decision of the previous day in Alderman against United States, establishing a procedure for suppressing evidence derived from unlawful police conduct. I have now had the opportunity to examine that decision, to assess its implications, and to determine what courses of legislative action are open to us to mitigate its harmful effects. The remedy I propose is in this bill which I now rise to introduce, for myself and the distinguished Senator from Nebraska (Mr. HRUSKA). Mr. President, I ask that the bill be appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2292) to amend chapter 223, title 18, United States Code, to regulate litigation concerning sources of evidence, and for other purposes, introduced by Mr. McCLELLAN (for himself and Mr. HRUSKA), was received, read twice by its title, and referred to the Committee on the Judiciary.

Mr. McCLELLAN. In the Alderman decision, the convictions of Willie Israel Alderman and Felix Antonio Alderisio, in one case, and Igor A. Ivanov and John William Butenko, in another, were set aside and sent back to the lower courts for further proceedings, proceedings which may ultimately result in their escaping punishment for the crimes they committed. A necessary step in understanding this decision, therefore, is becoming acquainted with the backgrounds of these four defendants and their separate crimes.

I begin with Alderisio and Alderman. Alderisio, also known as "Milwaukee Phil," has been repeatedly identified before the Permanent Subcommittee on Investigations, in its examination of organized crime, and elsewhere, as a syndicate terrorist or "enforcer" and high-level leader of La Cosa Nostra in the Chicago area. He is engaged in the direction of gambling, loan sharking, and other illegal activities. His record goes back a number of years. He received a medical discharge from the U.S. Army in 1943 for "psychoneurosis, hypochondriasis, and defective ethical and moral outlook." In May 1962, he was arrested in a "hit" car—an automobile designed to be used in organized crime murders—that contained special, hidden switches connected to secret compartments for concealing shotguns, rifles, and pistols. He is, in short, a vicious hoodlum. Alderman, on the other hand, has a record of arrests dating back to 1930 for murder, robbery, and assault, but no prior convictions. In the 1940's, in association with the infamous Benjamin "Bugs" Siegel, he owned a large interest in a major Las Vegas gambling casino, and he has been employed, more recently, as a "pit boss" in another Las Vegas casino. He is said to have been responsible for at least 11 unsolved murders. He, too, is a notorious hoodlum.

In the trial court, Alderman and Alderisio were convicted of conspiring, in connection with the collection of a debt, to transmit in interstate commerce threats to commit a murder. At one point, during the course of the conspiracy, Alderiso flew from Chicago to the prospective victim's office in Denver, sat down, and said: "Ruby sent us. We came here to kill you." After a trial fair on the merits, both men were convicted with another, "Ruby" Kolod, now deceased, then an owner of the Desert Inn, a casino in Las Vegas. Alderman was sentenced to a term of 3 years and fined $5,000, while Alderisio was sentenced to 4½ years and fined $7,500.

The defendants' principal defense centered around electronic surveillance conducted by the FBI at the Desert Inn, surveillance that indicated that over a million dollars a month was being "skimmed"—taken without tax payment—from several Las Vegas casinos and distributed to organized crime figures throughout the United States.

I add here parenthetically that the scope of organized crime's Las Vegas "skim" is now being confirmed by the new profit figures reported since new owners have taken over some of the clubs, a process begun in late 1967 shortly after the FBI "bugging" became public. Reported profits have risen a staggering 40–45 percent per year and are now at an all-time high of $77.4 million in Clark County alone, where Las Vegas is located.

The trial judge examined, in camera, over 700 pages of surveillance logs of overheard conversations that the defendants claimed were relevant to the case; he found none relevant and refused to disclose them to the defense. The Government had contended that the privacy of innocent third parties and the lives of Government informants might be endangered by unnecessary disclosure. It was on this issue that appeal was taken.

I note that the crime occurred in 1959. They were indicted in 1964 and convicted in 1965. Now, almost 5 years later, the case is still on appeal—as yet unresolved.

II

Turning now to the other case, John Butenko was born in America of Russian parents. He graduated from Rutgers in 1949, with honors in electrical engineering, and in March 1960, he was employed by a subsidiary of the International Telephone and Telegraph Co. to work on a top secret project for the U.S. Air Force, a command and communication system for the Strategic Air Command. Butenko had top secret clearance.

Igor A. Ivanov, a Soviet national, was employed, in 1963, as a chauffeur at Antorg Trading Corp. in New York City.

In the trial court, Butenko and Ivanov were convicted of espionage conspiracy. They were arrested on October 29, 1963, while possessing top secret defense papers and camouflaged microfilm cameras and two-way radios. Three Soviet diplomatic personnel were, at the same time, charged as co-conspirators and declared persona non grata. Butenko was sentenced to a term of 30 years, while Ivanov was sentenced to 20 years.

As in the cases of Alderman and Alderisio, the defendants raised a defense centering around electronic surveillance conducted by the FBI. The Government

refused to turn over surveillance logs to the defense, contending they had no arguable relevance to the conspiracy for which the defendants were tried. Fear was expressed that national security interests would be prejudiced by the unnecessary revelation of the details of counter-espionage activities.

Thus, each case presented the same issue, once in an organized crime context, and once in a national security context.

III

The two cases were consolidated for decision in the Supreme Court, and one opinion, deciding both, was handed down. For purposes of the decision, the Court assumed that the surveillance was unlawful in both instances, and left open for later resolution the lawfulness of the surveillance in Butenko, an issue now in litigation in the lower courts. In an opinion authored by Mr. Justice White, in which two other Justices, the Chief Justice and Mr. Justice Brennan, concurred, the Supreme Court held that the following the traditional view, before a defendant could raise the unlawfulness of a search and seizure, he had to have standing to object, that is, "his privacy" had to be invaded; it had to be "his conversations" that were overheard or "his house" in which the overhearing occurred. Since constitutional rights were personal, they could be asserted only personally; vicarious assertion was not to be permitted. Justices Harlan and Stewart, in partial dissent, would not extend standing to any except those whose conversations were overheard. Justice Fortas and Douglas, also in dissent, would extend standing as well to those against whom the surveillance was directed, even though their conversations were not overheard or their premises invaded.

Once illegality and standing had been shown, moreover, the Court held that all materials in the Government's files had to be disclosed to the defense. It rejected the Government's contention that only material "arguably relevant" to the case need be shown to the defense, and that it was permissible for a court, through an in-camera inspection, to winnow out the "irrelevant" from the "arguably relevant," disclosing to the defense only the "arguably relevant." The majority rested its position on the need for an adversary hearing to determine the question of taint. An ex parte proceeding was felt to be too much subject to error. The Court considered that protective orders, under which the defendant and his counsel would be enjoined from making improper use of the disclosed materials, would suffice to protect other interests.

In the disclosure aspect of the majority opinion, all Justices, save two, Justices Harlan and Fortas, concurred; they drew a distinction between the usual case and the national security case, holding that an in-camera inspection procedure was permissible solely in the national security case. Mr. Justice Harlan significantly observed:

> There is, however, at least one class of cases in which the standard considerations do not apply. I refer to the situations exemplified by *Ivanov* and *Butenko*, in which the defendant is charged, under one statute or another, with spying for a foreign power. In contrast to the typical situation, here the accused may learn important new information even if the turnover is limited to conversations in which he was a participant. For example, he may learn the location of a listening devise—a fact that may be of crucial significance in espionage work. Moreover, he will be entitled to learn this fact even though a valid warrant has subsequently been issued authorizing electronic surveillance at the same location. Similarly, the accused may find out that the United States has obtained certain information that his foreign government believes is still secret, even when our Government has also received this information from an independent source in a constitutional way. And he may learn that those in whom he has been reposing confidence are in fact American undercover agents.
>
> Even more important, there is much less reason to believe that a protective court order will effectively deter the defendant in an espionage case from turning over the new information he has received to those who are not entitled to it. For in an espionage case, the defendant is someone the grand jury has found is likely to have passed secrets to a foreign power. It is one thing to believe that the normal criminal defendant will refuse to pass on information if threatened with severe penalties for unauthorized disclosure. It is quite a different thing to believe that a defendant who is probably a spy will not pass on to the foreign power any additional information he has received. . . .
>
> The Court's failure to consider the special characteristics of the *Ivanov* and *Butenko* cases is particularly surprising in the light of the reasons it gives for creating an absolute rule in favor of an automatic turnover. For the majority properly recognizes that its preference for a full adversary hearing cannot be justified by an easy reference to an absolute principle condemning *in camera* judicial decisions in all situations. . . . If, as the Court rightly states, the propriety of an *in camera* screening procedure is a "matter of judgment", . . . depending on an informed consideration of all the competing factors, I do not understand why the trial judge should not be authorized to consider whether the accused simply cannot be trusted to keep the Government's records confidential. Nor do I understand why the Government must be confronted with the choice of dismissing the indictment or disclosing the information because the accused cannot be counted on to keep faith with the Court. Moreover, it is not difficult to imagine cases in which the danger of unauthorized disclosure of important information would clearly outweigh the risk that an error may be made by the trial judge in determining whether a particular conversation is arguably relevant to the pending prosecution. It may well be, for example, that the number of conversations at issue is very small. Yet though the Court itself recognizes that "the need for adversary inquiry is increased by the complexity of the issues presented for adjudication," . . . it nevertheless leaves no room for an informed decision by the trial judge that the risk of error on the facts of a given case is insubstantial.

Mr. Justice Black dissented without reaching the merits of the case, while Mr. Justice Marshall did not participate.

IV

Eight days after the Alderman decision, the Subcommittee on Criminal Laws and Procedures began to hold hearings on S. 30 and three related bills. Attorney General John N. Mitchell, testifying in that hearing, in response to a question from me, termed the Alderman case as a "great disappointment to the Department." He indicated:

> (T)he problems are . . . numerous, but the basis of the disappointment of the Department is that not only does the court opinion provide for the disclosure of all relevant material to the defendant's rights, but it provides for the disclosure of the entire logs of the operation, and in some of these instances, national security is involved, and in some other instances the very life and existence of witnesses are involved.

Indeed, the Department of Justice was sufficiently concerned by the Court's decision that it took the extraordinary procedure of filing a petition for rehearing—a petition which was summarily denied on March 24, 1969. On the same day, in Giordano against United States, No. 28, October term 1968, the Court remanded 17 other pending cases involving surveillance back to lower courts for further hearings. It did, however, decide in Taglianetti against United States, No. 446, October term 1968, that the in camera procedure held impermissible in Alderman for use on the question of scope of taint was permissible on the question of standing—a strange turnabout. Nonetheless, Alderman stands today, on the basic disclosure issue, as the law of the land—at least until and unless this body takes action to change it.

Elaborating on the concerns expressed by the Attorney General, Mr. Will Wilson, the Assistant Attorney General in charge of the Criminal Division, in a letter to me dated April 11, 1969, observed:

> There is little doubt that the requirement for evidentiary hearings on obviously irrelevant materials will have a substantial impact on our prosecutive efforts. Our experience has shown that the ingenuity of defense counsel is unlimited in advancing specious suggestions of the relevance of material which could not conceivably have led to any evidence used at trial. Protracted hearings have ensued because, even though a defendant realizes that he has no chance of proving taint, his most precious commodity is time. I am aware of one case where several defendants, found guilty by a jury more than four years ago, have postponed commencement of their sentences for at least two of those years as the result of an unavailing lengthy hearing (and appeal) concerning one overheard conversation, and they will presumably be able to further delay incarceration as the result of another hearing (and appeal) which will now be required.
>
> . . . [W]e have yet to discover a single instance where a case claimed by the Government to have been untainted has been proven to be otherwise by the defense. Needless to say, this constitutes a most wasteful consumption of manpower, prosecutive and judicial. Since this problem will now increase as the result of the requirement for additional hearings in cases concluded long ago, our personnel, already spread thin in our current effort against organized crime, will have to be redeployed to handle these matters. It is clear, too, that the problem will not soon disappear, for under the present state of the law there is no statute of limitations on when a defendant can raise this issue. Thus, in 1980, for instance, defendants will still be demanding records of overhearings which occurred twenty or twenty-five years before, and they will still be demanding the protracted hearings which they are now allowed. Of course where an individual was accidentally overheard many years ago on a national security device which cannot be revealed, he will enjoy, in effect, immunity from prosecution, unless we can convince the courts that the surveillances involved were constitutional.

Hearings in these cases have also posed another substantial problems, that is, they have resulted in the disclosure of facts which have been pieced together by defendants in such a way as to enable them to identify sensitively placed and extremely valuable government informants, with resultant danger to the informants' lives. Some hearings in the future may also result in the revelation of overheard conversations which unjustly reflect upon the integrity of persons discussed therein. Our experience has shown that protective orders have not been effective.

Clearly, the problems posed by Alderman are formidable.

I ask unanimous consent to have the full text of Mr. Wilson's letter of April 11, to which I have referred, printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. McCLELLAN. While understandably neither the Attorney General nor Mr. Wilson commented upon the effect which Alderman might have upon specific cases, the day after that case was decided, the New York Times, under the byline of Mr. Fred P. Graham, reported that "the Justice Department (might) be forced to drop some of its most important criminal prosecutions," including the prosecutions against Cassius Clay, H. "Rap" Brown, Dr. Benjamin Spock, and the militant leaders who participated in demonstrations at the Chicago convention last August. Mr. Graham indicated that the only apparent alternative to such dismissals—dismissals that, in effect, grant the defendant immunity—was for the Government to "concede (in court) that it had been tapping the telephones of many foreign embassies and since wiretapping of foreign embassies is common, many defendants in criminal cases have been overheard while calling to discuss visas and other routine matters." The decision thus promises wide, unforeseen impact. The Solicitor General, in his petition for rehearing, noted above, put it this way:

[T]he result of the decision . . . is, in practical terms, to provide . . . [many] defendants with immunity from prosecution for all crimes past, present or future—and, we may add, to point the way for the well-advised person to obtain such immunity by simply making a telephone call.

I emphasize, too, that even where the Government does elect to make disclosure rather than to drop a prosecution, Government agents and informants may be endangered; leaks of information may occur, despite protective orders, as they have already occurred in other disclosure cases, all to the detriment of individual reputations and important investigations and prosecutions; citizens who fear the power of foreign subversive agents and cartels of criminals may be deterred from providing information and cooperation to law enforcement officials; and the fragile working relationships painstakingly and slowly developed between Federal and State law-enforcement agencies may be exposed to unnecessary stresses.

All of this, Mr. President, says little of the justice-delaying, time-consuming hearings, noted by Mr. Wilson, that will now be required to resolve farfetched claims that evidence to be introduced at trial is "fruit of a poisonous tree," litigation which will contribute in a major way to a crisis of delay in our courts. Indeed, the Supreme Court itself has acknowledged, in Desist against United States, No. 12, October term 1968, decided March 24, 1969:

. . . The determination of whether a particular instance of eavesdropping led to the introduction of evidence at trial would in most cases be a difficult and time-consuming task, which, particularly when attempted long after the event, would impose a weighty burden on any court.

Yet the Court gave no recognition to this hard fact in its Alderman decision. Our courts simply cannot tolerate, I suggest, a rule which will impose such a "time-consuming task" unnecessarily in so many cases.

Already, delay is a pressing problem in our courts—a problem which is not answered simply by allocating greater resources to the task. For a major portion of this delay is attributable to the procedural implications of the Supreme Court's revolution in creating new rights for the accused, rights which are all too often to be vindicated at the expense of swift justice.

The President's Commission on Crime in the District of Columbia has thoroughly documented the drastic character and immediacy of this problem of delay, and the contribution of suppression and other pretrial motions to that delay. The experience of the District of Columbia is especially instructive since, as a wholly Federal jurisdiction, it has felt earliest and most heavily the impact of the Court's recent criminal decisions. The Commission studied a mass of statistical data and, in 1966, published a report that concluded that the median time between indictment and disposition in district court felony cases had increased more than 25 percent from 1964 to 1966. The backlog of district court felony cases, moreover, increased by 50 percent in that period, the highest level in 15 years. Significantly, the Commission found:

The greatest increases in delay in felony cases appear[ed] to have occurred between indictment and trial . . . [M]edian time between indictment and trial court disposition exclusive of sentence nearly doubled between calendar years 1960 and 1965. . . .

From 1950 to 1965, the number of district court felony defendants filing motions increased by nearly one-half. As a result, in 1965, in cases where two or more motions were filed, time to disposition was double that in other cases. The Commission described the delays it found as "excessive," and observed:

Court decisions and legislation regulating the conduct of trials and securing the rights of defendants have undoubtedly increased the amount of time required to process a criminal case in the District Court . . . .

. . . . These developments, among others, have contributed to the substantial increases in motions and continuances as well as to the less significant increase in trial time. The desirability of these developments, of course, cannot be assessed solely, or even principally, in terms of their contributions to increased delays in the prosecution of felony cases. Their impact on delay, however, suggests that greater priority should attach to efforts aimed at accommodating these judicial and legislative requirements with the goal of expeditious handling of criminal cases.

The concluding words of the Massachusetts Supreme Judicial Court, in a recent case involving the application of the Miranda confession rule, *Commonwealth* v. *Scott*, Mass. Sup. Jud. Ct., decided March 11, 1969, authoritatively state the intolerable situation in which we find ourselves:

In this matter approximately one half the trial time which consumed over ten days was absorbed in the taking of testimony relative to the warnings given to the defendants under the *Miranda* case. This transcript, containing 1,004 pages of evidence, 500 pages of which relate to *Miranda* warnings, is amply demonstrative of the reason why there is heavy and constantly increasing congestion in the jury trials of criminal cases.

This crisis in our courts can be, with profit, compared with the situation in England, where evidence is not excluded on the ground that it was obtained illegally. The average English criminal case takes 1 month from arrest to trial and 1 or 2 months to final disposition on appeal. In contrast, the passage of 5 to 10 months from arrest to trial and 20 months to final disposition on appeal in the District of Columbia demonstrates inexcusable failure of our criminal justice system to provide swift justice. Indeed, I note that the situation is getting worse rather than better, as rates of appeal in criminal cases are climbing steeply, approaching 100 percent.

If lengthy proceedings and disclosure really were invariably necessary in the determination of valid claims, then it would be, of course, the duty of government to provide the necessary judicial and administrative facilities to avoid delay and to accept the consequences of necessary disclosure. However, the simple fact is that the very great majority of the claims that evidence is "fruit of the poisonous tree" can be found on the most cursory examination to be completely groundless.

I have just received, Mr. President, in response to an inquiry I made of the Department of Justice, a letter dated May 29, signed by Mr. Will Wilson, Assistant Attorney General.

Assistant Attorney General Wilson, in this letter to me today, summarized the results of "an extensive review . . . by the Department of Justice . . . to determine the instances in which there might have been unlawful electronic surveillance affecting a case which had been brought to trial."

He indicated that there had been approximately 6,750 inquiries made by Justice Department attorneys of the FBI, to determine if particular individuals were subjected to electronic surveillance. Yet, Mr. Wilson reports, there have been only 75 to 100 cases requiring hearings on the issue of disclosure, and only three cases, two Federal and one State, have been dismissed as tainted.

This search for needles in the haystack, according to Mr. Wilson, has consumed "an enormous amount of time" of both agents and attorneys.

I ask unanimous consent to have the complete text of Mr. Wilson's letter of

this date printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. McCLELLAN. Mr. President, our system of justice can no longer abide the sacrifice of swiftness, governmental confidentiality, effective law enforcement and Federal-State cooperation on an altar of will-o'-the-wisp police improprieties. We must provide reasonable limitations on, and reasoned procedures for, suppression proceedings.

To achieve this goal, I am today introducing a bill to amend chapter 223, title 18, United States Code, which is designed to avoid needless pretrial, trial, and appellate litigation of suppression issues and unnecessary and prejudicial disclosure, while preserving fully the right to present and support challenges to evidence obtained illegally.

I ask unanimous consent to have the text of the bill printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

V

Mr. McCLELLAN. Mr. President, there is no lack of power in the Congress to enact remedial legislation in this area. The Supreme Court itself in Alderman did not state that the ruling was required by the Constitution itself. Indeed, one of the most basic rules of Supreme Court adjudication is that the Court places its decisions upon constitutional grounds only where the absence of nonconstitutional grounds makes such a decision unavoidable. See *Peters* v. *Hobby*, 349 U.S. 331 (1955). Therefore, one must conclude that the Alderman decision states only a court-made rule premised on the supervisory jurisdiction of the Court over the Federal courts and not a constitutional interpretation. It is true, of course, that the decision is designed to enforce substantive rights guaranteed by the fourth amendment. However, it is settled constitutional doctrine that the details of implementation of constitutional guarantees often lie below the threshold of constitutional concern. See *Ker* v. *California*, 374 U.S. 23, 34 (1963). We are implementing Federal policy. Cf. *Adams* v. *Maryland*, 347 U.S. 179 (1954). I note, too, that section 5 of the 14th amendment provides that "the Congress shall have power to enforce, by appropriate legislation, the provisions of this article." Cf. *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966). Our power here is plenary.

The bill which I am introducing contains two principal provisions. The first forbids consideration of a claim that evidence is "fruit of a poisonous tree" where the event which the evidence proves occurred more than 5 years after the alleged illegality. Since there is virtually no likelihood of taint in such a case, the adverse consequences of delay and disclosure discussed above are entirely unwarranted. The utility of such a time limitation, which is specific, easily administered, and established on the basis of concrete law enforcement experience, is aptly illustrated by the case of Emmanual Blaz Mrkonjic-Ruzic, which was recently remanded by the Supreme Court for further proceedings in light of Alderman. The brief of the Solicitor General describes the situation as follows:

> In this case, the petitioner, on one occasion five years before the date of the crime charged in the indictment, fell into an electronic surveillance and was overheard participating in one brief conversation. It is apparent from an examination of the one and a half line surveillance log entry reflecting that conversation that the overhearing of the conversation could not possibly have provided evidence against the petitioner. It would not take a trial judge five minutes to make that determination. Yet, it is also apparent from an examination of that log that the government could not disclose, except to a court, where his conversation was overheard.

In a footnote to the same brief, incidentally, the Solicitor General also pointed out:

> The government did in one instance advise a defendant in a criminal case that he had been overheard during the course of such a surveillance. Although the Court issued a protective order prohibiting the defendant or his counsel from disclosing that information, two weeks after the disclosure was made an article appeared in the newspapers reciting the facts of the surveillance.

Obviously, then, the protective order is not a wholly adequate guard against unwarranted disclosure.

This 5-year limitation is in part—and I emphasize in part—an analogy to a statute of limitations, such as are common in State and Federal law to limit the commencement of criminal prosecutions or civil actions. The passage of more than 5 years from the time of the allegedly illegal conduct makes it less likely that the existence or absence of any connection between the illegality and the evidence offered at trial could be reliably determined and more likely that a hearing on the question would be confusing and unduly long. Those considerations—and the extreme unlikelihood of taint—justify the establishment of such a specific time limitation. This provision is an excellent example of the type of rule which a legislature can far better declare than a court, and such a limitation is long overdue if our courts are not to be completely paralyzed and our law enforcement agencies hamstrung by endless litigation of tenuous claims.

The second provision of the bill applies to cases not resolved by the 5-year provision, and forbids the making of a disclosure order unless and until the court or agency finds that the information to be disclosed "may be relevant" and that disclosure is "in the interest of justice."

Application of this provision will ordinarily require in camera inspection of information when, according to the Government, there is a bare possibility of relevance. There is no duty at all under *Brady* v. *Maryland*, 373 U.S. 83 (1963), to disclose clearly irrelevant information to court or defendant. Occasionally circumstances may require the presentation of evidence in addition to in camera inspection, but such cases should be exceptional. For example, in *Aiuppa* v. *United States*, No. 124, October term, 1968, a subject of an organized crime electronic surveillance happened to be arrested by a forest ranger for violating migratory bird laws. In that case and in many other, in camera inspection or a brief hearing, or both, often can demonstrate beyond any doubt that disclosure need not be ordered.

This bill establishes two standards for determining when disclosure should be ordered. The first is contained in the phrase "may be relevant." That is a lower standard than the standard of "arguable relevance" suggested by the Department of Justice in its brief in the Alderman case. On the other hand, the phrase "may be relevant" requires more than mere speculation as to relevance, and is intended to act as an absolute floor preventing disclosure orders except where a likelihood of relevance appears.

Above that absolute floor the second standard, "the interest of justice," operates as a sliding scale permitting the court or agency to take into account every factor relevant to determining whether or not to order disclosure, such as the likelihood of danger to informants or agents, the likelihood of harm to the reputation of a third party, the constitutional or statutory source of the rule of law allegedly violated in obtaining the evidence, the likelihood that harm to the national security would be caused by disclosure, the amount and content of the information disclosure of which is sought, and the like. See *Roviaro* v. *United States*, 353 U.S. 53 (1959); *McCray* v. *Illinois*, 386 U.S. 300 (1967); *United States ex rel Coffey* v. *Fay*, 344 F. 2d 625 (2d Cir. 1965).

The Congress is perfectly free to enact these standards since Alderman was a supervisory decision, and the standard of "arguable relevance" which Alderman rejected was sufficiently different from that adopted by this bill.

Precedents other than Alderman are, however, ample to sustain the constitutionality and sound policy of enacting this provision. Federal district judges, according to tradition and existing practice, have discretion to decide, on ex parte in camera examination of materials, whether they are arguably relevant and require further proceedings to determine their relevancy. There are a number of situations well established in the law where it has been determined that, when some recognized interest militates against unnecessary disclosure of information which a litigant is seeking to discover, it is appropriate to submit the material to the district judge for in camera examination so that he may determine whether disclosure should be ordered. These include:

First. The scope of a subpena duces tecum. *Westinghouse Electric Corp.* v. *City of Burlington*, 351 F. 2d 762 (C.A. D.C. 1965); *Boeing Airplane Co.* v. *Coggeshall*, 280 F. 2d 654 (C.A.D.C. 1960).

Second. Various situations in the field of discovery. Rule 16 of the Federal Rules of Criminal Procedure provides that the trial court may deny a defendant pretrial discovery in a criminal case on the basis of an in camera showing of cause by the Government. See, also, *Pittsburgh Plate Glass Co.* v. *United States*, 360 U.S. 395, 401–410 (1959) (dissent of Brennan, J.).

Both the Civil and Criminal Rules of Procedure provide that pretrial discovery should be limited to "relevant" ma-

terial. They cast upon the judge, prior to trial, the burden of determining what may eventually prove to be relevant. See F.R. Civ. P. Rule 26(b); F.R. Crim. P. Rule 16; *cf.* F.R. Crim. P. Rule 17(c).

Third. The Jencks statute, 18 U.S.C., § 3500(c), which provides that:

[I]f the United States claims that any statement ordered to be produced under this section contains matter which does not relate to the subject matter of the testimony of the witness, the court shall order the United States to deliver such statement for the inspection of the court in camera. Upon such delivery the court shall excise the portions of such statement which do not relate to the subject matter of the testimony of the witness. With such material excised, the court shall then direct delivery of such statement to the defendant for his use.

The Supreme Court has expressly approved the statutory in camera procedure provided by the Jencks statute, 18 U.S.C. § 3500, as to prior statements. *Palermo* v. *United States*, 360 U.S. 343, 354 (1959).

Fourth. The discovery of prior grand jury testimony. See *Dennis* v. *United States*, 384 U.S. 855, 875 (1966).

Mr. President, this bill is as broad as the need for it. It applies to all forums and proceedings and all Federal grounds of challenge. In addition, it applies to proceedings at every stage of a case, occurring after the effective date of the act, regardless of when the proceedings were initially commenced. Application of the bill to pending proceedings is prospective and does not violate the ex post facto clause of the Constitution, since the bill governs only procedure and evidence and not the definition or punishment prescribed for crime. See *Hopt* v. *Utah*, 110 U.S. 574, 589 (1884). Furthermore, it was felt consistent with the purposes of this bill to draw a narrow exception making the 5-year limitation period inapplicable to any case pending on its effective date in which the determination of inadmissibility could be made without further evidentiary hearings or disclosure.

The bill also contains a separability clause.

The bill neither codifies nor changes present law defining illegal conduct and prescribing requirements for standing to object to such conduct. See *Taglianetti* v. *United States*, U.S. No. 466, October term 1968, decided March 24, 1969; *Giordano* v. *United States*, U.S. No. 28, October term 1968, decided March 24, 1969.

Although it ordinarily will be necessary for judges making disclosure orders to enter protective orders forbidding parties, attorneys, and any others to whom disclosure is authorized from revealing information ordered disclosed to them, no provision is made for such protective orders in this bill, for two reasons. First, many authorities which might make disclosure orders, such as Federal and State courts, already possess ample power both to make protective orders and to enforce them, despite their limited effect, in the rigorous way demanded by the confidentiality of much information relating to suppression claims. Second, the two major provisions of this bill are stated strictly in the form of prohibitions and carry no negative implication authorizing consideration of challenges to evidence which under present law would not be considered, nor authorizing disclosure orders which under present law would not be appropriate. Therefore, there is no reason to suppose that enactment of this bill would create a need for greater power to make and enforce protective orders than now exists.

VII

Mr. President, I believe that it may well be possible to develop additional provisions which could be inserted in this bill, and to change the provisions which it now contains, to make the bill more effective. I am not committed to the specific words of the bill in its present form, and would welcome such improvements. I assume that the bill will be referred to the Committee on the Judiciary, and then to the Subcommittee on Criminal Laws and Procedures, of which I am chairman. In that event, I would expect to include the bill among those measures on which the subcommittee is to hold hearings on June 3 and 4, and perhaps thereafter. I hope that the bill as presently drafted raises the most important questions in a useful way, and that we might obtain creative testimony designed to shape this bill into one which could facilitate the application of sound exclusionary rules while arresting the stagnation of our legal processes.

Mr. President, lawless behavior and disrespect for our most vital institutions have become so virulent and widespread in the United States today that Congress will be derelict in its duty if it fails promptly to take affirmative steps to improve law enforcement, such as the steps suggested in this bill. If such steps are not taken, all too often we can expect that habitual criminals will be released and protected from further prosecution after conviction of heinous crimes on reliable evidence. Officials and citizens increasingly will be misled into seeing pretrial challenges to police activity rather than trials of guilt or innocence as the battlegrounds upon which the foundations of our civilization are defended or lost. Secret Government intelligence will be furnished to the very individuals whose only use for it is to threaten not only our public agents and their work but our very institutions. The Congress must not permit the development of rules of procedure and punishment by which the freedom and security of our best citizens are surrendered to the whim and criminal greed of our worst, and by which new generations are taught that our institutions are impotent. We have a solemn duty to act, and to act now.

EXHIBIT 1

DEPARTMENT OF JUSTICE,
Washington, D.C., April 11, 1969.

Hon. JOHN L. MCCLELLAN,
Chairman, Subcomittee on Criminal Laws and Procedures of the Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on (1) the effects of the *Spinelli* and *Alderman* (Kolod) decisions upon the Department's criminal prosecutions, and (2) what legislative action, if any, would mitigate the possible effects of these decisions.

SPINELLI VERSUS UNITED STATES

As you are aware, the primary issue in *Spinelli* was the sufficiency of an affidavit in support of a search warrant. The Fourth Amendment requires that "no warrants shall issue but upon probable cause. . . ." The Supreme Court, by a 5 to 3 vote, held the affidavit used to obtain a warrant against Spinelli did not show probable cause.

There is no doubt that the requirements of probable cause have increased as a result of the Court's decision. The Court took notice of the fact that the affidavit in issue was more sufficient than the one in issue in *Aguilar* v. *Texas*, 378 U.S. 108. However, it was not sufficient to meet the Court's interpretation of probable cause.

The Court held that where the government relies upon information from an informant, the affidavit must disclose the basis for the belief that the information received is worthy of credibility. This may be either by a statement of how the informant obtained his information or by such specificity of detail as to make clear that the informant was not relying on general reputation. Where the information received from the informant is not of such degree of certainty then the corroborating information on which the government relies must go, not only to the credibility of the informant, but to the criminality of the activities.

In some cases the Court's decision in *Spinelli* will make necessary more thorough investigations and more complete affidavits. It is difficult to assess the effects of the added burden at this time, but it does mean an increase in the workload involved in securing any warrants to which *Spinelli* is applicable, and also fewer search warrants issued because of the greater requirements for showing probable cause.

The Department cannot envision any legislation which could alter the *Spinelli* decision's requirements. Probable cause is the specific constitutional test to be applied to the validity of a search warrant. While we may disagree with the Court's application of the facts to this test in a particular case, unless the test itself is altered, there is little that can be done to change the results. Only a constitutional amendment could change the standard to be applied.

ALDERMAN VERSUS UNITED STATES

An appreciation of the significance of the *Alderman* decision requires some background information. After the target of an electronic eavesdropping discovered a device in his office, it appeared that the overhearings so discovered might affect some important pending or contemplated cases. Inquiry resulted in the discovery that this danger did, in fact, exist. The government, under the obligation imposed on the prosecution by *Brady* v. *Maryland*, 373 U.S. 583, undertook to advise the appropriate court of electronic surveillance. The view of the government was that its obligation extended to material "arguably relevant" to the case at hand. In the initial decision in *Alderman* (then denominated *Kolod*) the Supreme Court, which had been advised of the government's policy, held that the government could not, *ex parte*, determine the relevancy of any logs of overhearings, but that relevancy had to be determined in an adversary hearing, 390 U.S. 136. On petition for rehearing, the government stated that it would accept the determination that it could not make the determination of relevancy *ex parte*, but urged that the logs which in the government's view were not arguably relevant should in the first instance be submitted to the court for its *in camera* inspection, so that it could determine whether a hearing was necessary. The Court granted the petition for rehearing in *Alderman*, and also granted certiorari in the cases of *Ivanov* and *Butenko*, involving prosecutions for espionage, where the surveillances (which were deemed by the government to

be not arguably relevant) had been conducted in the interest of national security.

The Court, in its decision of March 10, 1969, held that the records of the surveillance of any defendant who has standing to object to their use should be turned over to the defendant without a preliminary *in camera* examination by the district judge. [The majority held that a person whose conversation was overheard or one on whose premises the device was installed (whether he was present or not) has standing to suppress evidence obtained by electronic eavesdropping. Other persons, including co-conspirators, have no right to suppress such evidence.] The defendant would be afforded an opportunity to demonstrate at a hearing that the case against him was the fruit of the overhearings, with opportunity to the government to convince the trial judge that its proof had an independent origin. Disclosure to the defense under a protective order against general disclosure was deemed appropriate even if the surveillance was for national security, although the court left open for decision by the district court the question of whether such surveillance was legal. If held to be legal, there would then be no duty to disclose this type of overhearing.

The government had petitioned for rehearing in the *Ivanov* case with respect to the foreign affairs aspect of that ruling. The effect of the decision on that aspect is covered by that petition and by supplemental memoranda filed in two other cases, copies of which are annexed.

On March 24, 1969, the Court denied the government's petition in *Ivanov*. On the same day, the Court attempted to clarify its position on electronic surveillance in two *per curiam* decisions. *Giordano* v. *United States, Taglianetti* v. *United States* (copies attached).

It seems clear that *if* the District Court finds the surveillance was legal, then *no* disclosure is required. The District Court is apparently free to determine the legality of a given electronic surveillance in an *ex parte in camera* proceeding.

If the District Court finds that the surveillance was illegal, then *Alderman* requires that the defendant have access to all records of the surveillance which he has even remotely or incidentally been subjected to. Apparently this would include foreign intelligence surveillance which was found to be illegal.

However, the Court has apparently not decided whether the gathering of foreign intelligence information will be governed by a different applicable standard of reasonableness than the standard applied in domestic surveillance. (See Justice Stewart's concurring opinion in *Giordano*.)

There is little doubt that the requirement for evidentiary hearings on obviously irrelevant materials will have a substantial impact on our prospective efforts. Our experience has shown that the ingenuity of defense counsel is unlimited in advancing specious suggestions of the relevance of material which could not conceivably have led to any evidence used at trial. Protracted hearings have ensued because, even though a defendant realizes that he has no chance of proving taint, his most precious commodity is time. I am aware of one case where several defendants, found guilty by a jury more than four years ago, have postponed commencement of their sentences for at least two of those years as the result of an unavailing lengthy hearing (and appeal) concerning one overheard conversation, and they will presumably be able to further delay incarceration as the result of another hearing (and appeal) which will now be required.

While we are still in the process of compiling the facts you requested in your March 17, 1969 letter, we have yet to discover a single instance where a case claimed by the Government to have been untainted has been proven to be otherwise by the defense. Needless to say, this constitutes a most wasteful consumption of manpower, prosecutive and judicial. Since this problem will now increase as the result of the requirement for additional hearings in cases concluded long ago, our personnel, already spread thin in our current effort against organized crime, will have to be redeployed to handle these matters. It is clear, too, that the problem will not soon disappear, for under the present state of the law there is no "statute of limitations" on when a defendant can raise this issue. Thus, in 1980, for instance, defendants will still be demanding records of overhearings which occurred twenty or twenty-five years before, and they will still be demanding the protracted hearings which they are now allowed. Of course where an individual was accidentally overheard many years ago on a national security device which cannot be revealed, he will enjoy, in effect, immunity from prosecution, unless we can convince the courts that the surveillances involved were constitutional.

Hearings in these cases have also posed another substantial problem, that is, they have resulted in the disclosure of facts which have been pieced together by defendants in such a way as to enable them to identify sensitively placed and extremely valuable government informants, with resultant danger to the informants' lives. Some hearings in the future may also result in the revelation of overheard conversations which unjustly reflect upon the integrity of persons discussed therein. Our experience has shown that protective orders have not been effective.

I deeply appreciate your keen awareness of the issues presented by these decisions, your concern for their impact on our prosecutive efforts, and your recognition of the possible need for remedial legislation in this area. I have directed my staff to make recommendations in this regard, and I am hopeful that their efforts will be completed shortly.

Again, I am grateful for your interest.

Sincerely,

WILL WILSON,
Assistant Attorney General.

EXHIBIT 2

MAY 29, 1969.

Hon. JOHN L. MCCLELLAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Reference is made to your letter of March 17, 1969, to the Attorney General, concerning the effect of *Alderisio* v. *United States* on the Justice Department's ability to bring criminal prosecutions in the areas of national security and organized crime.

Since the receipt of your letter, we have been conferring with a member of your staff in our efforts to provide to you the most useful data available.

As you know, in *Schipani* v. *United States*, No. 504, Supreme Court, 1966 Term, the United States advised the Court that an extensive review had been undertaken by the Department of Justice in order to determine the instances in which there might have been unlawful electronic surveillance affecting a case which had been brought to trial.

Since that date, we have made approximately 6,750 inquiries of the Federal Bureau of Investigation to determine whether or not particular individuals were subjected to electronic surveillance.

Only two Federal cases have been dismissed following hearings on the effect of the electronic surveillance on those pending cases. I am advised that one state case was dismissed because of tainted evidence.

Although only three cases have been affected, we have had to spend an enormous amount of time not only in processing the 6,750 inquiries and replies, but we have been involved in perhaps 75 to 100 disclosure hearings resulting from defendants' claims that their cases were tainted by unlawful electronic surveillance.

Not only has there been enormous attorney time expended, but agent time as well in making the necessary checks. As indicated, only two cases have been affected since our pronouncement in the Schipani case.

I trust this information will be helpful to you, and you may look forward to our continued cooperation.

Sincerely,

WILL WILSON,
Assistant Attorney General.

EXHIBIT 3

A bill to amend chapter 223, title 18, United States Code, to regulate litigation concerning sources of evidence, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the Congress finds (1) that hearing and reviewing claims that evidence offered in proceedings is the direct or indirect product of allegedly illegal acts and is therefore inadmissible in evidence are major causes of undue expense and delay in the administration of justice and distract effort, time and emphasis of government officials and the public from fundamental issues; (2) that present rules and practices of disclosure incident to hearing and reviewing such claims can and will unduly permit parties to obtain much information unrelated to such claims and otherwise privileged, inhibit communication by government informants, endanger the lives and safety of such informants, government agents and others, cause unjustified harm to reputations of third persons, compromise national security and other criminal and civil investigations, interfere with prosecutions and civil actions, impair Federal-State cooperation in law enforcement, and endanger the security of the United States; and (3) that when such claims concern evidence of events occurring years after the allegedly illegal acts, those consequences of litigation and disclosure are aggravated and the claims seldom appear valid and often cannot reliably be determined.

SEC. 2. (a) Chapter 223, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3503. Litigation concerning sources of evidence

"In any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body or other authority of the United States, a State, or a political subdivision thereof—

"(a) no claim shall be considered that evidence of an event is inadmissible on the ground that such evidence was come at by exploitation of an allegedly illegal act, if such event occurred more than five years after such allegedly illegal act; and

"(b) disclosure of information in connection with a claim that evidence is inadmissible because the direct product of an allegedly illegal act or come at by exploitation of such allegedly illegal act shall not be ordered unless such authority has found that such information may be relevant to determination of the admissibility of such evidence and that such disclosure is in the interest of justice.

"As used in this section 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, and 'illegal act' means any act in violation of the Constitution or laws of the United States or any standard promulgated pursuant thereto."

(b) The section analysis of that chapter is amended by adding at the end thereof the following new item:

"3503. Litigation concerning sources of evidence."

SEC. 3. This Act shall apply to all proceedings, regardless of when commenced, occurring after the date of its enactment. Paragraph (a) of section 3503 shall not apply to any proceeding in which all information to be relied upon to establish inadmissibility was possessed by the party making such claim and adduced in such proceeding prior to such enactment.

SEC. 4. If the provisions of any part of this Act or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

S. 2293—INTRODUCTION OF A BILL TO AUTHORIZE APPROPRIATIONS FOR THE NATIONAL SEA GRANT COLLEGE PROGRAM

Mr. PELL. Mr. President, the sea-grant college program, since its inauguration a little more than 2 years ago, has achieved a remarkable degree of acceptance and support. Indeed, it is not an overstatement to say that this program has been given an enthusiastic reception by the marine community in this country.

The approval of the program by the Congress was a recognition of both the opportunities and the problems in marine sciences, engineering, and technology. It was a recognition that the marine resources of this country had been too long neglected and that it was time to begin a program to realize the potential of those resources to meet the food, mineral, transportation, communications, and recreational needs of this country in the coming decades.

To achieve that goal, the sea-grant college program was modeled after one of the most successful Government programs ever undertaken—the land-grant college program. It was the land-grant college program, launched in the midst of the Civil War, that has been largely responsible for the development of the agricultural resources of this country into the most productive and efficient agricultural system in the world.

The sea-grant college program is an attempt to apply the successful techniques of the land-grant colleges to our marine resources. Thus, the sea-grant college program supports, through matching grants, programs to educate marine scientists, engineers, and technicians, programs of applied marine research and programs of field services to bring the fruits of research to bear directly on the problems of citizens engaged in marine activities.

Mr. President, during the first 2 years of operation, the sea-grant college program, administered by the National Science Foundation, has, I believe, demonstrated solid progress toward these goals.

In subject matter, the grants supported work in fisheries, aquaculture, ocean engineering, and management of estuarine areas, to name only a few. Geographically, the grants have gone to institutions in every coastal section of the country: The Atlantic, Pacific, Gulf, and Great Lakes areas.

As the coauthor of the original Sea-Grant College Act, I am proud indeed of the work already undertaken through the sea-grant college program. The only major problem encountered by this program to date has been the lack of funds to invest in the many worthwhile projects proposed by our leading marine science institutions.

In its first 2 years, the program has had just $11 million available in appropriated funds, and the budget request for fiscal 1970 is $10 million—an amount that will permit only minimal growth in the sea-grant college program during the coming year.

I think it is worth noting that, in just one of the projects conducted with sea-grant college program support, the University of Wisconsin discovered deposits of manganese nodules in the shallow waters of Green Bay which are estimated to have a value of more than $15 million—a value that exceeds the total amount appropriated thus far for the sea-grant college program.

I am cognizant of the need for restraint in Federal Government spending at this time; but looking forward to the future, I believe we must be prepared to provide for a substantial growth in this program if we are to realize the potential of this Nation's great marine resources.

Mr. President, the authorization for the sea-grant college program expires on June 30, 1970. To permit time for congressional action and budget planning, I am today introducing an amendment to the act providing authorization of $20, $25, and $30 million, respectively, for fiscal years 1971, 1972, and 1973.

I am very pleased, indeed, that several of my colleagues have joined with me as cosponsors of this legislation: The distinguished senior Senator from Washington (Mr. MAGNUSON), who has always ranked first in exercising legislative leadership in the development of our national oceanologic program; my own senior colleague from Rhode Island (Mr. PASTORE); and the senior Senator from Hawaii (Mr. FONG).

A similar measure has been introduced in the other body by Representative PAUL ROGERS, who was the sponsor in the House of Representatives of the original Sea-Grant College Act.

This bill would provide for a simple extension of the sea-grant college program with increased levels in the authorized level of appropriations. I anticipate that in the very near future I shall be introducing additional legislation to carry out the recommendations of the Marine Science Commission in regard to the sea-grant college program.

Mr. President, I introduce a bill authorizing appropriations for the national sea-grant college program and ask unanimous consent that the bill be referred to the Committee on Labor and Public Welfare, and if and when it should be reported, that it be referred to the Committee on Commerce.

The PRESIDING OFFICER. The bill will be received, and, without objection, will be referred as requested by the Senator from Rhode Island.

The bill (S. 2293) to amend the National Sea-Grant College and Program Act of 1966, in order to extend the authorizations for the purposes of such act, introduced by Mr. PELL (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare (by unanimous consent), and if and when reported, referred to the Committee on Commerce (by unanimous consent).

S. 2296—INTRODUCTION OF BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO GRANT EASEMENTS WITH RESPECT TO PUBLIC LANDS

Mr. CANNON. Mr. President, on behalf of Senator BIBLE and myself, I introduce, for appropriate reference, a bill to authorize the Secretary of the Interior to grant easements with respect to public lands.

The purpose of this bill is to enable citizens possessing interest in private lands surrounded by or bordering public lands to gain freer ingress and egress through public lands for access to their property.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2296) to authorize the Secretary of the Interior to grant easements with respect to public lands for certain purposes, introduced by Mr. CANNON (for himself and Mr. BIBLE), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 2298—INTRODUCTION OF A BILL TO AMEND THE FEDERAL CREDIT UNION ACT

Mr. BYRD of West Virginia. Mr. President, on behalf of the senior Senator from Alabama (Mr. SPARKMAN), I introduce, for appropriate reference, a bill to amend the Federal Credit Union Act so as to provide for an independent Federal agency for the supervision of federally chartered credit unions, and for other purposes.

Mr. President, I ask unanimous consent that the bill, as just introduced for the Senator from Alabama, be printed in full in the RECORD.

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

The bill (S. 2298) to amend the Federal Credit Union Act so as to provide for an independent Federal agency for the supervision of federally chartered credit unions, and for other purposes, introduced by Mr. BYRD of West Virginia (for Mr. SPARKMAN), 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. 2298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 2 of the Federal Credit Union Act (12 U.S.C. 1752) is amended by striking out paragraphs (2) and (3) thereof and inserting:

"(2) the term 'Administrator' means the Administrator of the National Credit Union Administration;

"(3) the term 'Administration' means the National Credit Union Administration; and

"(4) the term 'Board' means the National Credit Union Board of Governors."

SEC. 2. The Federal Credit Union Act is further amended (1) by changing "Director" to read "Administrator" each place it appears therein; (2) by changing "Bureau of Federal Credit Unions" to read "National Credit Union Administration" each place it appears therein; and, (3) by changing "Bureau", each remaining place it appears, to read "Administration".

SEC. 3. Section 3 of the Federal Credit Union Act (12 U.S.C. 1752a) is amended to read:

"CREATION OF ADMINISTRATION

"SEC. 3. (a) There is hereby established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration (hereinafter referred to as the 'Administration'). The Administration shall consist of a National Credit Union Board of Governors (hereinafter referred to as the 'Board'), and an Administrator.

"(b) The Board shall consist of nine members to be appointed by the President, by and with the advice and consent of the Senate. In selecting the members of the Board, the President shall designate a Chairman and a Vice Chairman who shall serve as representatives at large. In making his selection of the remaining members, one from each of the seven Federal credit union regions, the President shall receive and give special consideration to the nominations submitted by credit union organizations which are representative of a majority of the credit unions located in the reigon for which a Board member is to be appointed. The persons so appointed as members of the Board shall be selected on the basis of established records of distinguished service in the credit union movement.

"(c) The term of office of each member of the Board shall be six years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of enactment of this Act shall expire, as designated by the President at the time of appointment, three at the end of two years; three at the end of four years; and three, including the Chairman and Vice Chairman, at the end of six years. Terms of office shall be on a calendar year basis. No member shall serve more than two full consecutive terms of office.

"(d) The President shall call the first meeting of the Board, and thereafter the Board shall meet on a quarterly basis, and at such other times as the Chairman or the Administrator may request, or whenever one-third of the members so request. The Board shall adopt such rules as it may see fit for the transaction of its business and shall keep permanent and complete records and minutes of its acts and proceedings. A majority of the voting members of the Board shall constitute a quorum. The Board shall advise, consult with, and give guidance to the Administrator on matters of policy relating to the activities and functions of the Administration under this Act. The Board shall render an annual report to the President for submission to the Congress, summarizing the activities of the Administration and making such recommendations as it may deem appropriate. Each report shall propose such legislative enactments and other actions as, in the judgment of the Board, are necessary and appropriate to carry out its recommendations. The members of the Board shall be entitled to receive compensation at the rate of $75 for each day engaged in the business of the Administration pursuant to authorization by the Chairman, and shall be allowed travel expenses including per diem in lieu of subsistence as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

"(e) There shall be an Administrator of the National Credit Union Administration who shall be appointed by the President, by and with the advice and consent of the Senate. The Board may make recommendations to the President with respect to the appointment of the Administrator. He shall be the chief executive officer of the Administration which shall be a full time position in the executive department at level IV of the Executive Schedule (5 U.S.C. 5315). The Administrator shall serve at the pleasure of the President."

SEC. 4. (a) All functions, property, records, and personnel of the Bureau of Federal Credit Unions are transferred to the National Credit Union Administration created by this Act.

(b) The Director of the Bureau of Federal Credit Unions in office on the date of enactment of this Act shall serve as Acting Administrator of the National Credit Union Administration pending the appointment of an Administrator in accordance with section 3 of the Federal Credit Union as amended by this Act.

S. 2301—INTRODUCTION OF A BILL TO ABOLISH THE DEATH PENALTY

Mr. HART. Mr. President, I introduce, for appropriate reference, a bill to eliminate the death penalty for any Federal crime. Joining me as cosponsors are Mr. BURDICK, Mr. HATFIELD, Mr. INOUYE, Mr. JAVITS, Mr. MCCARTHY, Mr. MONDALE, Mr. NELSON, Mr. PROXMIRE, Mr. WILLIAMS of New Jersey, and Mr. YOUNG of Ohio.

Sentences of life imprisonment would be substituted for provisions which require or authorize capital punishment.

Death sentences not executed when the bill becomes law would be changed to sentences of life imprisonment.

Mr. President, this is the third Congress in which I have introduced a bill to abolish the death penalty.

Since I first offered the proposal in 1966, the Nation has become increasingly concerned, and rightly so, about the rising crime rate. I share that concern.

There will, of course, be those who will say that, if I were concerned, I would not seek to eliminate what they consider to be a useful weapon in the war on crime.

Mr. President, I would ask those persons to examine closely the reasons why they feel the death penalty is of value and remind them that we also live at a time of growing concern about the effect on our society of a steady diet of violence on television.

An examination of those reasons and the effect executions have on the human spirit should convince them the death penalty should be abolished.

Let me start with the human spirit.

Based on my work as a member of the President's Commission on the Causes and Prevention of Violence, I have become convinced that continual exposure to television shows involving violence does have a connection with antisocial behavior.

If it is true that fiction can brutalize the human spirit, then certainly the fact of one human executing the other can have the same—if not greater—effect.

But we have long held that view in this Nation.

We have shuddered when reading about public executions during the French Revolution and their effects on the masses who watched.

We have recognized that public killings, whether sanctioned by law or not, whether in the name of aggression or defense of country, can brutalize the human spirit and we have carried out our executions in private.

Evidently we have not abolished capital punishment completely because it has been felt that on balance the penal and the nonpenal objectives of the death penalty have outweighed the effects this policy has on society.

Mr. President, if it were clear beyond doubt that capital punishment did achieve penal and nonpenal objectives, the debate over abolishing the death penalty would indeed be one of weighing pluses and minuses.

But the fact is that proponents of retaining the death penalty can only surmise that capital punishment is useful in controlling antisocial behavior, and, in fact, the strongest case against capital punishment, moral questions aside, is the lack of a case for retaining this penalty.

Mr. President, the most cited reasons for supporting capital punishment are that the death penalty:

Deters persons from committing crime punishable by death;

Precludes recidivism by convicted murderers;

Offers the public retribution for heinous crimes.

I would like to deal briefly with each of these points.

The debate over the deterrent objective of the death penalty often resolves itself into a discussion of statistics and their meaning. Statistics comparing murder rates in States with and without the death penalty support the contention that capital punishment does not deter the would-be murderer.

Proponents argue that it is impossible to estimate how many persons have been deterred from committing murder because of the death penalty, which, obviously, is true.

However, just because it is true does not make it a good argument for retaining the death penalty, because it can be argued that it deters very few persons indeed.

For example, of persons sentenced to death during the last 10 years in California, more than 40 percent were found guilty of crimes of passion. Fear of the death penalty probably has little deterrent effect on persons involved in such crimes.

Murders done while committing other crimes usually are the result of reflex decisions in which time does not permit thought of the death penalty. As a matter of fact, it could be argued that the burglar shoots someone out of fear of being imprisoned, and that fear outweighs the fear, at least for the moment, of the death penalty.

It can also be argued generally that fear of imprisonment is more real to the would-be criminal than fear of the death penalty, because the former penalty is the more understandable. The imminence of a penalty must be understood if it is

to act as a deterrent, and few men have a sense of imminency about death.

As for precluding recidivism, it would well be argued that once having committed a murder, a person, out of fear of capital punishment, might actually commit additional murders to prevent capture. These types of crime must be classified under the heading of recidivism as well as crimes committed by persons after serving jail sentences.

It can also be argued that, inasmuch as studies indicate that paroled murderers are no more and probably less likely to commit first degree murder than other paroled felons, capital punishment prisoners, and other felons should be handled in the same way.

And, of course, if the death penalty does indeed preclude recidivism, it also precludes the exercise of a prisoner's right to continue to try to prove his innocence after conviction.

I have already touched on the question of the death penalty as public retribution.

If indeed public retribution were to be sought in executions, a premise I reject out of hand, the death penalty should not only be carried out in public, but as swiftly as possible so the crime is still fresh in the public's mind.

Inasmuch as proponents of the death penalty cite the time-taking legal procedures open to a person convicted of murder as protection against the execution of an innocent man, proponents cannot argue retribution as a reason for retaining the death penalty.

Mr. President, each of these arguments in favor of capital punishment are based on conjecture impossible of substantiation.

To use such conjectures to take a man's life, to force other humans to make a final decision about the life of another, to perhaps deprive an innocent man of his life, to continue to brutalize the human spirit is to undermine, indeed to cheapen, the value of human life in these United States.

If this Nation stands for anything, it stands for the belief that the life of each individual is to be cherished, whether he is rich or poor, black or white.

Statistics show that it is the black and the poor who most often are sentenced to death, adding a new dimension to the case against the death penalty.

Many other nations and 13 of our States have abolished the death penalty.

Congress should follow suit.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2301) to abolish the death penalty under all laws of the United States, and for other purposes, introduced by Mr. HART (for himself and other Senators), was received, read twice by its title, and referred to the Committee on the Judiciary.

SENATE JOINT RESOLUTION 114—INTRODUCTION OF A JOINT RESOLUTION HONORING THE CITIZEN-JUROR AND THE MODERN JURY SYSTEM

Mr. CRANSTON. Mr. President, in London, some 300 years ago, Edward Bushell resisted an English court's pressures to change the verdict of a jury that was trying William Penn, then 25, for unlawful assembly.

In spite of threats from the bench to "set a mark" on him, regardless of a total of 2 days the jury spent locked in a room "without meat, drink, fire, and tobacco," Bushell, the leader of the jury, refused to convict young Penn for preaching to a group of Quakers.

The outraged court fined each member of the jury 40 marks—about $500 now—and when they did not pay, sent them to Newgate prison, along with Penn, who had spoken out against the "intolerable threatening" of the jury.

Bushell, a wealthy sugar importer, applied for a writ of habeas corpus and in the subsequent trial, Chief Justice Sir John Vaughn decided a jury should be independent and free from duress and punishment.

It was a landmark decision. It was the beginning of the jury system as we know it today. To be sure, there had been juries probably since the 8th century, but they had always been liable to punishment for "incorrect" verdicts.

William Penn, as we all know, came to America to found a colony. So did the benefits of that great decision come to America, and now some 200,000 times a year, our juries deliver their unfettered opinions according to constitutional guarantees. The jury system is a bulwark of our democracy, so unquestioned now that we are apt to take it for granted.

I am introducing today a joint resolution that would recognize 1970 as the tercentenary of the founding of the modern jury system and designate 1970 as "National Citizen-Juror Year."

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 114) to honor the citizen-juror and the modern jury system, introduced by Mr. CRANSTON, was received, read twice by its title, and referred to the Committee on the Judiciary.

ADDITIONAL COSPONSORS OF JOINT RESOLUTION

Mr. COOK. Mr. President, at the request of the Senator from Arizona (Mr. GOLDWATER), I ask unanimous consent that, at its next printing, the names of the senior Senator from Nevada (Mr. BIBLE), the junior Senator from Nevada (Mr. CANNON), and the Senator from South Carolina (Mr. THURMOND) be added as cosponsors of the joint resolution (S.J. Res. 85) to provide for the designation of the period from August 26, 1969, through September 1, 1969, as "National Archery Week."

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

SENATE RESOLUTION 206—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF A SENATE DOCUMENT

Mr. DIRKSEN, for Mr. SPARKMAN, submitted the following resolution (S. Res. 206); which was referred to the Committee on Rules and Administration:

S. RES. 206

Resolved, That the report of the Subcommittee on Housing and Urban Affairs of the Committee on Banking and Currency entitled "Effect of Lumber Pricing and Production on the Nation's Housing Goals" be printed with an illustration as a Senate document, and that there be printed one thousand additional copies of such document for the use of that committee.

SENATE RESOLUTION 207—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF A SENATE DOCUMENT

Mr. ELLENDER submitted the following resolution (S. Res. 207); which was referred to the Committee on Rules and Administration:

S. RES. 207

Resolved, That the Annual Report of the National Forest Reservation Commission for the fiscal year ended June 30, 1968, be printed with an illustration as a Senate document.

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969—AMENDMENT

AMENDMENT NO. 25

Mr. MANSFIELD, for Mr. JACKSON, submitted an amendment intended to be proposed by him to the bill (S. 1075) to authorize the Secretary of the Interior to conduct investigations, studies, surveys, and research relating to the Nation's ecological systems, natural resources, and environmental quality, and to establish a Council on Environmental Quality, which was ordered to be printed and referred to the Committee on Interior and Insular Affairs.

(See reference to the above amendment when submitted by Mr. MANSFIELD, for Mr. JACKSON, which appears under a separate heading.)

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969—AMENDMENT

AMENDMENT NO. 25

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I submit an amendment intended to be proposed by him to the bill (S. 1075) to authorize the Secretary of the Interior to conduct investigations, studies, surveys, and research relating to the Nation's ecological systems, natural resources, and environmental quality, and to establish a Council on Environmental Quality, and ask unanimous consent that a statement by him relating to the amendment be printed in the RECORD.

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

The amendment was referred to the Committee on Interior and Insular Affairs.

STATEMENT BY SENATOR JACKSON

Mr. JACKSON. Early in this session of the Congress, I introduced proposed legislation to establish a national policy for the environment. I introduced this measure because it is my view that our present knowledge, our established policies, and our existing institutions are not adequate to deal with the growing environmental problems and crises the nation faces.

The inadequacy of present knowledge, policies, and institutions is reflected in our nation's history, and our national attitudes, and in our contemporary life. We see this inadequacy all around us: haphazard urban growth, the loss of open spaces, strip-mining, air and water pollution, soil erosion, deforestation, faltering transportation systems, a proliferation of pesticides and chemicals, and a landscape cluttered with billboards, powerlines, and junkyards.

Traditional governmental policies and programs were not designed to achieve these conditions. But they were not designed to avoid them either. As a result, *they were not avoided.*

As a Nation, we have failed to design and implement a national environmental policy which would enable us to weigh alternatives, and to anticipate the undesirable side effects which often result from our ongoing policies, programs and actions.

Today it is clear that we cannot continue to perpetuate the mistakes of the past. We no longer have the margins for error and mistake that we once enjoyed.

It was in view of this background and these considerations that I introduced S. 1075, a bill to establish a national environmental policy.

The purpose of the proposed legislation is threefold: *First,* to establish a national policy on the environment; *Second,* to authorize expanded research and understanding of our natural resources, the environment, and human ecology; and *Third,* to establish in the Office of the President a properly staffed Council of Environmental Quality Advisors.

During the hearings on this measure on April 16, Dr. DuBridge, the President's Science Advisor, and Secretary of the Interior Hickel announced that the President is considering the establishment of an interagency environmental council composed of selected Cabinet officers. As I stated at the hearings, this indicates to me: "that the President and officials in the executive branch share the belief of many of us in Congress that some reorganization is necessary. The President apparently agrees that the existing administrative establishment is inadequate for the task we face, and that a focal point for the environmental considerations of government should be designated."

It was the initial view of the Administration's representatives that the President's proposed interagency council would make an independent Council of Environmental Advisors as proposed in my bill unnecessary.

For the most part, the members of the Committee and the public witnesses did not agree with their position. There was, however, general agreement by all concerned that there is a need to restructure the Federal government to provide a focal point for environmental considerations.

It is my view that what is needed is an impartial, objective, full-time Council of Environmental Advisors in the Executive Office of the President. The interagency Council the President is considering would be useful for implementing action proposals, but the President also needs independent and impartial advice as to what action to take. The Council I have proposed would be properly staffed and equipped to provide this advice.

As a result of the April 16 hearing on S. 1075 and subsequent discussions with the Administration, I believe that there is now general agreement on the need for both an interagency Council as proposed by the President, and a high level independent body as proposed in my bill.

It is my understanding that an announcement will be made today that the President has signed an executive order to establish the interagency Council on the environment. I applaud the President's action. I intend to seek early Senate action on S. 1075 so that the President and the American people may have the benefit of the independent and impartial staff support and advice of the Council which I have proposed.

During the April 16 hearing on S. 1075, the Administration agreed that there is an urgent need to enact into law a statement of national policy with respect to environmental management, and that they would support a statutory declaration of national policy. Subsequent to the hearings, I directed the Interior Committee staff to draft an expanded statement of national environmental management goals, and to grant new authority to Federal agencies which, at the present time, have no mandate or responsibility for the management and protection of the human environment.

This expanded statement of national policy has been prepared as an amendment to S. 1075. It will become Title I of the bill and the other titles will be appropriately redesignated. Mr. President, I ask unanimous consent that this amendment be printed in the Record at the conclusion of my remarks.

A statement of environmental policy is more than a statement of what we believe as a people and as a nation. It establishes priorities and gives expression to our national goals and aspirations. It serves a constitutional function in that people may refer to it for guidance in making decisions where environmental values are found to be in conflict with other values.

Many operating agencies do not at present have a mandate within the body of their enabling laws to give substantive attention to environmental values. This is especially true of the older Federal programs.

A properly drafted Congressional statement of national environmental policy, along with a requirement for official statements of environmental findings in Federal decisions and legislative proposals, will effectively make the quality of the environment *everyone's* responsibility. No agency will then be able to maintain that it has no mandate or no requirement to consider the environmental consequences of its actions.

I am introducing this policy statement as an amendment to S. 1075 at present because I want the statement to be available to the Administration prior to the informational hearings of the Committee on Interior and Insular Affairs on June 3 and 11 on the Everglades National Park. At the June 3 hearings, I will want to have the judgment of the Administration witnesses on what the effect of this policy statement would have been had it been enacted at the time the Park was created by Congress.

Mr. President, an environmental policy is a policy for people. Its primary concern is with man and his future. The basic principle of the policy is that we must strive, in all that we do, to achieve a standard of excellence in man's relationship to his physical surroundings.

It is my belief that the amendment I am introducing today will go far towards ensuring that the Federal government both sets and abides by standards of excellence; standards which will ensure that our generation fulfills its responsibilities as trustees of the environment for future generations.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, May 29, 1969, he presented to the President of the United States the following enrolled bills:

S. 278. An act to consent to the New Hampshire-Vermont Interstate School Compact; and

S. 408. An act to liberalize the eligibility requirements governing the grant of assistance in acquiring specially adapted housing for certain service-connected disabled veterans, to increase the amount of such grant, to raise the limit on the amount of direct housing loans made by the Veterans' Administration, and for other purposes.

NOTICE OF HEARING

Mr. McCLELLAN. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Friday, June 6, 1969, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination:

David W. Williams, of California, to be U.S. district judge for the central district of California, vice Peirson M. Hall, retired

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND), chairman; the Senator from Nebraska (Mr. HRUSKA), and myself.

NOTICE OF HEARING

Mr. McCLELLAN. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, June 5, 1969, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

George Harrold Carswell, of Florida, to be U.S. circuit judge for the Fifth Circuit, vice a new position created under Public Law 90-347, approved June 18, 1968.

John F. Kilkenny, of Oregon, to be U.S. circuit judge for the Ninth Circuit, vice a new position created under Public Law 90-347, approved June 18, 1968.

Donald E. Lane, of the District of Columbia, to be associate judge, U.S. Court of Customs and Patent Appeals, vice Arthur M. Smith, deceased.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND), chairman; the Senator from Nebraska (Mr. HRUSKA), and myself.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. McCLELLAN. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

John L. Bowers, Jr., of Tennessee, to be U.S. attorney for the eastern district of Tennessee for the term of 4 years, vice John H. Reddy, retired.

Dean C. Smith, of Washintgon, to be U.S. attorney for the eastern district of Washington for the term of 4 years, vice Smithmore P. Myers, resigned.

Edward J. Michaels, of Delaware, to be U.S. marshal for the district of Delaware for the term of 4 years, vice Joseph Novak.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, June 5, 1969, any representations or objections they may wish to present concerning the above

nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF CHANGE IN HEARING DATE ON EVERGLADES NATIONAL PARK

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON) I ask unanimous consent to have a statement by Senator JACKSON printed in the RECORD.

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

Mr. JACKSON. Mr. President, there has been a change in dates for the informational hearings on the Everglades National Park which had previously been scheduled for June 3 and 4.

Under the revised schedule of the Senate Interior and Insular Affairs Committee, testimony will be taken from representatives of the Administration and the State of Florida on this matter on June 3, 1969, in Room 3110 of the New Senate Office Building at 10:15 a.m.

Testimony from major conservation associations and public witnesses will be taken on June 11 at 10:00 a.m. The location of the hearing room for the June 11 hearing will be announced at a later date.

NOTICE OF HEARINGS ON CONSUMER CREDIT INSURANCE ACT

Mr. PROXMIRE. Mr. President, I wish to announce that the Subcommittee on Financial Institutions of the Committee on Banking and Currency will hold hearings on S. 1754, a bill to protect consumers from abuses relative to excessive charges for life, health, and accident insurance pursuant to consumer credit transactions.

The hearings will be held on Wednesday, Thursday, and Friday, June 25, 26, and 27, and Monday, June 30, 1969, and will begin at 10 a.m. in room 5302 New Senate Office Building.

Persons desiring to testify or to submit written statements in connection with these hearings should notify Mr. Kenneth A. McLean, room 5300, New Senate Office Building, Washington, D.C., 20510; telephone 225–7391.

AUTHORIZATION FOR SECRETARY OF AGRICULTURE TO CLASSIFY AS A WILDERNESS AREA CERTAIN NATIONAL FOREST LANDS IN MONTANA

Mr. MANSFIELD. Mr. President, I have discussed this matter with the distinguished acting minority leader, the Senator from Kentucky (Mr. COOK), and I am happy to ask unanimous consent at this time for the immediate consideration, S. 412, a bill having to do with the Lincoln Back Country in Montana.

The bill was introduced by my distinguished colleague, the junior Senator from Montana (Mr. METCALF). I am happy to say that the bill was unanimously reported today by the Committee on Interior and Insular Affairs.

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

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 412) to authorize and direct the Secretary of Agriculture to classify as wilderness the national forest lands known as the Lincoln Back Country, and parts of the Lewis and Clark and Lolo National Forest, in Montana, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

Mr. METCALF. Mr. President, the pending bill has important and significant bipartisan support.

Former Governor Babcock, former Representative Battin, Representative OLSEN, and the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), have all supported the legislation.

The pending bill provides that a very fragile and important scenic area will become a wilderness area and be protected from picnickers, hikers, or any other persons who might destroy this kind of area.

This is an important watershed area. It is a forest that is significant in the development of some of the most scenic and beautiful areas in the whole western part of Montana.

Mr. President, I have an editorial entitled "The Outdoor Picture—For the Lincoln Wilderness Area," written by Dale A. Burk and published in the Sunday Missoulian of May 4, 1969. The editorial sets forth some of the arguments and summarizes the proposals for the Lincoln wilderness area.

Mr. President, I ask unanimous consent that the editorial to which I have referred be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. METCALF. Mr. President, the evidence obtained both from field hearings and hearings held before the committee overwhelmingly shows that this area should be set aside as a wilderness area, that it is a peculiar and scenic area that is admirably fitted for the wilderness administration.

Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report, explaining the purposes of the bill.

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

Public hearings were held on the measure which is sponsored by Senators Metcalf and Mansfield and field hearings were held in the area last autumn on a similar bill at which some 80 witnesses were heard.

Committee action in ordering the bill reported favorably was unanimous.

PURPOSE OF MEASURE

S. 412 would add approximately 240,500 acres in three national forests in Montana to the National Wilderness Preservation System established by the Wilderness Act of 1964 (78 Stat. 890). The area embraces portions of the Helena, Lewis and Clark, and Lolo National Forests straddling the Continental Divide in central western Montana.

It is known as the "Lincoln-Scapegoat Back Country," or more popularly as "The Lincoln Back Country."

S. 412 would accomplish its purpose by directing the Secretary of Agriculture, who has administrative responsibility for the national forests, to classify specifically designated tracts in the area as wilderness. The effect would be to combine the Lincoln Back Country with the existing Bob Marshall Wilderness.

DESCRIPTION OF AREA

The Lincoln Back Country is typical of the scenic grandeur that is reflected in Montana's motto "The Big Sky Country". It contains vast, unbroken spaces, glittering mountains, deep forests, and flashing clear lakes and streams. It is described by the Sierra Club as a "friendly wilderness," containing "an environment essential to the survival of the grizzly bear population and other big game animals. Native cut-throat trout, an increasingly scarce game resource, is also found in substantial amounts."

Other wildlife and fish of a rare or endangered nature abound in the undisturbed mountains, meadows, and waters, and the opportunities for ecological research are highly regarded by scientists.

The southern portion is characterized by wooded rolling lands, studded with mountain lakes. Several nearby high but relatively accessible points such as Red Mountain, Pyramid, and Olsen Peaks add opportunities for zestful, rewarding climbs. This portion of the area, although possessing true wild character, is readily available to easy family hiking and saddle horse trips.

The north central portion in contrast is characterized by spectacular relatively remote peaks, high ridges and intervening canyons. These present a true challenge for those who wish to spend a little more time and effort to sample the more rugged aspects of wilderness. Here the great Scapegoat Mountain complex dominates the scene. The alpine tundra of its highlands presents a unique climax to the most adventurous type of wilderness travel.

Short, relatively easy back-country trips are available on the far nothern end and much of the eastern side of the area.

As mentioned above, the Lincoln-Scapegoat region, with its relatively undisturbed environment, represents ideal living space for a unique variety of game animals, birds, and fish. An important segment of Montana's remnant grizzly bear population has found this place much to its liking.

Elk, mountain sheep, goats, deer and moose are also there and depend, in many important respects, upon the relatively remote character of the land for their living requirements and even survival. The rare west slope cutthroat trout is well suited to its cold, clear streams and the lighter fishing pressure of trail access country. Along with the Montana grayling the area supports a variety of fish that add much to the joy of visiting this unique region. Ptarmigan, a seldom seen grouse of the alpine environment, adds special interest to the interesting bird life of the area.

Thus, a pleasing variety in topography, vegetative cover, and animal life blend in making the Lincoln Back Country an ideal area for meaningful wilderness classification.

ECONOMIC RESOURCES

Evidence was presented at the Committee's hearings, both in Montana and in Washington, that the area has very little economic resources in the way of commercial mineral deposits, or in timber reserves.

On the contrary, the overwhelming weight of the evidence was that preservation of the area's great scenic values and its rare fauna and flora by inclusion in the National Wilderness System would be the highest use to which the area could be put, both for the present and for future generations.

ALTERNATIVE PROPOSALS CONSIDERED

The Committee gave full and careful consideration to alternative proposals presented at the hearings, including that of the Forest Service for a type of modified multiple use. The members are convinced, however, that the Lincoln Back Country is too fragile, both geologically and ecologically, to permit the driving through of roads, and construction

of permanent roadside and camping facilities as is envisioned. With respect to such development, the Committee adopts the finding of Dr. Arnold J. Silverman, Associate Professor of Geology at the University of Montana, consultant to the U.S. Bureau of Mines, and a member of national and international geological societies. Dr. Silverman testified at the Committee hearing:

"However, a number of disadvantages and potential dangers come readily to mind. Such a road would be expensive to maintain, because it would be in need of constant grading, clearing, and indeed in many places actual reconstruction. It does not appear probable that such a road can be maintained without an abnormal financial investment. In addition, there will be an ever-present danger to travelers of sliding and slumping. Lastly, the increased erosion caused by road construction and timber harvest will have a very detrimental effect on the streams and lakes of the area.

"For these reasons, I oppose a multiple-use plan for the area and support the proposal for the establishment of a Lincoln Scapegoat wilderness area."

Dr. Clarence C. Gordon, president of the Western Montana Scientists Committee for Public Information, testified even more pointedly:

"After reviewing the physical and biological aspects of the Lincoln Back Country, Scapegoat Mountain area, it is obvious that this country will be even more adversely affected than most mountainous areas if roading or logging be allowed. The hillsides are steep, much of the clay and fractured rock is presently held in place by plant roots to the depth of a foot or less. Even a slight disturbance of the soil will start an eroded gully. Whole mountain slopes slipped into valleys and streams during the flood of 1964.

"Development of the Lincoln Back Country-Scapegoat Mountain area will be disastrous. Leaving it a wilderness will provide a unique and valuable recreational and study center for generations."

COMMITTEE RECOMMENDATION

In enacting the Wilderness Act (Public Law 88-577), the Congress clearly reserved to itself the ultimate authority to act with respect to enlargement of the Wilderness System it created. Section 3, Article IV of the Federal Constitution imposes such a responsibility on Congress.

In this instance, the Committee unanimously recommends that Congress exercise its power and include in the System an area it finds uniquely qualified for inclusion and thus preserve the Lincoln Back Country's rare and fragile features for the physical enjoyment, the spiritual refreshment, and the enrichment of the life of this generation and future generations.

The proposal has the unqualified backing of the entire Congressional delegation from Montana.

EXECUTIVE AGENCY REPORTS

The reports of the Department of the Interior the Department of Agriculture, and the Bureau of the Budget are set forth in full.

EXHIBIT 1

[From the Sunday Missoulian, May 4, 1969]

THE OUTDOOR PICTURE: FOR THE LINCOLN WILDERNESS AREA

(By Dale A. Burk)

We endorse the establishment of the Lincoln-Scapegoat Back Country as a wilderness area. We do so because we feel the area would be best utilized in wilderness form and because plans for developing the area are totally unfounded on either need or practicality.

We have looked at both sides of the "issue" over the Lincoln Back Country and have presented a number of columns investigating the situation. On one hand we have legislative proposals by Sens. Lee Metcalf and Mike Mansfield and Rep. Arnold Olsen to establish the Lincoln-Scapegoat Wilderness. Aligned against the legislation is the U.S. Forest Service and some members of Montana's timber industry.

IN TRUE PERSPECTIVE

When viewed in its true perspective, the Lincoln-Scapegoat area of 240,500 acres is a rather small and insignificant part of the American landscape. In fact, in relationship to the whole of America it is minuscule. So is the total number of acres in America set aside as a heritage for tomorrow.

Contrary to the contention of would-be developers that such a vast area so close to the Bob Marshall Wilderness should not be added to the wilderness system, we conclude that when the entire picture is considered the 240,500 acres are small indeed.

Montana is one of the last frontiers where land is available in an undeveloped state. Montana and a few other of the western states are America's last resort for wilderness areas. They bear the burden for the entire nation. There's nowhere else to go. The job was botched up back East generations ago.

If we don't establish wilderness areas like the Lincoln-Scapegoat area in our generation, there simply will be no areas left to save in coming years.

A FRAGILE LAND

It seems incongruous that the Forest Service should base its plan for developing and managing the area on a premise that simply won't hold weight. It speaks of a need for a scenic highway that would provide access to the high country and from which "fairly large numbers of people could be distributed in small groups throughout the Zone for a real isolated or back country experience."

True? We think not in the Lincoln case. Once cut up with roads a real "wilderness" would not exist. The area would be like any other mountain area in western Montana now crisscrossed with logging roads. Existing developable areas already opened up by road could provide the "managed wilderness" tracts the Forest Service speaks of in its development plan.

AN UNPROVEN PREMISE

The major weakness with the proposed development plan is that it is based on an unproven premise that can be first tested elsewhere. Montana abounds with roads in high country terrain. We'd rather the Forest Service try its concept out on these areas first.

And we're sure it would find more spots now roaded and awaiting development than it would be able to get money to develop in the next half-dozen generations.

The point is that there's absolutely no need to carve up the Lincoln-Scapegoat area with a road. Highways now cross the Continental Divide south of the area at Rogers, Flescher, Stemple and MacDonald passes. Other similar passes in Montana's mountain country are crossed by road.

Develop them first. Try the plan out elsewhere instead of rushing in and ruining one of the last great areas that would be maintained as wilderness.

SOME SUITABLE SITES

Nowhere in the Forest Service literature did we read of a "pressing need" that such intensely-managed wilderness-like tracts be developed elsewhere. Yet the Forest Service maintains that such a need exists to provide for the recreation demands, now and in the future, for the populations of the Missoula and Great Falls areas.

If this demand exists it should be applied first in the areas already roaded. For example, in addition to the areas already mentioned, it would be tested in much of the country from the Canadian line to Idaho where logging roads already provide access to high country terrain suitable for providing "back country experiences."

We agree that more recreation campgrounds are needed. But the Forest Service isn't playing fair when it contends that it is critical to establish such campgrounds in the Lincoln Back Country area when hundreds of other suitable sites already accessible are available. Our recommendation is that we first develop these other sites.

There are so many of them available that those responsible for providing public recreation facilities would be so busy they wouldn't have time to worry about a 240,500 acre tract of land left in its wilderness state.

OTHER CONSIDERATIONS

Montana's timber industry, in spite of the fear-inducing testimony presented by some opponents of the wilderness, should never feel the loss of the rather insignificant amount of merchantable timber in the area (less than ½ of 1 per cent of Montana's allowable cut).

In fact, even if the industry lost something that never really was its in the first place, the state's economy would not stagger, as was intimated. Testimony in Washington showed that, on the contrary, extensive logging development in the area would be detrimental in the long run to the other values in the region—namely wildlife and the fishery.

The mineral potentialities of the area will really not be changed by establishment of a wilderness area. Under the wilderness act, the mineral industries would have a number of years in which to investigate for mineral resources before the area could be locked up.

The scenic road into the area would not be open long enough each year to justify the amount of appropriated funds it would take to build it. The area is deep snow country and the task of keeping the road open in the winter, as in Glacier Park, would be impossible or so costly as to be unrealistic. We feel the cost of building and then maintaining such a road would be unjustified. Money talks, and very simply appropriated "road" money could be better spent for campground facilities where roads now exist.

WHAT IS WILDERNESS?

What is the Lincoln-Scapegoat Back Country? Why does it deserve wilderness classification?

Basically because it is a beautiful land, because it can be saved, and because so little will be lost to man's so-called progress by protecting it as wilderness. We say this because the area can be lost. It is a fragile land that intensive development might destroy.

What is a wilderness? It is a land in which man can, at any time in the history of his species, enjoy the same values. The value of wilderness is endless, infinite, indestructible.

It is a land in which the wildlife values as they exist would be destroyed if man carved the land into tracts and diminished the wildlife habitat.

It is a land yet untrammelled, a land where man can still rise above that part of him that says he must destroy what is natural, that he must change what is, simply to change it.

It is a land which has value because it is what it is.

It is a land that we have today and can leave for tomorrow.

It is wilderness. It should be wilderness tomorrow, too.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question

is on the engrossment and third reading of the bill.

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

S. 412

A bill to authorize and direct the Secretary of Agriculture to classify as wilderness the national forest lands known as the Lincoln Back Country, and parts of the Lewis and Clark and Lolo National Forests, in Montana, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is hereby authorized and directed to classify as wilderness those national forest lands containing approximately 240,500 acres in the Helena National Forest in Montana, known as the Lincoln Back Country, and parts of the Lewis and Clark and Lolo National Forest specifically described as bounded by a line on the southeast boundary of the Bob Marshall Wilderness Area at Deadman Hill running southeasterly to Bench Mark, then along the ridge of Wood Creek Hogback to the top of Crown Mountain and across Welcome Pass to the midpoint of Steamboat Mountain; thence running in a more southerly direction down the ridge between Milk and Pear Creeks, across the Dearborn River and up the Continental Divide to a point above Bighorn Lake; thence along the divide and down the ridge northwest of Falls Creek, across Landers Fork to the top of Lone Mountain; thence in a southwesterly direction to Heart Lake Trail, westward to the top of Red Mountain; thence southwesterly to Arrastra Peak; thence along Daly, Iron, and Echo Mountain Peaks, and across Windy Pass to Mineral Hill; thence across the North Fork of the Blackfoot River at the Big Slide to BM 8320, northwesterly across Canyon Creek (excluding the upper Conger Creek timber stand) to the top of Canyon Peak; thence more westerly to the top of Omar Mountain, and northward along the ridge to the southern boundary of the Bob Marshall Wilderness Area on a ridge west of Danaher Pass, and thence along the southern boundary of the Bob Marshall Wilderness Area to the point of beginning. The Secretary of Agriculture shall promptly after such classification transmit to the Congress a map and legal description of the wilderness area and such description shall have the same force and effect as if set forth in this Act. Upon its classification, such wilderness area shall be subject to the same provisions and rules as those designated as wilderness areas by the Wilderness Act of September 3, 1964 (78 Stat. 890).

HAMBURGER HILL: WAS IT WORTH IT?

Mr. YOUNG of Ohio. Mr. President, Gen. Maxwell D. Taylor announced Tuesday that President Nixon should not order any of our soldiers home from Vietnam while the talks in Paris seeking to achieve an armistice and cease-fire in Vietnam are continuing.

President Johnson, during the last 4 years of his administration as President of the United States, followed the advice given him by General Taylor. He is now living in Texas, I am sorry to say.

The fact is that Richard Nixon in his campaign for the Presidency promised to end the bloodletting in Vietnam. He promised he would end the war in Vietnam and bring the boys home. Our citizens believed him. They elected him. Our President would be well advised if he would completely disregard the views and advice of Gen. Maxwell D. Taylor. He should bring 100,000 of our troops home this year; the sooner the better. It would be a simple matter to bring them home in ships and planes, the same as they were sent over there.

That we have 600,000 men of our Armed Forces in Vietnam and Thailand fighting an undeclared, immoral, and unpopular war, and that nearly 40,000 of our Armed Forces who have fought in Vietnam have been killed in combat—additional thousands were killed in what Pentagon terms accidents and incidents, which in World War II would have been termed killed in combat—and more than 208,000 wounded may be directly attributed to the fact that President Johnson accepted and was subservient to the advice of General Taylor and all of the generals and admirals of the Joint Chiefs of Staff.

Those 55 patriots gathered in Philadelphia from the Thirteen Colonies provided in the Constitution they drafted that in the United States civilian authority must always be supreme over military authority. George Washington presided over this Constitutional Convention. Benjamin Franklin at 81 was the oldest member and Jonathan Dayton the youngest at 26. Such was their determination against militarists ruling our Republic that they provided that the President of the United States would be Commander in Chief of our Armed Forces.

Mr. President, in January 1968, I was in South Vietnam as an observer as a member of the Armed Services Committee of the Senate. While in Southeast Asia throughout most of that month, I visited every area of Laos. I was told that this would be the next South Vietnam where Americans would fight and be killed. I pray there is no truth to that allegation. Laos is a most underdeveloped country. It is not worth the life of one American GI. Fighting is now going on there. We Americans who guaranteed the neutrality of Laos have been sending our warplanes over that country. Also our CIA is there in force and also many American "military advisers."

In Thailand I visited all of our air bases and also our huge coastal base at Sattahip. All these bases appear to be permanent installations, as if Americans will be fighting and dying in Southeast Asia throughout the next 50 or 100 years. We now have approximately 50,000 men of our Armed Forces in Thailand.

I was in every area of Vietnam late in January last year just before the VC Tet lunar offensive. I was in Danang and in the area north and west of Danang, and by helicopter visited marines close to Khesanh. It was a matter of surprise and comment that in this area our marines, who are the best trained and best armed fighting men in the world, were on the defensive everywhere. This, despite the fact they are supposedly especially trained for amphibious operations and to be in the forefront of offensive military actions.

I interviewed General Westmoreland and the generals commanding in the Danang area and also in the Khesanh area. General Westmoreland and the generals under his command assured us that the VC could be heard during the nighttime coming closer and closer to Khesanh and that they had encircled Khesanh. General Westmoreland stated that he was certain that at the time of the Tet lunar holiday, some 2 or 3 days away, the VC would assault our entrenched outpost at Khesanh and that they expected to overrun it and achieve a great military victory. He said, "I have encircled the encirclers." He and leading marine generals informed us that some 40,000 men of our Armed Forces had been withdrawn from the interior and Central Highlands and that the VC were being encircled and would be annihilated when they attacked Khesanh and then tried also to overrun Danang. Our generals, notably General Westmoreland, were completely outgeneraled by General Giap of North Vietnam, the Victor over the French at Dien Bien Phu.

My escort officer discussed the matter with me before the Tet lunar holiday, commenting on the very noisy approaches made by the VC up to 1 a.m. and the comparative silence thereafter night after night. He concluded, the same as I did, that they wanted our forces to concentrate in the defense of Khesanh. Then, like a bolt out of the blue, the VC in the Tet lunar holiday struck everywhere in South Vietnam except where General Westmoreland confidently expected them. It is evident they had no intention of trying to capture Khesanh. Their forces overran and captured, holding possession for varying periods of time, 37 of 44 provincial capitals of South Vietnam. They breached the fortress-like American Embassy in Saigon. For 7 hours they held possession of our Embassy grounds. Ambassador Bunker had to flee for his life. They invaded Saigon and released 7,000 prisoners from the jails there. The VC first freed prisoners in jails of the provincial capitals, then collected huge quantities of rice and conscripted or enrolled thousands of young men into their armed forces. Many American youngsters were killed in this Tet lunar offensive. General Westmoreland, although completely outgeneraled, claimed it was really an American victory. He deceived no one, probably not even himself.

Hue, the ancient capital, was seized and held by the Vietcong for a month. During that period of terror they killed many of the inhabitants. They occupied the Citadel at the center of this beautiful city. In Hue, our heroic marines, in retaking the Citadel from the Vietcong after street fighting of many days with huge losses of lives, finally by sheer force of numbers and firepower killed or forced out all of the Vietcong.

Our generals, at a cost of priceless lives of hundreds of young marines, finally accomplished by direct overwhelming assaults what they could have accomplished with little loss of life by surrounding the Citadel until the starved survivors would have slipped away or would have been compelled to surrender. This lack of generalship and competent leadership of our troops in South Vietnam was brought home to the American people.

Now we come to Dong Ap Bia, now

sorrowfully known to Americans as "Hamburger Hill." This 3,000-foot hill in the A Shau Valley in South Vietnam 2 miles from the border of Laos was captured by American troops following 10 days of repeated infantry assaults up the slopes of this hill and then retreats downhill.

From May 10 to May 20, some of the finest units of the American Armed Forces, 10,000 paratroopers of the 101st Airborne Division under the immediate command of Major General Zias, were ordered into the area and then our paratroopers were ordered to make front attacks against Vietcong entrenched in bunkers at the top of this hill. Commencing on May 10, repeated attacks by our bombers were followed by direct frontal attacks by our ground troops. Our generals claimed that Dong Ap Bia was of strategic importance as it overlooked the A Shau Valley and the Vietcong supply route from Laos. So, 10,000 of our boys were ordered up the valley to overrun this hill, despite the fact President Nixon in his address to the Nation stated that we seek no military victory but seek peace by negotiation. Our soldiers on 10 different occasions climbed the hill in terrific frontal assaults. On all 10 occasions they were hurled back. They called the hill "Hamburger Hill." This is symptomatic of the mentality of the commanders who cast strategy aside for repeated frontal attacks and the units they commanded were chopped up.

Elements of the 101st Airborne Division were lifted by helicopter into the A Shau Valley for a search and destroy mission in that area. Dong Ap Bia itself in the original planning had not been regarded as an objective. Then, when the men of the 101st Airborne Division came under fire from its crest, the decision was made by Lieutenant Colonel Honeycutt and other officers for a frontal assault. Day after day the fighting men of the Third Battalion of the 187th Regiment of the 101st Airborne struggled up the slopes of Dong Ap Bia only to retreat down under withering enemy fire. Honeycutt, termed "Blackjack" by his men, refused to be satisfied with calling air and artillery strikes and blasting the hill with our B–52 bombers. He kept demanding "Get those men moving! You are being paid to fight this war, not discuss it." One of his soldiers was overheard to say, "That damned Blackjack won't stop until he kills every damn one of us."

On May 12 they unexpectedly ran into rocket grenades, rapid fire from automatic weapons, lethal Claymore mines dangling from bushes and trees. They were forced back. Later there was another assault on Lieutenant Colonel Honeycutt's orders, but only by two companies instead of his entire force. They were hurled back with heavy losses. For 5 days from May 12 to the 20th, the frontal assaults continued. Two additional battalions from the 101st were brought up on May 18. Our reinforced forces again were ordered up in a frontal assault.

They nearly reached the top, but were hurled back by small arms fire and grenades. One dispirited company commander said, "Everyone is scared, but we have to go back up." Finally, on May 20, more than a week after the original frontal assault, our GI's were victorious. The hill was taken. One hundred and eighty-two rifles of the North Vietnamese forces were captured, but no prisoners. The crest of the Dong Ap Bia, now called Hamburger Hill, was scarred and smoldering. Thousands of tons of explosives and napalm had been dropped upon it. More than 600 Vietcong were killed, according to Pentagon claims. Certainly, at least 182 appear to have been killed. Pentagon reports of U.S. casualties were moderate. This was a heroic military achievement of our heroic 101st Airborne Division. It was a very tragic incident in the unpopular, undeclared war we are waging.

Mr. President, it is apparent those generals commanding our forces in Vietnam never learned what Stonewall Jackson did and his strategy at the Battle of Chancellorsville. Despite the fact that the Union Army of the Potomac confronting Lee's forces was superior in numbers, Lee and Jackson inflicted a smashing defeat to the Union Army. Stonewall Jackson, commanding one flank of General Lee's army in the early darkness of night, swung all his troops behind the entire Confederate Army and by early next morning the 11th Army Corps of the Union Army holding a wing of the Union line were breakfasting, ignorant of the fact that any Confederates were nearby. Jackson's forces suddenly came out of the woods, hit them on the flank and rear, routing them in great disorder. Our generals in Vietnam attacking Hamburger Hill acted as if they had never studied Lee's and Jackson's strategy. Instead, they flung our paratroopers piecemeal in frontal assaults. Instead of seeking to surround the enemy or assault the hill from the side and front simultaneously, there was just one frontal assault after another, killing our boys who went up Hamburger Hill.

The most that can be said for the general who ordered these continuing frontal assaults despite heavy losses is that he exerted "maximum pressure." In other words, maximum offensive strategy while peace negotiations are continuing in Paris. Immediately after the final assault, helicopters flew out the wounded and dead. Stacks of army helmets and bloody flak jackets remained behind. Then, the VC bunkers were destroyed and orders given to abandon the hill. A U.S. Command spokesman in Saigon said, "There's no tactical reason to stay there."

Our colleague, Senator EDWARD (TED) KENNEDY, properly denounced this frontal attack on Dong Ap Bia, renamed Hamburger Hill by the soldiers who fought there, and correctly termed it as a "senseless and irresponsible action." This irresponsibility on the part of our military commanders in South Vietnam cost the lives of 60 GI's killed, 25 missing, presumably dead, and 308 wounded.

Then, almost immediately following the critical comment in the Senate of the distinguished senior Senator from Massachusetts (Mr. KENNEDY), a few score of our soldiers were returned to the hill as temporary custodians. Presumably, the American flag now flies over Dong Ap Bia. Telegrams have been sent to the young widows and parents of our dead GI's, and our wounded are being cared for. Was it worth it?

A high State Department official stated, "With the Paris talks going on we don't need those gory stories in the papers." A Pentagon spokesman said, "Hamburger Hill was strategically important. It dominated the supply route from Laos to the A Shau Valley. This could have been the staging point for an attack on Hue." If so, why did the generals order its abandonment immediately after our troops drove out the VC?

Following the statement of the Senator from Massachusetts, instead of altogether abandoning the little hill, a token force of 20 or 30 GI's are now on the hill.

This hill that our generals considered so important to capture by frontal assault was held but long enough to evacuate our dead and wounded. It was then abandoned, the same as Khesanh, which our generals claimed early last year and in December of 1967 to be an important bastion and outpost, was abandoned.

THE MAO WORSHIPERS ON THE AMERICAN CAMPUSES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Connecticut (Mr. DODD) entitled "The Mao Worshipers on the American Campuses," and I ask unanimous consent to have printed in the RECORD an article entitled "West's Young Mao Idolizers Could Find Lesson in China," written by Stanley Karnow.

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

THE MAO WORSHIPERS ON THE AMERICAN CAMPUSES

Mr. DODD. Mr. President, among the student extremists who have been assaulting our university system there are many who consider themselves followers of Mao Tse Tung and wear Mao Tse Tung badges and spout quotations from his writings. This they do in the name of a newer and better society for which, they claim, they stand.

I do not think there has ever been a more spectacular example of intellectual failure or of the human capacity for self-delusion. For the fact is that Mao Tse Tung's regime in China has clamped down more brutally on student militants than any previous regime in history.

Many thousands of Chinese students have been shot. Millions of them have had their studies terminated by the regime and have been transferred at the point of a bayonet to agriculture collectives. And while the Maoist students in our own country demand student control over the administration of their universities, in Red China the students have no control at all over their universities; nor do the professors have any control. The control is entirely in the hands of the armed forces and of special workers' propaganda groups.

The distinguished Far Eastern correspondent, Mr. Stanley Karnow, points out that for the American situation to resemble the Chinese student situation, President Nixon would have to order the National Guard and labor vigilantes into U.S. colleges, with instructions to beat or brainwash unruly students or to deport them to northern Alaska.

Mr. President, I submit Mr. Karnow's article of May 26 for printing in the RECORD at this point.

The article, ordered to be printed in the RECORD, is as follows:

WEST'S YOUNG MAO IDOLIZERS COULD FIND LESSON IN CHINA

(By Stanley Karnow)

HONG KONG.—Even the most conservative American would be horrified if President Nixon ordered the National Guard and labor vigilantes into U.S. colleges to beat or brainwash unruly students, or deport them to northern Alaska.

Yet this is almost exactly what is happening in Red China despite Peking's pretensions to running the world's only authentic Communist state.

Thus there is something ludicrous in the spectacle of radical American and European youths sporting Mao Tse-tung badges and spouting Mao's aphorisms while young Chinese are being repressed for similarly seeking their emancipation. And there is something equally paradoxical in Peking's exhortations to "progressive" Western youths to trigger upheavals while their Chinese counterparts are being brutally subdued for displaying the mildest signs of independence.

For within the past year or more, the Red Guards and other activists initially unleashed in the Cultural Revolution have, with Mao's assent, been systematically crushed by a new Chinese bureaucracy composed of army officers and old Communist cadres.

Under the guise of making them true "proletarians," millions of youths have been shunted out of China's cities to bleak, backward villages, or forcibly recruited into military-style labor battalions in remote, arid frontier regions.

Those who have managed to remain in urban areas are being compelled to submit to controls by squads of soldiers and workers whose primary concern, like that of the Chicago police, is to maintain law and order.

In several places, effervescent young Chinese have been publicly executed for alleged "counter-revolutionary crimes." In South China last year, thousands of youths were killed by troops for the same rebellious activities they had been encouraged to pursue the year before.

Hence China's younger generation has discovered, to its vast disappointment, that the hopes and promises originally offered by Mao's utopian programs have been betrayed by harsh reality.

To appreciate the depth of their disenchantment, it is necessary to understand the tensions and pressures that have existed among Chinese youths ever since the Communists took over the country two decades ago.

As Mao himself has repeatedly stressed, the Communist victory in 1949 did not automatically turn China into a Marxist nirvana. On the contrary, Communist policies and practices led to serious class and regional differences in Chinese society.

For one thing, the rapid industrialization of China by the Communists in their first ten years of rule sharpened the traditional contrasts between the cities and the countryside. As a consequence, neglected peasants grew to envy the relative comforts enjoyed by urban dwellers.

Under the Communists, too, there arose an establishment of Party and government functionaries whose patronizing view of the masses resembled the haughty attitude of China's ancient mandarins towards the population.

These and other developments were reflected in Chinese schools and universities, where the sons and daughters of workers and peasants resented the privileged children of officials, who in turn resisted recurrent campaigns to homogenize them into the great unwashed "proletariat."

In addition, youths of all social backgrounds were frustrated by the shortage of career prospects in a structure dominated by veteran *apparatchiks* who clung to their jobs like limpets.

In 1965, as he plotted to uproot the Party and state machinery he believed had double-crossed him, Mao recognized the explosive potential of China's pent-up younger generation. When he uncorked them, therefore, the Red Guards burst forth wildly in what was essentially an expression of unprecedented freedom.

Brimming with idealism, a girl Red Guard told a European writer visiting the south China city of Canton in early 1967 that the Cultural Revolution was a "Feast of Criticism."

Young Chinese, she explained could now "write about things that have been forbidden for twenty years." They could voice their grievances openly, she went on, and overthrow anyone who failed to measure up to their standards of 'pure communism.'

"A government minister can be dismissed just like a foreman," she said. "The moment of truth has arrived, and we shall never relinquish it."

Where that girl is today is unknown. She may be knee-deep in a flooded Kwangtung paddy field or digging ditches in a Sinkiang desert. She may be in a "labor reform" camp, or living as a refugee in Hong Kong.

But wherever she is, her "moment of truth" has surely been lost in a revolution that has, like other revolutions before it, consumed its most dedicated children.

Mr. DODD. Mr. President, I hope that many of our young student extremists will find the time to read it.

I also hope that translations of this article will be made available in the many countries where Maoist students have been able to rise to positions of leadership and influence. This thought is prompted by the news in this Wednesday's newspaper that the students of the National University of Colombia who demonstrated against the visit of Governor Rockefeller were under the control of the pro-Chinese leadership of the university's student council.

APOLLO—AND AFTER

Mr. BYRD of West Virginia. Mr. President, on behalf of the senior Senator from Alabama (Mr. SPARKMAN), I ask unanimous consent to have printed in the RECORD an editorial entitled "Apollo—And After," published in the Birmingham News on May 20, 1969.

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

APOLLO—AND AFTER

Three more brave men are en route on another leg of the most exciting voyage in human history. Thomas Stafford, Eugene Cernan, and John Young, crewmen of Apollo 10, are taking the penultimate step toward the moon. In July, if all goes well, man will set foot on the moon's surface.

While Apollo 10 so far has been as spectacularly successful as earlier missions in this sequence, the most dangerous part of the flight is still to come—orbiting of the moon, low-level scouting of landing areas in the weird Lunar Excursion Module of the type which will be used to make a touchdown in Apollo 11, and return home.

As did the three astronauts who preceded them in lunar orbit, Stafford, Cernan and Young go not only on the thrust of the magnificent machine designed and built by Dr. Wernher von Braun's Saturn team at Huntsville, but also on the wings of the prayers of millions of countrymen and other well-wishers around the world.

As the climatic moment of American's manned space program approaches—thought has turned more and more toward the post-Apollo era.

Will the space program be continued? At what level? Toward what new goals?

These are not easy questions, for beyond the scientific and other factors involved there is the matter of money—many billions of tax dollars. Should space research and exploration continue to rate high priority? Or should the space program be cut back so more funds could be diverted to other needs?

The News understands that considerable rethinking of the U.S. space effort will be in order, and that some cutback in the level of spending, at least for awhile, is probable. But we believe that a drastic reduction in the program would be a mistake.

We are only on the beaches of the universe beyond our own small planet. There are more space seas to sail, more worlds to explore.

We cannot neglect our earthly problems and responsibilities. But neither should we lower our eyes from the stars.

Shepard, Glenn, Grissom, White, Lovell, Borman, Anders, Stafford, Cernan, Young—they are names on a roster with Columbus and Magellan and Lindbergh and thousands of famous and anonymous men and women who dared the unknown, who blazed historic trails.

Stop now? We have barely begun.

THE PUBLIC INTEREST AND THE POSTAL SERVICE—ADDRESS BY SENATOR YARBOROUGH BEFORE TEXAS UNITED FEDERATION OF POSTAL CLERKS

Mr. BYRD of West Virginia. Mr. President, there is quite a bit of discussion and comment currently regarding the new proposal by President Nixon and the Postmaster General Blount for reorganizing our Post Office Department and our postal service.

This past Saturday, May 24, 1969, our distinguished colleague, the senior Senator from Texas (Mr. YARBOROUGH), in addressing the legislative rally of the Texas Federation of Postal Clerks, made some pointed and thought-provoking remarks regarding this proposal which I feel should be brought to the attention of Senators.

Mr. President, I ask unanimous consent that the statement of the senior Senator from Texas (Mr. YARBOROUGH) be printed in the RECORD.

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

THE PUBLIC INTEREST AND THE POSTAL SERVICE

(Address by Senator YARBOROUGH before the legislative rally of the Texas United Federation of Postal Clerks, Greenville, Tex., May 24, 1969)

Last June a Commission headed by Frederick R. Kappel, retired chairman of the Board of Directors of the American Telephone and Telegraph Company, issued a report calling for replacement of the Post Office Department by an autonomous self-supporting government-owned corporation. Autonomous means a corporation the government doesn't control; it means free of any outside control.

Now Postmaster General Blount has recommended that Congress enact a corporate post office into law and President Nixon has endorsed Mr. Blount's recommendation.

I am opposed to such a Postal Corporation because I do not believe that it is in the pub-

lic interest, nor is it in the interest of postal employees or the postal service.

The Kappel Commission had as members a retired businessman, a banker, a dean on the Harvard School of Business Administration, five other active corporate executives, a lawyer and a labor leader.

The labor leader, AFL–CIO President George Meany, opposed the major recommendation of the report—the establishment of a postal corporation.

In view of their backgrounds, it was almost a foregone conclusion that the other members would join together to urge elimination of the Post Office Department and its substitution by a Corporation.

I do not mean, in any way, to question the integrity of these very successful businessmen, some of them executives of the biggest corporations in America. But they are geared to a market economy in which profits are the major goal, not the public service. It is hardly a wonder that this report Blount now takes as his own, stressed postal deficits, the elimination of certain public service mail delivery and a public utility approach to rate-making.

The Postal Corporation would be required to operate entirely on a self-supporting basis. This may sound highly commendable in theory, but the real issue is the price of such an operation—what would happen to the cost of mailing a letter in small towns and rural areas, to services which cannot become self-supporting and to the nation's economic and social welfare?

The Commission has called for changes in "rates and services" to reduce the "cost-revenue gap." Translated into the utility rate-making concept the Commission so greatly admires, this means the elimination of all mail delivery that they feel does not pay for itself, of some *classes* of service and then higher rates everywhere else! Under the Commission's proposal, the Blount recommendation, of having each piece of mail pay its own way, it would probably cost a dollar to deliver a letter to a remote farm or ranch.

Rural America knows from experience of the kind of concern that the power and communications utilities have for its welfare. Until the thirties, many rural areas lacked electricity and telephone services because they were spurned by the utilities as unprofitable.

The AT&T telephone system today serves only about 20 per cent of the nation's land area although it has monopoly privileges over about 80 per cent of the population. AT&T refused to move into the countryside but sought as a matter of policy simply to cream-off the urban areas.

Only after the Rural Electrification Agency of the Federal government came upon the scene did the private utilities begin to move into rural areas. If the rural electric cooperatives have such ardent support in basically conservative rural America, it is because it took cooperative principles to bring power and telephones. Even today, in many areas of rural America, the farmer and other rural residents must pay for pole lines, as well as high rates, to get service from private utilities. And there are still parts of the nation where service cannot be obtained. *The mail, however, is delivered* in these areas, sometimes under very difficult conditions.

Modern utility rate-making as practiced by the long distance communication carriers is very revealing. The cost of a telegram is based upon a zoning plan, and the grim irony is that telegrams are frequently called in to the receiver by telephone and then delivered in the mails. The mere existence of a corporation has not prevented deterioration of the nation's telegraph service. Telephone service is also based on a zoning plan. It costs more to call Texarkana, Texas from here than Little Rock, Arkansas.

This is the kind of rate-making that may be expected of a Postal Corporation using a utility approach.

There's nothing new in zoned postal rates; they were tried during the first 45 years of the Republic. It then cost six cents to send a single sheet letter 30 miles, and 25 cents to send it 450 miles; two sheets cost double; three sheets triple, and the rate was double for a single sheet enclosed in an envelope.

Gerald Cullinan, whose book on the Post Office Department is authoritative, reports that in 1834 a farmer settled his account with a postmaster by giving the latter a "good milch cow," then worth eight dollars, in return for sending 32 letters. In those days, 25 cents would buy five dozen eggs.

The Rural Electrification Agency represents a non-profit approach to telephone and electric power services, which makes that service possible for an essential part of the nation. We cannot have a private utility profit-making approach to mail service in rural America; we cannot refuse to deliver the mail. Some of the mail must be supported, and the fairest way is through our government.

The Kappel Commission reported that it had studied the postal systems of 14 other nations, and that in 12 of these the service pays its own way. But it failed to report that in most, the service is operated by a government department—not a corporation. And in most of those nations the post office includes the telephone and telegraph services. These services explain why the postal systems of those nations cited operate in the black. Telephone and telegraph profits usually make up the deficit of the mail service. The Kappel AT&T report did not propose that telephone and telegraph service be made a part of the U.S. Postal Service as in the nations cited; instead, he would reverse the situation and take the Postal Service away from the government and give it to a corporation.

Now I'm not advocating the merging of telephone service into the post office; it is obvious that the Kappel Commission and Postmaster General Blount would not favor this solution.

The postal service of the United States is far different from that of any other nation. Neither the U.S. postal service nor the nation's economy or its geographic territory is comparable to those of West Germany, little Denmark, Ireland or Japan. The U.S. service handles more mail than those of Western Europe and Japan combined; indeed, the U.S. Postal Service, and it is a *service*, handles more mail than all other postal systems in the world combined.

The U.S. domestic postal service delivers the mail from Alaska to Florida; from Puerto Rico to Guam, It covers a land area of 3,615,211 square miles. Population density averages about 51 per square mile, against 273 in Denmark, 215 in France, and 654 in Japan. And U.S. population density varies from several thousand per square mile in its big cities to 2.6 in Nevada and even less in Alaska.

I simply say that the Post Office provides so vital a service that Congressional supervision is merited. We want a better postal service and deepgoing reforms, but we want them within the present structure.

There is no more reason for saying that the Post Office Department must pay its own way than there would be for saying that the Commerce Department, the Labor Department, the Interior Department, or any other department of government, must pay its own way. None does. Government is a service, not a business. The very people who have been screaming for years, "Get the government out of business," now want to change a big branch and the oldest branch of government, into a business. There is no more reason for it than there would be to lease out the Police Department.

Postmaster General Blount reports a crisis in the postal service. I agree with the finding. While the volume of mail increases massively each year, facilities remain rundown and inadequate. Pay scales are far too low to attract a stable labor force. Labor-management relations are frustrated by lack of realistic machinery to resolve grievances. But the death of the Post Office, like that of Mark Twain, is grossly exaggerated.

Despite deficiencies, the U.S. Postal Service is the most efficient in the world. But it needs more modernization. I will support a program to modernize and upgrade the service without destroying the basic service concept, and without making the costs of mail delivery prohibitively high. I seek a much more efficient service based upon modern methods and facilities. I take the position that if more money is required to achieve these goals, it should be forth-coming. We cannot sacrifice the U.S. mail service to a corporation that is certain to result in higher rates, further curtailment of the service, and, I might add, rougher treatment of the postal employees.

"THE CRISIS IN AIR TRANSPORTATION"—ADDRESS BY GEN. WILLIAM F. McKEE

Mr. CANNON. Mr. President, on May 13 of this year Gen. William F. McKee spoke to the Aviation-Space Writer's Convention in Dayton, Ohio. His subject was "The Crisis in Air Transportation."

On this subject, Bozo McKee must be rated as an expert. He was FAA Administrator for over 3 years and this service followed his career in the Air Force.

In his speech he pointed out that our air transport system is more than just aircraft. It includes airports and airways and supporting ground transportation systems.

He notes that we have an air transportation crisis in the United States today and suggests the reason is the progress in aircraft has outstripped our airways system and our airports.

In this connection, Mr. President, let me remind the Senate that the FAA's high-density traffic airports regulation goes into effect 3 days from now on June 1. The regulation gives the airlines and scheduled air taxis "exclusive use and priority use" of five airports, Kennedy and LaGuardia in New York; Newark, N.J.; O'Hare in Chicago; and our own National in the Nation's Capital.

Our airways and our airports are overcrowded. They are becoming more so each passing day, and while the FAA advises this new regulation is temporary and will be lifted as soon as possible, the fact remains we cannot extend runways nor update our electronic ability in the airways overnight.

We must get started.

I hope all of us will read General McKee's excellent speech, and for that reason, Mr. President, I ask unanimous consent that the speech be printed in the RECORD at this point.

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

THE CRISIS IN AN AIR TRANSPORTATION

(Address by William F. McKee, general, USAF (retired) at the Aviation-Space Writer's Convention, Dayton, Ohio, May 13, 1969)

Until about ten years ago, the pacing factor in the growth of American commercial aviation was the efficiency of the aircraft. Since the earliest days of scheduled airline service, the airlines have pressed the manufacturers for aircraft with higher speeds, longer ranges,

and greater capacities. The manufacturers have responded enthusiastically and ingeniously. In forty years, the aircraft manufacturers have taken us from the Ford Trimotor, the Lockheed "Vega" and the DC–2, to the Boeing 747, the Lockheed L–500, and the DC–10. And, at the same time, they provided this country with the world's finest fleet of military aircraft.

All this progress is wonderful. It has given Americans the finest air transportation in the world. It has given wings to the nation's economy, both figuratively and literally. And, it has also been a credit factor in the nation's running struggle to maintain a favorable balance of trade.

But the air transport "system" of this nation is more than just aircraft. It is also airports and airways and supporting ground transportation systems. An important measure of the efficiency of a total system is the time it takes an individual to get from his office or home to his final destination. Similar measures for efficiency could be applied to cargo and mail.

Right now, we speak of an air transportation crisis in our country. Why? The answer is that progress in aircraft has exceeded progress in both the ground electronic environment or the airways system and in the airports. Progress in aircraft may also be said to have exceeded progress in national understanding of the problem. That is to say, the Federal Aviation Administration, which is responsible for the operation of the airways and parts of the Aviation Community have not been able to arouse sufficient congressional and public support to insure that sufficient funds were provided for the modernization and expansion of the airways and airport system.

If one takes an objective look at the situation, the reasons for this are easy to understand. When I say that, I am not trying to excuse myself or the FAA or the Department of Transportation. The fact is that FAA's needs have met very stiff competition of late from domestic and Defense needs. And it is also true that the American public has turned to air transportation at a rate that exceeded expectations.

This does not mean that the FAA did a bad job of estimating. I think it reflects, rather, unanticipated acceleration in the economy and in the pace of life in this country. Recently, TIME magazine ran a feature on under-anticipation, a phenomenon of the decade. The article listed a series of under-anticipation by experts. The experts—in quotation marks—predicted, for example, that before the Sixties had run their course, the stock market would be handling sales as high as ten million shares in one day. Of course, the sales record is now in excess of twenty million shares in one day.

The point should also be made that the Congress has, in general, been very sympathetic to the needs of the FAA, but the amount of money required to modernize the airways system and to expand airport facilities simply has reached levels that were politically difficult for the Congress to vote, in light of over-all national considerations.

Today, the key question facing the Congress, the Department of Transportation, the Air Lines, and General Aviation is where can we find the money to bring the quality or effectiveness of the airways/airports system in line with the exceptional quality and effectiveness of America's commercial aircraft. In recent years, this question has reached crisis proportions. The airlines, and general aviation, in order to meet the demands of the public for air transportation, have bought so many aircraft and expanded their operations so fast that the airways and the airports can no longer efficiently service the number of aircraft in the skies. And as we look to the future, the situation grows increasingly severe because the demand for air transportation continues to grow. From the standpoint of the airlines, the situation is reaching critical proportions because delays in the air and on the ground result in heavy financial losses. The larger aircraft, which represent heavy investments for the airlines are by no means being used to maximum efficiency under present circumstances. The result is that the volume of air traffic is up, but profit for most airlines is down. Almost all of the major airlines showed a decrease in net profits for the calendar year 1968. Indeed, several of them were seriously in the red. In addition, the airlines want to invest in the next generation of aircraft, but their available capital for such an investment is being depleted by current high operating costs.

I will offer you a solution I have advocated at every opportunity for the past several years. It is a solution under consideration by the Department of Transportation and the Nixon Administration. But, before I discuss that solution I would like to review with you briefly the recent growth in air transportation and then project for you the future growth, so that you can sense how vital it is that we bring about a balance between the numbers and quality of the aircraft and the effectiveness of the airways-airport systems.

In recent years, air transportation has grown at the rate of 16 to 17 per cent a year. Between 1963 and 1967, air carrier passenger miles went from 46 million to 86 million. Air cargo volume tripled in that five year period. And the hours flown by general aviation aircraft during the same five year period increased nearly fifty per cent. These figures reflect that air travel is now the most popular form of inter-city transportation. Last year, the air carriers accounted for seven out of ten common carrier passenger miles compared with two out of ten in 1951.

Let me relate this growth during the past few years to an airport to give you an idea of how desperately we need to modernize and expand the airways and airport systems. John F. Kennedy airport on Long Island is a very modern airport. When JFK was being built, the FAA calculated that JFK would be able to handle 260,000 aircraft operations per year—that is, take-offs or landings—without delays. You might call 260,000 aircraft operations the *delay-free threshold* for JFK. Yet that airport is already handling in excess of 500,000 aircraft operations per year, with the inevitable delays.

Now, let's project a few years into the future. The latest FAA projections give us these figures for the scheduled airlines. In 1968, the number of passengers was 152.6 million. The estimate for 1974 is 269.5 million; and for 1979, the figure is 429.0 million. In other words, the numbers of passengers is estimated at almost three times last year's total. The paralleling statistic of equal importance is "revenue passenger miles." And here the figure for 1968 was 106.5 billion; with the projection for 1974 being 204 billion, and for 1979, 342 billion.

The estimates for air cargo show a growth in excess of that for passengers. The growth rate is projected at 20 per cent per year. This means that by 1975, U.S. domestic and international air carriers should be flying about 20 billion ton-miles of freight and mail, compared with 5.0 billion ton-miles in 1967.

To provide service for additional passengers and freight, the air carriers are forecast to increase their fleets from a total of 2,452 aircraft at the beginning of 1968 to 3,480 by the start of 1979.

On the General Aviation side of the picture, the 1968 figure for General Aviation aircraft was 114,000. The 1979 estimate is 205,000, which means that General Aviation will be expanding at about the same rate as the airlines.

If these projected increases in the amount of commercial flying are not enough, you might also consider that there will be a greater diversity in the types of aircraft that will be flying by the end of the 1970's. There will be far more helicopters of various sorts and sizes, and there will be a whole new family of STOL aircraft. In one sense, these aircraft will complicate the aviation picture. But in another sense, they will help to alleviate some of the congestion in the airways, because they will be able to fly in air corridors not presently being used for the higher and faster flying jets.

These projections have been included in these remarks to help you to reach the conclusion that the airways and airport crisis of today is going to get worse—much worse if drastic steps are not taken quickly to improve and expand our total air transportation system—that is—airways, airports and the transportation systems to and from communities to the airports. If we do not move sensibly and energetically to make the needed improvements the growth predictions outlined ill not come to pass.

Here I would like to stress another vital and most important facet of the problem—and that is a primary responsibility of the Administrator of the FAA under the law. He carries this burden on his shoulders seven days a week, 24 hours per day. Statements have been made in the past that a high level of safety can be maintained with current FAA's funding levels through the exercise of the FAA's regulatory powers. This is simply not so. I know of no responsible person in FAA or in the Aviation Industry who will agree that a reasonable degree of safety can be maintained in today's environment with current funding levels. I suggest you just ask the airline pilots who fly to tell you what they think. The answer, I can assure you, will be loud and clear.

The question arises then "What needs to be done?" The answer has been well thought out and presented in FAA's "National Aviation Systems Plan." This Plan is a product of bitter experience, and a lot of hard work by many dedicated people. There is little disagreement, if any, between the FAA, the military, and the aviation community in regard to this Plan. The Plan covers a 10 year period, with detailed costing for the first five years and estimated for the next five.

The Plan covers the additional equipment and facilities that will be necessary to service efficiently and safely the vastly larger number of aircraft that are projected to be flying in our skies during the next decade.

I will not discuss the details of the Plan, but I would like to make some comments relative to it. First, I wish to explain what we mean when we use the term "Air Traffic Control System" or the "National Aviation System." We mean not only the control towers, the En Route Traffic Control Centers, the Controllers, the Instrument Landing Systems, radars, communications, etc., but also the operational part of the nation's airport, i.e., runways, taxiways, ramps and the high intensity lighting systems. With all of the deficiencies in the airways part of the system—and they are too numerous to mention here—the biggest bottle neck in the Air Traffic Control System is the airport.

The problem then—where do we get the money to do the job which we all know must be done. Will the Administration request the necessary billions from the Congress to come from the General Revenues of the Treasury? The answer is a "flat" *no*—and this applies whether the Democrats or Republicans are in power. Will the Congress appropriate the necessary funds if the Administration requested them? Again, the answer is a "flat" *no*. I speak from painful experience.

Since it is clearly in the National interest that the job must be done—the question is: "Where does the money come from?" The answer here is also quite clear—"From a reasonably equitable system of user charges, augmented by a fair share from general revenues which may be properly charged to the National interest."

Such a plan was unanimously proposed last year by the prestigeous Senate Commerce Committee. Overall it was a good plan

and deserved to become law. Unfortunately, and I should say very fortunately for the country, it did not. There were disagreements within the Administration and within the Aviation Community. All of us are the losers.

I know that the new Secretary of Transportation, Mr. Volpe, and the new Administrator of the FAA, Mr. Shaffer, understand the importance of doing something *now* to improve our Air Transportation System and that they are in favor of airways/airport legislation along the general lines proposed by the Senate Commerce Committee last year. Again there is disagreement within the Administration and within the Aviation Community. On the other hand, there is a good understanding in the Congress of what needs to be done and the importance of doing it quickly. The Committees principally concerned are awaiting the Administration's proposed legislation. It is my hope, a faint one I must add, that the diverse elements within the Administration and within the Aviation Community can reach some reasonable accord and agreement on the proposed legislation. This would assure the early passage of an Airways/Airport Bill. Failing this, I think the Congress must pass legislation which in its judgment, is in the best interests of the 200 million stockholders in this corporation called the United States.

In closing I want to say just as strongly as I know how that failure to get early airways/airport legislation will result in:

A. A significant deterioration in the safety of the system.

B. Further deterioration in the operational effectiveness of the system, including more delays in the air and on the ground and more arbitrary restrictions.

C. An adverse impact on the growth of the National economy and on the Defense posture of this Nation.

I earnestly hope that we do not have a series of catastrophies to bring these points home.

OKINAWA

Mr. BYRD of Virginia. Mr. President, the Foreign Minister of Japan will arrive in Washington Saturday, May 31.

He will be in the United States to discuss the future status of the island of Okinawa.

Okinawa, and in fact the whole U.S. position in the Far East, is part of the heritage of World War II, which ended 24 years ago.

During the past quarter century, the United States has entered into mutual defense agreements with 44 nations—and has been involved in three major wars, counting World War II.

I doubt that any other nation in history, during such a short period of time, has engaged in three different major wars.

The U.S. Senate, under the Constitution, has a responsibility for foreign policy.

Too often during the past 25 years, the Senate has abdicated its responsibility in the field of foreign affairs, relying instead on the Department of State. Now I know that within that Department the overwhelming majority are dedicated, conscientious individuals; I know, too, that many of them are men of great ability.

But, I know also that whatever the reason, or wherever the responsibility may lie, the fact is that our Nation in this year of 1969 finds itself in a most unenviable position.

We are the dominant party in the North Atlantic Treaty Organization, the purpose of which is to guarantee the freedom of Europe; we are the dominant party of ANZUS—the treaty among Australia, New Zealand, and the United States; we are the military head of CENTO—Central Treaty Organization—Turkey, Iran, and Pakistan; we are the dominant partner in the Southeast Asia Treaty Organization, one of the prime reasons, according to former Secretary of State Dean Rusk, that the United States became involved in the war in Vietnam; we have guaranteed the security of Free China, and we have guaranteed the security of Japan.

As a practical matter, we have become the policeman of the world.

Can we logically continue in this role? Should we, even if we could?

Twenty-four years after the defeat of Germany, we have 225,000 troops in Europe, mostly in West Germany.

Twenty-four years after the defeat of Japan, we have nearly 1 million military personnel in the far Pacific, on land and sea.

The question of Okinawa, which the Japanese Foreign Minister is coming here to discuss, is of great significance to our position in the Pacific.

The status of the island has become the most inflammatory political issue in Japan; a clamor is rising among Japanese and Okinawans for the reversion of the Ryukyu Islands to Japanese administration.

There are many factors behind this move by Japan to regain administrative control of Okinawa, one of which is the political fate of the administraton of Prime Minister Sato.

In Japan, leftist elements, including the Socialist and Communist Parties and radical student groups, have vowed to wage a massive campaign of confrontation with the Government in 1970 to force the dissolution of the United States-Japanese Security Treaty. In addition, the same elements have coupled with this a demand that the United States withdraw completely from Okinawa.

This reminds one of the effort of elements in Panama to blackmail the United States into giving up the Panama Canal. The administration of President Johnson drew a treaty to meet the demands of the Panamanians, but strong opposition in the Senate kept the President from bringing the issue to a vote.

Okinawa is our most important single military base complex in the Far East—and is strategically located.

The United States has had unrestricted use of the island since World War II.

Beginning with President Eisenhower, each administration since 1951, has firmly maintained that the unrestricted use of U.S. bases on Okinawa is vital if the United States is to continue to have obligations in the Far East.

Sometimes the future status of Okinawa is linked to the United States-Japan Mutual Security Treaty in which the United States guarantees the freedom and safety of Japan.

Such linkage is not correct. These are two separate issues.

The Mutual Security Treaty with Japan was consummated in 1960. Either party has the right to reopen it after 10 years, otherwise it remains in effect.

But, the status of Okinawa was determined by the 1952 Treaty of Peace with Japan. There is no legal obligation to discuss reversion of the island to Japan at this time or any other time.

The United States has complete administrative authority over the Ryukyu Islands, the largest of which is Okinawa, under the provisions of article 3 of the 1952 Treaty of Peace. This peace treaty is entirely separate—and I want to emphasize that—from the 1960 Mutual Defense Treaty with Japan.

The Japanese Government recognizes the important contribution of our Okinawa bases to Japanese and Asian security and is not likely to seek the removal of our bases. The Japanese Government does, however, want administrative control of the island which supports our major military base complex in the West Pacific.

To state it another way, the Japanese Government wants the United States to continue to guarantee the safety of Japan; to continue to guarantee the safety of Okinawa; to continue to spend hundreds of millions of dollars on Okinawa—$260 million last year. But it seeks to put restrictions on what the United States can do.

Japan wants a veto over any U.S. action affecting Okinawa. It specifically wants the right to deny to the United States the authority to store nuclear weapons on Okinawa and would require prior consultation before our military forces based there could be used.

In other words, the United States no longer would have unrestricted use of Okinawa.

Our role as the defender of the Far East has enabled Japan to avoid the burden of rearmament—less than 1 percent of her gross national product is spent on defense—and thus concentrate on expanding and modernizing its domestic economy.

In defense matters, the Japanese have gotten a free ride. As a direct result, Japan's present gross national product is over $120 billion and ranks third in the world, behind only the United States and the Soviet Union.

While the peace treaty with Japan gives the United States unrestricted rights on Okinawa, the 1960 Mutual Security Treaty provides that our military forces based in Japan cannot be used without prior consultation, with the Japanese Government.

For example, when the North Koreans seized the U.S.S. *Pueblo* last year, Adm. Frank L. Johnson, commander of naval forces in Japan, testified that one reason aid could not be sent to the *Pueblo* was that approval first must be obtained from the Japanese Government to use U.S. aircraft based in Japan, those being the nearest aircraft available.

The Japanese Government now seeks to extend such authority to Okinawa.

Whether the United States should continue to guarantee the freedom of Japan, and Free China; whether we should continue the mutual defense arrange-

ments covering the eight countries signing the Southeast Asia Treaty; plus the Philippines; plus Australia and New Zealand; plus Thailand, Laos and Vietnam, is debatable.

But what is clear-cut commonsense, in my judgment, is that if we are to continue to guarantee the security of the Asian nations—and our Government has not advocated scrapping these commitments—then I say that it is only logical, sound, and responsible that the United States continue to have the unrestricted use of its greatest base in the West Pacific; namely, Okinawa.

The demand on the part of Japan that she obtain administrative authority on Okinawa stems from President Kennedy's statement in 1962 that he looked forward to the island's reversion to Japan "when the security interest of the free world will permit."

President Johnson reaffirmed this statement, and, in 1967, he and the Japanese Prime Minister agreed that the United States and Japan should keep the status of the Ryukyu Islands under review, "guided by the aim of returning administrative rights of these islands to Japan."

While I agree that eventually the Ryukyu Islands will be returned to Japan, I think it unfortunate that public statements by past Presidents, not binding on the U.S. Senate, have aroused the hopes of the Japanese that it could be accomplished at an early date.

It would be foolhardy, in my judgment, to commit the United States to defend most of the Far East and then to give away this country's unrestricted right to use its military bases on Okinawa.

For 4 long years, we have fought the Vietnam war with one hand tied behind our back. As a result, the war has been prolonged and the casualties increased.

Let us not be so foolish as to get into a similar position by giving someone else control over our principal military complex.

It is vitally important that public attention be focused on this issue of unrestricted use of our bases on Okinawa.

I speak as one who is not sympathetic to our deep involvement in Southeast Asia, one who from the beginning regarded it as an error of judgment to become involved in a ground war there.

I speak as one who questions the wisdom of our country's committing itself to mutual defense agreements with 44 different nations.

I speak as one who feels that we cannot logically be the world's policeman.

If by the act of granting Japan administrative control over Okinawa, the United States could insure a multinational defense structure in the Far East, with increased participation by Japan—if this action would relieve our country of a measure of its heavy international responsibilities—then, I would support a reversion of Okinawa to Japanese control.

But this is not the case.

Quite the contrary. Surrender of control over Okinawa would only make more difficult our role in the Pacific.

The issue must be decided by the Senate; it was the Senate which ratified the treaty of peace in 1952, which gave to the United States the unrestricted use of Okinawa.

In my opinion, so long as the United States maintains its significant role in the Far East, the continued unrestricted use of our bases on Okinawa is vital and fundamental.

Mr. President, circumstances have made it impossible for the distinguished senior Senator from South Carolina (Mr. THURMOND) to be in the Senate today. He asked me to insert in the RECORD, on his behalf, certain remarks which he would have made had he been here in regard to the matter of Okinawa. So at this point, in behalf of the senior Senator from South Carolina (Mr. THURMOND), I ask unanimous consent that remarks prepared by him for delivery in the Senate be inserted in the RECORD, including a supplement from the Morning Star, published on the island of Okinawa.

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

STATEMENT BY SENATOR THURMOND

Mr. President, I heartily endorse the remarks of the distinguished Senator from Virginia with regard to the return of Okinawa to Japanese control.

This is not a matter where there has to be a significant difference of opinion between the United States and the Japanese Government. The Japanese have frequently stated that the Okinawa situation need not be a point of contention. The Japanese realize that Okinawa has great significance to them as a bastion of U.S. defense forces since these defenses are as important to them as they are to us.

The Honorable Takezo Shimoda, Japanese Ambassador to the United States, recently stated in a news conference in Tokyo that Japan would have to possess its own defense power before Okinawa could be returned. He said that the U.S. bases could not be withdrawn without endangering world peace.

The problem is that it is easy to stir up negative agitation in any part of the free world over any emotional issue. Those who are seeking to destroy the U.S. presence in the Far East have been working hard fanning the flames of emotion. It is noteworthy that no agitation has been raised in Japan about the return of the Soviet-held Kurile Islands, former Japanese possessions.

These issues are especially clear to those Americans living on Okinawa. The Okinawa Morning Star, under the editorship of Robert M. Prosser, has courageously battled to keep the status of Okinawa under objective examination, so that the mutual benefits to all parties concerned may be discussed in a public forum.

Mr. President, The Morning Star recently put out a special supplement containing a number of worthy articles bearing on the situation. I submit the supplement for printing in the Congressional Record at the conclusion of my remarks.

[From the Okinawa Morning Star]

MAJOR GENERAL PAGE CITES OKINAWA'S IMPORTANCE

(By Robert M. Prosser)

Okinawa's importance as a military base will be increased rather than lessened with the conclusion of the war in Vietnam, Maj. Gen. Jerry D. Page, commander of the 313th Air Division, told members of the American Chamber of Commerce on Okinawa yesterday at the Tokyu hotel.

Okinawa by itself has no great economic potential nor is it a tourist paradise, the two-star general said. The prime and continuing usefulness of the Ryukyus is as a military base and as a deterrent to Communist aggression in the Far East, the general said.

"Within the past 25 years every time that the Communists have smiled at the outside world the United States has bent over backward to smile back," the general said. Each time that the Americans have smiled the Russians have taken advantage of the situation with aggressive military moves. When the Americans smile military budgets are slashed and if the Soviets were to smile on a sustained basis the American military potential would disappear entirely, the general reasoned. The Communists have not been able to maintain their good behavior for longer than seven years at a time, Page said a fact which keeps the United States on guard. Before the Korean War, which Page described as the Soviet's greatest military blunder, the American military budget had been to $11 billion. After the North Korean attack on South Korea, however, American military spending rose to $43 billion. The general reasoned that the Communists attack was brought about by the fact that the Russians believed that the Americans would not defend South Korea against attack and that America's soft posture toward the Communists invited attack.

Inviting the chamber members to think as Chinese Communists, Page asked what they would do if they saw an undefended Okinawa or a Ryukyu chain that the Americans were prepared to give away.

"The Communists have not changed their objectives in the past 25 years," Page said. "Only their methods have been changed. They still hope for world conquest."

"Military capability plus military resolve equals deterrent power," the two-star general said. "We are attempting to deny the Communists the use of war to attain their objectives by maintaining a strong deterrent force in the Ryukyus. By denying the Communists the use of war to attain their objectives we force them to compete with us on a peaceful basis. Under the circumstances military power is a creative force since it makes it possible for us to force the Communists to face us in peaceful competition."

"If our will to defend ourselves is lacking then our military strength is meaningless," Page said. Unless the United States maintains a flexible posture in facing the Communists then we forfeit leadership and provide the Communists with the ingredients for the decisions that they will make. We have made wrong decisions in the past and they have been expensive mistakes paid for in both lives and money. In protecting ourselves against the Communists we have any of three alternatives, Page reasoned. We can do nothing and prove to be paper tigers, we can fight a conventional war or we could fight a total war. When the United States abandons necessary bases in order to win friends the United States loses flexibility and narrows the choice that it may have to make in case of a showdown with the Communists. When we lose flexibility we must choose between being paper tigers and all-out war. Polaris missiles can be used in total war but they are not sufficient by themselves to create doubt in the minds of the Communists concerning their ability to win an all-out war.

"South Korea and Taiwan would welcome the American military bases that are on Okinawa," Gen. Page said. "However, there are disadvantages to both of those locations. Besides, he added, Okinawa provides a greater degree of flexibility than any other available base.

"Americans on Okinawa do not communicate adequately with the Ryukyuans," the general commented. As the result the Ryukyuans are not sufficiently well-informed concerning the value of American presence on Okinawa. "The Okinawans are good peo-

ple but they are not astute or sophisticated," the general said. Few of them realize the dangers involving reversion because they have not been told.

The Air Force general described the recently released figures covering the American contribution to the Ryukyuan economy as "low." According to figures carried yesterday in the Morning Star, U.S. direct and indirect expenditures in the Ryukyus during 1968 amounted to $260,700,000. Gen. Page said that he felt that this figure was low because the Air Force and Air Force personnel alone spent $116,000,000 in the Ryukyus during 1968. Not included in the calculations made by the military, Page said, were 3,000 Air Force personnel who were on Okinawa every day on temporary duty status during 1968 nor was the spending of 80,000 Air Force passengers who were funneled through Air Force installations on Okinawa each month last year. These TDY personnel and passengers were described by the general as being heavy spenders since they were away from home. As such they contributed a great deal to the civilian economy of the Ryukyus, a fact which was not taken into account by financial observers.

OKINAWA'S FUTURE COURSE STILL SAME, DECLARES HIGH COMMISSIONER LAMPERT

(By Robert M. Prosser)

No new policies have been recommended for the future course of events on Okinawa, Lt. Gen. James B. Lampert, high commissioner of the Ryukyus, told the American Chamber of Commerce on Okinawa yesterday noon at the Top of the Rock.

Lampert had returned only an hour earlier from a background briefing in Hawaii by military officials. The three star general emphasized the importance of foreign business on Okinawa and then outlined some of the problems facing the American administration of the Ryukyus. Answers to the problem are not immediately available but are being sought the high commissioner said.

The major topic of discussion concerning Okinawa is the question of the reversion of administrative rights of the Ryukyus to Japan, the general said. The high commissioner emphasized the "unofficial" aspect of conferences which recently took place in Kyoto concerning Okinawa and its return to Japan. The general found encouragement in the fact that there is considerable talk concerning reversion in Japan and that the subject is gaining some attention in American newspapers.

Other problems which the general said were present included objections to B52 bombers on Okinawa by left wing groups, the gold flow and labor problems. Foreign investment in the Ryukyus is a problem that has come to the fore of late the general said, with the passage of a foreign investment law by the Ryukyuan legislature. The law at present is in conflict with a military ordinance covering the same subject and the military ordinance takes precedence over the law. Despite this the GRI is attempting to place its law in operation despite its illegality. The U.S. Civil Administration in the Ryukyus has objected to the GRI law covering foreign investment on the grounds that it needlessly restricts investment in the Ryukyus. Lampert said that he was hoping that the GRI and the U.S. administration could find a "mutually acceptable" solution to the problem in order to raise the economic role of Okinawa.

Foreign business has been an important factor in making Okinawa the "economic keystone of the Pacific" the general said.

Maintenance of Okinawa as a stable and strategic military base is still the high commissioner's prime function, General Lampert said.

After describing his background in the peaceful development of atomic energy, General Lampert who described himself as "a tourist in residence" said that on a recent Sunday drive he purchased a quantity of freshly caught fish from a shop in Nago. The fish came from the immediate offshore waters. They tasted fine the general added. Left wing politicians have conducted a campaign recently similar to earlier drive in Japan to convince the people of the Ryukyus that atomic submarines were contaminating the seas off Okinawa and making fish caught in these waters unfit to eat.

COMMUNIST PEOPLES' PARTY PERFECTS SOLUTION FOR MAKING ENEMIES ON OKINAWA AND IN JAPAN

(By Robert M. Prosser)

Okinawa's bumptious People's Party has again demonstrated its amazing ability to create ill-will, lose friends and alienate people. This time, posing as the spokesman for 900,000 Okinawan people, one Saneyoshi Furugen accomplished the near impossible by thoroughly angering Japan's suave and politically cool Prime Minister Eisaku Sato. Furugen is the darling of, and the spokesman for, the wild, wild far left as the representative of the Communist-kowtowing Okinawa People's party.

Furugen gained audience before Japan's prime minister as a member of a nine-man delegation which had gone to Japan to complain about the presence of B52 bombers on Okinawa. Furugen and the People's Party are better known for the variety and consistency of their complaints than for their accomplishments. As the permanent self-appointed complaint department of the Ryukyus the OPP has a 20-year record of unending complaints, accusations and tales of unmitigated grief that would bring tears to the orbs of a glass-eyed process server. During this double decade of determined woe the OPP has frequently complained and bemoaned opposing causes all in the same list of conflicting demands. To the OPP the complaint is all-important and the solution, if any, is to be avoided. Why spoil a good complaint by doing something about it, has been the political theory upon which the OPP has attempted to base its success.

As insurance against * * * to complain the OPP has blandly demanded lower taxes, higher salaries for government employes and lowered commodity prices all in the same breath. The local complaint department suffered a serious political bereavement recently when the high commissioner announced that in the future the post of chief executive would be filled through popular election. Bereft of one of their favorite and most durable complaints the OPP made haste to find some new source of political annoyance. They discovered the B52s and fell upon this new issue with shrill cries of delight like a flock of sea gulls finding a fresh cache of offal. Furugen was in the act of sticking political pins into his pelt in search of public sympathy when he made bold and told Japan's Prime Minister Sato that he wasn't sufficiently worried about the B52 issue with which the OPP was currently attempting to worry the nation. If Furugen's reasoning was bad his manners were worse. Prime Minister Sato was quick to tell Furugen that he was in no mood to be admonished on behalf of a phony * * * complainer and that Furugen could perform a great service for all by getting lost, preferably on a permanent basis.

No one should feel sorry for Furugen. He has been denounced before and no doubt will be censured again in the future for his boorish conduct unless his manners undergo radical improvement. It is unfortunate, however, that Okinawa must be represented in Tokyo by persons of Furugen's caliber. Furugen's amazing conduct in the presence of his betters is particularly unfortunate in that it occurred at the time when Okinawa is attempting to gain the political and financial sympathy of Japan. Okinawan demands for seats in the Japanese Diet for Ryukyuan observers have not been furthered by the actions of Furugen or the busy-body delegation which accompanied him to Japan to complain about the conduct of the Americans on Okinawa.

The Japanese reason with considerable logic that if they are to be beset by complaints from the Ryukyus even before Okinawa becomes Japan's official problem, then what will the conduct of the Ryukyuans be after reversion? If Furugen's conduct in Tokyo is a sample of what Japan is to expect from the Ryukyus the Japanese are likely to postpone reversion for as long as possible. And we can't say that we blame the Japanese.

COMPROMISE TAKES TWO, JAPAN EDITOR EMPHASIZES

(By Robert M. Prosser)

The art of compromise was reviewed the other day by Masaru Ogawa, senior editor of the Japan Times, in connection with the recent and somewhat explosive statement issued by the Japanese ambassador to the United States earlier in connection with the possible return of Okinawa to Japan.

In the light of a possible Adults day truce it might be appropriate to review Ogawa's analysis of the statements by Ambassador Takeso Shimoda, veteran diplomat for Japan, and perhaps add a few notions of our own for the benefit of Americans and others who may have missed the opinions of a Japanese writer who is not a member of the Japanese left wing brotherhood of crisis creators. Ambassador Shimoda told the Japanese that if they expect the return of Okinawa they must be willing to do so on American terms which also seem to be acceptable to the majority of the Japanese people. The Americans might be willing to turn Okinawa over to a friend, Ogawa reasoned, but it is the duty of the Japanese ambassador to the U.S. to explain to the Japanese people that the Americans are unlikely to release Okinawa to an avowed enemy.

The ambassador is not a traitor to the Japanese people when he explains these facts of life to the Japanese, Ogawa said. The ambassador is only doing his duty when he explains to the Japanese people what responsible thinking in the United States dictates, Ogawa wrote. Shimoda said that anti-American struggle with helmets and staves is not the answer to the return of Okinawa to Japan and those who feel that this is the answer to all current problems are not realistic.

It is not only the task of the Japanese ambassador to the United States to explain Japanese feeling in Washington but it is also the duty of the Japanese ambassador to explain American opinion to the Japanese. Compromise and information exchange is a two-way street. Critics of Shimoda in Japan have complained that Shimoda is something less than a honorable Japanese because of his having relayed American opinion to Japan as well as carrying Japanese opinion to Washington.

"We feel strongly that it is unworthy of an independent Japan to seek the return of territory without being prepared to make due payment," Ogawa told readers of Japan Times. "Due payment" in this case is proper assurance that the American military base on Okinawa does not fall into hostile hands.

"To expect the return of the islands (Okinawa) immediately and unconditionally as our leftist elements insist, is indeed, a sign of subservience and of mendicancy, a throwback to the postwar occupation period when we depended heavily on American generosity—which we came to expect as our due.

"If we want to deal with the U.S. as an equal, we must be prepared to hold up our end. And in the instance of Okinawa, it would mean an eventual willingness to compromise after due negotiations on the status of the bases while building up our own capability

for self defense which would in time enable us to replace the American presence there," Ogawa concluded.

In violently criticizing Ambassador Shimoda the Japanese leftists have contrasted Shimoda's reports with the opinions from the former U.S. ambassador to Japan, Edwin O. Reischauer whom the leftists charge is more pro-Japanese than the Japanese ambassador to the U.S. Perhaps this is a splendid time to begin our compromises. How about trading ambassadors with Japan for keeps. We'll keep Shimoda and the Japanese can keep ex-ambassador Reischauer who still insists upon talking like the sole voice of American opinion. This arrangement might please a wider spectrum of American and Japanese opinion than anything else that could be arranged on short notice.

OKINAWA IN SPOTLIGHT WHILE RUSS HOLD KURILES

(By Hessell, Tiltman)

(EDITOR'S NOTE.—In Japan the view is widely held that the postwar era will not end until not only Okinawa and the Ryukyus also the "lost" northern island territories occupied by the Soviet Union are returned to the motherland. The Soviet Union, which seized the islands in question—Habomai, Shikutan, and Etorofu and Kunashiri, the two southernmost isles in the Kuriles chain—during the confused period that followed the termination of the Pacific war, denies that any territorial issue exists between the two nations and declines to discuss the question. There matters have rested since Japan regained its sovereign independence. Now, following the reversion of Ogasawara last June and with negotiations underway aimed at fixing a date for the reversion of Okinawa. Tokyo is belatedly blueprinting plans to raise afresh the unsolved northern territorial issue, in the following article our Asian commentator tells the story of an issue that has been deadlocked for the past twelve years.)

TOKYO.—One of the major curiosities of Japanese history as the 44th Year of Showa dawns consists of the fact that while public pressures are being whipped up among emotional Japanese for the "immediate and unconditional" return of Okinawa, little is said or read concerning the Russian-occupied island territories off the coast of Hokkaido: the only recent item in the Japanese press being a Soviet statement that maybe 18 Japanese fishermen seized by Russian patrol boats for allegedly violating so-called Soviet territorial waters will be released and returned to Japan in the near future, presumably as a New Year "present" to the nation from the big-hearted Kremlin.

The contrast between the United States record in the south, and Russia's reiterated refusal even to admit the existence of any unsolved territorial question in the north forms an interesting study. On the one hand the influential Japan Times recently declared that a sane, dispassionate appraisal of the Ryukyu situation rules out any sudden return of the islands to Japanese control, adding "it would be most unfortunate if the impatient islanders should fall under the influence of the rabble-rousers to cause a major confrontation." On the other hand, there is little comment in Japan and a deafening silence from Moscow save only for Russia's persistent and fateful "Nyet."

Since plenty is heard in some quarters in Japan concerning the sins of wicked American "imperialists" who have already returned several chunks of real estate to Japanese control, and strangely little about the Soviet imperialists who seeped into Japanese islands in 1945 and have ever since declined to discuss the matter, a recapitulation of the facts concerning Japan's northern irredenta may be recommended as interesting bedside reading this year-end.

That story first came widely to public notice in the summer of 1956, four years after Japan regained its independence, when Russo-Japanese negotiations aimed at terminating the technical state of war between the two countries ended inconclusively with an exchange of documents restoring diplomatic relations plus pictures of an historic handshake between Japan's late Foreign Minister Mamoru Shigemitsu and Soviet Deputy Foreign Minister N. T. Federenko.

It took 11 years and four months (including the seven days that the Soviet Union was at war with Japan before the surrender!) to reach that limited agreement. Another 12 years have since passed, during which nothing has changed and no progress toward a formal peace treaty has been made: the lovable Communists still occupy the two southernmost islands of the Kuriles chain plus Shikotan and Habomai, all historically and geographically integral parts of Japan's home islands. And how many more years or decades will elapse before they quit and go home only God knows.

At the time the Soviet Union uttered its first "Nyet" in August, 1956, this reporter commented: "The Soviet Union's flat rejection of Japan's territorial claims is viewed in many quarters in Japan as constituting Russia's revenge for nearly half a century during which Japan represented the main obstacle to Russian expansion in East Asia.

"In prewar days, Japan's troops in Manchuria were ordered to sleep with their arms beside them 'for ycı know not the day nor hour when the Russian bear will strike,' and border incidents—not excluding pitched battles between considerable forces—were frequent, with foreign newsmen in Tokyo wondering whether each clash would prove to be 'it'—the one-too-many that would touch off a second Russo-Japanese war.

"In the end 'it' did not happen until Japan's capacity to fight back had been broken by others. One week before Japan surrendered to the allied powers, the Soviet Union proceeded to make the most of the opportunity thus presented by grabbing all it had ever lost or tried to seize, plus a number of islands that had been part of the Japanese homeland throughout recorded history.

"For good measure the Red Army then proceeded to 'liberate' such machinery in the vast Mukden Arsenal as its experts considered worth shipping back to Siberia. When I visited the arsenal a few weeks after the Russians had withdrawn northwards, gaping holes in the workshops bore eloquent testimony to the thoroughness with which the Russians had accomplished that task.

"While Stalin's 'seven day soldiers' were thus looting while the looting was good, Gen. Douglas MacArthur was establishing in Japan the most benevolent occupation in history—an occupation that was terminated seven years later by a peace treaty restoring Japan's sovereignty and self-respect which the Soviet Union and its satellite declined to sign.

"When, eventually, the Soviet Union got around to opening negotiations with Japan aimed at ending the technical state of war and the resumption of normal relations between the two countries, it quickly became clear that Moscow's conception of 'peace' was one dictated by the victors to the vanquished.

"Irrelevances such as increased trade, fishing 'rights' and belated return of surviving 'war criminals' held in Russia were used to bait the hook dangled before the Japanese. But on the key-issue—the return of Russian-occupied Japanese territories (other than the Habomais and Shikotan under certain circumstances) to Japan the Russian reply was an adamant 'nyet.'

"The reply is still 'nyet.' Even though Foreign Minister Mamoru Shigemitau had indicated that Japan would waive its desire for the return of the main Kuriles and Southern Sakhalin in exchange for Russian agreement to restore Etorofu and Kunashiri—the two southernmost islands of the Kuriles which have always been Japanese territory—Moscow, which lashes the West as imperialists, continued to stand firm in its intention to retain its hold on those 'colonies' of the Soviet Union.

"Pravda and Izvestia, the official newspapers of the Russian Communist party and the Soviet government respectively, have characterized the Japanese demands for what is termed 'territorial concessions'—Russian euphemism for the return of Japanese territory to Japan—as 'unreasonable and unfounded' and we are told the Moscow observers interpreted these comments 'as indicating that Russia believes it holds all the trumps and has no intention of giving up the island.' Nevertheless, in making 'nyet' the last word Moscow may well be miscalculating. The Japanese, like the Russians, have long memories. It is at least possible that a 'peace treaty' dictated by Russia would herald the beginning of a new period of tension in the North Pacific, with the former position reversed and Japan awaiting her chance to balance accounts. Moreover, before a 'peace-loving' Moscow becomes too certain that it holds all the trumps in its cynical offers to swap trade and fishing permits for Japanese soil, it would do well to devote some thought to the repercussions of its attitude on the rest of Asia.

"Messrs Bulganin and Khrushchev have devoted considerable time, energy and charm to traveling around Asia and denouncing the wicked colonizers who exploited the weakness of other peoples, and to holding up the Soviet Union as the true friend of the under-privileged. The acid-test of such lofty sentiments has now come. Russia has the chance of proving the genuineness of its declarations by conceding to Japan terms as just and benevolent as those extended to that country by the 'imperialists' of the West."

And I concluded my reports to newspapers in Britain and the United States by saying: "Moscow may stand words on their heads but even Moscow cannot make a refusal to return Japanese territory to Japan appear respectable. Two little specks of land off Hokaido—of scant importance to anyone except fishermen who earn a living in those waters and the nation of which they have always formed a part—could build up into an international issue which will reverberate down the corridors of history long after the men who are making 'nyet' their trademark have departed from the international scene." That prediction stands.

Twelve years after the above words were written. Soviet Prime Minister Alexei Kosygin told a visiting Japanese cabinet minister that there was no territorial issue between the two countries to discuss, and the Sato administration announced plans to mount an active publicity campaign shortly aimed at securing the return of the "lost" northern territories.

"However," reported the Japan Times, "Government officials and Liberal-Democrats pessimistically believe that Soviet opposition to settling the (territorial) issue as Japan wants has become stronger than ever, reflecting the fluid international situation, the strengthening of Japan-U.S. ties, and other factors."

Just who are the Imperialists??

JAPAN CLAIMS OKINAWA RETURN WOULDN'T AFFECT U.S. BASES

TOKYO, January 24.—Japan's desire to regain Okinawa under a formula banning nuclear weapons from U.S. bases there does not necessarily conflict with its view that the bases are important, the foreign ministry said yesterday.

The important question is timing, Naraichi Fujiyama, director-general of the ministry's public information bureau, told a news conference.

If the United States agrees to return the island to Japanese control in three to five

years, Fujiyama said, Japanese Prime Minister Eisaku Sato hopes that the situation in Asia will have improved enough that the security of the Far East no longer requires bases with nuclear weapons.

Foreign Minister Kiichi Aichi told the Foreign Correspondent's Club of Japan Wednesday that the U.S. bases on Okinawa were important to the security of the Far East, "including Japan."

He also said "if it were at all possible" he would like the Okinawa bases put on the same status as U.S. bases in Japan, which by mutual agreement cannot stock nuclear weapons or employ their forces against any country without prior consultation with the Japanese authorities.

Asked if these two statements were contradictory, Fujiyama said, "There is no contradiction if you take the timing into account. The matters of timing and the bases are closely related."

He added: "It has been explained to the Japanese people that the bases in Okinawa are certainly serving as a deterrent power against any possible aggression. That, everybody understands."

On the other hand, Japan has a widely supported policy banning nuclear weapons. As long as Okinawa remains under U.S. administration, the Americans have a free hand in deciding what weapons to keep there.

The Japanese newspaper Mainichi reported yesterday that the United States has told Japan the rock-bottom American requirement is that Polaris-type nuclear-powered submarines be allowed to call at Okinawan ports.

If Japan agrees, the newspaper said, the United States would agree to remove land-based nuclear weapons from Okinawa.

Fujiyama said he did not know whether the report was true or not. He added: "I can clearly state that as far as the foreign ministry is concerned we have received no such information officially or unofficially from the United States."

JAPAN'S TOP SOCIALIST FAVORS RETURN OF OKINAWA TO JAPANESE RULE

TOKYO, January 24.—Japan's top Socialist said today the return of Okinawa to Japanese rule, if it can be accomplished this year, will make it easier for Japan to abrogate the Japan-U.S. security pact in 1970.

Tomomi Narita said if Japan can force the U.S. to give up its jurisdictional right over Okinawa, it will be a major "breakthrough" in the struggle against the security pact.

The chairman of the Japan Socialist party (JSP) was the keynote speaker at the JSP's . . . opened today.

He called on 500 of the party faithful to "fully participate in 'Return Okinawa' struggles" and lend brotherly assistance to demands that the U.S. withdraw its B52 bombers from Okinawa.

The JSP and the Japan Federation of Labor Unions (Sohyo) are spearheading a drive to call an end to the security pact, under which the U.S. is permitted to maintain military bases in Japan.

A national committee set up by the two groups have mapped a year-long program. Narita himself was outside the main Tokyo station yesterday handing out leaflets that denounced the treaty.

NUCLEAR ARMS REMOVAL FROM OKINAWA "MISTAKE"

(By Leon Daniel)

TOKYO.—Informed American sources in Japan insist firmly that removal of nuclear weapons from Okinawa would be a grave mistake.

Although they do not say so for the record, it is known that many U.S. military leaders hold this view. It is a view that is shared by some American diplomats here.

Many Japanese demand not only the return of Okinawa to Japan, but also removal of nuclear weapons from the island base the United States considers the keystone of its Pacific defense network.

But some U.S. military leaders and American diplomats believe that the nuclear stockpile on Okinawa serves as a deterrent, particularly to North Korean Premier Kim Il-Soung, who has vowed to "unify" the Korean peninsula.

The nuclear weapons on Okinawa are tactical rather than strategic, which means they are the kind designed for "limited war" rather than an intercontinental nuclear shoot-out.

In short, they are weapons that could be employed against North Korea if that Communist nation again marches against South Korea, as it did in 1950 to start the Korean War.

So some American military men and diplomats hold that what ultimately is decided on whether to keep nuclear weapons on Okinawa, vitally affects South Korea, Taiwan and other Asian nations with which the United States has security commitments.

It is a problem that cannot be isolated to the parties directly involved—the United States, Japan and Okinawa—but must be dealt with in the light of the security of the free nations of Asia, they contend.

The United States and Japan have the question of Okinawa reversion under joint and continuous review. The United States recognizes Japan's "residual sovereignty" over Okinawa and the rest of the Ryukyu Islands but how soon Japan gets them back may ultimately hinge on whether agreement can be reached on what to do about the nuclear weapons there.

If, for political reasons, the United States is some day forced to relinquish its nuclear capability on Okinawa, it might look around for an alternative site.

Guam is considered by some military leaders to be "too far to the rear" to be an effective site for stockpiling tactical nuclear weapons. But South Korea has indicated that its southern island of Cheju-do would be a likely site.

From a strategic standpoint, U.S. military leaders consider Okinawa the best spot to stockpile tactical nuclear weapons. It is situated 1,100 miles southwest of Tokyo, 780 miles south of Seoul, 400 miles northeast of Taipei, 920 miles northeast of Manila and 900 miles northeast of Hong Kong.

Another significant advantage of Okinawa, again from a military standpoint, is that the United States now has free use of its bases there.

So even if the administrative rights over the Ryukyus are returned to Japan U.S. military men want to hold on to "free access" to their bases and the right to stockpile tactical nuclear weapons there.

Before he became the No. 3 man in the State Department, Ambassador U. Alexis Johnson told the Japanese that if they wanted Okinawa back they were going to have to fish or cut bait. In other words, he told the Japanese that it was up to them to come up with a definitive plan for the reversion of the Ryukyus.

The American position, under former president Lyndon Johnson, was that any reversion plan must assure the United States free access to its bases on the islands. American sources said that "free access" principle was understood by both sides to include the continued maintenance of nuclear weapons on Okinawa.

The government of Prime Minister Eisaku Sato of Japan still has not come up with a definitive plan for reversion. If the plan it comes up with calls for the maintenance of nuclear weapons on Okinawa, Sato can look for vigorous opposition to it from the left.

These protests likely would contribute to the mounting opposition to the security treaty between Japan and the United States which is subject to review in 1970.

President Nixon has not tipped his hand on the reversion question, one that Sato plans to discuss with him during a visit to Washington next fall. That meeting is expected to have an important bearing on the future of U.S.-Japan relations.

JAPANESE AMBASSADOR DEFENDS U.S. POSITION ON OKINAWA

The reversion of Okinawa to Japan will be brought about by mutual understanding between the United States and Japan and not by a feud between the two countries, Takezo Shimoda, Japanese ambassador to the United States, told a news conference in Tokyo Monday.

According to press reports, Shimoda made the statement after emerging from a meeting with Japanese Prime Minister Eisaku Sato and Foreign Minister Kiichi Aichi. Shimoda is currently in Japan to consult with his government on several issues, among which is Okinawa.

Shimoda compared the strategic role of Okinawa's military bases with that of Gibraltar and said that the bases cannot be removed from Okinawa without endangering world peace. The role of the bases would be hampered if nuclear weapons, reportedly stored on Okinawa, were to be withdrawn, he added.

He also said that there is a need for Japan to possess a defense power in seeking the return of Okinawa.

When asked by a reporter how he felt about the planned demonstration on Okinawa to demand the removal of B52s, Shimoda said the movement is a discourtesy to the United States because the U.S. is defending Japan and Okinawa with its bases and B52s on Okinawa. He added that he "did not know how to apologize" to the U.S. for the planned strike.

Shimoda's comments drew reactions from Okinawan politicians Tuesday.

Tomomasa Ota, secretary general of the Okinawa Liberal Democratic party (OLDP), said that Shimoda should take into account the Okinawan position on the matter. The OLDP wants the bases reduced to the level of those in Japan when reversion occurs, Ota said.

Kansai Miyara, chairman of the Socialist party, saw the hand of Sato behind Shimoda's remarks. He said Sato is sounding out local reaction. The Socialists want reversion with all U.S. bases withdrawn.

Tsumichiyo Asato, chairman of the Socialist Masses party, commented that Shimoda shows no regard for Japanese and Okinawan desires. Asato added that Shimoda should never have been allowed to make the remark.

Sanetoshi Furugen, secretary general of the Okinawa People's party called the statement traitorous and said Shimoda shouldn't have been allowed to make it.

QUESTION OF OKINAWA STATUS STIRS LIVELY SENATE DEBATE

(By John Roderick)

TOKYO, February 10.—U.S. senators and congressmen yesterday pressed divided members of Japan's ruling Liberal Democratic party to say how far, if at all, the United States should pull back in Asia.

The question of the American military presence in the west Pacific arose in lively discussions during the second Japan-U.S. Parliamentary Conference which opened here Saturday.

An American organizer of the conference said afterwards the talks demonstrated primarily that the Liberal Democrats still thinking in terms of 15 years ago when the United States insisted on a military force-in-being in this part of the world.

Protestations by the American legislators that Washington wants to know how and to what extent—if at all—the U.S. should be committed were received with some disbelief, said this source.

The American congressmen—they included Sen. Hugh Scott of Pennsylvania, the minority whip, Sen. Clifford Case (R—N.J.) and Sen. Frank Moss (D—Utah)—came to the conclusion that the Japanese government party has prepared no unanimous views on the subject of security, which includes reversion of Okinawa, the question of Communist China and U.S. bases in Japan.

The Japanese, among them former foreign minister Zentaro Kosaka, Takeo Miki and Ichiro Fujiyama and party Vice Chairman Shintaro Kawashima, presented sharply divergent views on the return of Okinawa.

All agreed that reversion is wanted soon but disagreed on when and what status the bases should have. Afterwards, Miki told reporters the majority of the party wishes "hondo nami," elimination of prior consultation which now apply to American bases in Japan.

Prime Minister Eisaku Sato has not yet finalized his position.

U.S. Congressman Jeffery Cohelan (D—Calif.) said he believed there may be a possibility of negotiations between Japan and the U.S. on a formula which removes the nuclear weapons but continues to give the Army, Air Force and Navy free use of Okinawa.

He said he had made it "very clear" to the Japanese that if the "price is to high"—restriction of free use—the United States might have to abandon the Okinawa bases.

RUSS USED KURILES AGAINST U.S. PLANE

(By Phil Newsom)

NEW YORK.—When the Japanese carried out their surprise attack on Pearl Harbor, Dec. 7, 1941, their airplanes flew off carriers that had rendezvoused in secret at Tankan Bay, a deep cut in Etorofu Island, largest of the Kuriles.

In the summer of 1968, Russian MIG fighters rose from Etorofu to force down an American jetliner carrying American soldiers to Vietnam.

The GI's reported it appeared to be an important military installation.

Beyond that, little is known of these bleak and little islands which before Russian occupation in 1945 primarily were of importance to fishermen who sought crabs in the icy surrounding waters.

But, like Okinawa and Bonin Islands in the south, the Japanese regard them as integral parts of Japan and they want them back.

The islands involved are Habomai, Shikotan, Etorofu and Kunashiri, located just north of Japan's largest northernmost island of Hokkaido.

The Russians got them by agreement at the Yalta Conference and under terms of the San Francisco peace treaty after the end of World War II.

One basis for the Japanese claim now is that the Russians never signed the San Francisco treaty.

Aside from the territorial issue, an important factor is the safety of Japanese fishermen who find themselves in Soviet territorial waters almost the instant they leave Hokkaido.

The Russians have seized more than 1,200 Japanese fishing boats and arrested more than 10,000 fishermen since 1945.

Japanese ambassadors to Washington and Moscow are in Tokyo to report on progress of negotiations with both countries.

The United States recognizes Japan's "residual sovereignty" over Okinawa and other Ryukyu Islands and has agreed to their eventual return.

The Japanese have had no such luck with the Russians.

The Russians even have refused permission to Japanese families to visit graves on the islands.

Despite the Soviet Union's rigid stand, Japanese Prime Minister Eisaku Sato has declared that Japan cannot consider their independence restored until she has regained sovereignty over Okinawa and the northern islands.

Under the Japanese concept of strict division between diplomacy and economics, the issue is not expected to affect trade relations.

The Soviet and private Japanese interests signed a $350-million five-year agreement last summer under which Japan will buy much needed timber in Siberia. The Japanese and the Russians also are discussing joint development of copper, petroleum, natural gas, pulp and paper and a northern shipping route across the top of the Russians' land mass.

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

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

MILITARY POLICY IN VIETNAM

Mr. PELL. Mr. President, as I read in the press that our troops have now withdrawn from Hamburger Hill, I cannot help but rise to commend the sensibleness and prescience shown by the senior Senator from Massachusetts last Tuesday when he said:

> I feel it is both senseless and irresponsible to continue to send our young men to their deaths to capture hills and positions that have no relation to ending this conflict.

All that we will have gained as a result of the operation is 600 dead North Vietnamese and National Liberation Front young men. And sometimes I wonder if that is such a gain. And what have we lost? Fifty of our finest young men killed and 300 wounded.

This whole operation reminds me of a question and answer exchange I had with Secretary Rusk on March 12 1968, when he testified before the Foreign Relations Committee. On that occasion, Secretary Rusk said we were saving the South Vietnamese. I raised the question then whether our military efforts although succesful might determine only whether the graveyard would be in non-Communist territory.

It is not a question, Mr. President, of we here in the Senate attempting to direct individual military operations in South Vietnam. The senior Senator from Massachusetts pointed to this specific operation as one symbolic of a mistaken policy.

Accordingly, I thoroughly share the views of Senator KENNEDY and say, as I have said repeatedly here on the floor of the Senate, we should deescalate our military activities. Rather than continue our search and destroy policy, let us adopt a policy of military restraint consistent with the stated objectives of our negotiations in Paris.

And, let us remember that in the last week alone 265 young Americans have been killed in this war—a war in which we have become far too overcommitted; a war in which we should not be interested; a war from which with good sense and with viewpoints prevailing similar to that of the senior Senator from Massachusetts, we may extricate ourselves.

NEW YORK CITY'S CONSUMER UNIT TO FIGHT PROPOSED TELEPHONE RATE INCREASE

Mr. METCALF. Mr. President, during the past few months, the Subcommittee on Intergovernmental Relations has been holding hearings on my bill, S. 607, which, among other things, would establish an independent Federal Office of Utility Consumers Counsel and provide grants and other assistance to State and local consumers' counsels to represent the public interest of the consumer in matters concerning electricity, gas, telephone and telegraph services.

With applications for rate increases by industry-owned utilities soaring throughout the Nation, the issue of utility company overcharge is a basic one to the consumer. Witness after witness has filled our hearing record with case studies showing inadequate regulation, economic concentration, alleged antitrust abuses, unreasonable profits and restrictive practices.

Yet, the industry-owned utility companies and the National Association of Regulatory Utility Commissioners say that there is no need for a lawyer for the consumer because the companies and the regulatory agencies are perfectly capable of affording consumer protection.

Apparently, the officials of the largest city in the United States—New York City—are not about to buy the IOU-NARUC argument.

As reported in the New York Times on Sunday, May 25, the city, through its corporation counsel and assisted by a panel of utility experts and the resources of its Department of Consumer Affairs will go before the New York Public Service Commission and challenge New York Bell's $175 million rate increase application.

The main point here is that they are fighting the Bell increase and its unreasonable service charges for the consumer, not just for the city. Mrs. Bess Myerson Grant is quoted as saying:

> Since there are so few resources on the consumer's side, the initiative always rests with the utility. They set the time for a hearing on their policies. They determine which policies shall be the subject of inquiry.
>
> Only a nationwide network of vigorous and informed consumer-advocate institutions can offset the vast resources at the command of the utilities to persuade regulatory officials to see things their way.

No better argument for speedy consideration of S. 607 can be made than this statement by Mrs. Grant.

This action by New York City—taken by a duly authorized local consumer counsel is precisely the kind of activity which would be supported under the legislation. As the rate increases begin to pile up on the other areas of our country, the people will stand up and be heard—as they have done in New York. They will be heard in this Congress in a voice that will reduce the annual crowing of the utility lobbyists to a whisper.

I ask unanimous consent that the article from the New York Times be incorporated at this point in the RECORD.

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

CITY HIRES UTILITY EXPERTS TO FIGHT PHONE RATE RISE

(By Peter Millones)

The city has decided to fight the New York Telephone Company's recent request to the state Public Service Commission for a $175-million-a-year rate increase.

To bolster its chances for success, the city—through its Department of Consumer Affairs—is taking the unusual step of forming a committee of utility experts from universities to assist the Corporation Counsel's office in preparing its opposition.

The formation of a group of utility experts—five of whom have been selected—foreshadows a more vigorous scrutiny by the city of all public-utility operations here, according to sources in the Department of Consumer Affairs.

THE ACADEMIC ADVISERS

The city's move comes at a time not only when the telephone company is seeking its first statewide rate increase since 1957 but also amid recurring rumors that the Consolidated Edison Company will seek higher electric rates.

Selection of the five utility experts to be part of a permanent Advisory Panel on Public Utility Matters was revealed yesterday by Mrs. Bess Myerson Grant, Commissioner of Consumer Affairs.

Corporation Counsel J. Lee Rankin said he welcomed the assistance of the advisory panel. "These cases," he said, "are enormously complex and time consuming; now for the first time we should have needed support."

The telephone company has just completed its presentation of data to the P.S.C. to support its request. The commission has recessed further hearings for about a month to give opponents and the commission staff time to prepare cross-examination of company officials.

The increases sought by the company would raise the basic monthly 75-message-unit residential telephone bill in the city to $6.19 from the present $5.60.

The company would also increase the flat-rate monthly costs elsewhere in the state and increase toll-call costs. For example, a daytime call from New York City to Albany that now costs 70 cents would cost 77 cents.

The charge for installing a telephone would be doubled to $10 under the company's proposal.

The city is expected to attack the company's rate of return, its accounting procedures, its borrowing methods and other policies, including its advertising expense.

The five advisers selected by the city thus far are:

Prof. William K. Jones of the Columbia Law School, who has written a study of the theory and practice of regulation of the Federal Communications Commission and a textbook on regulated industries.

Prof. Herman Schwartz, now on the faculty of Michigan Law School, who will be at the Buffalo University Law School next fall.

Prof. Norman Redlich of the New York University Law School, who is a former executive assistant Corporation Counsel of the city.

Prof. Leonard M. Chazen of the Rutgers University School of Law.

Leonard M. Ross, a doctoral candidate in economics at Yale, who will serve as a Junior Fellow at Harvard University in the next Academic year.

Professor Chazen and Mr. Ross will be concerned primarily with helping to prepare the city's case against the telephone rate increase.

Commissioner Grant said that a question "fundamental to the structure of the nation's communications system is why consumers aren't allowed to own their own telephone handsets which they could plug into the telephone network the way television sets, electric lights, and appliances are plugged into the electrical system."

"If customers were allowed to take their handsets with them, plugging in the handset at their new location," Mrs. Grant went on, "this expense [of new installment] could be avoided."

"Since there are so few resources on the consumer's side," Commissioner Grant said, "the initiative always rests with the utility. [They set the time for a hearing on their policies. They determine which policies shall be the subject of inquiry.

"Only a nationwide network of vigorous and informed consumer-advocate institutions can offset the vast resources at the command of the utilities to persuade regulatory officials to see things their way."]

CRISIS IN AIR TRANSPORTATION

Mr. MAGNUSON. Mr. President, much has been spoken and written about the current crisis in air transportation and the great necessity for a bold and effective expansion program for airport and airways systems. The seriousness of our present aviation problems is well illustrated by the fact that during the last session of Congress the Committee on Commerce devoted a great deal of time and effort in defining our national aviation needs and the development of the proposed legislative program. It is my understanding that President Nixon currently has a task force working upon an administration proposal and has assigned this project a high priority. I am hopeful that the administration proposal will be in final form shortly, for on June 17 our committee will undertake broad-based hearings in an attempt to update the definition of our airport-airways needs and to recommend appropriate legislation.

Gen. William F. McKee, U.S. Air Force, retired, former Administrator of the Federal Aviation Administration, recently spoke before the Aviation-Space Writers' Convention in Dayton, Ohio, on the subject "The Crisis in Air Transportation." I am sure Senators are aware of the tremendous knowledge and skill possessed by General McKee in the field of aviation. Because of the timeliness of his speech and the clear and concise analysis put forth therein, I commend to Senators a careful reading of General McKee's remarks.

I ask unanimous consent that his remarks be printed in the RECORD.

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

THE CRISIS IN AIR TRANSPORTATION

Until about ten years ago, the pacing factor in the growth of American commercial aviation was the efficiency of the aircraft. Since the earliest days of scheduled airline service, the airlines have pressed the manufacturers for aircraft with higher speeds, longer ranges, and greater capacities. The manufacturers have responded enthusiastically and ingeniously. In forty years, the aircraft manufacturers have taken us from the Ford Tri-motor, the Lockheed "Vega" and the DC–2, to the Boeing 747, the Lockheed L–500, and the DC–10. And, at the same time, they provided this country with the world's finest fleet of military aircraft.

All this progress is wonderful. It has given Americans the finest air transportation in the world. It has given wings to the nation's economy, both figuratively and literally. And, it has also been a credit factor in the nation's running struggle to maintain a favorable balance of trade.

But the air transport "system" of this nation is more than just aircraft. It is also airports and airways and supporting ground transportation systems. An important measure of the efficiency of a total system is the time it takes an individual to get from his office or home to his final destination. Similar measures for efficiency could be applied to cargo and mail.

Right now, we speak of an air transportation crisis in our country. Why? The answer is that progress in aircraft has exceeded progress in both the ground electronic environment or the airways system and in the airports. Progress in aircraft may also be said to have exceeded progress in national understanding of the problem. That is to say, the Federal Aviation Administration, which is responsible for the operation of the airways and parts of the Aviation Community have not been able to arouse sufficient congressional and public support to insure that sufficient funds were provided for the modernization and expansion of the airways and airport system.

If one takes an objective look at the situation, the reasons for this are easy to understand. When I say that, I am not trying to excuse myself or the FAA or the Department of Transportation. The fact is that FAA's needs have met very stiff competition of late from domestic and Defense needs. And it is also true that the American public has turned to air transportation at a rate that exceeded expectations.

This does not mean that the FAA did a bad job of estimating. I think it reflects, rather, unanticipated acceleration in the economy and in the pace of life in this country. Recently, TIME magazine ran a feature on under-anticipation, a phenomenon of the decade. The article listed a series of under-anticipations by experts. The experts—in quotation marks—predicted, for example, that before the Sixties had run their course, the stock market would be handling sales as high as ten million shares in one day. Of course, the sales record is now in excess of twenty million shares in one day.

The point should also be made that the Congress has, in general, been very sympathetic to the needs of the FAA, but the amount of money required to modernize the airways system and to expand airport facilities simply has reached levels that were politically difficult for the Congress to vote, in light of over-all national considerations.

Today, the key question facing the Congress, the Department of Transportation, the Air Lines, and General Aviation is where can we find the money to bring the quality or effectiveness of the airways/airports system in line with the exceptional quality and effectiveness of America's commercial aircraft. In recent years, this question has reached crisis proportions. The airlines, and general aviation, in order to meet the demands of the public for air transportation, have bought so many aircraft and expanded their operations so fast that the airways and the airports can no longer efficiently service the number of aircraft in the skies. And as we look to the future, the situation grows increasingly severe because the demand for air transportation continues to grow. From the standpoint of the airlines, the situation is reaching critical proportions because delays in the air and on the ground result in heavy financial losses. The larger aircraft, which represent heavy investments for the airlines are by no means being used to maximize efficiency under present circumstances. The result is that the volume of air traffic is up, but profit for most airlines is down. Almost all of the major airlines showed a decrease in net profits for the calendar year 1968. Indeed, several of them were seriously in the red. In addition, the airlines want to invest in the next generation of aircraft, but their available capital for such an investment is being depleted by current high operating costs.

I will offer you a solution I have advocated

at every opportunity for the past several years. It is a solution under consideration by the Department of Transportation and the Nixon Administration. But, before I discuss that solution I would like to review with you briefly the recent growth in air transportation and then project for you the future growth, so that you can sense how vital it is that we bring about a balance between the numbers and quality of the aircraft and the effectiveness of the airways-airport systems.

In recent years, air transportation has grown at the rate of 16 to 17 percent a year. Between 1963 and 1967, air carrier passenger miles went from 46 million to 86 million. Air cargo volume tripled in that five year period. And the hours flown by general aviation aircraft during the same five year period increased nearly fifty per cent. These figures reflect that air travel is now the most popular form of inter-city transportation. Last year, the air carriers accounted for seven out of ten common carrier passenger miles, compared with two out of ten in 1951.

Let me relate this growth during the past few years to an airport to give you an idea of how desperately we need to modernize and expand the airways and airport systems. John F. Kennedy airport on Long Island is a very modern airport. When JFK was being built, the FAA calculated that JFK would be able to handle 260,000 aircraft operations per year—that is, take-offs or landings—without delays. You might call 260,000 aircraft operations the delay-free threshold for JFK. Yet that airport is already handling in excess of 500,000 aircraft operations per year, with the inevitable delays.

Now, let's project a few years into the future. The latest FAA projections give us these figures for the scheduled airlines. In 1968, the number of passengers was 152.6 million. The estimate for 1974 is 269.5 million; and for 1979, the figure is 429.0 million. In other words, the numbers of passengers is estimated at almost three times last year's total. The paralleling statistic of equal importance is "revenue passenger miles." And here the figure for 1968 was 106.5 billion; with the projection for 1974 being 204 billion, and for 1979, 342 billion.

The estimate for air cargo show a growth in excess of that for passengers. The growth rate is projected at 20 per cent per year. This means that by 1975, U.S. domestic and international air carriers should be flying about 20 billion ton-miles of freight and mail, compared with 5.0 billion ton-miles in 1967.

To provide service for additional passengers and freight, the air carriers are forecast to increase their fleets from a total of 2,452 aircraft at the beginning of 1968 to 3,480 by the start of 1979.

On the General Aviation side of the picture, the 1968 figure for General Aviation aircraft was 114,000. The 1979 estimate is 205,000, which means that General Aviation will be expanding at about the same rate as the airlines.

If these projected increases in the amount of commercial flying are not enough, you might also consider that there will be a greater diversity in the types of aircraft that will be flying by the end of the 1970's. There will be far more helicopters of various sorts and sizes, and there will be a whole new family of STOL aircraft. In one sense, these aircraft will complicate the aviation picture. But in another sense, they will help to alleviate some of the congestion in the airways, because they will be able to fly in air corridors not presently being used for the higher and faster flying jets.

These projections have been included in these remarks to help you to reach the conclusion that the airways and airport crisis of today is going to get worse—much worse if drastic steps are not taken quickly to improve and expand our total air transportation system—that is—airways, airports and the transportation systems to and from communities to the airports. If we do not move sensibly and energetically to make the needed improvements the growth predictions outlined will not come to pass.

Here I would like to stress another vital and most important facet of the problem—and that is a primary responsibility of the Administrator of the FAA under the law. He carries this burden on his shoulders seven days a week, 24 hours per day. Statements have been made in the past that a high level of safety can be maintained with current FAA funding levels through the exercise of the FAA's regulatory powers. This is simply not so. I know of no responsible person in FAA or in the Aviation Industry who will agree that a reasonable degree of safety can be maintained in today's environment with current funding levels. I suggest you just ask the airline pilots who fly to tell you what they think. The answer, I can assure you, will be loud and clear.

The question arises then "What needs to be done?" The answer has been well thought out and presented in FAA's "National Aviation Systems Plan." This Plan is a product of bitter experience, and a lot of hard work by many dedicated people. There is little disagreement, if any, between the FAA, the military, and the aviation community in regard to this Plan. The Plan covers a 10 year period, with detailed costing for the first five years and estimates for the next five.

The Plan covers the additional equipment and facilities that will be necessary to service efficiently and safely the vastly larger number of aircraft that are projected to be flying in our skies during the next decade.

I will not discuss the details of the Plan, but I would like to make some comments relative to it. First, I wish to explain what we mean when we use the term "Air Traffic Control System" or the "National Aviation System." We mean not only the control towers, the En Route Traffic Control Centers, the Controllers, the Instrument Landing Systems, radars, communications, etc., but also the operational part of the nation's airport, i.e., runways, taxiways, ramps and the high intensity lighting systems. With all of the deficiencies in the airways part of the system—and they are too numerous to mention here—the biggest bottleneck in the Air Traffic Control System is the airport.

The problem then—where do we get the money to do the job which we all know must be done. Will the Administration request the necessary billions from the Congress to come from the General Revenues of the Treasury? The answer is a "flat" NO—and this applies whether the Democrats or Republicans are in power. Will the Congress appropriate the necessary funds of the Administration requested them? Again, the answer is a "flat" NO. I speak from painful experience.

Since it is clearly in the National interest that the job must be done—the question is: "Where does the money come from?" The answer here is also quite clear—"From a reasonably equitable system of user charges, augmented by a fair share from general revenues which may be properly charged to the National interest."

Such a plan was unanimously proposed last year by the prestigeous Senate Commerce Committee. Overall it was a good plan and deserved to become law. Unfortunately, and I should say very unfortunately for the country, it did not. There was disagreements within the Administration and within the Aviation Community. All of us are the losers.

I know that the new Secretary of Transportation, Mr. Volpe, and the new Administrator of the FAA, Mr. Shaffer, understand the importance of doing something now to improve our Air Transportation system and that they are in favor of airways/airport legislation along the general lines proposed by the Senate Commerce Committee last year. Again there is disagreement within the Administration and within the Aviation Community. On the other hand, there is a good understanding in the Congress of what needs to be done and the importance of doing it quickly. The Committees principally concerned are awaiting the Administration's proposed legislation.

It is my hope, a faint one I must add, that the diverse elements within the Administration and within the Aviation Community can reach some reasonable accord and agreement on the proposed legislation. This would assure the early passage of an Airways/Airport Bill. Failing this, I think the Congress must pass legislation which in its judgment, is in the best interests of the 200 million stockholders in this corporation called the United States.

In closing I want to say just as strongly as I know how that failure to get early airways/airport legislation will result in:

A. A significant deterioration in the safety of the system.

B. Further deterioration in the operational effectiveness of the system, including more delays in the air and on the ground and more arbitrary restrictions.

C. An adverse impact on the growth of the National economy and on the defense posture of this Nation.

I earnestly hope that we do not have a series of catastrophes to bring these points home.

RADIO STATEMENT BY SENATOR BYRD OF WEST VIRGINIA ON THE SUPREME COURT

Mr. BYRD of West Virginia. Mr. President, on May 16, 1969, I made a statement for radio regarding the U.S. Supreme Court.

I ask unanimous consent that the transcript of that statement be printed in the RECORD.

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

SUPREME COURT

A storm of controversy has engulfed the Judicial Branch of the Federal Government for several years now. A primary cause has been the U.S. Supreme Court's decisions in notable cases affecting what has been called the "rights of criminals" or those accused of crimes. As a result of these decisions, questioning of suspects by police has been severely limited, the use of voluntary confessions has been restricted, and the police find it more difficult to jail persons suspected of criminal acts. Critics of the Court have said the net result is to make more difficult the job of law enforcement. As a consequence, more and more criminals go unpunished, and we begin to see a breakdown in respect for law and order in our society.

Moreover, such decisions as those which have had the result of removing prayer from public schools, and decisions limiting school officials' authority to regulate student demonstrations on school property have contributed to widespread criticism of the Supreme Court of the United States. Many citizens have begun to wonder just whose rights are being protected because they often feel that it is certainly not theirs. Furthermore, by these and other decisions the High Court has left the impression that it is doing more than just interpreting statutes and interpreting the Constitution. It appears frequently to be writing the laws of this land.

In most instances, the decisions of the Supreme Court that have come under heavy attack have been split decisions. A bare majority of the nine Justices has brought about, in recent years, radical changes in constitutional law. I think that in many cases the Judges have tended to interject their own personal philosophies rather than adhere to strict objectivity when interpreting the United States Constitution and the laws.

But now the makeup of the Supreme Court will change. Chief Justice Warren announced last year his retirement from the Court at the end of its present session. And of course former Justice Abe Fortas has now resigned. Seldom in our history has a United States President had the opportunity to fill two vacancies on the Supreme Court so early in his administration. In the exercise of his appointive powers, President Nixon can recast the Judicial Branch of government. He can quell the temptest of controversy that has surrounded the Supreme Court for several years. And he can redirect its path to better reflect the majority's will in this country and to strengthen the principles embodied in our written Constitution.

The resignation of Mr. Fortas has lifted from the Supreme Court an immediate problem which his private dealings had created. However, the larger controversy brought on by court decisions radically departing from traditional interpretation of the Constitution can be settled only through the appointive process to which President Nixon now holds the key.

Any branch of government, to operate effectively, must have the confidence and respect of the American people. The power divided among the three branches of the United States Government is enormous. Each must be wise in the exercise of this power, and each must be especially careful it does not usurp powers not intended to be within its hands. This is especially important in the Judicial Branch. There, a great deal of power rests with a very few men. Thomas Jefferson expressed concern about this when he once wrote, and I quote, "The great object of my fear is the Federal Judiciary."

The Supreme Court was never intended to be the place for innovation or experimentation. Its force must always be one of prudence and caution—one that will always protect American citizens from excessive and over-zealous government. It follows then, that judges sitting on the Supreme Court must be cautious, restrained men able to subjugate their own fancies in their quest for objectivity. They must not be innovators or experimenters. We have enough of both of these in the other two branches of government. Moreover, the Court must not arrogate to itself the power to legislate. Restraint in the Judiciary is indispensable if it is to maintain the trust of the American people.

POLITICS AND THE POSTAL SYSTEM

Mr. BAKER. Mr. President, I recently conducted a poll in all 95 counties of the State of Tennessee on the question of whether politics should be taken out of the postal system. More than 90 percent of Tennesseans approve of that policy as set out by President Nixon and Postmaster General Blount, according to the sampling.

A total of 1,374 responded to the question, which was included in a newsletter mailed earlier in May. Of the total, 1,247 said they support the policy, compared with only 127 who voted in opposition to it.

Probably more than 200 of those favoring the policy indicated by notes and letters that the change was long past due. Many suggested that an independent agency, such as Tennessee Valley Authority, be created to operate the system. Others recommended that the mail be handled by a private organization.

There were many who opposed the policy, but who wrote that politics should be taken out of the department only after Republicans had been appointed to replace Democrats.

Based on the actions of past administrations there is sound argument for kicking all Democrats out of the system and appointing all Republicans. Every administration in history has used the system as a political sugar barrel. It has been this policy which has developed a highly inefficient, costly organization which requires drastic changes.

Postmaster General Blount, I am convinced, is sincere in his efforts to take politics out of the system. He is attempting to put it on a self-sustaining, business-like basis.

While this policy is causing great concern among a few who were counting on the patronage, it is obvious from the poll and from the reaction from throughout the country that this decision is one of the most popular made by this administration.

A vast majority of the people want a postal system which can do the job. They do not want a service organization such as this one to be a sugarplum tree that gets robbed of its best fruit every 4 years.

I was convinced when President Nixon and Postmaster General Blount announced the new policy that it was proper. I am now even more sure that it was right and that the American people feel the same way. There is no doubt about how the people in Tennessee feel about it.

THE SAFEGUARD SYSTEM

Mr. GORE. Mr. President, on May 21 three distinguished scientists appeared before the Subcommittee on International Organization and Disarmament Affairs to testify with regard to the proposed Safeguard system. These three witnesses were Dr. Donald Hornig, former science adviser to President Johnson; Dr. Gordon MacDonald of the University of California at Santa Barbara; and Dr. Eugene P. Wigner of Princeton University, a Nobel laureate. Dr. MacDonald and Dr. Wigner were among the scientists Secretary Laird had suggested the subcommittee hear.

I ask unanimous consent that the prepared statements presented by Drs. Hornig, MacDonald, and Wigner be printed in the RECORD.

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

STATEMENT OF DONALD F. HORNIG BEFORE SUBCOMMITTEE ON INTERNATIONAL ORGANIZATION AND DISARMAMENT AFFAIRS, MAY 22, 1969

Mr. Chairman, Members of the Subcommittee: I am grateful for the opportunity you have given me to put my views before you on the subject of the ABM. I should tell you frankly at the outset that all of the technical points regarding the proposed ABM system, the Safeguard, have at one time or another been made, so that I doubt that nothing I say will be new in that sense. What I will try to do is to paint the over-all picture as I see it and elaborate any technical questions in the discussion. I want to begin by saying that in my view the most imminent and urgent threat that confronts the U.S. and the world is the constant and continuing expansion in the level of nuclear armaments on both sides. I regard the current ABM question as only an immediate episode in deciding how we should approach the problem of nuclear arms control while preserving our own security.

As to my qualifications to discuss these matters, I note only that I have been involved in weapons development, either actively or in an advisory capacity, since 1941. My acquaintance with the ABM question began when President Eisenhower appointed me to his Science Advisory Committee in 1960.

My detailed concern with nuclear offensive and defensive systems began when President Johnson appointed me as Special Assistant for Science and Technology in January 1964, and in that capacity I had the continuing assistance of many of our best scientists and engineers. I worked closely with the Secretary of Defense, with the Director of Defense Research and Engineering, and with the military and intelligence agencies until January of this year.

The central fact that emerged during these years was that the security of the United States depended on maintaining a nuclear stand-off vis-a-vis the Soviet Union. The most essential element was that we maintain an adequate deterrent—by which I mean that it is clear to the Soviet Union we could reply to any attack by inflicting such destruction and loss of life that it would never make any sense to attack us. It also became clear that even when we had a three- or four-to-one edge over the Soviet Union in the number of rockets available to us, we never approached a first strike capability, that is, the possibility of a strike against their forces which would not bring devastating retaliation. In other words, even with a three- or four-to-one edge, the Soviet deterrent was also adequate. It is this *mutual deterrence* which is the key to peace and such stability as we have had.

The ABM question is not new. In the 1950's the Navy was assigned the Polaris missile submarine program, the Air Force was assigned the offensive rocket forces, and ABM's were assigned to the Army. Subsequently we built Polaris submarines; we built offensive rocket forces, but we never got beyond R & D on defensive rocket systems because they never seemed worthwhile. Throughout the period I was in Washington, we studied the question of defenses against ICBM's, including both ABM's and underground shelter systems but ABM's never seemed attractive. All of our studies and those of the Department of Defense indicated that an ABM system could not protect our population for at least two reasons: (1) The ABM system costs more than the rockets it could destroy so that for each increment of ABM defense the enemy could, at less cost, add enough attacking rockets to his force to maintain his destructive potential. (2) The technical difficulties were so great that the system could not be counted on and would be relatively easy to defeat.

Still, when it became clear that the Soviets were installing a limited and relatively ineffective ABM ring around Moscow, there was a renewed effort, in the Pentagon and in the Congress, in late 1966 to commit us to a $40 billion system to attempt to protect both our cities and our missiles. This was the "thick system." In particular, some elements of the intelligence community attempted to identify the so-called Talinn air defense system in the Soviet Union as a large-scale ABM deployment and used this as an argument for a large-scale U.S. deployment.

It was against this background that in January 1967, at a meeting with President Johnson, all of the four preceding Presidential Science Advisors plus all three Directors of Defense Research and Engineering, advised him that an effective ABM defense against the Soviet Union was not practicable. This point was made again in Secretary McNamara's testimony in the spring of 1967, to the Armed Services Committee.

In his San Francisco speech of September 18, 1967, Secretary McNamara presented a particularly cogent and succinct discussion of the whole action-reaction phenomenon in the arms race and of the ABM problem. He noted that as each side made its plans on the basis of the "worst plausible interpretation" of the other's plans, each side increased its arms more than subsequent events showed to be necessary. He stated—and I concur—that if we could build an impenetrable shield over the U.S., we should certainly do so. But the effect of a leaky shield is simply to guarantee that the other side increases the quantity and quality of his weapons still further.

It should be pointed out that our own response to the limited Soviet ABM deployment was to increase our efforts in the direction of multiple warheads and penetration aids so that the Soviets are probably more—not less—vulnerable than they previously were.

Since it was generally agreed that a defense of our cities against a massive Soviet attack was not practicable—and President Nixon has also accepted this conclusion—the previous administration decided against it and in favor of the Sentinel system which it was hoped would protect us against a few primitive Chinese missiles. My technical advisors doubted that it would even do that reliably.

However, what concerned many of us was not the details of the system or its technical deficiencies but the fact that the deployment plans were patently the first phase of a "thick" system, including missile sites close to cities. It was so regarded in the Pentagon and this is presumably what made it palatable; it was a foot in the door.

The Safeguard system now proposed retains the anti-Chinese capability. Most importantly though, the President recognized the impossibility of defending our population centers and introduced a new philosophy, the protection of a small second strike force for retaliation in the event of a Soviet attack. This objective is surely sound since in a nuclear age when the casualties in a war would be tens or hundreds of millions, the objective of our forces cannot be to fight a war; it must be to make an act of war so reckless that the other side would never attempt it. If I were convinced that the protection of a credible deterrent were indeed the eventual goal and that a Safeguard was the best way to protect our deterrent I would support it. But the uneasy feeling persists that although presidents may change, Secretaries of Defense may come and go, the philosophies enunciated by our political leaders may change, the design of our ABM system hardly changes at all. It includes the same radars, the same rockets and largely the same deployment which was contemplated for the "heavy" defense. Safeguard continues to look like a first step toward a much bigger, much more expensive and still ineffective system.

The President proposed a limited effort, and if it were genuinely limited to a feasibility demonstration at one or two bases, and if I could be satisfied that the feasibility could be demonstrated in that way, I might not oppose it, but the words of our civilian and military leaders in the Pentagon when they elaborate the President's proposal are not reassuring. They always seem to be talking about something much bigger.

Now I would like to examine the reliability of our second strike forces. We have in excess of 1000 nuclear tipped rockets in hardened silos, 41 Polaris submarines carrying 656 missile launchers, with most of them hidden beneath the seas, and about 600 long-range bombers, a considerable part of them in a state of alert. We also have a very extensive network of early warning radars, over the horizon radars and other devices which would give us a warning time of about 20 minutes against a Soviet attack.

At the moment these forces are sufficiently invulnerable so that the Soviet Union is assured of destruction if they were to initiate an attack. But, of course, it is possible that in the future the accuracy of their missiles, particularly the large SS–9, could be improved so that if they were still in their silos, a large proportion of our Minutemen might be destroyed. It is possible that the Soviet Union may one day develop means to track down our Polaris submarines and either destroy them or prevent their missiles from being launched successfully. It is possible that means may be found to destroy many of our bombers on the ground. It is possible that means may be found to blind our long-range warning system. Actually, I do not believe it likely that many of these objectives can be achieved by 1975; I find it totally incredible that they *all* could be achieved on a scale which would knock out our second strike forces.

After all, the Soviet Union must assume that if they were to launch an attempted first strike, our radars would see *very large numbers* of missiles on their way, and this they would do without ambiguity. Nor, under these circumstances, would our decision making be delayed. Our missiles would be on their way before their missiles arrived. This is our surest deterrent.

Of course, questions can be raised as to whether something might go wrong. But to launch a first strike with any hope of success *the other side must be confident* that we could not retaliate and nothing I know or have heard leads me to believe he could achieve such confidence in the foreseeable future.

Therefore, I conclude that for the foreseeable future we have a reliable deterrent, provided it is equipped to penetrate any defenses he may erect. It must have this capability whether or not we construct Safeguard.

The role of the Safeguard, therefore, is not to assure a deterrent, but only to add to the deterrent and to give us the option of holding back some missiles. This is important but not vital since the other side could never assume that we would withhold our fire.

Other witnesses have pointed out the technical problems. The radars must sort out a thousand or more missiles and decide, with the aid of a massive and incredibly complicated computer system, what the individual tracks and targets are, and assign appropriate defensive missiles to each. They must distinguish between nuclear warheads and the dummies, decoys and other penetration aids. I believe that these things can eventually be done; it is doubtful whether they can be now with the present Safeguard system. But a system so complex is certain to have bugs—the history of much less complex military systems attests to that—and an ABM in which one cannot have *confidence* at the time of crisis adds to our insecurity, not our security.

I am quite willing to predict that the very deficiencies which are so fiercely debated now will be advanced in the near future as the very reason why the system must be improved or even replaced by a new model. That has happened before, too. If we go this route, we must realize that the current Safeguard proposal is only a down payment.

To conclude, I support the notion of protecting our retaliatory capability. I question whether the Safeguard ABM is the best, or even a satisfactory way to do it. I am not sure I would oppose the construction at one or two sites if that could be shown to provide the means to check out the technical questions, but I am not satisfied that it will.

However, I am convinced that this is another step in the arms race—no worse than other steps—and I fervently hope it can be deferred until the seriousness and intent of the Soviet Union can be tested in discussions aimed at halting a fruitless competition which is draining our resources and providing no increase in our security.

STATEMENT BY GORDON J. F. MACDONALD BEFORE THE DISARMAMENT SUBCOMMITTEE OF THE FOREIGN RELATIONS COMMITTEE, MAY 21, 1969

Mr. Chairman and Members of the Committee: I deeply appreciate the opportunity to testify on such a vital issue of our time. I will speak as an individual scientist who has been involved in defense matters for the last ten years serving as a consultant to the Defense Department and as an officer of the Institute of Defense Analyses.

President Nixon in his announcement of his decision on the Antiballistic Missile System indicated two very significant departures from the position taken by the Johnson administration. First, Safeguard will be a system designed primarily to defend the United States deterrent force. Second, Safeguard will be deployed in a phased fashion with annual reviews. I strongly endorse the President's position both with regard to a defense of the deterrent and the measured pace of a deployment in which further steps toward an overall operational system will depend on an evaluation of intelligence, progress, or lack of it, toward Strategic Arms Limitations and new technical advances relevant to defensive systems. My support for the President's position follows from a number of considerations.

First, an active defense of the deterrent cannot by itself be considered as an escalation of the arms race in that it protects only the deterrent and does not enhance any U.S. first strike capability. If the Soviets are indeed following a deterrent philosophy, an ABM defending the U.S. nuclear force does not alter the Soviet's second strike capacity. Either a deployment of a population defense system or the addition of offensive forces are escalatory in that they increase the U.S. first strike ability. Indeed I was amazed to read in the hearings of the Armed Services Committee witnesses opposing deployment of a defensive system because of the risk of furthering the arms race and indicating that the proliferation of Polaris and Minuteman would be preferable. I would also argue that both the increased Soviet deployment of offensive missiles and the deployment of an apparent population defense ABM about Moscow are escalatory.

Second, the defense of key elements of the deterrent, Minuteman sites and key command and control centers, is technically an easier job than the defense of the population, which was the primary purpose of Sentinel. The area that needs to be covered by radar is less and the concentration of defensive missiles near to the potential target can be far greater. In the defense of population high value targets are being protected and a successful system must work with a high degree of reliability. In the case of defense of the strike forces a fraction of the enemy missiles can penetrate the defense without in any major way eroding the offensive power of the U.S.

Third, a measured, phased approach will permit, *if adhered to*, the development of components and systems specifically designed to defend the deterrent. The Safeguard system uses the components of Sentinel and Sentinel was designed to protect cities, not Minuteman. If properly emphasized, research and development could, in a short time, produce a system much better suited to defending our strike forces. For example, such a system might consist of hundreds of cheap, short range radars, one to each silo, and interceptor missiles with very short ranges (less than 10 miles). Such a system might provide adequate defense of Minuteman at a cost less than that of the total Safeguard deployment.

Fourth, my analysis of available intelligence convinces me that a major portion of the Soviet offensive force, in particular the SS–9, was designed as a weapon having the principal goal of destroying Minuteman missiles and their command apparatus. This

conclusion, if correct, is of value in interpreting the overall Soviet strategic doctrine. Since my view of the Soviet strategy is at variance with that usually presented, I would like to briefly discuss it.

Historically, the Soviets have emphasized defense as a key element in their military posture. Their military experience dating back to Napoleon has been one of defending the homeland. Just on the basis of history it might be expected that the Soviets would, in their overall strategic forces, emphasize those elements that would protect and limit damage to the homeland. Indeed, some of this flavor comes across in the writings of such Soviet strategists as Zakharov and Sokolovsky. Whatever the Soviet intentions in the strategic field are, there is the hard evidence of deployment that indicates a Soviet desire to build up, at least, a damage limiting, if not a first strike capability.

The Soviets have deployed a massive air defense system, recently supplemented by the Tallinn system and a new class of fighter aircraft. Elements of their air defense system have received extensive tests against U.S. forces and equipment in North Vietnam. In ABM the Soviets began with a system around Leningrad, which was later abandoned, probably because of technical difficulties. The Soviets now have underway a deployment about Moscow of a new system. Accompanying such moves toward active defense, the Soviets appear to have emphasized civil defense to a far greater extent than the U.S. has; such a civil defense program makes sense only in the context of an active defense which supplements a damage limiting offense. The Soviets have recently displayed a semi-space based weapon called FOBS (Fractional Orbit Bombing System). The only credible targets for FOBS are the bases of the Strategic Air Command and these certainly would be targeted in a damage limiting attack. While FOBS may not, on the whole, be an attractive weapons system, it does demonstrate Soviet intent to upgrade continually their capability of delivering large weapons at great distances. Finally, there is the continuing deployment of the SS–9, a giant missile designed to deliver 20 or more megatons. This missile was originally thought of in terms of a "city buster" but now I believe the evidence strongly points toward its role as a counter force weapon.

In summary, I believe that the primary thrust of the Soviet strategic deployment has been toward development of an offense-defense system that will guarantee the survival of the Soviet Union as a nation in the case of a nuclear war. This goal differs greatly from the stated principal purpose of the U.S. nuclear force; that is of destroying any other nation even if that nation launches a determined attack against U.S. forces. Of course, in the Soviet case, their total forces have a deterrent second strike capability while the U.S. forces also could play a damage limiting role.

The important conclusion I deduce is that we must not let our emphasis on deterrence blind us to the possibility that the Soviets are following a different path leading to the ability to limit damage in any nuclear exchange so that survival as a nation is possible. The great danger along this path is that with the capability of effectively limiting damage comes the power to launch a first strike and destroy the U.S. deterrent and the U.S. nation. This power, if achieved, can bring to an end the existing balance of nuclear might which has served well, over the past years, in maintaining world stability. How realistic is it to assume that the Soviets can achieve a first strike capability? Can an active U.S. defense guard the U.S. deterrent? A discussion of these questions requires a more detailed examination of our total strategic system and its strength and weaknesses.

A deterrent is made up of three elements, the offense, defense, and the command and control. The offense has the mission of delivering to the enemy weapons sufficient to bring about near total destruction. The command and control system activates and guides the offense and defense. The defense protects the critical elements of the total strategic system. The defense can either be completely passive providing protection by means of deception or hardening or it can in part depend on a shield of defending weapons.

The job of the defense planner is to design a deterrent which for a given cost has a maximum destructive capacity and one which will credibly survive any attack. The total cost of the system equals the sum of the cost of the three elements, offense, defense and command and control. However, the effectiveness of the total system depends not only on the sum of capabilities of each element but how the pieces work together in accomplishing the deterrent mission. The analysis of how good our strategic forces are requires not only a determination of capabilities of the various components but of how the parts of the system contribute to each other.

The offense consists of two parts—the warheads and the means of delivering them. The weapons can vary in size from the many megatons which can wipe out a large city to the tens of kilotons devices designed for special purposes. The warheads are vulnerable to attack by an active defense and highly complicated schemes have been devised to protect them. The incoming vehicle sheltering the warhead can deploy chaff designed to hide the weapon and confuse the defense radars. Or the incoming object can disgorge a number of smaller objects, some decoys, some weapons thus creating a problem of discrimination for the radar systems. The next step in sophistication is for the reentering vehicle to let loose a number of smaller objects, many carrying a weapon and each of these guided to a preselected target. Beyond such MIRV's (Multiple Independently Targeted Reentry Vehicles) lies the missile which delivers a large number of weapons, each one of which is guided to its target in real time with the target selected from the course of the battle through a command system perhaps linked by satellite communications.

The missiles can be based either at land or on sea. The Soviets with their vast expanse of geography concentrated early on spreading their land strike forces and only now are undertaking a major build-up in their submarine based force. The U.S. has followed a balanced strategy of land missiles based in a more restricted terrain and a sub-based fleet roaming over large expanses of oceans. In the future new ways of basing missiles may prove advantageous, such as surface ships, airplanes or even slowly crawling platforms continually roving on the continental shelf. The basing is chosen to provide a *passive* defense to the missile force. This defense arises either from the difficulty in identifying and locating the missiles or from the actual protection afforded by the bases. A Polaris depends on stealth for security, the land-based Minutemen depend on dispersed hardened silos for partial protection against a nuclear attack.

The U.S. in its balanced offense has built up its strategic bomber fleet which complements the land- and sea-based missile strike forces. While the Soviets have not emphasized long-range bombers, their fleet of medium-range bombers provides powerful strike forces against NATO countries. On the ground, bombers are highly vulnerable. In the past it was the U.S. policy to keep a fraction of the force in the air at all times, but a number of accidents involving nuclear weapons have altered this concept though it undoubtedly would be implemented in times of crisis.

The offense is guided by the command and control system which consists of many elements and is supposed to perform many functions. Ideally it should contain a warning element capable of alerting the President and his military commanders of an attack or an impending attack. The President or his designated authority uses the command system to ready or to launch an attack. The system should transmit and verify the command to the forces in the field, the Minuteman missiles, the strategic bombers and the far flung Polaris subs. As the battle develops the command systems should continue to function not only in guiding the course of the campaign but preparing for the recovery operations following any nuclear exchange.

Physically the command and control system consists of a few key command posts plus the communications links between the posts and the forces in the field. The passive means of defense include hardening to resist direct attack, dispersal so as to make the attack on the command system more expensive and redundancy so that the destruction of one key element of the system does not completely disrupt the total system.

Today the defensive component of the U.S. deterrent is purely passive. Silos are hardened, subs are dispersed, command posts are hidden, communication links are duplicated many times over and research goes forward in how to protect by such means the U.S. deterrent. A number of realities and possible future developments make imperative an answer to the question, can *active* defense contribute significantly to the U.S. deterrent?

In the first place the openness of American society makes it unlikely that the location of missile fields and command posts are hidden now or can remain so forever. Secondly, we must assume that developments in sophisticated means of guidance provide to the Soviets either now or some time in the future targeting accuracy sufficient to permit a counter force attack, that is an attack against the land-based missiles and the command posts. Thirdly, it is risky to assume that the Polaris force will always remain undetectable. The science of oceanography and advances in buoy and sensor technology, for example, are proceeding at such a pace that make possible new and perhaps previously unthought of schemes for monitoring the depths. Fourthly, the Soviets have begun the deployment of a defensive antiballistic missile system. If this is substantially expanded it could provide the Soviets with defense against any U.S. missiles that might survive first strike.

In brief, a great world instability would result if the Soviet Union acquired the capability of destroying the U.S. deterrent at an acceptable cost. The acquisition of such a capacity would require all of the four developments mentioned above. The Soviets would have to know of the location and means of operation of our offensive forces and command and control systems, they would have to have highly accurate missiles, they would need to know the location of the Polaris fleet and they would have to have confidence that their defense could deal with the residual U.S. threat. Further the Soviets would have to solve the problem of orchestrating their attack so that at the same time it would render largely ineffective the three principal elements of our offensive forces.

I return to the question of whether the Soviets can solve the great array of technical problems connected with the development, in the next five to ten years, of a first strike capability. The magnitude of certain problems, such as countering Polaris, is such that it would seem very improbable—that the Soviets, even devoting greater national resources than they have in the past, could indeed pose a credible first strike threat. However, the small chance that they might would suggest that the prudent course is one

which adds to the security of our deterrent without escalating the arms race. Thus I favor proceeding toward an ABM protecting the deterrent.

No defense can be constructed that would with complete certainty protect any element of the U.S. nuclear force. A determined enemy can locally defeat a defense if by no other means than exhausting the defensive missiles. But such exhaustion comes at a cost in offensive missiles that could have been targeted elsewhere. The value of the defense in such an exchange will, of course, depend on how effective each defensive warhead is in killing reentry vehicles. If the offense involves decoys and MIRVS then the defense must either go to very large weapons or use sophisticated radar techniques for discrimination. But the increased complexity of the offensive system will almost certainly reduce its reliability and in this way its overall effectiveness.

A defense increases the uncertainty of the attacker. In the absence of an active defense, the attacker can quite precisely project the effectiveness of his own force, knowing the reliability of his missiles and the general characteristics of the foes' offensive bases. With an active defense, the uncertainty is increased enormously; a conservative defense planner would recommend an attack only if he were sure that the offense could penetrate the defense and reduce the enemy's forces substantially. The level of certainty will always be lower in the presence of an active defense. How much lower depends on many factors, including the reliability of the intelligence estimates of the defense capabilities.

What about the detailed proposal for Safeguard in which the first phase would involve partial protection of two Minuteman fields using components which were developed for a very different purpose. Despite the apparent mismatch of components to the task, I could support this initial deployment if it were viewed as an operational test and evaluation program and as a means of *readying* for full scale production of a deterrent defense. In terms of President Nixon's phased approach, a test and production readiness program makes a great deal of sense if at the same time accelerated research and development move forward on alternative components or systems specifically designed for deterrent defense. If such research does not produce competitive alternatives, then full scale production on Safeguard can proceed.

I am concerned by two features of the administration discussion of Safeguard. These discussions have not always emphasized the phased approach. Indeed it would sometimes appear that the decision being made this year is not whether two Minuteman fields will be protected but whether the total Safeguard system will be deployed. Further, there has been little or no emphasis on the great need for research and development if full advantage is to be taken of the President's phased approach.

Let me summarize my position by giving my priorities as to action required if we are to prevent the greatest of all tragedies, a nuclear war. We should give highest priority to the successful prosecution of a Strategic Arms Limitation Agreement. The negotiations will involve issues, both technical and political, that will require the best of the intellectual resources of the nation. I would hope that this Subcommittee will play a leading role in insuring that the proper sense of national urgency be given to the preparation for and the development of a suitable agreement. Second priority I would give to research and development leading to a system which can provide defense of our total deterrent force. Third priority would be assigned to phase one of Safeguard provided it is viewed as a test and readiness for production program. At the same time I would argue that it is not in the national interest to assume an answer to Safeguard now settles the question of ABM or of our strategic posture for the next decade or even the next year. The continued attention of this Subcommittee to these issues is essential if we are to achieve continuing world stability.

BIOGRAPHICAL SKETCH OF GORDON J. F. MACDONALD

Dr. MacDonald has served as Executive Vice President of the Institute for Defense Analyses and in September, 1968, he came to the University of California, Santa Barbara, where he is Vice Chancellor for Research and Graduate Affairs. Dr. MacDonald received his higher education at Harvard University where he was awarded his A.B. summa cum laude, A.M. and Ph.D. degrees and served as a Junior Fellow from 1952–54. He taught at M.I.T. and did research at Carnegie Institute's Geophysical Laboratory before going to UCLA in 1958 as a Professor of Geophysics. At UCLA, he became Director of the Atmospheric Research Laboratory, Associate Director of the Institute of Geophysics and Planetary Physics, and Chairman of the new Department of Planetary and Space Science.

Dr. MacDonald has been a member of the President's Science Advisory Committee since 1965 and a member of the Defense Science Board since 1967. He has served the Department of State as a member of the U.S.-Japan Committee on Scientific Cooperation and as a consultant; the Department of Commerce as a member of the Commerce Technology Advisory Board; and the National Science Foundation as a member of the Advisory Panel for Weather Modification. Dr. MacDonald has been active as a consultant to NASA serving on the Lunar and Planetary Missions Board, the Science and Technology Advisory Committee for Manned Space Flight, and the Science Advisory Committee. For the National Academy of Sciences, Dr. MacDonald has served on the Committee on Atmospheric Sciences since 1961, the Space Science Board since 1962, and is a member of the Executive Committee of the Earth Sciences Division of the National Research Council.

Dr. MacDonald specializes in the study of the earth's interior, the upper atmosphere, weather modification, and the origin of the moon and planets. In 1960, he was awarded the American Academy of Arts and Sciences Monograph Prize in physics and biological sciences for his book "Rotation of the Earth," co-authored with Walter Munk. In addition, he is the author of over 100 articles on scientific subjects.

Dr. MacDonald is also a member of the National Academy of Sciences, the American Philosophical Society, the American Academy of Arts and Sciences, and thirteen professional and scientific societies.

STATEMENT OF EUGENE P. WIGNER BEFORE THE SUBCOMMITTEE ON INTERNATIONAL ORGANIZATION AND DISARMAMENT AFFAIRS OF THE COMMITTEE ON FOREIGN RELATIONS, U.S. SENATE

When thinking about the problems facing this Committee, I came to conclude that the two principal questions are: do our defenses need strengthening and, if so, what are the best ways to do this. I realize my own inadequacy for answering questions as difficult and important as these, but I sincerely and earnestly tried to come to valid conclusions.

The case for strengthening the defense of our country is easy to make. The Soviet Union has surpassed us in the most effective weapons system: its capability to deliver ballistic missiles exceeds ours by a considerable margin. It is instituting civil defense measures which are calculated to impair our deterrent capability. I wish to enlarge a bit on these two points.

The total explosive power of the missiles which the USSR can deliver exceeds ours by a factor between three and four. This will surprise many, but it is well known in our Defense Department. As far as area coverage is concerned, we are somewhat better off: the area which we can cover with a certain overpressure is 70 to 80 per cent of the area which the USSR can cover with the same overpressure. Considering that our population is concentrated in cities to a greater extent than that of the Soviet Union, the disparity is great also in this regard. It is true that the number of nuclear warheads which the U.S. can deliver exceeds that which the Soviet Union can deliver, but the number of warheads is not a measure of the fallout or of the destruction of life that can be caused. In my opinion, the best measure is what I earlier called "area coverage".

The situation is aggravated by two other factors. The first is that this country will surely not be the one to initiate hostilities; the time of any armed conflict would be chosen by our opponents. I could quote many statements by leading personalities in the USSR extolling what they call a preemptive strike against the imperialistic aggressors. The second circumstance aggravating the situation and, in my opinion, aggravating it gravely, is our neglect of civil defense. The USSR has elaborate plans for evacuating its cities, and these plans can become effective much before we can establish an effective civil defense, even if we were to start this afternoon.

I may mention in this connection that the particular form of civil defense which plays a prime role in the USSR planning, the evacuation of the cities, was found objectionable to those participating in a civil defense study. I am referring to the Little Harbor Study, the participants in which, including myself, expressed opposition to evacuation plans because they felt such plans are "provocative". The time needed for the actual evacuation is long, of the order of a day at least. Hence, evacuation can be carried out in time only if the time of the confrontation is known well ahead of time. Since this is the case only for the party which initiates the confrontation, evacuation is most useful as a measure supporting aggression. The preceding is a much condensed discussion of the rationale of evacuation planning but, unless asked to do so later, I will not elaborate on it further.

I will say, though, that the evacuation of the cities could decrease the fatalities which an opponent can inflict by a very considerable factor. I calculated that, assuming evacuation of the cities of the USSR into circles with 50-mile radii, our present missile power, including that on submarines, could cause a fatality level of about 9½ million if (a) all our missiles were used against the population, none against the military targets, (b) if the ballistic missile defense of the USSR were completely ineffective, (c) if we suffer no losses whatever from a first strike and (d) if all our submarines are on station. Naturally, though only a fraction of the numbers often quoted, 9½ million is an extremely high level of fatalities. It is based, however, on extreme assumptions and, of course, we do not know the lives of how many people a possible bellicose leadership of an opponent may be willing to sacrifice in order to assure permanent freedom from "imperialist war plotters."

Even though I wish to proceed to my next subject, I cannot help interjecting here that the tactic I am most afraid of is not an actual attack. It is, rather, the threat of an attack, preceded by the evacuation of cities. If the USSR and U.S. armaments developed in the way the present trends indicate, I greatly fear that we would have to accede to whatever demands accompany the threat just described.

The preceding comparison of the relative powers of the U.S. and of the USSR is, I am sure, known to the members of this Committee, except possibly the effectiveness of the evacuation planned by the USSR. To support this last point, in case it needs supporting, I'll quote from an article by Marshal

V. Chuykov, head of the Russian civil defense establishment, which appeared in the January issue of a rather popular periodical, Science and Life. It came to my attention just a few days ago.

"In our country, everything possible is being done to build reliable means enabling us to protect lives in a possible war. It is well known that the task of defense of the population can be accomplished by two methods—by evacuation and dispersal of the population out of the regions which would probably be struck by the enemy, or by sheltering them in special defense installations. There are no other possibilities, but even these two give us a huge advantage over other countries, especially those of Western Europe. Our country has lots of space and a developed transportation network, our cities are surrounded by ample green belts. All this enables us, on short notice, to take people out of the cities and regions which are probable targets for the enemy into rural locations and thus sharply reduce possible losses.

"Take for example city 'A'. If today the average density of population in this city is 7,000 people per square kilometer, after the execution of dispersal and evacuation it would be lowered, on the average, to 700 to 800 people per square kilometer. In other words, the average would be lowered by eight to ten times. This means that after dispersal and evacuation, a nuclear explosion of the same magnitude would cause losses eight to ten times lower than before the implementation of these measures."

I should admit, though, that the density of the evacuated population, mentioned in this article, 700 to 800 per square kilometer, is much higher than the density which underlies my own calculations. If we adopt this figure for the density of the evacuated people, but still use the four rather unrealistic assumptions mentioned before, the number of casualties which we could inflict rises to about 13 million. I gave some details of these calculations a few weeks ago in an address to the American Physical Society, and Senator Miller of Iowa honored me by inserting the text of this address into the CONGRESSIONAL RECORD. My original calculation has been reported, independently, by Carsten Haaland of the Oak Ridge National Laboratory.

I can imagine only two conditions under which we could escape the conclusion that our defenses need to be strengthened. These are: (a) if our deterrent power, though inferior to that of the USSR, would remain, nevertheless, "sufficient", and (b) if we could be convinced that our opponents are not interested, now or later, in imposing their will on us by threats or otherwise.

As to the first condition, I very much fear that it is absent. If the civil defense plans of the USSR, in particular its evacuation program, are carried out—and I cannot see what might prevent this—our deterrent power will be gravely degraded and may become insufficient. It has been argued that the deterrent will remain effective even if the number of casualties which we can inflict were reduced because we could still destroy much, if not most, of the industrial capacity of the USSR. I doubt that we would be willing, as a result of a confrontation, to sacrifice the lives of many millions of Americans for the destruction of material goods in the USSR. The USSR could well threaten that it will demand the rebuilding of their industry as part of the price of any peace, should we carry out our threat of destruction. We know from past experience that it would be able to carry out that threat. As to the period in which the industrial production can be restored, I may recall that it took barely two years after the Second World War to restore Germany's gross national product to the prewar level, once a stable currency system was reestablished. The threat of the destruction of material goods is not a potent deterrent.

As to the second condition for the absence of a need to strengthen our defenses, that our opponents are simply not interested, now or later, in imposing their will on us, this Committee can judge that much better than I can. As for myself, I am willing to believe the statements of their leaders which accuse us of being plotters of war and promise victory over us. The increasing emphasis on the mounting strength of the USSR, as compared with that of the U.S., is unmistakable in their statements.

If we accept the thesis that our defenses need strengthening, the next question is how this strengthening should be carried out. There are, clearly, two ways: to increase our offensive strength, or to improve our defenses both of people and of installations, including military installations. The two could also be combined.

When I express a strong preference for the second, the defensive, alternative, I admit to having principally the longer range objectives and effects in mind. A world in which potential antagonists are relatively safe from each other is infinitely preferable to a world in which they can inflict, within minutes, tremendous damage on each other. The latter condition is inclined to promote antagonism, the former may lead to accommodation. Surely, disarmament is much easier if a few concealed weapons do not have decisive importance. If I accepted Dr. Rathjens' figures, I would have to say that less than one per cent of the present ballistic missile armaments of the USSR can inflict unacceptable damage on our country. Surely, no one believes that arms control can be detailed enough to uncover the concealment of one per cent of the present arsenal of weapons. Hence, disarmament is impossible unless we can improve our defenses and this remains true even if we do not accept the grossly exaggerated damage estimates of Dr. Rathjens—as I do not.

I will not dwell further on this subject—the preferable nature of defensive rather than offensive armaments. You have heard a powerful articulation of this point from Dr. Brennan. Let me instead address the question of the effectiveness of defense measures.

I cannot assert, with full confidence, that the BMD system proposed by our Defense Department will be less expensive than an equivalent increase in our offensive power. I am not able to estimate the costs accurately and I know that members of this Committee feel that no one can forecast the cost of as intricate a weapons system as the ABM with sufficient accuracy. I do know that civil defense, even the more expensive variety which the Little Harbor Study advocated instead of evacuation, would cost only a fraction of what the offensive weapons, able to annul its protective effects, would cost. As to the ABM, I cannot assert anything like this with confidence, though I am inclined to agree with Dr. Teller's guess, "that our expenditures on penetration aids were not much less and possibly were considerably higher than the Russian expenditures on defense." What he did not ad, but what I wish to supplement, is that the installation of the penetration aids, the subdivisions, etc., led also to a certain degradation of our striking power. We paid in two ways when trying to counteract the ABM of the USSR.

What are, then, the reasons for my confidence in the effectiveness of ballistic missile defense? The crudest one of these reasons is that our striking power had to be decreased when it was adjusted to the presence of the Russian ABM. Similarly, I expect that the striking power of the USSR missile force will be decreased when it will have to counteract our missile defenses. The modifications necessary for this will result in a significant decrease of the total damage the USSR missile force can inflict even if our ABM became totally ineffective as a result of these modifications. As Secretary Nitze mentioned in the course of his testimony, our answer to the Russian ABM will imply replacing 10 MT warheads by 10 warheads, 50 kt each. Such a replacement results in a reduction of the total explosive power to 5, the area coverage to 29 per cent of their pre-replacement values. The total effect on our missile strength is not too great because we have few very large warheads—none of the 20 to 25 Mt variety of the SS–9. However, the reduction of the striking power of the USSR missiles could be very significant—they have mainly large warheads.

On a more purely technical level, I can see no fundamental problem that could not be solved by a competent group of engineers and physicists. If I may delve into my past experience, the situation may be similar to that which prevailed when the chain reaction was established by the Fermi and the basic design for the Hanford reactors laid in Chicago. This may be a good opportunity to compliment those who laid the foundations for the present missile defense plans. The invention and development of the phased array radar required, in addition to underdence in the effectiveness of ballistic missile standing and inventiveness. Naturally, such qualities will be of major help also in the implementation of the present plans but there are, as far as I can see, no outstanding problems which could not be solved in a more routine fashion than the information gathering could be solved. The phased array radar was a breakthrough in this regard.

I do not mean to say that the present plans constitute a final solution of the missile defense problem. The situation is rather similar to that of a chess game. There is a counter-move to every move, even the best one. This, however, is no argument against making a good move. The difference between our situation and that of the chess player is, of course, that we have no desire to win. It would be simply embarrassing. However, we have a fervent desire not to lose and the hope that we do not lose is, I may interject, also the fervent hope of the people in Western Europe who cherish their freedoms.

I would not be entirely honest if I did not admit that another reason for my confidence is the ability, competence, judgment and integrity of members of the Defense Department who discussed these matters with me. I am referring, among others, to Dr. John Foster.

My overall confidence in the promise of missile defense does not mean that I am in agreement with all the details of the technical decisions. In fact, I concur in some of the technical criticisms of Dr. Panofsky, though of course not with his main thesis. On the other hand, I am convinced, as was also Dr. Seitz, president of the National Academy of Sciences, when he testified before the Armed Services Committee, that there is some flexibility in the plans. In one respect, and this is not a detail, I would go much further in modifying plans than previous witnesses have recommended. I would like to see the ABM deployment coupled with an expanded civil defense program. However, this is not a subject on which I should speak today.

On the other hand, when I think of the possible consequences of a refusal to authorize the present relatively modest proposal for the Safeguard system, I become very deeply concerned. Such a refusal might be considered by potential opponents of this country as a sign of unwillingness of this country to defend itself. Nothing could be more provocative than this for people who constantly speak of the doom of the capitalist system, its downfall, the unavoidable victory of the progressive system in the future war, and so on.

On the contrary, that defensive measures are not provocative has not only been declared by Kosygin in the course of the famous interview on February 9, 1967; it has also been demonstrated by the vigorous civil

defense measures the USSR has undertaken and which went virtually unnoticed by our country. Certainly, I never heard any of the passionate opponents of our own missile defense characterize the defense measures of the USSR, civil or antiballistic, as provocative. The fact that some in the USSR dislike seeing us adopt defense measures does not alter these facts.

Let me make three points in conclusion. First that I tried to avoid repeating arguments which you have already heard. It may be good to state, though, that I concur with the criticism which Dr. Wohlstetter offered in his supplementary statement concerning the calculations on USSR first strike capability offered by Drs. Rathjens and Lapp, and which were apparently accepted by other critics of the Safeguard program, such as Dr. Panofsky. I find also other inconsistencies in these statements but will not go into details now. Let me mention next that the statements of Drs. Bethe and Killian seem to be endorsing, nay, proposing, the Safeguard system and are opposed only to the Sentinel. This is particularly true of Dr. Bethe's statement, as originally presented to this Committee:

"A completely different concept of ABM is to deploy it around Minuteman silos, and at command and control centers. This application has gone in and out of the Defense Department planning. I am in favor of such a scheme."

This part of Dr. Bethe's statement was, though, somewhat modified in the printed version.

Third, let me say that I fully concur with all of Dr. MacDonald's statement, in particular with his emphasis on the fact that a defense of the deterrent, such as the Safeguard, cannot be considered as an escalating move because it does not increase the first strike capability. It would induce the opponent to increase his armaments only if he planned a first strike. The difference between Dr. MacDonald's and my own views is based on my grave apprehension stemming from the evacuation plans of the USSR.

It is my belief that not responding to the threatening increase of the armaments of the USSR would be the most provocative behavior in which we could engage. It would encourage the most aggressive part of the USSR leadership by dangling a dangerous temptation before their eyes.

FROM RIOTS TO REBELLION TO REVOLUTION

Mr. ALLEN. Mr. President, the April 1969 issue of the Alabama Lawyer, the official organ of the Alabama Bar Association, contains an address by Hon. B. B. Gullett, immediate past president of the Tennessee Bar Association, delivered at the Law Weekend convocation at Samford University, Birmingham, Ala., one of Alabama's outstanding institutions of higher education.

The title of the address, "From Riots to Rebellion to Revolution," expresses its general theme. The factual observations and thoughtful conclusions presented in the address are timely and as valid today as they were when the address was delivered in May 1968.

Mr. President, we believe that a retrospective view of Law Day 1968, through this message, will lead us to a greater appreciation of the Law Day theme for 1969: "Justice and Equality Depend Upon Law and You." I commend the message to the thoughtful consideration of Members of the Senate and to the public in general and I ask unanimous consent that the address be printed in the RECORD.

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

FROM RIOTS TO REBELLION TO REVOLUTION

(By B. B. Gullett)

Suddenly our system of government—our way of life—has met its greatest challenge—mob rule—so I speak to you today on the unhappy subject of "From Riots to Rebellion to Revolution."

History should teach us that this road has been traveled before and that the journey sometimes is not too long. I confess that at this moment I am not only greatly concerned but frightened. In my opinion, in our race for the survival of our democratic system of government, the time now is not five minutes to 12 o'clock, but it may be 15 minutes past.

What has happened to this glorious nation which was conceived in liberty and dedicated to the proposition that all men are created free and equal?

What has happened to our people and their respect for the law and what has happened to the leadership of the Bar?

I drafted a speech more than sixty days ago, after attending the Mid-winter meeting of the American Bar Association in Chicago, where I listened to expressions of concern for the problems facing this country.

There, I heard warnings about the growth of crime in the United States—about the predicted riots of this summer—about the responsibility of the Bar to inventory its assets and to be ready to assist in the heavy additional load that would be placed on the bench and bar as the result of the anticipated racial disorder—I heard a frightening report by the former President of the Detroit Bar on how the race riots were handled—or mishandled—in Detroit last summer.

Immediately upon my return from that meeting I prepared, I thought, my talk for today. Some of the things that I predicted in it already have regrettably come to pass, and I have been forced to revise it in the light of many of the things that have transpired in the last two months. The seven days in April have stunned the nation—one of the minor casualties was my speech.

As a matter of fact, things have been moving so fast in this trying period that today's situation reminds me of an airline pilot who was flying across the United States. It was foggy outside and the passengers were very concerned because, as they looked out their windows, they could not see the wingtips to the port side or to the starboard. Finally, the pilot came over the intercom with a rather reassuring voice and he said: "I have two things to report. One is good news and the other is bad news. I would like to give you the bad news first. The bad news is that we are lost. The good news is that we are making record time."

Before we discuss our present status as a people and as a government—and how we have arrived at this point—let's discuss where we were during the infancy of this great democracy.

The great French scholar and statesman, Alexis De Tocqueville, in his renowned. "Democracy in America," writing of his visit to our country, where he had made a study of what made democracy work, was particularly impressed by the influence of the legal profession in American public affairs. He referred to it as being "the most powerful existing security against the excesses of democracy," and he added, "I question whether democratic institutions could long be maintained, and I do not believe that a republic could subsist in the present time if the influence of lawyers in public business did not increase in proportion to the power of the people."

De Tocqueville further said, "The profession of the law is the only aristocracy that can exist in a democracy without doing violence to its nature."

The important role which the Bar played in politics and government at that time is a familiar part of our history—the Bill of Rights—taxation without representation—unlawful search and seizure—trial by jury. The lawyers were indeed the leaders in the founding of the new republic.

I wonder what Mr. De Tocqueville would say if he came back to America today. Would he think that the influence of the lawyer in public business has increased either in proportion to the power of the people or the power of the government? Regrettably the influence of the legal profession has not kept pace, and that is one of the reasons why I am deeply concerned.

Three decades after De Tocqueville observed our fledgling republic, we found ourselves engaged in a civil war—the bloodiest of all wars to that time—a conflict engendered over a matter which our own hands had wrought—slavery. This problem tore the nation asunder—nor was it solved when President Lincoln, in his wisdom, decreed that a nation half free and half slave could not survive and prosper. Today the magnitude of the race problem far exceeds what it was at that time.

As youngsters we learned Lincoln's stirring Gettysburg address in which he spoke of the conflict to determine whether a government so conceived and so dedicated could long endure.

Under the leadership of the lawyers—and with renewed respect for law and order—our nation survived that test of which Lincoln spoke—and prospered, but in its transformation, many social changes which were neither welcomed, nor readily accepted, were forced upon us. Our nation grew strong and became the leader of the free world. And now when we are the richest and most powerful nation in history, we are engaged in a still greater conflict, still testing whether our system of government that you and I know can, in fact, exist. We are now concerned with the pressing question of whether our government can simultaneously fight a war on a foreign front, and put down civil disobedience and riots at home. We are faced with the urgent need for resolving deep-seated issues and critical problems so as to enable us to live in peace with ourselves and our neighbors both at home and abroad.

In the decades since Lincoln's Gettysburg address, we have made progress in many fields, but we seem to be losing the conflict for the very survival of our system of government. And, in the broader sense, we are losing the fight to be one nation indivisible under God, with Liberty and Justice for all.

It is pleasant to observe progress in road building, in transportation, in medicine, in science, in space exploration, in food, in housing, in automobiles, in clothes, in the circulation of news. It is gratifying to reflect upon the growth of our material wealth and our comforts since the days of De Tocqueville, but that's not the cheery picture I came to paint. Instead, I came today to discuss with you our troubles which are more deep-seated, more alarming and more awesome and which present a greater test of our system of government than the war about which Lincoln was speaking at Gettysburg.

When I first prepared this talk over six weeks ago, I wrote: "In our capitol city of Washington and in many other places, when night falls, thieves, thugs and marauders take over our streets. We see the ugliness of crime on all sides—violence, rioting and a general disregard for law and order. Civil disobedience and riots are about to engulf us." I have since had to change tenses and now say, *civil disobedience and riots have engulfed us*—and unless there is a rebirth—on the part of all races—of a sense of moral responsibility for law and order and for freedom under law, our system of government will perish.

The 1968 theme of Law Day U.S.A. is "Only a Lawful Society Can Build a Better Society." In this I believe wholeheartedly but there are those who have no respect for authority or for freedom under our Constitution. Mob violence is about to become the ruling force of our land.

Respect for legal authority, for institutions, for people's rights has been replaced by arrogant unreason. Before the seven days in April, crime in its traditional sense of robbery, burglary and similar offenses was the major problem facing America. This problem has been magnified by rioting and looting.

Even before the days of the recent riots and mob violence, a great mass of people appeared to have taken a new approach as to what observance of the law means. Individuals and groups were pursuing a course of determining for themselves which laws they would respect and which laws would be disregarded. Too many people had the attitude that "good laws will be obeyed and bad ones ignored." But I say to you, who is going to determine which are the good and which are the bad laws?

This new concept of law observance according to personal choice has acquired many different facets. A few years ago who would have thought that two hundred coeds at the University of Georgia in Athens would have seized the building on the campus and staged a strike demanding later curfew law and a relaxation of the drinking rules?

Who would have thought that students who were supposedly going to college to receive an education would have seized administration buildings and caused the cessation of college activities?

Who would have thought that prospective inductees would burn their draft cards?

Who would have thought that a faculty member would have forbidden industry recruiters to interview students because these particular industries made war material used in the defense of our country?

Who would have thought that teachers would have gone on strike for higher pay and *then refuse to obey court injunctions?*

Who would have thought that a citizen of this country would have referred to our flag as a "damn rag"?

Who would have thought that a minority group would have burned down great parts of our metropolitan area and that one of its leaders would have said, "I do not call for any violence and I don't call for any riots, but the nonviolent days are over, and if we must die, let us not die like hogs in some inglorious spot"?

What brings about these conditions? Mr. Leon Jaworski, a member of the President's Crime Commission, speaking to the Conference of Bar Presidents at the recent midwinter meeting of the American Bar Association in Chicago, said it is attributable to our attitude as a nation, an attitude that no longer embraces the virtue of a high regard for law.

Mr. Jaworski, continuing, said: "Who is better equipped and more competent than the lawyer to offer the leadership necessary to reverse this dangerous trend?" I agree with him and ask who should be better equipped than the lawyer, but can we stem the tide of racial disorder and civil disobedience?

What did De Tocqueville say of the influence of the legal profession: "That most powerful existing security against the excesses of democracy." Have we lost that influence? Has the legal profession ceased to carry its obligation to the people and to the cause of democracy? I'm afraid that the lawyers have failed to exert the influence that they should have, and perhaps this is not something which happened yesterday.

No one would deny that the lawyer in the early days of this country was always willing to defend the poor, to represent defendants in unpopular causes, to fight for the rights of the people. No tradition of our profession is more cherished by lawyers than that of its leadership in public affairs. But with the tremendous population explosion, the growth of business, the complexities of everyday life, I am *afraid* the influence of the lawyer in American public affairs has not kept pace with the growth of the country and I am *afraid* that we have fumbled the ball in maintaining our security against "the excesses of democracy"; I am *afraid* our failure is not one of recent date.

I am proud of the glorious history of the legal profession, but I must concur with Mr. Justice Holmes who said in 1934: "Candor would compel even those of us who have had the most abiding faith in our profession, and the firmest belief in its capacity for future usefulness, to admit that in our times the bar has not maintained its traditional position of public influence and leadership."

Perhaps the problems are too numerous—and too great for the legal profession to solve. Wherever we look, something is wrong. America is faced with a multitude of crises—monetary, military, moral, constitutional, and social. Today we are engaged in two great conflicts—at home and abroad.

Our major problem is our domestic one. Before the seven days in April, the press was reporting the formation of vigilante committees in various cities; that the police in Kansas City, in Dearborn and in Philadelphia were conducting classes to teach women to fire pistols and rifles, and that the grand juries were recommending the arming of each individual. You were reading of the National Guard training for anticipated summer riots. And now the riots have already broken out—crime and civil disobedience are rampant—and we are doing little to solve the problem.

The report of the President's Commission on Civil Disorder which was filed prior to the untimely death of Dr. Martin Luther King cogently calls our attention to the problem that we are facing and points up the events of the seven days of April. This report said, "Our nation is moving towards two societies, one black, one white—separate and unequal. If we are heedless, none of us shall escape the consequence."

Unless immediate action is taken, the Commission said, "largescale and continuing violations could result, followed by white retaliation, and ultimately, the separation of the two communities into a garrison state." I wish this report had not been so prophetic.

Did you read the "remedy for riots" as set out in the report of the National Advisory Committee on civil disorder? It recommended the creation of 2,000,000 new jobs, new housing, better schools and welfare. It recommended a national open housing law, which Congress has since passed.

The Committee's recommendation will cost an estimated $2,000,000,000 per month, just about the cost of the war in Vietnam. I do not know whether our economy will stand that kind of appropriation. I do not know whether that program will solve the problem but unless some solution is found, I think I can project the future. We will wind up a nation of two races with the ultimate destruction of our basic system of democratic government.

Kenneth Clark, the Negro member of the committee, reached this conclusion: "This society does not have the moral nor ethical fiber to meet the problem." If this is true, our democracy is doomed.

How do we attempt to solve the race issue? That is the pressing question. Who leads the fight? The lawyers? How do we instill a new respect for obedience to the law? Do we follow the report of the National Advisory Committee on civil disorder? What is the solution?

What is your responsibility in this crisis? What is my responsibility? What is the responsibility of the legal profession?

Mr. Justice Brennan, writing on the responsibilities of the legal profession, which appeared in the *American Bar Journal*, February 1968, said:

"Society's overriding concern today is with providing freedom and equality of rights and opportunities, in a realistic and not merely formal sense, to all the people of this nation; justice, equal and practical, to the poor, to the members of minority groups, to the criminally accused, to the displaced persons of the technological revolution, to alienated youth, to the urban masses, to the unrepresented consumers—to all, in short, who do not partake of the abundance of American life."

How do we provide equality of rights and opportunities in a realistc sense as called for by Mr. Justice Brennan? I'm not sure I know, but the problem can only be solved under law. There is no way to have equality of rights and opportunities, and justice and freedom except under law.

Freedom under law depends upon voluntary compliance with the law by an overwhelming majority of the people. When this is done, the individual and society as a whole is protected by the law and thereby enjoys the blessings of liberty and the freedom of choice. Under our laws and our system of government, the law violators, who constitute such a minute percentage of the population as a whole, are punished for their violation, and so long as the law violators constitute only a small segment of our society, our law enforcement authorities can cope with the situation, but a democratic system of government is not equipped for massive law violations.

To cite an example, and I do not mean to over-simplify the proposition, I say to you that if fifty percent of the citizens of this country should refuse to file and pay their income tax, the government could do nothing about it. The processes of the Federal Government could not arrest—indict—try—convict—sentence—and confine 35,000,000 people. The courts and the administration of justice are not geared to do this. Therefore, voluntary compliance with the law is imperative for a free society and those of us who do not willingly exercise self-restraint in compliance with the law chisel at the very foundation of our government. Such acts, in effect, constitute the denial of liberty and justice to the remaining citizens.

Riots represent a total breakdown of law and order. They jeopardize our continued freedom under law. If they continue, they will destroy our whole society. There will be no law for your protection, and my protection.

I say to you that dissent under a leadership which dedicated itself to nonviolence—led to violence—and in turn *that* violence led to counterviolence in the form of murder.

The so-called peaceful march in Memphis, which Dr. King had led a few days prior to his murder, picked up in its wake the rabble-rousers, the malcontents, the vicious, the hoodlums, those bent on destruction and on looting. The tragic sequel to this nonviolent march in Memphis in turn generated the most widespread spasm of racial disorder in our history. From Washington to Oakland, from Baltimore to Denver, from Chicago to Tallahassee, fires burned, looting prevailed and Federal troops had to be called to suppress these riots. In our National Capitol, fires burned as in the War of 1812. Helmeted combat troops, with bayoneted rifles ready, guarded the White House. Twelve thousand Federal troops secured the public buildings, and machine gun posts defended the National Capitol. I say secured the public buildings—from whom? From the rioters, from the looters, from the law violators. Huge sections of Washington, Chicago and Baltimore were burned, fires broke out in Nashville, in Pittsburgh, in Kansas City, in De-

troit, in Baltimore, in Memphis, in Oakland, in Tallahassee. Violence erupted—looting was the order of the day. The leader of the nonviolent group was dead and Stokely Carmichael cried, "Go home and get your guns."

Violence can only lead to counter-violence—and mob rule is no substitute for law and order. Furthermore, in my opinion, violation of the law or violation of a valid court order in the name of nonviolence is no less a crime than the violation of law by a mob bent on destruction and looting.

In this May 1968 when the flowers and shrubs are blooming and the trees are putting out their foliage and the grass is green, our land is sick. As my pastor said a few Sundays ago, the people are sick from despair and when men lose hope, they despair, and when they despair they grow afraid, and when they grow afraid they find an object for their fear, and mixed together, despair and fear and hatred breeds in them a desperation out of which comes action often irrational, utterly violent and most often destructive.

When this attitude is prevalent among a large segment of our society, our country is in real trouble. The theme of Law Day is, "Only a Lawful Society Can Build a Better Land." This I subscribe to, but to accomplish this, we need to face our problems squarely in the light of what is best for all our people. You and I and millions of Americans must re-evaluate our blessings and our responsibilities. *It will take more than talk to cure the sickness of this land.*

This is the Springtime of crises, of hatred, of violence, of riots and of horror. Ugly hands have been put upon the honored concept of free dissent. Dissent, under law, is a part of our democratic heritage—but dissent in violation of law leads to riots—to rebellion—and to revolution.

These troublesome days have brought America to an important crossroad and to the choice of whether its people are going to be brought together in a common unity and destiny, or whether hostility, hatred, violence and bloodshed will lead them down the road to the overthrow of the democratic government. America *must* be *one* people living in harmony and dignity or it will be destroyed on the anvil of mutual hostility.

If America lives—if freedom lives—we must live under an orderly society of law. We cannot exist by mob rule. A mob never creates—it destroys. No one ever heard of a mob building a Church or a courthouse—or writing a symphony or a Bill of Rights.

Today I have focused upon the awesome problem which we must solve if our system of government is to endure. Regretfully, I have not brought you the solution, but if you, the college students, the leaders of tomorrow, clearly see the problems, perhaps together we can find a way to solve them. I pray to God we can.

In closing, listen to the words of the poet, Josiah Gilbert Holland:

"God give us men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor, men who will not lie;
Men who can stand before a demagogue
And damn his treacherous flatteries without winking;
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking."

POSTAL REFORM

Mr. GRIFFIN. Mr. President, anyone who suggests drastic changes in the way our postal service is financed or operated walks into a hornet's nest of controversy. Prof. Stanley Siegel, of the University of Michigan Law School, did not hesitate to tackle that difficult, complex subject when he recently addressed the Economic Society of Michigan.

An adaptation of his remarks, in article form, appeared in the spring 1969 issue of Law Quadrangle Notes, a publication of the University of Michigan. Whether one agrees or disagrees with Professor Siegel, his thoughtful and thought-provoking article deserves to be studied by those in the administration and Congress who now are seeking "An Alternative to Politics in the Mail."

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:

AN ALTERNATIVE TO POLITICS IN THE MAILS

(By Prof. Stanley Siegel)

(NOTE.—Adapted from an address before the Economics Society of Michigan on March 29, 1969.)

In 1967, the American public contributed nearly $6 *per capita* to the deficit of the United States Post Office, a total of almost $1.2 billion. In 1968, after massive rate increases, the deficit will still approach $600 million. Despite the rising cost of service, its quality has declined. For example, as many of us are painfully aware, where once the American household received mail deliveries twice daily, the single delivery of today doesn't assure even overnight transmission of nearly one-third of first-class mail. This combination of increasing cost and declining service bears striking contrast to the improved efficiency of both private enterprise and other government operations. What is wrong with the postal system? The answer, at least for the government overseers of the postal system, is uncomfortable: the mechanisms of government control are totally unsuited to the running of a business enterprise.

The Post Office is affected with the public interest, but it is a business nonetheless: it provides physical communication services for stated fees. Although many of these services are subject to a statutory monopoly, some may be provided by private competitors, such as United Parcel Service and the Oklahoma-based Independent Postal System of America.

At the founding of the Nation, the Post Office was the nation's communication lifeline. It was the presence of the federal government in every outpost of the country—the vital link between the government and the people. For these reasons, the mails had been a government department in other nations; indeed, in the early days of the nation no other organization—private or public corporation, administrative agency, or public authority—had matured sufficiently to take on so massive and important a job.

Times have changed. Great private corporations have emerged and grown to extend services and produce products of every conceivable nature, and administrative and regulatory agencies have been created to police their activities in the public interest. Public corporations have been created anew or spun off from the government to conduct activities of mixed business and governmental character. Throughout this period of business and administrative transformation, the United States Post Office has slumbered like an enchanted princess in the outdated mold of its eighteenth-century creation.

But for historical accident, the Post Office might have been a private corporation subject to government regulation, such as American Telephone and Telegraph Co.; or a public corporation accountable directly to the government, such as the Tennessee Valley Authority, the British Post Office, or Canadian National Railways. Would a change in form today help to solve its massive problems?

WHAT IS WRONG WITH THE POST OFFICE

Twenty years ago, the Hoover Commission recommended that the Post Office be taken out of politics. For nearly a generation, Congress has known that nearly all the ills of the Post Office are traceable to political intervention in postal operations. In April, 1967, following a speech by Postmaster General Lawrence F. O'Brien advocating reorganization of the Post Office Department, President Johnson appointed a Commission to examine the Department's problems and make recommendations for their solution. *Towards Postal Excellence,* the report of the President's Commission on Postal Organization, concluded that a public postal corporation could most effectively address these problems.

Personnel: With 716,000 employees, the Post Office Department is one of the nation's largest employers. Unfortunately, five out of six employees are in one of the five lowest pay grades. Although the uniform nationwide pay scale makes postal jobs attractive in outlying areas where living costs are low, it is difficult—often impossible—to attract capable recruits in sufficient numbers for major urban centers, where living costs are high and postal needs greatest. Moreover, working conditions in most post offices are extremely unpleasant: antiquated buildings have poor heating systems, inadequate locker, dining, and sanitary facilities, and generally dismal decor. Poor training programs make advancement unlikely; indeed, four out of five postal employees retire in the same grade as they entered the Department. It has been claimed that political considerations enter into promotions, even at the lowest levels.

Political considerations affect appointments of top officials in all government departments, but the Post Office is unique in that the top 25,000 management positions—postmaster positions at principal post offices—are political appointees, selected by the President with Senate confirmation. Although the formal procedure calls for selection from eligibles certified by the Civil Service Commission, the process is in fact more cynical. An "advisor," usually the local Congressman of the political party in power, transmits the choice of local party leaders to the Postmaster General. If the chosen man does not qualify on the examination, he is often named acting Postmaster, and new examinations scheduled until he *does* qualify. To date—despite the introduction in the last few years of nearly one hundred bills designed to remedy the situation—attempts to eliminate political appointment of Postmasters have been futile. Postmaster General Blount has announced the elimination of the "advisor" system in his appointments of new postmasters, and President Nixon has announced support of proposed legislation to eliminate Senate confirmation, but the fate of these moves must again await the action of Congress. Until then, the managers of the Department will continue to be chosen by a process carefully designed to avoid considerations of their merits. From 1960 to 1967, two-thirds of the postmaster appointees were chosen from outside the postal system.

Finance: Aside from its staggering size, the most significant aspect of the postal deficit is that *it is not the responsibility of the Post Office Department.* The Post Office does not set its rates; *Congress* sets them. Nominally they are set in accord with the mandates of the Postal Policy Act, but in actuality they are the product of undisclosed political considerations. Ideally, rates should be set at or about the break-even point for all services except those for which a policy of subsidy has specifically been adopted. But the Department's figures show a small profit on first-class mail and enormous deficits on second-, third- and fourth-class. Although the validity of these statistics has been called into doubt, there is every indication that the most sophisticated cost-accumulation system would have little effect on the financial pic-

ture of the Department under the present rate-making structure.

Nor does the Department have much more control over its expenditures than its income. The budgetary process begins some fifteen months before actual expenditures; Congress appropriates funds for annual use in six categories, of which some 80 per cent is spent in the category of operations. The detailed appropriation process is directed toward assuring appropriate approval and legality of expenditures, rather than efficiency of financial operations. Financial statements show appropriation headings, not useful financial results. And in periods of fiscal austerity, Congress cuts appropriations without knowledge or regard for postal operations.

The appropriation process has had a devastating effect on postal modernization. Despite the existence of proven time- and labor-saving mail-handling devices, many major postal centers have done without them. The optical-scanning letter-sorting machine, now in experimental operation in Detroit, will produce enormous savings when perfected and spread throughout the system. But Congress has not appropriated sufficient funds to introduce even earlier-generation mechanized equipment in major postal centers. American Telephone and Telegraph Co. devotes more than one-third of its annual revenues to capital expenditures, but Congress appropriates a paltry 2 per cent of postal revenues to capital improvement. When AT&T introduced nationwide direct-distance dialing, the Post Office was still sorting mail into the 49-compartment cases created by Ben Franklin.

Operational Autonomy: Just as in the areas of personnel and finance, the Post Office Department is subject to pervasive outside control over all other aspects of its operations. Construction, transportation, contracting, internal management, are all the subject of some 800 pages of statutes and regulations governing the Department. Congressional hearings in 1968 reported the case of a lost lock box key that was ultimately resolved only by the office of the Postmaster General.

So detailed is the process for authorizing new postal construction that a five-year period elapses between decision to construct new postal facilities and actual construction. When new buildings are constructed, as postal logistics experts will testify, they should be placed near trunk roads and airports, since mail moves by air, and highway access is critical. Nevertheless, major new facilities, such as those in Baltimore, Maryland, and Jersey City, New Jersey, are located in downtown areas. City traffic, of course, makes movement of mail from such centers difficult and slow, but the Department has no say in their placement. The Jersey City facility, indeed, is now under investigation for purported Mafia influence in construction and subcontracting.

Similar constraints apply in so major an area as choice of the modes of mail transportation. The Department has difficulty, for example, in using freight forwarders and truck common carriers, even where these services are cheaper than rail transportation. Congressman Steed, in hearings on postal operations, summarized the extent of control over operations by the Postmaster General:

. . . At the present time, as the manager of the Post Office Department, you have no control over your workload, you have no control over the rates of revenue, you have no control over the pay rates of the employees that you employ, you have very little control over the conditions of the service of these employees, you have virtually no control, by the nature of it, of your physical facilities, and you have only a limited control, at best, over the transportation facilities that you are compelled to use—all of which adds up to a staggering amount of "no control" in terms of the duties you have to perform.

The pervasive problems of the Post Office Department are subject to solution only through large-scale disengagement by the government. This is hardly news. This course was recommended, by one means or another, by the Hoover Commission, the President's Commission on Postal Organizations, and—in a comparable situation—by the British Select Committee on Nationalized Industries reporting on the British Post Office.

WHAT ARE THE ALTERNATIVES?

One solution to governmental problems, particularly when they involve business operations, is to spin them off to private industry. Two private-industry alternatives are open to the postal service: either sell the entire system to a business corporation, or simply allow free private competition through repeal of the statutory postal monopoly. Either presents great problems. No single investor or group of investors would snap up the opportunity to buy an unprofitable and archaic enterprise for a present value of some $1.7 billion, requiring another $5 billion in immediate modernization. And simply opening postal operations to competition leaves unanswered the question of what to do with existing facilities and employees. Nor does it face the fact that much of the required postal service, after the cream has been skimmed in profitable local delivery, would still have to be provided—perhaps with even greater deficits—by the existing system. Neither alternative faces the enormous political difficulties of attempting so radical a change in ownership and control.

The public corporation is a tenable alternative, both politically and operationally. Among the many forms in which government has conducted its activities, the public corporation has a long and respected history. Indeed, in the United States it dates back to the Bank of North America, chartered by the Continental Congress in 1781. The combination of business autonomy and political responsibility that characterizes this form has led to its use for many state and federal purposes, for example, electric power production, ports, bridges, airports, and financing institutions. The Tennessee Valley Authority is closely analogous to the Post Office in its commercial power production; and the U.K., Canada, and other nations have used public corporations to run numerous industries including, in some cases, the mails. Creation of a public postal corporation would require a departure from traditional government operation of the Post Office, but that change would be precisely what is needed to revitalize the system. The public corporation idea is not startlingly original, not unique, and not untried.

Possessed of substantial autonomy in finance, personnel, and operations, the Tennessee Valley Authority has been highly successful by any measure. It has repaid much of the government's initial investment and, while returning income to the government on its remaining investment, now conducts its commercial operations at a break-even point. Its record of labor relations is exceptional. Instrumental in achieving these successes are the powers granted to TVA: exemption from the civil service system, authority to sell bonds for capital financing, rate-making power, general managerial autonomy, and scrupulous elimination—by statute—of political interference in operational decisions. While the British nationalized industries have not achieved quite so admirable a record, the successful industries have similarly been characterized by a substantial degree of autonomy, considerably greater than that of a government department.

ESSENTIAL FEATURES OF A POSTAL CORPORATION

The Board of Directors: Whatever form a reorganized Post Office takes, an essential feature will be greatly increased autonomy both in matters of major policy and in day-to-day operations. The essentially business operations of the Post Office should be insulated from Congressional and Executive interference except on matters of overriding national policy. Virtually essential to this insulation is a board of directors, but such a board must be constituted differently from the board of private corporations. Most major private corporations today have "mixed" boards of directors, composed in part of outside, part-time directors and in part of inside, full-time officer-directors. The advantages claimed for this system are two: outsiders provide perspective, vision, and objectivity, while insiders supply detailed knowledge and immediate responsibility for results. Ever since Berle and Means' landmark study of 1932, it has been understood that corporate management—the board of directors—tends to perpetuate itself or its designees through use of the proxy system. Thus, the board in most of those corporations is "controlled" by the full-time insider-officers.

The board of a public postal corporation should be named by the President of the United States, consistently with prior practice. The board structure proposed by the President's Commission on Postal Organization is, like its commercial counterparts, mixed: six part-time Presidential appointees, and three full-time officer-directors named by the six. Such a board gives great power to generally uninformed outsiders who—unlike the outsiders in *private* corporations—are not effectively subordinate to the officer-directors. Moreover, early experience with TVA's combined policy-operations board of directors was disastrous; the board of a public corporation should be concerned with policy only. A Presidentially appointed *full*-time policy board such as TVA's has four major virtues:

A degree of executive supervision through naming of the board.

Necessary insulation of executives from politics, through board appointment.

An informed full-time board of directors, and executives responsible to the board.

Separation of policy (the board) and operations (the executives).

Personnel: No postal reorganization will be effective without total elimination of political influence in appointment of postal employees and executives. Postmaster General Blount has taken the first steps in this direction, and legislation proposed by President Nixon will, if enacted, go a long way toward meeting the problem. However, nothing short of exemption from the civil service laws will fully solve the Post Office's personnel problems.

Exemption from civil service would not be unprecedented. Nor would it herald political intervention or labor strife. TVA, which has enjoyed such an exemption from the outset, has had excellent labor relations and virtually total political insulation in its personnel process. For executives of a postal corporation, civil service exemption would have two virtues: greater flexibility in assigning responsibilities and determining pay grades, and potentially higher salaries. There is rigidity in the civil service system, much of which might be avoided through a personnel system tailored specifically to the Post Office. Moreover, the disparity between compensation of executives in major American corporations and compensation of postal officials is great. The Post Office, unlike the Justice Department or the Department of Interior, is a business; it requires long-termed business executives for its direction. The recommendations of the Kappel Commission on Executive Pay will go a distance towards eliminating the compensation gap, but it will still prove difficult to attract a top corporate executive for a salary probably less than one-fourth of what he is worth in industry.

The advantages of civil service exemption for laborers and other non-executives are also twofold. For the first place, exemption would provide increased flexibility in hiring, assignment, evaluation, and discipline—in short, a personnel system tailored to postal needs. Secondly, exemption would mean that

at long last labor-management problems could be tackled by genuine collective bargaining—as opposed to legislative lobbying. Any argument that elimination of civil service will open the floodgates to political influence can be dismissed readily. Aside from the fact that the Department is presently inundated with political appointments, reference may be made to TVA—also civil service exempt—where political influence is unheard of. Fears of loss of pension and seniority rights may similarly be answered, by statutory preservation of these rights.

Interestingly, the most powerful objections to such a proposal—an indeed to postal reform generally—is likely to come from organized labor. For the existing system of statutory pay scales provides organized labor with a powerful weapon—the lobby. Elimination of this weapon will necessarily encounter opposition unless replaced with another—the strike. TVA has a strike-ban, as do other government corporations. However, AT&T and other industries of equal magnitude and importance to the Post Office have no such prohibition. Tradition and precedent aside, the arguments against the Post Office strikes seem no more convincing than those against telephone and airline strikes. If labor opposition can be overcome only by granting a right to strike, the Administration should pay that price for reorganization. In the long run, I submit, such a price would be low.

Finance: It is in the area of finance (rate structure, capital expenditures, borrowing, budgets, and auditing) that freedom of action tends to be most important—and controversial. Occasional fears are expressed that given free rein, a postal corporation would set prohibitive rates for unattractive services, eliminate essential but unprofitable operations, and gather huge profits. Of course, no such corporation would be unregulated. The President's Commission on Postal Organization, for example, suggested regulation of rates and conditions of services by an internal board of rate commissioners. Another possibility would be to create a separate government agency to regulate rates and conditions of service, or to vest such authority in an expanded Federal Communications Commission.

Whatever form rate regulation takes, two characteristics of the ratemaking scheme will be essential: 1) the initiative for setting rates and conditions of service must be in the postal corporation; and 2) the corporation should be required to break even and to set rates on an economic basis. Subsidies, if determined to be necessary, should be separately funded by Congress. Break-even operation—including possibly a return on the government's invested capital—is desirable to avoid the enormous indirect subsidy paid by the taxpayer to the users of 80 per cent of the mail service, American business. Post Office Department statistics indicate that to achieve break-even operation, rates on first-class mail should be kept relatively constant, but third-class rates increased about one-third and second-class rates *nearly tripled.* Break-even operation *is* possible. All available data indicates that the demand curves for all classes of mail are remarkably inelastic, and that only a few marginal users of third-class mail would be seriously affected by rate increases.

The advantage of granting the Post Office initiative in setting its rates and services is that the corporation must come forward with economic and operational justifications for its proposals. More importantly, changes from these proposals must be publicly explained by the body that would make such changes, whether regulatory agency or Congress. Today, by contrast, the lobbying process for favorable rates is largely covert, and Congress sets rates at the deficit level while the Post Office Department takes the blame.

The Department's inability to make necessary capital expenditures rests with the appropriation process. Congress will not appropriate the necessary funds, and it is literally impossible to pay for improvements—now estimated to require $5 billion—out of rate increases. The postal corporation should be given authority to raise capital funds through the sale of bonds. TVA has used its bond-issuing authority to advantage. Indeed, despite their lack of a U.S. Treasury guaranty, it has secured a "Triple-A" rating for its bonds. Such authority for a postal corporation, perhaps augmented by a Treasury guaranty during the early years, would be of inestimable value in bringing postal operations into the twentieth century.

Finally, the budget and appropriation process should be adjusted to meet the business needs of the Post Office. Full business-type budgets and financial statements, as well as commercial audits, should be introduced, and the corporation permitted to expend its receipts outside of the limitations of the appropriation process.

WILL POSTAL REFORM BE EFFECTIVE?

Creation of a postal corporation, by itself, will not initiate a golden age for the Post Office. In fact, unless certain critical elements of autonomy are secured, no improvement can be expected. The virtue of the corporation approach, as opposed to piecemeal reform, is that it can be used to secure all the necessary reforms at once, and to untie for all time the Congressional apronstrings. The President's Commission on Postal Organization predicts savings of some 20 per cent in a five- to ten-year period if its proposals are enacted. If such savings do materialize they will of course be welcomed. It may be safely said, however, that a reorganization which does no more than cut back the rising postal deficit while maintaining reasonable rates and service will be hailed as a success. The task is not yet to transform the Post Office into a model of American enterprise, but simply to stave off rigor mortis.

TAX FAVORITISM

Mr. YOUNG of Ohio. Mr. President, it is clear that there is a genuine "taxpayers' revolt" sweeping the country in protest against rapidly rising local, State, and Federal taxes and against our income tax law replete with loopholes. It is clear there is an urgent need for genuine tax reform.

The President has submitted his proposals to the Congress and the Senate Finance Committee and the Ways and Means Committee of the House of Representatives are presently considering these as well as other proposals for plugging tax loopholes and correcting inequities in our tax laws.

Senators are aware that the Treasury Department officials have quasi-legislative authority in interpreting tax legislation. Unfortunately, there are cases in which this power has been abused and in which the intent of Congress was not followed. Recently, Sanford Watzman, investigative reporter in the Washington bureau of the Cleveland Plain Dealer, wrote a penetrating series of articles involving a decision by Treasury Department officials which appears to be a case of blatant tax favoritism which operated for the benefit of one specific firm.

Because of the importance of this subject and of increasing widespread interest in reforming our tax laws and procedures, I ask unanimous consent that the series of articles written by Mr. Watzman and published in the Plain Dealer of Cleveland on April 27, 28, and 29, be printed in the RECORD at this point.

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

[From the Plain Dealer, Apr. 27, 1969]

REGULATION GIVES HANNA ORE FIRM TAX BREAK IN MILLIONS

(By Sanford Watzman)

WASHINGTON.—Under a "special" government regulation, in one of the largest cases ever to turn on a single issue, a subsidiary of the Hanna Mining Co. of Cleveland has been allowed to avoid payment of $10 million to $20 million in federal taxes.

Hanna's offspring, the Iron Ore Co. of Canada (IOC), got the opening it wanted in the closing days of the Johnson administration. A regulation tailored for IOC was put on the books, resulting in a tax return of zero money owed.

As a decree applying across the board, helping any company with a case that fits, the regulation does not name any corporation. It was drafted in such a way, however, as to make it unlikely that any other company could benefit.

The break came for Hanna after the case had been pending seven years. In its fight with the Internal Revenue Service, Hanna lost every round. But higher authorities speeded action at the end to lift Hanna's hand in victory.

It was not the edict itself that raised eyebrows in the IRS building and produced critical remarks there. Rather, it was the way it was written and the procedure followed.

As to the merits of the case, the few who know the facts acknowledged that IOC, the Hanna subsidiary, had good legal arguments which could have swayed a court. But the regulation spared IOC the necessity of going to court, or of paying up.

A Hanna spokesman asserted in an interview with the Plain Dealer that the Treasury Department action had saved IOC $10 million. An authoritative rival figure computed for this reporter was $20 million.

Other estimates by tax specialists not as close to the case range higher.

The top official identified as being involved —although he denied an active role—was former treasury secretary Henry H. Fowler, IRS is a part of the Treasury Department.

In addition to taking its case to Fowler, Hanna enlisted the aid of the Canadian government, which interceded for the company.

The other principals were Stanley S. Surrey, then assistant secretary of the treasury for tax policy, and Sheldon S. Cohen, IRS commissioner until the Nixon administration.

It was Surrey who ordered his staff to write the pro-Hanna regulation. He took this action after the chief counsel of IRS refused three times to grant relief to the company, and after Cohen declined twice to issue a favorable ruling.

Surrey himself rejected Hanna's argument the first time the case was presented to him. In the end, both he and Cohen signed the regulation that laid the issue to rest. It was approved by them on Jan. 9, 1969— 11 days before they left office.

The issue was IOC's eligibility to pay its taxes in a special way—by filing what is known as a consolidated return. It did file such a return in 1959 and 1960 with the IRS district director in Cleveland.

The return treated IOC and its own wholly owned subsidiary, the Quebec, North Shore and Labrador Railway Co., as a single tax-paying entity.

The railroad runs from Seven Islands, a Canadian port on the St. Lawrence seaway, to the ore fields at Knob Lake, some 350 miles to the north.

Starting in 1960, and without interruption since then, the railroad has been paying dividends to its parent corporation.

In 1960 these payments totaled $34.4 million. In addition, IOC that year realized a

gain of $12.1 million from the sale of rolling stock to the railroad.

If a consolidated return were in order, these items could be eliminated from IOC's taxable income—meaning that IOC could retain the earnings tax-free.

The problem that arose was whether the railroad could be treated for tax purposes as a domestic (U.S.) corporation, although it had been chartered in Canada.

If it were held to be a strictly foreign entity, it could not be included in a consolidated tax return with IOC, which was incorported in Delaware in 1949.

In that event, the gains realized by IOC would be considered income and held taxable by the United States.

Section 1504 (D) of the U.S. Internal Revenue code assigns domestic status to foreign subsidiaries of an American company—providing that the subsidiary was organized because the laws of the host country do not permit an American corporation to operate within its borders.

This section of the code dates to the revenue act of 1928. While it applies to Canada as well as Mexico, it was put in the code because of problems that arose over American business operations in Mexico.

When the consolidated return was filed, IRS officials in Cleveland questioned it. They argued that Canadian law does not bar American companies from Canada. It would follow, then, that the foreign railroad could not qualify as a domestic (U.S.) corporation.

IOC countered that, while there was no explicit prohibition in Canadian law, there was an implicit government policy—backed by historical precedent—which had the same effect.

Cleveland officials asked IRS headquarters here for a ruling. In September 1961, IRS sent out an agent from its office of international operations to examine the returns.

The fight—with its many long counts—had begun.

Meantime, IOC continued to file consolidated returns for subsequent years pending a final decision. Railroad payments to IOC kept rolling in, reaching a total of $136.3 million by the end of 1968.

Despite these earnings, IOC did not pay a penny in taxes to the United States in those years. Company officials assert that tax liability was wiped out by foreign tax credits and other special allowances.

The dispute has been over the 1960 return. Apparently, a challenge for the other years was not in the cards, even had IOC been forced to back down from a consolidated return.

By now, the company has built up a surplus credit of $30 million on taxes paid to Canada. This money is deductible, dollar for dollar, on returns filed with IRS. The credit has run through the 1960s, leaving the surplus available for the future.

When Cohen denied a favorable ruling to IOC, all possibilities of relief from IRS itself had been exhausted. Only the IRS commissioner—and no higher authority—has the power to issue a tax ruling.

But one more avenue remained open to Hanna as an alternative to going to court. It led beyond IRS to the Treasury Department, which shares responsibility with IRS for tax regulations.

Ordinarily, regulations are drafted or changed only after Congress amends an old law or enacts a new one. The regulations interpret the law, giving guidance on how it is to be applied.

There is a difference between an IRS commissioner's ruling and a regulation. A ruling resolves a particular case. A regulation—like a law—lays down a broad policy.

A complicated procedure has evolved for promulgating new regulations. Usually, it starts with a "proposed rule making"—an initial draft.

This is published in the Federal Register as a public document. Interested parties are given an opportunity to comment on the proposal, after which a public hearing may be held. Then the regulation is republished in final form.

For a regulation to become effective, it must be signed by two persons—the assistant secretary for tax policy and the IRS commissioner. A refusal by either one to sign kills the proposal.

What had set the stage for the Hanna controversy was the fact that the then existing regulation, based on section 1504 (D), did little more than restate the law. This opened both law and regulations to varying interpretations.

So far as Cohen and his staff were concerned, the law was clear. But the company felt IRS was being unfair and rigid in its rendering of the statute.

Surrey's order that a new and expanded regulation be written was carried out by publication of his proposal in the Register on Nov. 2, 1968, just before the presidential election.

As a statement of general policy, the prospective new regulation turned out to be surprisingly specific.

It said: "the term 'laws of such country' (Canada and Mexico) includes . . . in addition to explicit statutory or constitutional provisions, any existing legislative practice or policy."

Then the specific language followed, with the regulation offering an example of a situation that might arise. This lengthy sentence, virtually a recitation of IOC's case except that IOC's name was omitted, reads:

"For example, if the laws of Canada (SIC—not Mexico) permit the ownership or operation of specified property, such as a railroad (SIC), only by a person granted a special legislative authorization, and it is established that there is an implicit (SIC) legislative policy that such authorization would be granted only to a corporation organized under the laws of such country, then a corporation organized under the laws of Canada to own or operate such property will be considered maintained solely for the purpose of complying with the laws of such country . . ."

In addition to the precise wording of the example, to other aspects of the regulation proved interesting. Both had the effect of narrowing the circle of companies that might be helped by the edict, perhaps eliminating all other corporations.

One of these features was that the regulation is retroactive, applying only to the tax years before 1966. The second was that certain qualifying tests were retained without change.

Retroactivity stemmed from the fact that IRS has two sets of regulations in the consolidated return area, one applying to the pre-1966 period and the other to the years following. The reason is that regulations in this field slowly are being revised as part of a general undertaking.

To make the Hanna regulation apply to the present and future, as well as the past, it would have been necessary to repeat the new proposal in the post-1965 regulations.

The fact that this was not done prevents any company from using the regulation today, even if it should find that for any year after 1965 its situation was similar to that of IOC.

The Plain Dealer was told that an amendment to the current regulations was also intended. However, this action was postponed in the rush to complete paperwork on the pre-1966 regulation. That was the explanation given.

The restrictive provision retained when the pre-1966 regulation was amended says:

"The option treats a foreign corporation as a domestic corporation so that it may be included in a consolidated return must be exercised at the time of making the consolidated return, and cannot be exercised at any time thereafter."

Hanna met this test because, as related earlier, it had begun in 1959 to file consolidated returns on behalf of IOC and the railroad.

The next sentence in this section holds that, once a consolidated return is filed, the filing must be repeated "each consecutive year thereafter." Hanna also met this test.

Because there was no loosening of these provisions any company seeking relief under the new regulation would have to show it had done exactly what IOC did—that is, produce a record of consistent filing of consolidated returns.

When the proposed regulation was made public, two parties availed themselves of the opportunity to comment. But their objections missed the point. Clearly, the authors were not aware of the real reason for the new regulation.

One comment was submitted by the American Bar Association on behalf of members of its committee on foreign tax problems. The second came from Chicago lawyers for the U.S. Gypsum Co.

The bar appeared puzzled. Its members observed that the decree "appears to apply only to taxable years commencing before Jan. 1, 1966."

U.S. Gypsum—and the bar members to a lesser extent—were particularly concerned about what impact the edict might have on American organizations doing business in Mexico.

Robert M. Gunn, attorney for U.S. Gypsum, told The Plain Dealer about a conversation he had had with Stanley Weiss, who was drafting the regulation for Surrey.

"We felt that a Gypsum mine might properly be cited as an example, in the same way that a Canadian railroad was," Gunn recalled.

He added: "but our main problem was that we wanted to be sure that the same regulation would be made applicable for the years after 1965."

Gunn said to this reporter: "as you have probably gathered, there was a lot of urgency about this regulation and a great desire to get it closed out in January."

"How do you account for that? Do you think it had anything to do with the impending change of administrations, any company, seeking relief under the new regulation would have to show it had done exactly what IOC did—that is, produce a record of consistent filing of consolidated returns?

"Your interpretation of that would be as good as mine. Why don't you check with Weiss? For my part, I was assured the matter would be taken care of later, and I saw no harm in waiting."

Weiss has since left the government. Reached at his law office here, he was asked what the rush was about.

"Well, this issue had been pending a long time, and there were tons of paper on it," Weiss replied. "Cohen and Surrey had already decided it, and they felt it ought to be disposed of before they left."

In spite of the comments by the bar association and U.S. Gypsum counsel, the proposed regulation was adopted without changes. No public hearing was held.

After Cohen and Surrey signed, notice of their action was published in the Federal Register on Jan. 15, 1969—five days before the Johnson administration was replaced by the new Republican team.

More than three months later, there still has been no publication of a proposal to repeat the edict in the current consolidated return regulations.

Treasury officials told The Plain Dealer this would be done. But other work, they said, has priority.

[From the Plain Dealer, Apr. 27, 1969]

EX-TREASURY AIDE TELLS WHY HE OK'D REGULATION

WASHINGTON.—Stanley S. Surrey's first reaction when approached about the regulation that bailed out the Iron Ore Co. of Canada (IOC) was to ask what had become of the regulation.

"This is a proposal," the former assistant secretary of the treasury for tax policy remarked casually, when a newsman showed him a tear sheet from the Federal Register.

Then he added, "Oh, it was finally adopted as a regulation? And without change?"

In this interview in Surrey's office at Harvard Law School, the name of the taxpayer was not mentioned.

While the regulation itself is a public document, the case that gave rise to it, like all individual tax cases, was confidential.

Asked what had prompted the decree, Surrey replied, "There were some cases in the Internal Revenue Service and IRS needed guidance."

"How many cases?"

"There aren't very many that come up under this provision in the nature of things."

As the interview progressed, gradually there came an acknowledgement that the edict was traceable to a single case.

Surrey said, "No, you can't assume that, because a regulation sets broad policy, it always covers a number of cases. But when a case does come up under this section, it's usually important because foreign governments are involved.

"Many regulations do get promulgated because of a particular problem. They don't rise in the abstract. This regulation resulted because a case came up that brought this matter to a focus."

At the same time, Surrey said, there was no way of knowing how many other taxpayers might be affected by the regulation, now or in the future. He added that there were pending cases where this was possible.

The reporter then asked Surrey why the regulation was retroactive, granting relief only for the years prior to 1966, and only to a taxpayer able to met certain requirements.

The former treasury official at first contested this interpretation; he maintained there was no time cut-off. But on examining published material shown him by the interviewer, Surrey appeared startled.

He then conceded that the reporter apparently was correct. He said, however, it had been his intention to have the regulation apply in the future as well as the past.

He asserted he did not know why this had not been accomplished, adding he would check it. Surrey then made it clear that no aide acted in his name.

He said, "I take full responsibility for all regulations I signed, and I reviewed them all."

Surrey telephoned the reporter two days later with an explanation for the lapse. He said one of his former assistants in the Treasury Department had assured him that the regulation would be made effective for 1966 and subsequent years.

"They are preparing a series of technical changes in the current-consolidated-return regulations, and this one will automatically be in that batch," Surrey said. "Mechanically this is the normal way to do it, and I'm satisfied now."

In a later telephone interview, the reporter cited that fact that the file on the proposed regulation contained a comment on the retroactive feature. This had been submitted by the American Bar Association.

Surrey said, "I did not get to see all those protests. My people looked them over and called to my attention those of substantive merit. This one didn't get called to my attention."

In this later exchange, the newsman said he knew the identity of the taxpayer and asked why the new regulation, in the process of being rewritten, had not been loosened so corporations other than IOC could benefit.

Surrey replied it was not good practice to invite trouble," since the government had no way of knowing how many taxpayers would seek relief if the decree were broadened.

He asserted the old regulation had merely been interpreted—not stretched—by the language that was added.

"After the case had been pending for a long time, why was there a rush to decide it just before you left office?" Surrey was asked.

"You clear your desk—that's sensible administration," he replied. "I believed that all problems that have been answered should be finished."

I was under no pressure. He added, "Absolutely not. I never had pressure to decide any case. The Canadian government came to see the secretary, and he told them I was handling it."

The reporter asked, "In view of the differences between you and the Internal Revenue Service, why didn't you just hold off and let a court decide the matter, if that became necessary?"

"That's not what an administrator is supposed to do, in my philosophy," Surrey said. "I was paid to decide cases myself. You can't shrink from that; that's not the way to do business.

"Furthermore, the matter got more of a public airing through publication of the proposal in the Federal Register. It gave all those interested an opportunity to comment. In court, you have to be a party to a case or get special permission to make your views known."

Surrey is 59. A graduate of Columbia Law School, he served with the Treasury Department for 10 years until 1947. He pursued an academic career before returning to the treasury as an appointee of the Kennedy administration.

He enjoys a high standing in professional circles. He had an image here as a tax reformer.

[From the Cleveland (Ohio) Plain Dealer, Apr. 27, 1969]

DID NOT KNOW ALL FACTS, COHEN ASSERTS

WASHINGTON.—Sheldon S. Cohen would not have signed the regulation in the Iron Ore Co. of Canada (IOC) case, had he known the facts as the Plain Dealer found them.

The former commissioner of the Internal Revenue Service (IRS) made this statement at his law office here, in the second of two interviews with a Plain Dealer reporter.

After discussing the edict in general terms at the first session, the newsman on the next occasion said he had learned the regulation was promulgated expressly for IOC.

"Well, I'm not surprised that you did," Cohen said. "It wouldn't have been hard to figure out."

This was a reference to the highly specific language of the decree—"For example, if the laws of Canada permit the ownership or operation of specified property, such as a railroad . . ."

IOC owns the Quebec, North Shore and Labrador Railway Co.

Cohen said he suspected the wording stemmed from sarcasm on the part of some government officials, who were assigned to write the regulation though they disagreed with the procedure being followed.

The order to draft it was issued by Stanley S. Surrey, then assistant secretary of the Treasury for tax policy. Cohen balked at first, but then agreed to sign it with Surrey.

What Cohen did not know, he said, until the reporter showed it to him was that the edict was not effective for tax years after 1965 and that it contained other provisions that further narrowed its applicability.

Cohen said he thought when he signed it that the regulation was up to date. There were no technical or procedural reasons that would have barred simultaneous promulgation of the same edict for later years, he added.

He agreed with the reporter that the new regulation was restrictive in its coverage that changes could have been made to broaden it, increasing the possibility that companies other than IOC would find some benefit in it.

Cohen said he did not give the matter his personal attention because it was Surrey's staff, rather than his own, that initiated the regulation.

He confirmed that at least twice he had refused to use his own powers to issue a commissioner's ruling, which would have had the same effect so far as IOC's individual tax problem was concerned.

"Then why did you sign a regulation?" the reporter asked. "On another occasion recently, some new rules on oil depletion allowances did not go into effect because you declined to sign what Surrey handed you."

"In that case," said Cohen, "I wasn't given an opportunity to review the material, and it was just five days before we were leaving office. The case you're inquiring about was different.

"It was always my view that the job of the IRS commissioner is to determine what the law is, and that the job of the Treasury secretary and his assistant secretary for tax policy is to determine what the law ought to be.

"At IRS, we had consistently taken the attitude that the law dealing with consolidated returns would not allow what Mr. Surrey proposed. For me to have issued a ruling would have been inconsistent.

"However, I always regarded Mr. Surrey as speaking for the secretary. Since the department had decided to set policy in this area, I decided I could go along with that, even though I wouldn't have done it on my own authority.

"I was willing to share the responsibility, but I wasn't going to shoulder it all myself. I really didn't feel that strongly about this case. After all, it did involve a set of facts which honest and competent lawyers could call either way."

Cohen was asked: "As a general rule, do you feel it was proper for taxpayers to go to Mr. Surrey's office, asking that it act as a reviewing court on decisions made by you?"

He replied: "No. The standard rule was that Mr. Surrey should throw them out. This could be very disconcerting to me and my staff. It may have happened a few times but, believe me, it occurred with greater frequency under the Republicans."

The policy of former Treasury Secretary Henry H. Fowler, Cohen said, was that IRS itself should be the administrative court of last resort in disputes with taxpayers.

At the Treasury Department level, he explained, there are officials who deal with Congress and outside pressure groups.

Consequently, he said, there is always a danger that compromises might be forced in individual cases that get caught in the political whirlpool.

Cohen asserted he had been under no pressure from higher authorities to sign the decree.

The former commissioner is 42. He is a lawyer and a certified public accountant. Before he joined IRS, he was associated with the Arnold, Fortas and Porter law firm here.

[From the Plain Dealer, Apr. 27, 1969]

HANNA: "SURE WE WERE RIGHT"

WASHINGTON.—The Hanna Mining Co. was convinced it had a good case against the Internal Revenue Service, and that ultimately it could have won without a new regulation.

So said John R. Greenlee, director of taxes for Hanna.

"We persisted for so long because we felt so clearly and so surely that we were right,"

he said. "We were prepared to go to court if necessary."

Greenlee recalled that he sent a telegram to former Treasury Secretary Henry H. Fowler after IRS turned him down. The response was a telephone call, he said, from Stanley S. Surrey, then Fowler's assistant secretary for tax policy.

"I respected Mr. Surrey as a lawyer, and I knew that if he got into this he would overturn Mr. Cohen (Sheldon S. Cohen, former commissioner of IRS)."

Greenlee asserted: "The thing to keep in mind is that we were contesting a principle. At no time did IRS file a claim against us for any amount of money.

"The principle had to be resolved first, before we could be told whether we owed anything.

"I don't see this regulation as helping only us."

[From the Plain Dealer, Apr. 28, 1969]

SURREY SAW TREND GROWING—EX-TREASURY AIDE HIT TAX BREAKS

(By Sanford Watzman)

WASHINGTON.—"The refuge of the wealthy has been in the brains of their tax lawyers and in the technicalities of the tax law."

Author of that sentence is Stanley S. Surrey, who wrote an essay for the May, 1957, Harvard Law Review entitled: "Congress and the Tax Lobbyist—How Special Tax Provisions Get Enacted."

Surrey's focus then was on Congress. But as the assistant Treasury secretary for tax policy, Surrey exercised quasi-legislative powers himself, as in the Iron Ore Co. of Canada case.

In his 1957 article, Surrey wrote:

"These provisions run counter to our notions of tax fairness. Moreover, the tendency of Congress to act this way seems to be increasing."

He cited the so-called "Louis B. Mayer Amendment," named for the movie mogul.

"It is generally assumed that the amendment at the time covered only two persons, Mayer, retired vice president of Loew's, Inc., and one other executive in the company, and that it saved Mayer about $2 million in taxes."

Surrey continued:

"The question, 'Who speaks for tax equity and tax fairness?'," is answered today largely in terms of only the Treasury Department. If that department fails to respond, then tax fairness has no champion before the Congress.

"The Treasury, representing the executive branch, stands in the open before the Congress virtually alone as the champion of tax fairness. The main reason is obvious.

"When the issue is a special provision for one group as against the taxpaying public as a whole, what pressure group is there to speak for the public?

"Other legislation—labor laws, natural gas prices, farm legislation—brings forth strong and opposing pressure groups. But what pressure group fights against capital-gain treatment for employe stock options? Which group sees itself harmed by a 'Mayer Amendment'?

"In sum, there are no private pressure groups actively defending the integrity of the tax structure . . .

"Perhaps the most significant aspect of the consideration of special tax provisions by the Congress is that it usually takes place without any awareness of these events by the general public.

"Almost entirely, these matters lie outside of the public's gaze, outside of the voter's knowledge. The special provisions which are enacted lie protected in the mysterious complex statutory jargon of the tax law.

"This technical curtain is impenetrable to the newspapers and other information media. The public hears of debate over tax reduction or tax increase and it may learn something about the general rate structure.

"But it seldom learns that the high rates have no applicability to much of the income of certain wealthy groups. Nor does it understand how this special taxpayer or that special group is relieved of a good part of its tax burden.

"All of these matters are largely fought out behind this technical curtain. Hence the congressman favoring these special provisions has for the most part no accounting to make to the voters for his action.

"The task of educating and informing the public is formidable. To begin with, the educators are a very limited group. Most of them are in the executive branch, and hence perhaps the prime responsibility should fall on them. But in recent years that department has shown little disposition to inform the public about tax problems.

"Some of the prospective educators are in the universities. But academic knowledge and learned writing are not the keys to public education of this nature—more writing at the public information level is clearly needed. . .

"It would seem proper for the Congress to require that all retroactive tax proposals limited in application to one person or to a small group be presented as private-relief bills to be considered by the tax committees (of Congress).

"The bills would name the individuals concerned and specify the amounts involved.

"Nor is there any reason why the 'Louis B. Mayer Amendment' should not have been handled as a 'Bill for the relief of Louis B. Mayer' and the amount of the relief stated in a precise dollar figure. . .

"It is only later that the extent of the tax generosity inherent in (special) provisions is comprehended.

"But by then they are in the law, the problem of the group benefited is one of defense rather than attack, and the strategic advantages are all with that group."

[From the Plain Dealer, Apr. 28, 1969]

FOWLER SAYS HE GAVE "PROXY" IN IOC CASE

WASHINGTON.—Former Treasury Secretary Henry H. Fowler says the Iron Ore Co. of Canada tax case was decided at a level beneath him, even though an appeal was taken to him.

"I never at any time acted to overrule the commissioner (of the Internal Revenue Service)," Fowler asserted when reached at his law office in New York. "It was my invariable rule never to sit as a one-man court of appeals in individual tax cases."

Sheldon S. Cohen, then commissioner of the IRS, had ruled against the company. The action shifted later to the office of Stanley S. Surrey, who was assistant Treasury secretary for tax policy.

Acknowledging that he had heard from company representatives and also from the Canadian government, Fowler said he responded by referring the taxpayer to Surrey.

"He had my complete proxy to deal with the matter," Fowler said. "I did not intercede and I made no attempt to influence the outcome."

"What was your general policy on whether Mr. Surrey should sit as a court of appeals?" Fowler was asked.

He replied: "On any matter involving tax policy, you would have to look to Mr. Surrey for an answer. You'd have to ask him how he handled his relationship with the IRS."

Fowler added that, in the event of a disagreement between Surrey and Cohen, he would expect the two to try to resolve it themselves. He reiterated that Surrey had his "proxy."

Asked whether he was satisfied with the decision in the Iron Ore case, Fowler said:

"I didn't examine into it at all, to be satisfied or dissatisfied. I left it completely to Mr. Surrey, in whom I reposed the greatest trust."

[From the Cleveland (Ohio) Plain Dealer, Apr. 28, 1969]

HANNA RANKS CANADIAN FIRM AS GREATEST SINGLE INVESTMENT

WASHINGTON.—The Hanna Mining Co. ranks the Iron Co. of Canada (IOC) as "our most important single investment."

"We are in a better financial position than ever before," the Cleveland industrial giant said in its 1968 annual report to stockholders.

"The $10 million increase in net sales and operating revenues is due to the additional tonnage purchased from IOC.

"We resell this tonnage to steel companies in the United States and Europe and receive our profit in the form of dividends from IOC.

"The dividends received by Hanna Mining from IOC in 1968 increased to $8,420,000, as compared to $7,207,000 in 1967."

IOC was organized in 1949 as a Delaware corporation, with Hanna's George M. Humphrey, later secretary of the Treasury, since retired, as the prime mover.

Hanna is the largest single shareholder in IOC. Besides owning 26.85% of the stock, it also has a substantial interest in two other companies that hold chunks of IOC. These corporations are identified below with an asterisk.

Although IOC has a stable of owners, Hanna alone acts as its manager. The owners are:

[In percent]

Hanna Mining Co	26.85
Bethlehem Steel Corp	17.94
National Steel Corp.*	16.83
Hollinger Mines Ltd	11.64
Republic Steel Corp	5.61
Armco Steel Corp	5.61
Youngstown Sheet & Tube Co	5.61
Labrador Mining & Exploration Co., Ltd.*	5.42
Pittsburgh-Wheeling Steel Co	4.49
Total	100.00

With Minnesota ore reserves declining, IOC in the 1950s ventured into the Canadian wilderness and found rich deposits of iron. The other companies were invited to participate because they could furnish capital and assure a quick market.

"The financial position of IOC is strong," the annual report says. "Despite the two expansion programs, it has made important reductions in its long-term debt, from $145 million to $52 million.

"At the end of the year, the Hanna portion of IOC's net worth was $47 million."

[From the Plain Dealer, Apr. 28, 1969]

CANADA CONCERNED WITH IOC

WASHINGTON.—The Canadian government was "quite concerned" about the tax problems of the Iron Ore Co. of Canada (IOC), according to Stanley S. Surrey, formerly assistant secretary of the Treasury for tax policy.

Sheldon S. Cohen, past commissioner of the Internal Revenue Service (IRS), also related to The Plain Dealer that there were some letters from Canadian officials and that Canada "argued about fairness."

A spokesman for the Canadian embassy here pointed out that IOC was a taxpayer in his country and therefore was entitled to whatever services Canada could properly provide.

"At the instance of IOC, we furnished the U.S. government with a certification of facts relating to Canadian law, as they pertained to this case," the spokesman said.

He added, "We did nothing more than that. We would do the same for any company in a comparable situation. This is a normal practice."

He added that any public release of communications in the case would have to be made by the U.S. government, since it was the addressee.

[From the Cleveland (Ohio) Plain Dealer, Apr. 28, 1969]

HANNA'S CHIEF DENIES TAX FIGHT WITH IRS

W. A. Marting, president of Hanna Mining Co., issued this statement in response to articles on tax regulations as they concerned the Iron Ore Co. of Canada (IOC), published yesterday:

This is a clear case of careless reporting and irresponsible journalism. It looks as if The Plain Dealer has been led astray by an informant in the Internal Revenue Service leaking false and misleading information.

Your reporter drew conclusions that have no foundation in fact and your headline writer was even more careless.

In the first place, the article states, "In its fight with the Internal Revenue Service, Hanna lost every round." Completely untrue. There never was any fight and there were no rounds to be either lost or won.

The article quotes a Hanna spokesman as saying "the Treasury Department action had saved IOC $10 million." Completely untrue. He never said that. In fact, he said the opposite. He made it clear to your reporter from the beginning that IOC never owed any money and that the IRS never claimed it did.

If a man agrees after seven years that you never owed him anything in the first place, he hasn't "saved" you any money.

Another example of the carelessness is calling IOC a Hanna subsidiary. Nothing could be further from the truth. Hanna has a minority interest in IOC, the majority of its stock being held by American steel companies and Canadian mining interests. Of its 16 board members, only two are connected with Hanna.

The facts of the situation are simple:

IOC never owed any tax to the United States. All of its tax people, including independent counsel, advised that there was absolutely no tax liability whatsoever.

During the Democratic regime following the Eisenhower administration, this case moved from the Cleveland IRS office to Washington. We are convinced that the purpose of this was to see if there were any possible way to tax IOC on these transactions. For seven years tax and legal experts in the IRS tried to develop some theory under which IOC could be taxed.

IOC objected to the long delay. Time after time IOC said, "Either assert a tax liability or clear us."

Obviously, if the IRS had asserted a tax, the case could have been taken to court and won.

After all of these deliberations, they finally had to admit there was no way to tax IOC and the case was closed in the final days of the Johnson administration.

[From the Plain Dealer, Apr. 29, 1969]

LAWYERS WORK ON CURTAIN THAT SCREENS TAX DECISIONS

(By Sanford Watzman)

WASHINGTON.—The "technical curtain" that obscures many big tax decisions sometimes baffles even the experts.

Government lawyers trained to write technical rules and corporate lawyers paid to interpret them spend a great deal of time speculating about why a rule was written, thereby hoping to learn more about it.

One such case involves a set of regulations published last July 3 in the Federal Register, spread across four pages and taking up 12 columns of type.

The rules tell affiliated companies how to account for earnings and profits exchanged within the group. They sanction intercorporate payments compensating one company for the "use" of its tax loss by an other.

But some insiders theorize the real purpose of the regulations—or at least an impelling ancillary purpose—was to bail out certain companies from problems they were having with other units of government.

Fanning the gossip is the fact that the regulations apparently will not substantially increase or decrease the amount of taxes the government collects. Yet the Treasury Department spent three years working on them.

They were approved by Stanley S. Surrey, former assistant secretary of the Treasury for tax policy, and Sheldon S. Cohen, commissioner of the Internal Revenue Service (IRS) in the Johnson administration.

Commenting last April on a draft of the regulations, an anonymous member of the American Bar Association's section of taxation protested that they were "impossibly complex," so much so that there was no way to anticipate the possible effects.

"The problems in determining earnings and profits are difficult enough," he objected, "without adding complications which probably have relatively narrow application and probably little impact on the federal revenue."

The comment was filed with IRS.

The same theme figured in a sharp argument some months ago between Surrey and Cohen, part of which took place in the presence of their subordinates. As the exchange grew more heated, everyone else was ordered to leave the room—and then it resumed.

Cohen confirmed the incident when this reporter questioned him about it. Surrey said he did not recall it specifically, but he did not deny it.

Cohen told Surrey he was not going to sign the regulations because they did not have sufficient tax significance. Surrey replied he had already "committed" himself to issue the rules. Cohen retorted the commitment, then, was Surrey's, not his.

But in the end, Cohen did sign. He told this reporter: "I guess that's one that I caved in on."

Sen. Everett M. Dirksen, R-Ill., was interested in getting the regulations adopted, the Plain Dealer learned. In 1965 the GOP leader was defeated in an attempt to obtain legislation similar in many respects to the later regulations.

News reports at the time linked Dirksen with some gas pipeline companies who reasoned that, if certain bookkeeping methods were blessed by IRS, then a case for higher rates could be made before the Federal Power Commission.

But so far as utility rates today are concerned, a recent Supreme Court decision involving the United Gas Pipeline Co. appears to have wiped out any benefits the utilities might have received from the regulations, one source pointed out.

In addition to Dirksen, representatives of the Mobil Oil Corp. pushed hard for adoption of the rules. The Mobil people tried to get Cohen to issue a commissioners' ruling that would permit them to do what the regulations later allowed.

When Cohen balked, they took their case to Surrey. Instead of a ruling, they got the regulations.

One report was Mobil wanted the rules so it could squeeze out from under an antitrust decree that had been handed down by a federal court in 1941, in a lawsuit involving a predecessor of Mobil and many other corporations.

This decree imposed limits on dividends that could be exchanged among members of an affiliated group of companies. The prohibition could be undermined, one source suggested to The Plain Dealer, if a trading of funds could be labeled a payment for the "use" of a tax loss, rather than a dividend.

George F. James, senior vice president of Mobile, acknowledged in a telephone interview that his company worked hard to ge the regulations promulgated. He added tha other corporations were similarly active.

But he denied the rules could help his com pany in antitrust litigation.

James said: "We simply had to have i made clear, for our own internal purposes what was the correct method of allocating on our books, the charges among companie in our consolidated group.

"This doesn't save us any tax money at all The only tax advantage it would have for u would come, possibly, if we deconsolidated th corporate group or if we sold off one of th companies. However, we have no plans to d this."

When the rules were first proposed, IRS an nounced it was not that agency's intention t try via the regulations to influence the pol icies or requirements of other governmen agencies dealing with corporations.

However, everyone concedes that what IR intends is one thing but how lawyers migh choose to stretch it or take advantage of it, i they can, is quite another.

Writing in the Journal of Taxation in July 1968, one authority, Arnold Jay Cohen, ob served:

"The implications of these rules may go fa beyond their tax aspects. It may well be tha . . . their main impact will not be in the ta area, but rather in the corporate or regulator area."

Surrey was asked about this by The Plain Dealer. He replied:

"The purpose of these regulations was t accept methods of accounting that account ants say are proper. So long as the metho is right and IRS is protected, the Treasur ought to recognize it.

"No, it wouldn't concern me if someon says that the regulations might have mean ing in antitrust or rate-making cases. Wha we do often spreads to other areas. Tha isn't relevant so long as we are right an IRS isn't hurt by it."

Asked about the "commitment" he ha cited to Cohen, Surrey said: "At variou times bills were introduced in Congress deal ing with the area of these regulations. I my judgment, those bills were too generous

"I told the Senate Finance Committee w would study the matter and try to wor something out administratively. I don't thin it's a good idea to clutter up the legislativ books and to have people running to Con gress if it's something we can handle here.

"If I used the word 'commitment,' it wa in that sense. I wasn't under any pressur from Sen. Dirksen or anyone else. I don' work that way."

"Some of the news stories in 1965 reporte that you were backing Sen. Dirksen's legisla tion," the interviewer said.

"Well, some of those stories were correc and some were not, because there were a lo of versions of the legislation," Surrey replied

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RADIO STATEMENT BY SENATOR BYRD OF WEST VIRGINIA ON ANTIOBSCENITY BILLS

Mr. BYRD of West Virginia. Mr. Pres ident, on May 21, 1969, I made a state ment for radio regarding antiobscenit legislation.

I ask unanimous consent that th transcript of that statement be printe in the RECORD.

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

ANTIOBSCENITY BILLS

Smut, obscenity, offensive sex-oriente material and pornographic literature hav been with us for a long time. Only recentl however, has this filth swelled to such pro portions that no family can be certain will escape the stench. Until a couple

years ago, it was thought that the censorship laws of most states were the appropriate means to protect the general public against this type of exploitation.

The United States Supreme Court has since declared that censorship in most of its forms violates the freedom of speech or press guaranteed in the United States Constitution. Since the right of our citizens to speak out freely distinguishes our Republic more than anything else perhaps from totalitarian forms of government, we have guarded this right jealously.

But in the process of striking down censorship, the courts have left the public unprotected against a flood of unwanted pornographic filth in the form of sex-oriented materials now gluting the mails and invading the privacy of American homes. While we have succeeded in guarding the right of free speech and free press, we now face the problem of finding a new means to protect the sanctity of the home, and the health of our children against this bombardment of smut that increasingly invades our society. And certainly there is no reason why citizens should be forced to accept such mail which is insulting to adults and harmful to children.

And I believe a means has been found that could go a long way toward providing this protection. That is why I am co-sponsoring in the United States Senate two bills requested by the President.

The first bill would prohibit outright the sending of offensive sex-oriented material to any child under 18 years old. The bill is based on the New York law that has been upheld by the U.S. Supreme Court, and recognizes the special status of young people and the special need to protect them against material that could be damaging to healthy growth and development. Any smut dealer violating the federal statute would be punished with up to five years in jail and a $50,000 fine for the first offense. Further violations carry stiffer penalties.

The second bill would protect American homes against invasion of privacy and prurient advertising. The Post Office Department reports that during the last nine months 140,000 letters of protest about unsolicited salacious mail have been received. Since 1964, the number of such complaints has almost doubled. Americans resent intrusions into their homes by erotic advertisements through the mail. These ads are expressly directed at lustful interests, and, as President Nixon has said, are clearly a form of pandering. And I agree with this. Certainly our homes should be inviolate and free from such intrusions.

In 1967 Congress passed a law to help deal with these unwanted intrusions. The law permits a person receiving mail which he finds "erotically arousing and sexually provocative" to obtain from the Postmaster General a judicially-enforceable order prohibiting the sender from making any further mailings to him or his children and requires the sender to remove that person's name from his mailing list. This is a good beginning, and more than 170,000 persons have requested such orders.

The new legislation which I am co-sponsoring, however, would broaden the existing law by permitting citizens to file in advance their objection to sex-oriented advertising and to require mailers and potential mailers to respect these wishes under penalty of civil and criminal prosecution.

The bill would also prohibit the transportation in interstate commerce or through the mails of pornographic literature intended to appeal to a prurient interest in sex.

I am co-sponsoring this legislation in response to the thousands of parents who ask that something be done about the flood of pornographic mail reaching their children and who are turning to the government for help. We can act to protect the public against this unwarranted intrusion of private lives. The laws already in force have proven inadequate to the task; it is time to take steps to enact legislation that will do the job.

I am not so optimistic to believe that it will put the sex merchants completely out of business, but at least it will go a long way toward keeping this filth out of decent American homes and out of the sight of decent young American people.

REVITALIZING RURAL AMERICA

Mr. PEARSON. Mr. President, the need to create new jobs in our rural areas is one of the most pressing challenges facing America today. We simply must find ways to make our small towns and farm communities more attractive to industry if we are to halt the migration to the cities that is stripping the countryside of its best talent and flooding our urban areas with a mass of humanity that only compounds their already grave problems.

I recently enjoyed the privilege and pleasure of speaking before the Smokey Hill Electric Cooperative on this very vital subject. Knowing of the great interest of Senators in the Rural Job Development Act and the ways in which it might help to stimulate new rural career opportunities, I ask unanimous consent that the speech before the Smokey Hill Cooperative be printed in the RECORD.

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

REVITALIZING RURAL AMERICA

(By Senator JAMES B. PEARSON)

When the people of Kansas several years ago gave me the opportunity to serve in the United States Senate, there was the necessity to think of Kansas as a whole and of the nation as a whole. And one problem became clear, pressing and essential. That problem was the necessity to develop, redevelop and revitalize rural America and rural Kansas.

And so several of us in the Senate conferred—Democrats and Republicans alike—counseled with farm organizations and rural experts and introduced the Rural Job Development Act. I would like to review the purposes of that measure this evening.

And in doing so, I realize I have made a lot of speeches in the countryside, in the cities, universities and indeed it was my great pleasure to address your national convention in Dallas two years ago. But in spite of these many engagements it seems to me that at a gathering such as this—an annual meeting of REA Electric Co-ops—is the most appropriate forum. For in modern times no other organization has made such a positive contribution to rural development as the REA's.

America in the last third of the 20th century is indeed a paradox, a strange mixture of success and failure. We are the strongest military nation on the globe, yet we seem unable to determine our own destiny in Vietnam. We are a leader of the world, yet few follow. To influence and win friends we have poured forth $122 billion from our Treasury yet our influence diminishes in the world and at times we seem friendless. This nation, rich beyond the wildest dreams of many people, is scarred by ugly pockets of poverty. We have made the greatest advances in equality and civil rights in the last decade within our history yet our races seem farther apart. We have spent more money on education and provided greater learning facilities than ever before known to the American people, yet there is student unrest and violence and lawlessness on the campus.

And there is a paradox in rural America also. Almost every economic indicator indicated that rural America is "better off" today. We might compare rural America today and in 1935 when the REA was first established. In 1935 only 10 percent of the farms in this country were electrified. Today 95 percent are served by electricity. In 1939 the average income of the farmer was only 40 percent of the non-farmer. In 1969 the average income of the farmer is 72 percent of the income of the non-farmer.

But statistics can be tricky. Is farm income really up? It seems to me that the real and meaningful fact is that in 1935 there were 32 million farm population while in 1969 only 11 million lived on the farm. And so farm income really isn't up. What the statistics actually show is there is simply fewer to divide up the economic pie. And the total income from agricultural endeavors is less than during the 1940's or the 1950's period.

But I do not intend to make a "farm speech." What I would like to do is discuss the problems of the total rural community, the farms, rural towns, and rural cities of a population of 30 and 40 thousand.

To cite another paradox, America's communities are dying at the two extremes of community life. On the one hand we find a deterioration in the core of the great cities, on the other hand the dying of the small rural communities. This rural community deterioration can be traced to the great rural to urban migration. And one is compelled to understand that when some of our small rural communities cease to grow and literally die that this is not acceptable nor necessary nor best for America.

These conditions and problems of rural America are not new—they are several decades old. REA provided the answer to one problem. But it has only been within the last few years that we have moved from talk to action. Your national association has been most helpful in its advertising campaign. Big city newspapers through their editorials have recognized the problem and we have begun to understand that good thoughts are nothing more than good dreams until we act.

Let me mention another paradox. It was the great trouble in the cities which finally caused us to see more clearly the difficulties of the small towns and the countryside. It was the turmoil in the hard core of the great metropolitan areas that gave us some understanding of the relationship between rural and urban life.

The headlines of the past few years have made all of us painfully aware of the problems which are incorporated in the phrase "crisis of the cities." It is a phrase of common usage but if one is to describe it in a meaningful way it must be described in terms of festering slums, rising crime rates, disintegrating families, chronic unemployment, racial tensions, congested streets, polluted air and contaminated water. And these conditions really can be traced to the overcrowding of people and the concentration of industry in the great cities. We are now beginning to realize that the problem is not just to make the cities more efficient and more livable for more and more people but how we can halt or retard the great migration from rural to urban commuities.

This tide of migration really is formed in two parts. First there is the rural poor and untrained who move to the cities and who believes he has taken the first step up the ladder of economic success. However, instead of economic success and salvation, because of lack of training or skill, he finds tenements and unemployment and the welfare roles. He all too soon falls into the slum environment and the depersonalized forces which dull responsibility.

And second it catches up in its movement the talented young, highly educated, bright and ambitious people who move to the cities for economic and social opportunities. Thus the rural community is bled of its leadership

and human talent and its most productive resources. Ironically in this way the rural areas are subsidizing the cities.

When a rural community is in trouble, when it does, an irreplaceable and valuable part of this nation dies.

I have not meant to say that all migration is bad. In a recent discussion with the Secretary of Agriculture concerning this problem, Secretary Hardin emphasized the point that getting the right people at the right place rather than an absolute halt of migration should be our purpose. Indeed we cannot hold back the forces of urbanization. We are a nation now of 200 million people. At the turn of this century we will have a population of 300 million; moreover 75 percent of all these people will be living in three great metropolitan areas: From Boston to Richmond; from Milwaukee to Cleveland; and from San Francisco to San Diego. Urbanization will continue. But when we find slums in the big cities on the one hand and rural ghost towns on the other it is damning testimony that we fail to meet one of the great problems of our generation.

What we need is a rural-urban balance. And I believe we can achieve that balance by taking the following steps.

1. Shore up farm prices. Rewrite present farm programs to the end that we will be able to preserve the family farm system.

2. Improve rural education, housing, public services and facilities so that it can support industrial development and offer opportunities which will permit those who choose to stay in our small towns to do so.

3. Provide for a commission on balanced economic development so that grants and contracts may be equitably distributed.

4. Quick passage of the Rural Job Development Act wherein tax incentives by means of depreciation, deductions and credit can create a climate which will permit local authorities and private industry to make their own decisions about industrial development in the rural areas.

This is not a poverty measure. It is a redevelopment measure for all rural areas of the country. For unless we provide for 500 thousand new jobs every year nothing else will have any lasting effect. It is not a cure-all but I am persuaded that it is a step in the right direction.

In conclusion, let me emphasize once again my own conviction that it is the REA organization who can take the giant steps, play the significant role, and offer the bright leadership for the revitalization of rural America.

I offer you my help—I ask for yours.

APOLLO 10 MISSION

Mr. HARRIS. Mr. President, the United States has just reached another milestone in the exploration of space with the successful completion of the mission of Apollo 10.

My State of Oklahoma played a significant role in the Apollo 10 mission, because one of our native sons, Col. Tom Stafford, served as the command pilot, and along with Commander Cernan traveled closer than any other man in history to the moon's surface, making possible the lunar landing in July.

The Nation is proud of the outstanding job done by John Young, Gene Cernan, and Tom Stafford, and Oklahomans are especially proud that Stafford, a native of our State, played such an important role in this mission carrying out his duties without flaw.

I was fortunate enough to have seen the blastoff of the Apollo spacecraft, and I commend all those connected with the mission from beginning to end for their outstanding accomplishment, and to Tom Stafford I would say: Your fellow Oklahomans are proud of you for a job well done.

FREDERICK DOUGLASS, A FREE BLACK

Mr. HART. Mr. President, Cedar Hill, the home of Frederick Douglass from 1877 until his death there in 1895, stands in a deteriorated condition in the Anacostia section of our Nation's Capital—barred to public visitors since 1962.

The Christian Science Monitor recently published a series of articles on "Blacks in America: Then and Now." In his article entitled "North of Slavery and Black Abolitionists—1800–60," Prof. Edgar A. Toppin has eloquently placed the extraordinary accomplishments of Frederick Douglass within the framework of the further obstacles to freedom—encountered and overcome—by a black man who has already fought for and won his right to that freedom.

Mr. President, I ask unanimous consent that the article be printed in the RECORD. I express the hope that this empty house may once again become a living home and fitting memorial to this great American.

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

BLACK FOE OF RACISM: NO JIM CROW CAR FOR HIM

(By Edgar A. Toppin, professor of history, Virginia State College)

(NOTE.—For free blacks like Frederick Douglass, life was a constant struggle for racial equality. The battle was slow and often overshadowed by the slavery issue. This article, "North of Slavery and Black Abolitionist (1800–1860)" describes life in the North.)

Frederick Douglass strode down the platform at Lynn, Massachusetts, boarded the train to Newburyport, and took a seat in a luxurious car for the 25-mile trip. "As usual, I had purchased a first-class ticket," he narrated in his autobiography, but "I was soon waited upon by the conductor and ordered out."

When Douglass refused to leave, the conductor recruited half a dozen men to throw him out. "They attempted to obey with an air which plainly told me they relished the job," Douglass continued, and "clutched me, head, neck, and shoulders."

Anticipating their move, Douglass held on with all his might so that "in removing me I tore away two or three of the surrounding" seats, which "must have cost the company $25 or $30. . . ." This was possible because "I was strong and muscular and the seats were not then so firmly attached or of as solid make as now."

What could prompt such an assault in the early 1840's on a dignified gentleman like Douglass? He explained that "on that road," identified by him as the Eastern Railroad from Boston to Portland, "as on many others, there was a mean, dirty, and uncomfortable car set apart for colored travelers called the Jim Crow car." Since he had escaped from slavery and was "determined to fight the spirit of slavery wherever I might find it," Douglass decided against riding in the Jim Crow car.

Though sometimes beaten for his efforts, his persistence embarrassed the railroad to the point that the superintendent "ordered all passenger trains to pass through Lynn, where I then lived, without stopping."

RAILROAD DENOUNCED

The entire city was inconvenienced, and many people denounced the railroad. The superintendent responded that white passengers preferred segregation and that the railroad was not a reforming institution. The railroad argued, Douglass reported, "that until the churches abolished the Negro pew we ought not to expect the railroad company to abolish the Negro car."

Douglass' friends retorted that slaves accompanying slaveowners could ride first class but not a dignified free black. Gradually, during the 1840's, the railroads abandoned segregation in New England, bowing to resistance by blacks, abolitionist pressures, aroused public opinion, and threats of enactment of antidiscrimination statutes.

The struggle against railroad segregation in New England serves as a reminder of the presence, problems, and perseverance of free blacks in the first half of the nineteenth century. Slavery so dominates the antebellum period that there is a tendency to neglect the growing free black population. At the first census in 1790, only 8 percent (59,000) of the nation's 757,000 blacks were free.

At the last slave era census, in 1860, 11 percent (488,000) of the nation's 4,441,000 blacks were free. Since blacks were found mostly in the South, there were more free blacks there than in the North; in 1790, 32,000 in the South to 27,000 in the North and in 1860 250,000 in the South to 238,000 in the North. Both in the North and South free blacks faced many barriers, but some overcame, achieved distinction, and strove to set their brothers free.

SUPPRESSION EXPLAINED

Although the North began abandoning slavery in the revolutionary atmosphere of the 1780's, it did not abandon long-standing prejudice. Alexis de Tocqueville of France, on visiting America in 1831, found racial prejudice "stronger in the states that have abolished slavery than in those where it still exists. . . ." He found blacks free, but able to "share neither the rights, nor the pleasures, nor the labor" of whites.

In his Pulitzer-prize history of early American racial attitudes, Winthrop Jordan explains that white Americans, North and South—fearing loss of identity, lack of self-control, and sexual license—achieved peace of mind (a sense of protecting identity and purity) by cruelly suppressing and setting apart blacks, denigrating them as inferior. Thus, Jordan noted: "In fearfully hoping to escape the animal within himself the white man debased the Negro, surely, but at the same time he debased himself."

To suppress the black man, whites had to make him the great expection to their religious-political ideology of brotherhood and equality. Federal laws set the tone, barring nonwhite aliens from becoming naturalized citizens (1790), excluding blacks from the militia (1792), and barring blacks from employment as postmen (mail carriers), in 1810.

VOTING RIGHTS LOST

By 1840, New Jersey, Pennsylvania, and Connecticut stripped blacks of voting rights previously held. By 1860, only the five states of Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont granted equal voting rights.

The other 13 Northern states, where 94 percent of the Northern blacks lived, did not let blacks vote, except for New York, which let them vote if they met a special property qualification (propertyless whites could vote) that many low-paid blacks could not meet.

Northern blacks encountered job discrimination. As a slave in his native state of Maryland, Frederick Douglass (1817–1895) had learned a skilled trade, working as a caulker on ships in Baltimore. After escaping in 1838, he settled in New Bedford, Massa-

chusetts, where he sought work in caulking and coppering a vessel being outfitted for a whaling voyage.

"I was told that every white man would leave the ship in her unfinished condition if I struck a blow at my trade upon her." Working at his skill he "could have earned two dollars a day, but as a common laborer I received but one dollar."

His experience was typical. Southern white craftsmen objected to the competition of skilled slaves. But the slaveowners having a vested interest, saw to it that slave craftsmen were employed. Hence, blacks worked at many skilled tasks in the South, more so than whites. In the North, however, white workers and their unions generally restricted blacks to menial tasks.

Even a prominent abolitionist like Arthur Tappan did not hire blacks as clerks in his department store in New York City, apparently fearing the reaction of his white clerks and customers.

Some black men, unable to secure work, had to depend on the earnings of their wives as maids, cooks, and laundresses. There was a deleterious impact on family life as men unable to fulfill their roles as breadwinners sometimes deserted their families.

JOB LOSS LAMENTED

As the century progressed, the job plight of black workers worsened because of competition from newcomers, especially the Irish. In 1790, blacks were 19.3 percent of the total population, but in 1860 they were only 14.1 percent of the total population of 31,443,000 because of the great waves of immigration from Ireland and Germany in the 1840's and 1850's.

In an editorial in his newspaper in 1853, Frederick Douglass lamented that "every hour sees the black man elbowed out of employment by some newly arrived emigrant, who hunger and whole color are thought to give him a better title to the place." He listed various jobs once left to blacks that the newcomers were seizing, including porters, cooks, stewards, hodcarriers, stevedores. woodsawyers, barbers and coachmen.

Douglass therefore urged blacks to get educated for better positions, such as crafts, mechanical skills and professions. But education was not easily obtained. Blacks were taxed everywhere in the North but public schools were not always open to them on an equal basis. In some places no schools were provided, in others, only segregated schools in dilapidated buildings with lower-paid teachers.

Blacks brought suits, Douglass winning a case for his children in Rochester, New York, where he moved in 1847 to publish his newspaper, The North Star. In the Roberts case, brought in 1849 to desegregate schools in Boston (schools were already integrated in other cities in Massachusetts), Charles Sumner was the lawyer for the plaintiffs. Massachusetts Chief Justice Lemuel Shaw originated the "separate but equal" doctrine in his ruling to uphold Boston's segregated system, but the Legislature, prodded by black and white abolitionists, passed a law that desegregated Boston's schools in 1855; despite dire forebodings, integration took place peacefully.

Private schools suffered harassment. In Canterbury, Connecticut, whites threw manure in the well and storekeepers refused to sell provisions, forcing Prudence Crandall in 1834 to close her school for black girls. In Canaan, New Hampshire, in 1835, whites yanked from its foundation the Noyes Academy, that had recently opened with 28 white and 14 black youths enrolled.

Fearing that Southerners would emancipate worn-out slaves and send them North to become public wards, many states passed statutes (such as Ohio's black laws) to discourage blacks from settling. Most hotels, theaters, restaurants, and other public accommodations barred blacks. Mobs often attacked them, as in Cincinnati in 1829, New York in 1834, and Philadelphia in 1842.

In defense of slavery, Southerners cited such Northern oppression, but ignored the fact that Northern blacks were free to speak out, organize, and fight back, and also that many white allies aided them in their quest for equality.

Southern free blacks, by contrast, were treated as outcasts and increasingly restricted, for fear that their presence would make slaves discontented or that they might aid slave insurrections.

To their credit many Northern and Southern blacks did well in the face of all adversity. Some succeeded in business, including: Thomy Lafon (1810–1893) of New Orleans who left to charities, irrespective of race, a fortune of half a million dollars he had amassed in real estate, merchandising, and money lending; James Forten (1766–1842) of Philadelphia who rose from foreman to owner of a sailmaking business employing 40 blacks and whites and accumulated a fortune of $100,000 but found time to be an active abolitionist; and Paul Cuffe (1759–1817) of Westport, Mass., ship captain and owner of a fleet of ocean-going vessels who financed and carried in 1816 the first load of U.S. blacks (38 of them) returned to Africa.

MANY OVERCAME OBSTACLES

Among inventors there was Norbert Rillieux (1806–1894) of New Orleans who revolutionized sugar refining by inventing a multiple-effect vacuum evaporator that he installed on many antebellum plantations; his process is used in manufacturing sugar, soap, gelatin, condensed milk and other products.

In every field there were blacks who overcame obstacles, such as Shakespearean actor Ira Aldridge, physician-scientist James McCune Smith, painter Robert Duncanson, poet George Moses Horton, educator John Chavis, Western pioneer James Beckwourth, and heavyweight boxing champion Tom Molineaux. Encountering white hostility and prejudice, blacks developed separate institutions, including: the African Methodist, Episcopal Zion (AMEZ) denomination in 1821; the first black newspaper, Freedom's Journal in 1827; and Lincoln University in Pennsylvania in 1854.

Blacks were active in the antislavery movement. In a mass meeting in Bethel AME church in Philadelphia in 1817, blacks, led by James Horton, rejected colonization plans to ship freedmen to Africa, resolving that "whereas our ancestors" successfully cultivated America we "feel ourselves entitled to participate in the blessings of her luxuriant soil. . . ."

Bishop Richard Allen insisted that "this land . . . is now our mother country, and we are well satisfied to stay. . . ." In their opening editorial on March 16, 1827, the editors of Freedom's Journal, Samuel Cornish and John Russwurm, explained: "We wish to plead our own cause. Too long have others spoken for us."

Historians generally date militant abolitionism as beginning with the first issue on Jan. 31, 1831 of The Liberator, the newspaper published in Boston by the white abolitionist William Lloyd Garrison. It is not generally known that his largest support came from blacks, who composed three-fourths of his subscribers by 1834.

GARRISON MILITANCE FORESHADOWED

Moreover, two years before Garrison's newspaper began, David Walker (1785–1830) issued the militant and widely circulated "Appeal" (1829), published in three editions before his death. Born a free man in Wilmington, North Carolina, Walker had settled in Boston, where he established a clothing business on Brattle Street in 1827. In his "Appeal" Walker asked his fellow blacks "Are we men!! . . . Did our Creator make us to be slaves to dust and ashes like ourselves?"

He warned white Americans "that we must and shall be free. . . . And wo, wo, will be to you if we have to attain our freedom by fighting. . . . Treat us like men . . . we will all live in peace and happiness together. . . . And we will be your friends."

Walker exhorted slaves to throw off their chains, saying: "Twelve black men . . . well armed . . . will kill and put to flight fifty whites. . . . If you commence . . . do not trifle . . . kill or be killed. . . . Have you not rather be killed than be a slave to a tirant. . . ."

Inspired by such sentiments, blacks were active as abolitionist lecturers, none more effectively than such former slaves as Frederick Douglass and Sojourner Truth. They played a major role in the Undeground Railroad: William Still of Philadelphia was an important organizer; and Harriet Tubman, after escaping from slavery in Maryland risked her life by returning 19 times to lead some 300 slaves to freedom, never losing a passenger and never letting any turn back.

Thus blacks were ready when the Civil War came to fight for freedom, as will be seen in the next article.

THE RIPON SOCIETY STATEMENT

Mr. COOK. Mr. President, some Senators may not be aware of the fine work many of the younger members of the Republican Party have been doing in the area of research and comment on the great issues confronting our country. The Ripon Society epitomizes this thoughtful and intelligent group of predominantly younger Republicans who are making a dedicated effort to constructively criticize the past directions of our Government. As this society has criticized, it has also brought forward highly innovative recommendations for the improvement of our party and the Nation.

The Ripon Society recently issued a statement on the 100th day of the Nixon administration entitled "The Lessons of Victory." While I do not agree with every conclusion reached, the statement does represent a responsible Republican document which I feel should be recommended reading for all Senators. This society is an integral and important component of our Republican Party, and I commend it for its efforts. I ask unanimous consent that the article entitled "Beyond the First 100 Days: A Ripon Society Statement," be printed in the RECORD:

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

BEYOND THE FIRST 100 DAYS: A RIPON SOCIETY STATEMENT

We are pleased this morning on the 100th day of the Nixon Administration to release *The Lessons of Victory*, the Ripon Society's analysis of the Republican campaign of 1968. The study's generally critical assessment concludes with a call for new departures for the Republican Party and the country. From the evidence that is in, it appears that efforts to make these departures are developing in the early months of the Administration.

We in the Ripon Society have been concerned over the past six years with introducing a number of progressive programs into the mainstream of Republican debate, applying our most intense efforts in those areas in which we feel that American society has gone out of kilter under two Democratic presidents. It is in these areas that we would like to read the tea leaves on Mr. Nixon's first hundred days.

First, there is military and war spending, which has gone without critical scrutiny since President Eisenhower warned of the dangers of the military-industrial complex. The pruning of the defense budget and the reallocation of priorities to domestic programs is a fundamental issue for American politics, and it is now symbolized in two ways, the war in Vietnam and the debate over an anti-ballistic missile system.

In both these areas, the President has made significant technical departures from the confused programs of the Johnson Administration. On Vietnam he has moved to two-track negotiations, a decided improvement. On the ABM he has revised his predecessor's misconceived program. But we cannot yet be optimistic about the general tone of the Administration in the defense area. When all is said and done, Mr. Nixon has not made a case to justify a multi-billion dollar expenditure on the Safeguard system. And in Vietnam we see no signs to justify optimism about the chances of a negotiated settlement, even though we do see signs indicating de-escalation of the American presence. Further, we caution the Administration not to fall into the trap which caught President Johnson, who was deluded by the statistical gimickry of his own bureaucracy into giving a false impression of progress in the war. We hope that the new Administration will not engage in wishful thinking about the progress of the peace.

In the broader sphere of foreign policy, the restraint and caution of Mr. Nixon's government have come as welcome relief. We would cite the quiet diplomacy of the European trip. Mr. Nixon's handling of the recent Korean provocation departed not only from the truculent tone of some of his campaign statements but also from the panicky and futile actions of Mr. Johnson after the Pueblo incident, notably the call-up of the Reserves.

In domestic policy, despite limited financial room for maneuver, the President has pledged new programs and new priorities Most important, he has determined to overhaul the welfare system, something Ripon has long recommended and which was never undertaken by the previous Administration; and, secondly, to institute a program of revenue sharing with the states and cities.

At the very least, we expect a federalization of welfare standards and tax exemption for the poor, including the working poor, with a resulting improvement of poverty conditions and social cohesiveness. Welfare reform also will reduce the incentives for migration to the cities and urban states.

If followed through, these Nixon initiatives will far surpass in their impact the contributions of the War on Poverty, with its grandiose claims and meager achievements.

As consequential as welfare reform to the cities is Nixon's commitment to a program of revenue sharing with state and local governments. Largely because of Southern Democratic domination of Congressional Committees, the Northern cities and states have been vastly shortchanged in the distribution of federal revenue. New York, for example, gets as little as one twentieth as much federal aid per dollar of federal taxes contributed as Mississippi. A substantial program of revenue sharing based on a modified per capita formula will make a major contribution toward penalizing the poorer southern states.

Also on the urban front, the Republican Administration has committed itself to rebuild the riot-torn areas of those cities whose names have become a legion of social strife in the 1960s—Watts, Harlem, Newark, Detroit, and Washington.

Advocacy of House Rule for the nation's capital, an invigorated fight against organized crime, whose basic feeding grounds are in the nation's urban cores, are other hopeful initiatives.

GOVERNMENT REORGANIZATION

One of the least dramatic but most important areas for Presidential action is the structure of the administrative process. The Johnson administration—with its preoccupation for legislative first steps—did a relatively poor job of executive follow-through. But President Nixon's determination that "administrative performance should match legislative promise" represents a worthy correction to that failing.

This determination has been reflected in several specific ways. The revival of the National Security Council, the establishment of the Urban Affairs Council, and the Cabinet Committee on Economic Policy are important developments within the White House itself. The new program for Minority Business Enterprise in the Commerce Department and the major overhaul of the Labor Department's Manpower Administration could provide improved mechanisms for dealing with the urban crisis. The Department of Health, Education & Welfare has been restructured, too, and its new office of Child Development, with its focus on the first five years of life, could be a particularly creative source of social initiatives.

Two reforms deserve special mention: (1) The decision to select postmasters through less political processes (and to reform the postal service in other ways), and 2) the establishment of common regional boundaries and headquarters for the field operations of five federal agencies (many urban experts believe this could make a great difference in the quality of federal social services to the cities). Both improvements have been urged for many years and both were long delayed for solely political reasons. Both have now been quickly implemented despite strong political counterpressures.

ECONOMIC CONCENTRATION

Also largely unnoticed, except by the business community, have been the initiatives taken by this Administration to halt the present trend toward economic concentration. In a series of articles in the Forum entitled "The Complex Society," the Ripon Society expressed its concern with the trend toward "conglomeratization" and with the business-government partnership that flourished under the prior two administrations. The Johnson administration justified inaction in this area by claiming that additional legislation was needed. Under the Nixon Administration, the Justice Department has used existing anti-trust laws to commence litigation on conglomerate mergers which restrict free competition. In addition the Administration has recognized the unhealthy effects of concentration in the banking industry and has proposed legislation to close the one-bank holding company loophole and remove the danger that institutions of finance will use their lending power to restrain competitions. Successful conglomerate litigation with the precedents established by new regulation of the banking industry, will have a healthy impact on the structure and nature of our economy and our society.

YOUTH

Finally, there is the problem of youth, symbolized by the turmoil on a number of American campuses in the President's first 100 days. Outside factors, such as the war and the draft, have exacerbated university tensions. But even without these factors students would not return to the apolitical attitudes of the 1950s. For the new generation of young people have been reared to demand meaning, responsibility and independence at an early age. Yet society is not prepared to provide roles in which they can express these values in the years before they reach adult status and financial independence. A dispersal of power, a sharing of authority with the young will be necessary if hierarchical institutions are to tap the best energies of this new generation. But this message—their message—is not getting through. Communication between the generations is breaking down, in part because debate on campus is monopolized by the loudest voices rather than by the most reasonable ones, in part because of a resort to violence that shatters the sense of community on which fruitful discourse in American institutions depends.

But in part communication is failing because of the rigidity of the generation in power, which is content to intone the principles on which its authority is based without bothering to justify them or adapt them to the needs of the younger generation. There are many older Americans who are willing to condemn the young from afar, few who are willing to reason with them face to face.

Federal legislation cannot heal the breach between the generations, but the President has the capacity to provide a mediating influence. He has already taken one step by appointing a commission to phase out the draft and replace it with an all-volunteer military—a position which Ripon has argued since 1966. But Mr. Nixon must have in addition a comprehensive program on all the various concerns of youth. Indeed, Ripon is preparing a major report to the President to provide just that.

As for non-governmental action, there is vacuum on campuses that requires the mobilization of those students who will be able to understand the wrongs of society but who will use libertarian means for righting these wrongs. On this subject, too, we expect to have more to say.

FURTHER PROBE OF MILITARY OIL PROCUREMENT IN SOUTHEAST ASIA

Mr. MONTOYA. Mr. President, I have joined the distinguished Senator from Wisconsin (Mr. PROXMIRE) in a letter dated May 27, 1969, to the Comptroller General of the United States, asking that the General Accounting Office examine most thoroughly into weaknesses and abuses in our Government procurement programs in Thailand, Vietnam, Singapore, Taiwan, Laos—indeed all of Southeast Asia—and Okinawa, dating back to January 1, 1966.

As a result of new information which Senator PROXMIRE and I have received—in the form of official DD–250–1 Government delivery receipts—there is evidence that Government officials in Southeast Asia are still failing to obtain documented verification that quantities of fuel shown on contractors' delivery documents actually have been received and that there is suspected pilferage by oil company employees. Additionally, we have evidence of similar oil procurement irregularities in connection with the U.S. AID program in other parts of Southeast Asia.

Mr. John M. McGee, a U.S. fuel inspector for the Department of the Navy, originally brought oil procurement deficiencies and shortages in Thailand to Senator PROXMIRE's and later my own attention some time ago. As a result of his courageous action, and the evidence which has been accumulating, both Senator PROXMIRE and I feel that a full probe of oil procurement inspection and distribution procedures is essential before further cures can be prescribed, and in order that the best interests of the Government, procurement management, and the public may best be served.

Senator PROXMIRE and I will have more

to say on this important subject in a few days. Meanwhile, we look very hopefully to what may be the effect of these inquiries, and would hope, too, that every Senator will join us, insofar as possible, in helping to put a stop to policies which are hostile to the welfare of the many.

SLEEPING BEAR DUNES NATIONAL LAKESHORE: DEVELOPMENT POSES URGENT THREAT

Mr. HART. Mr. President, this Congress has an opportunity to continue its history of concern for America's natural environment. We have before us this year vital issues of air and water pollution control, wildlife conservation, pesticide dangers, and many others. No area of our concern will be of greater long-range importance than our active attack on the problems that imperil the health, fruitfulness, and beauty of our land.

A significant project in the conservation field is the proposed Sleeping Bear Dunes National Lakeshore in Michigan. This is a project for which I have worked for 8 years. The Senate has approved the national lakeshore twice.

THE ALTERNATIVES ARE CLEAR

When I again introduced the Sleeping Bear Dunes legislation this year, I said I was optimistic that we would act in time. I remain optimistic that we can secure this area and preserve its beauty. The alternatives are clear: either we protect the Sleeping Bear Dunes as a national lakeshore now, or this natural area will be lost to all of us and to future generations.

The conservation-minded people of Michigan recognize these alternatives and are demanding that we act now to save "the Bear." I have been heartened and encouraged by the growing tide of concern and support expressed to me by people from Michigan and throughout the Nation.

DEVELOPMENT ENCROACH UPON THE LANDSCAPE

Recent correspondents have expressed a new sense of urgency in the need for the Sleeping Bear Dunes National Lakeshore. As James C. Ganter, a resident and businessman in the area, pointed out:

> This beautiful area is being prostituted at an unprecedent rate with unplanned and very disjointed "development."

Establishing a national lakeshore would protect the natural values of the area from this encroachment. Without that protection the region is doomed to the stranglehold of subdivision and inappropriate development. Mrs. Harold T. May, a property owner within the proposed boundaries, tells me:

> If there is to be a Dunes National Park in this area, and I still hope there is, the urgency is more acute than ever. In just the past few years we have lost so much prime natural resources through private development in this immediate area, it seems there will be little left to preserve if there is any further delay.

Mr. Walter R. Nevill likewise points out how clear the alternatives have become, stating:

> Any further delay in protection of the Sleeping Bear Dunes will not only be financially costly; it will give a reprieve to the exploiters who will proceed at an accelerated pace to destroy the basic values which currently make the area precious as a natural resource.

The greatest danger now, I believe, are ill-planned vacation subdivisions. With little or no local zoning control, these spring up to mar key natural areas in this landscape of national importance. Mr. Joel Konikow expressed the citizen's exasperation when this kind of natural treasure is "divided and fenced":

> At this stage in the development of the United States, it is a crime, and the general people are the victims, which is being perpetrated on us; the fact that the land is not ours to enjoy but is divided and fenced. Even when you want to enjoy Lake Michigan and the land around it, you can't enjoy it in peace. One feels like a fugitive.

DESTRUCTIVE LOGGING ANOTHER THREAT

Along with the problem of cottage subdivisions, Mr. George D. Ferrar reports that "there has been a step-up in the proposed area of timber harvesting—some of which is destructive logging." Mr. Ferrar points out that timber harvesting based on a sustained-yield program can maintain natural beauty. Such careful sustained-yield timber management will be permitted in the Sleeping Bear Dunes National Lakeshore. However, the destructive logging now taking place will "mar the landscape for many years to come in addition to adversely affecting forest-resource values."

These are disturbing reports, and they alert us again to the destruction that a landscape of natural beauty can sustain by encroachment and misuse. That is what we seek to stop. The Sleeping Bear Dunes National Lakeshore will avert this loss; it will sustain the landscape as a legacy of beauty for our enjoyment now and for generations in the future.

Within its 61,000 acres, the Sleeping Bear Dunes National Lakeshore will encompass the key areas of natural value and beauty. Land-use controls and zoning protections will assure the preservation of the landscape. Private rights to existing improved properties are fully protected by my bill; in a balance that will also protect the public interest.

CONSERVATION IS OUR OBLIGATION

Mr. President, in pointing out these threats to the Sleeping Bear Dunes area, I wish to emphasize that conservation of such national treasures is this generation's obligation. The Congress should act promptly with this sense of urgency. I hope that all concerned will proceed cooperatively, recognizing that further delay will prove expensive both in money and in irreparable damage to the area. I urge the administration to give this conservation program the priority it must have, so that we may maintain America's momentum of conservation progress and foresight for the future.

We must act promptly to establish the Sleeping Bear Dunes National Lakeshore, in the spirit expressed to me by Mr. James S. Henderson, of Henry, Ill.:

> I urge you to keep trying, and to try to enroll all who would pass on a land of beauty to our children, to join your efforts to conserve what is good and clean in our natural environment.
>
> I sometimes feel that the next generation of Americans may inherit a land like a junk car cemetery, unless those of us here now exert every effort to protect and preserve the land.

BIAFRAN LIFE AND CULTURE

Mr. PEARSON. Mr. President, despite the efforts of peace mediators from virtually every quarter of the globe to halt the fighting, the tragic civil war between Nigeria and Biafra drags on and on. Though the rate of death by starvation has shown a merciful decline, the problem still remains serious as does the loss of life brought about by bombing civilian areas, not to mention the deaths attributable to direct combat.

The untimely death of any human being is always deplorable, of course, and when thousands upon thousands have been killed by bombs and blockades as in the Nigeria-Biafra conflict, truly all of humanity should grieve. What is particularly tragic in this case, however, is the number of talents that have been prematurely snuffed out because of man's inability to find a negotiated path to peace.

A group of Americans concerned about the loss of this priceless talent on the Biafran side—where war's ravages have been greatest—have gotten together and formed a Committee for Biafran Artists and Writers. Headed by Miriam Reik, a professor at Temple University, the committee has been active in bringing prominent Biafrans in the creative arts to America to talk about their West African culture and their attitudes toward the war.

This past Tuesday, the committee sent to Biafra a mission which will spend the next 2 or 3 weeks studying conditions in the field and searching out further examples of the qualities of the Ibo tribal life and culture that predominate in the territory held by Biafra.

In addition to Professor Reik, the committee is sending Diana Davies, a photographer-journalist; Leslie Fiedler, a well-known man of letters and a professor at New York State University at Buffalo; and Herbert Gold, novelist, essayist, and critic.

The committee plans to submit a report, upon the group's return, which I will make available to Senators for their reference. I do this not because I necessarily share all the political attitudes held by the committee toward the issues raised by the war, but because I am very much concerned about the human aspects of this conflict. The more information we can garner about the dimensions of the human problem, the greater our chances of making the need for a peaceful settlement clear for all the world to see and demand. The rhetoric of politics and the litany of ancient grievances must not be allowed to obscure the awful tragedy that is being visited upon an entire generation—both Nigerian and Biafran—a tragedy whose barest outlines can now and again be glimpsed through occasional study missions such as that undertaken by the committee this week or the effort led by the distinguished junior Senator from New York (Mr. GOODELL) earlier in the year.

MEMORIAL DAY TRIBUTE—REFLECTIONS ON WAR AND PEACE, AND HONORING THE DEAD BY HELPING THE LIVING

Mr. MONTOYA. Mr. President, Memorial Day visits us once again, and I feel privileged to rise and pay tribute to the courage, endurance, and patriotism of those brave Americans to whom we owe the most—those who have made the supreme sacrifice and whose names are written indelibly upon every battle monument.

Spring is a particularly pleasant time of year, and May is perhaps the best month of all. Both the season and the month are favorite topics of poets. It may, then, seen somewhat incongruous that we have chosen the 30th of May as the day for honoring our war dead. Some might feel that a dark and gloomy winter's day would be more appropriate for discharging such a solemn duty.

I cannot, however, accept that view. I believe it to be absolutely fitting that we should observe the finest day of the year as Memorial Day. In this way, we make ourselves aware of all the good things of life which we as American citizens enjoy and which we continue to enjoy only because, in every period of our history, there have been young men willing to make the complete sacrifice in defense of our country and our way of life.

On this day, we are, of course, reminded of a thousand battles fought. What a record is thus presented in making right the master of might. And without the valor of our American soldiers and regiments, many of these wars might yet be in full progress.

But the conclusion of these conflicts also represents a renewal of our liberty, for we are further reminded on this day that the American people—so given to peace and occupied with schools, agriculture, technology, and Government—which does their will through the ballot box—these people have yet, when aroused, a power of resistance sufficient for any need, however great. Shake them rudely, or menace their freedom and put them in fear and there is no confronting them.

Nor can we fail, on this Memorial Day, to be reminded of our own individual service—such as it was—and of our sons and comrades—alas, too many to be named—whose honorable discharges were given them by a bullet in battle, or fever in a jungle; whose bones lie in shallow graves in the stillness of a valley, in the mountain's breast, or the ocean's deepening bed.

Believe me, I am proud of these multitudes of American soldiers. They are our immortals who wear uniforms of light. On their rolls shine herioc names, without regard to such distinctions as rank. It is for their sake that we have resolved to honor them each Memorial Day—to salute them martially with the roll of drums and thunder of cannons—so our fallen comrades know they are remembered and will never be forgotten.

REFLECTIONS ON WAR AND PEACE

Our own General Sherman is reported to have said:

> You want to know what war is? War is hell.

Anyone who saw war as he did would agree. True, war sometimes develops noble and heroic qualities in individuals or a people. But war is hell for all that.

Yet, there are some who would teach that a war from time to time is by no means a misfortune, but, rather, a necessary and healthy exercise to stir up patriotism and preserve manliness. To those eager to plunder the public under a cheap guise of patriotism, love of country will flag, they say, unless stimulated by hatred of someone else.

It is a strange fact, too, that while the medieval conception of honor—which regarded the duel as the only adequate settlement of a question of honor—has yielded to more enlightened and moral views in civilized countries, yet nations are in such cases still apt to rush to arms as the only means of satisfaction. Indeed, war is a duel on an expensive scale, and bloody wars have happened in spite of an earnest popular wish for peace on both sides, especially when the controversy was inflamed by points of honor.

What is the rule of honor to be observed by a power as strong as this Nation? Surely we cannot be expected to meekly pocket and accept real threats and insults if offered. One country alone can start a war, and the new means of nuclear warfare which could destroy mankind have loaded the balance with incalculability and uncertainty. Men and women alike continue to examine this difficult question in an effort to find ways of preventing nations from pursuing policies which can inflict on mankind sufferings far more hideous than in past centuries.

Mencius, in ancient China, when asked for guidance in matters of defense by the ruler of a small state, counseled:

> Dig deeper your moats; build higher your walls; guard them along with your people.

This has remained the classical posture up to our age. But the total wars of this and other centuries have taught us that in our search for peace, we must keep before us certain common higher goals:

First, it will be in vain to cry peace, peace on both sides of the ocean if we continue to rattle sabers and missiles in one another's faces. Nor should we judge other nations on their actions and capabilities and then expect to be judged ourselves on our intentions only. For a world without violence must also be a world of justice. In our dealings with other nations we must distinguish between self-assertion and subservience, and have scrupulous regard not only for the rights but also the self-respect of other nations in their simple human demands for the freedoms that we and other nations have long taken for granted.

Second, we should see our highest glory not so much in battles won as in wars prevented. By seeking to influence mankind, not by heavy artillery and nuclear weapons but by good example and wise counsel, other nations will instinctively turn to us as their mutual friend and preserver of peace. If the civilization of which we boast is to mean anything it must mean this: That no war is justifiable unless its cause or object stands in just proportion to its cost in blood, destruction, waste, human misery, political corruption, social demoralization, and relapse of civilization—and even then only when every expedient of statesmanship to avert it has been thoroughly exhausted.

In short, Mr. President, our manifest destiny rests upon peace, which is peace with honor. It is also the noblest aspiration of good Americans who love their country most.

Despite the superiority of our staying power, the unextinguished fire of the war in Vietnam calls for our most earnest attention. With this dark cloud of uncertainty hanging over us, we are more and more depressed by an unsettling anxiety-paralysis which must be removed or at least lessened as much and as soon as possible. I do not believe it idealistic fancy to say that the peace sentiment prevailing here and in other parts of the world can be set to work for the accomplishment of that end.

And the peace and greatness of our country is also the truest monument and highest tribute we can pay the memory of those fallen heroes who have served our Nation so well. For their task in saving our Republic will be finished, and their great deeds and duty nobly done will never cease to be prized by a grateful country, as one of its most prized possessions.

BY HELPING THE LIVING WE ALSO HONOR THE DEAD

There come to mind, too, on this Memorial Day, the words of Abraham Lincoln, whose memory is so dear to us:

> Let us strive on to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow and orphan. . . .

Lincoln was reminding us that it was not enough that we should merely remember those who died in our behalf and frame eloquent words to tell the world how much we appreciate the fact that they gave up their lives for us. And he was right; we have a far greater obligation than that. While we have little power to repay our war dead directly, we can and should honor them by making certain that we have adequately provided for their families and for their comrades who survive.

This is an obligation which we have taken very seriously, and I feel that on this Memorial Day we can take some justifiable pride in the benefits we provide for our veterans and their dependents. On an average day there are close to 100,000 patients in our Veterans' Administration hospitals; more than 3 million veterans are getting disability compensation or pensions; 1½ million survivors of veterans are receiving compensation or pensions; over 7 million loans to veterans have been guaranteed by the Veterans' Administration; more than 11 million veterans have received educational assistance under the GI bills.

Impressive as these statistics are, there is much that remains to be done. We must constantly reexamine our veterans' benefit programs to find ways to improve them. In the 90th Congress, I sponsored a bill, S. 16, which was enacted on August 31, 1967, as Public Law 90–77, the Veterans' Pension and Readjustment Assistance Act of 1967. This act brought up to

date a number of the provisions of our veterans' benefit laws. It increased pension rates, raised educational assistance allowances, and provided full wartime rates of disability compensation for veterans of the Vietnam era. Public Law 90–77 also made many other needed changes in our veterans' laws.

I am confident that this 91st Congress will continue to improve the benefits we provide our veterans, and I have already introduced several bills with this objective. S. 1279 and S. 1607, for example, would make special provision for veterans who underwent the ordeal of imprisonment at the hands of the enemy. Other bills I have introduced would make certain improvements in the laws governing dependency and indemnity compensation payments for widows, increase some statutory awards payable as disability compensation, and remove the arbitrary 6-month limitation on nursing home care insofar as that limitation applies to veterans with service-connected disabilities.

In the coming months we will be considering these and other proposals to broaden and strengthen our system of veterans' benefits. In so doing, we will also be honoring our war dead by improving the lives of their families and the lives of their comrades.

CAUTION NEEDED ON GROWTH RETARDANTS

Mr. HART. Mr. President, some of the chemicals which we use to kill bugs and increase crop production may have monstrous, quite unsuspected effects. They may cause the unwanted death or mutation of fish and wildlife. It is possible they could, given long-term and widespread use, bring mutations and death to man himself.

An extreme example of such possibilities is reported in an article entitled "Caution Needed on Growth Retardants." The article, written by Dr. David B. Carlisle, was published in the New Scientist of November 7, 1968. It is speculative, particularly since the dosage levels used in the experiments are quite high, but it is a speculation we should all ponder.

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:

CAUTION NEEDED ON GROWTH RETARDANTS

(By Dr. David B. Carlisle)

(NOTE.—Substances like chlormequat which render plants resistant to pests can cause deformity and sterility in the offspring of locusts so treated. The possibility of similar effects in higher animals should be thoroughly investigated before such compounds are released for general use.)

The other day I bought a pot of chrysanthemums at the local florist's. Four or five years ago a pot like this would have been an unwieldy burden to carry home, with three or four foot high stems bending and breaking. But now these plants are dwarfs, easy to transport and fitting neatly into a small modern room. It's not that dwarf varieties have been bred, but rather that horticulturalists are using dwarfing sprays that cause the habit of the plant to alter, producing more and shorter stems per plant, and usually more but smaller blossoms. Compounds like 2-chloroethyltrimethyl ammonium chloride (Cycocel, chlormequat or CCC) and N-dimethylaminosuccinamic acid (Dimas or B9) have revolutionized the production of flowering plants for the house. This Christmas we may expect to see miniature azaleas crowded with blossoms and dwarf poinsettias.

These substances have other advantages too, as Dr. B. D. Smith argued recently in *New Scientist* ("Starving out plant pests", 10 October, p. 84). The application of CCC to a plant can confer some resistance to pests such as blackcurrant gall mite and aphids. The rate of development and reproduction of aphids is reduced, according to Dr. Van Emden, and later generations often die before reaching the adult stage.

On the surface then, it seems that the stage is set for a rapid expansion in the use of these plant growth retardants in agriculture. CCC appears to show no toxicity to mammals, yet it may protect plants against attacks of pests and, more important, it may induce desirable growth habits in plants. It is easy to see that wheat or rice with shorter stems will stand up to gales more readily and can be harvested even in a bad year, while the increased number of stems, and hence of ears, may more than make up for their smaller individual size.

Nevertheless, I would like to sound a note of warning and ask for fuller testing of CCC, B9 and similar compounds before they are released for general use. CCC is quite persistent and accumulates in the seed, the very part of the plant we eat from our cereal crops.

In this laboratory we have begun investigating the mechanism of the action of CCC upon locusts and cotton staining bugs. My colleagues, Dr. Peggy E. Ellis and Mr. L. J. McVeigh and I, together with Dr. Daphne J. Osborne of the Agriculture Research Council Unit of Experimental Agronomy, Oxford, have shown that direct feeding of CCC to locusts at the stage when meiosis is beginning interrupts gametogenesis and so leads to sterility. In most insects the reduction divisions which lead to gamete formation are completed during larval life, and by the time the adult emerges only yolk formation and the construction of the spermatophore remain to complete the process. CCC has no effect that we have been able to discern on adult locusts or bugs. They live a normal life span, they reproduce as freely and successfully as untreated insects, and their offspring appear to be normal.

MEIOSIS HALTED AT FIRST METAPHASE

The picture is quite different, however, when CCC is fed to locusts at the beginning of the fourth of the five larval stages, or if it is injected into them at this stage. A dose of 2000 parts per million (2 mg per g) applied to locusts at this stage leads to complete sterility, and meiosis is halted at the first metaphase (a stage halfway through the first of the two reduction divisions which lead to the formation of gametes). Weeks after a single dose, the testis remains fixed in this stage; then degeneration sets in and it finally atrophies. Much the same seems to happen in the female, but our studies are less complete here. This same sized dose administered later in life, when some parts of the gonad have completed the first reduction division, leads to delayed sexual maturation, a lower sperm or egg count and reduced reproductive performance, but not to complete sterility; it seems that only those parts of the gonad which have not completed the reduction divisions are affected by CCC.

When a tenth of the dose is applied at the earlier stage (before meiosis has begun) maturity is again delayed, but sexual reproduction is eventually possible. In experiments under these conditions, however, some of the eggs laid by parents which had received a dose of CCC as larvae developed into abnormal adults which were themselves sterile and showed monstrous deformities. I must emphasize that it is not treated animals which are deformed and sterile (though their reproductive performance is impaired) but their offspring. In terms of the direct effect of CCC on pests of crops this is great news—a compound which has useful effects on plants also protects them against pests by directly damaging them and hindering their reproduction. But what if there is some similar effect on mammals? After all, CCC depresses reproduction in plants as well as in insects—witness the smaller ears of wheat, with fewer seeds per ear. How much more likely then that unrelated animals should be affected in the same sort of way.

CCC is not toxic to adult or (apparently) to juvenile mammals so far as we know, but neither is it to adult or larval insects. Its single known effect on insects is on the early stages of meiosis. And when do these stages occur in female mammals? They take place even earlier than in insects; no more oocytes are formed after birth, since the first stages of oogenesis take place in the embryo, *in utero*. The possibility may be remote that CCC affects mammals as it does insects, but the foreseeable consequences seem to me so hideous that this must be tested before CCC is released for general use. Dr. Smith used a foliar spray of 5000 parts per million of CCC on his blackcurrants; we have produced monsters with 200 parts per million.

Let us suppose for a moment that mammals are affected like insects, and that CCC is being used at this sort of level on wheat. A pregnant woman eats bread tainted with CCC (remember that it accumulates in the seed). The daughter she bears later seems perfectly normal until puberty, which is somewhat delayed. As a married woman this girl has difficulty in conceiving a child, but does so eventually, only to bear a cripple with distorted limbs, malformed, malfunctioning organs, or even neoplasms. This is the grandchild, not the child, of the woman who ate the contaminated bread. How much harder to trace the cause than it has been for thalidomide, and how equally tragic! Remote the possibility may be, but it must be investigated. Dr. P. C. Williams, of the Imperial Cancer Research Fund, agrees with me in this and has just begun a programme of research in which he plans to test this possibility. I hope he finds that there is nothing in the idea.

PROTEST IN REVERSE

Mr. GRIFFIN. Mr. President, at a time when violent confrontations seem to be the order of the day on college campuses, it is particularly encouraging to take note of what recently occurred at Kalamazoo, Mich., Valley Community College.

A few weeks ago, the 1,500 students at that college, which opened its doors only last fall, staged a "demonstration of appreciation" for the education they are receiving.

I ask unanimous consent that an article written by four of the students as well as an editorial which appeared in the Waco, Tex., News-Tribune commenting on this event be printed at this point in the RECORD.

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

PROTEST IN REVERSE BY STEVE DONALDSON, NILE WARNER, RICK SHAW, FLORENCE BALDWIN

It all began at a talk-in. What is a talk-in? Dr. Dale Lake, President of Kalamazoo Valley Community College, instituted talk-ins as a time and place for students to air their views. They may gripe, brag, or praise. They may ask questions about the administration, the policies, goals and future of K.V.C.C. Talk-ins are very flexible. Dr. Lake and members of the Student Congress are there. Students may drop in for as little as five minutes or as long

as one and one-half hours. Faculty members, trustees and deans wander in and out. The coffee is hot and good; and everyone is welcome to do his or her thing.

At our first talk-in a student expressed her delight with dynamic enthusiasm of the faculty. She also commented on the many fine young minds she had discovered at the College.

Later, this same student wrote a letter to the Editor of the Kalamazo Gazette stating these same thoughts. When the letter was published, she was surprised at the number of students who approached her and told of their gratitude for K.V.C.C.

At the next talk-in a male student spoke of the good rapport existing between students and faculty members. A comment was made about the College being student-oriented. There was a question as to whether this would be retained in the future. Dr. Lake stated that the administration and Board of Trustees realized that it would take "a lot of hard work to keep it this way. But we intend to do it."

Following this talk-in, these two students discussed the possibility of involving the student body in a happening of some kind to thank Dr. Lake, the Deans, and the Board of Trustees for their efforts on our behalf.

Enlisting the aid of two students, they started planning. "How about a protest in reverse?" they asked. The reaction was both delightful and enlightening. Like a star quarterback, the student body grabbed the ball and ran for a touchdown.

Flyers were printed and passed around to students and faculty.

The first flyer began: "When a College has a poor administration it is the *right* of the students to protest."

We should have had cameras to record the facial expressions of some who read these lines. One of the instructors threw his hands in the air and fairly shouted, "I knew it! We didn't even make it through the first year."

However, the consternation subsided when the rest of the flyer was read: "Further—if a College has a good administration and faculty it is the duty of the students to show their appreciation."

A petition was drawn up thanking the Board of Trustees for the many hours they had devoted to the development of K.V.C.C. A second petition thanked Dr. Lake and the Deans for drop-ins, talk-ins, and the creation of a student-oriented, full student participation college. These petitions were signed by several hundred members of the pioneer class of 1968–69.

A collection was started to purchase some plaques for the administration and trustees. The money could have been appropriated through the Student Congress but the students wanted it to come directly from them. Quickly the fund grew—nickels, dimes, pennies, now and then a quarter. Many of these young people gave their last penny. One black student took a handful of change from his pocket, "I just need a dime for a coke," he said, and dropped the rest into the kitty. Tuesday—April 15—1:30 p.m. was the target day. Like magic posters appeared everywhere. "At KVCC You Are a Name Not a Number. Think About It?" "Welcome to K.V.C.C. The Student-Oriented College."

We were all nervous as the big day got closer. We had our time schedule worked out—but suppose something went wrong? What if - - -? Do you imagine that - - -? We crossed our fingers. I think some of us prayed. We hoped for a clear day.

Tuesday morning the atmosphere throughout the building was electric. Even the secretaries were excited. Would the misty rain let up in time?

By 1:15 the truck we were using for a platform was in place and the mike was hooked up. Five male students swept through the halls opening classroom doors and calling the students to the rally. They gathered around the truck cheering and clapping. One of the leaders stated our purpose. The students began chanting "We want the Deans. We want the Deans. Bring out the Deans." Escorted by two mustachioed, long-haired students the Deans arrived. Dean Kocher received one of the petitions. There had been some money left after paying for the plaques. It had been decided to donate this to one of the scholarship loan funds. The check was presented to Dean Chick. There were cheers. Placards waved. "Lake's No Fake. Kocher is Kool. Ross is Boss. Chick is Slick."—"K.V.C.C. the Cool School."—"Thank you for a fine first year."

Amid loud cheers and laughter the Trustees and Dr. Lake joined us. Dr. Lake was carried on the shoulders of two students. The plaques of appreciation were presented to Mr. Wollam, Chairman of the Board of Trustees and Dr. Lake.

Cheer after cheer rose on the air—exuberance, high spirits and good will were rampant.

And we all collapsed. We had done it! A Protest in Reverse! It had been successful and we all felt good.

From the top side of the generation gap the view is very exhilarating. What fun to see an idea take hold and grow. When young people can feel so much gratitude and express it in such an outgoing manner, I believe we *all* have something to cheer about. Hip! Hip! Hooray!

[From the Waco (Tex.) News-Tribune, May 20, 1969]

THESE STUDENTS AREN'T ONLY SQUARE, THEY'RE ALSO FAIR

Kalamazoo Valley Community College in Kalamazoo, Mich., opened its doors only last fall. Already its students have been involved with petitions and demonstrations.

Administration eyebrows were lifted some weeks ago when a flyer began circulating on the campus, which began:

"When a college has a poor administration it is the right of the students to protest."

Eyebrows went even higher at the next sentence:

"Further—if a college has a good administration and faculty it is the duty of the students to show their appreciation!"

It seems that the 1,500 students in the pioneer class of KVCC actually wanted to show their gratitude to the school for giving them an education. A petition was circulated thanking—of all people—the board of trustees for the many hours they had devoted to the development of the college.

A second petition thanked President Dale Lake and the deans for "the creation of a student-oriented full student participation college," a feature of which are regular "talkins" where faculty members, trustees and students informally exchange gripes, praises and opinions.

A collection was started among the students to purchase some plaques for the administration and trustees. On the day of the big "confrontation," during which the check for the plaques was presented, signs were displayed. One of them read: "Thank you for a fine first year."

Not a building was occupied, not an office ransacked, not a single nonnegotiable demand was made.

All in all, a pretty square bunch of students and teachers at KVCC—square, that is, in the original meaning of the word.

RADIO STATEMENT BY SENATOR BYRD OF WEST VIRGINIA ON STUDENTS AND THE KNOWLEDGE BOOM

Mr. BYRD of West Virginia. Mr. President, on May 28, 1969, I made a statement for radio regarding graduating students and the knowledge boom.

I ask unanimous consent that the transcript of that statement be printed in the RECORD.

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

STUDENTS AND THE KNOWLEDGE BOOM

Nearly all of us have heard the cliche, "Get a good education. There is no better investment for the future."

This statement, of course, is true. However, I believe this misses an extremely vital point. The point is that education need not always refer to the kind one receives in college.

Educational opportunities abound in our country. These opportunities, for the most part, are the result of a tremendous knowledge boom that has hit our society. Scientists estimate that today there is twice as much to know as there was just 15 years ago. As though this were not incredible enough, the scientists go on to say that in the next 10 years the quantity of knowledge will again double. And there is no end in sight.

This creates for us all—and students especially are aware of it—a number of very real problems. What means can we find to deal with all this new knowledge and information? How can we store it for quick recall when it is needed? And, perhaps most important, where will we find the highly trained people needed to apply this knowledge effectively?

Already, we have begun to feel the crunch of a manpower shortage. A good example of this is in the field of medicine. The shortage of doctors is becoming acute in this country. Medical schools have found it impossible to keep up with the demand. A suitable solution advanced by many persons calls for a sharp increase in the number and kind of paramedical people—people who will perform some tasks ordinarily performed by doctors but which can be done as well and as effectively by technicians under the direction of a doctor. We see this practice evolving now in the medical profession as it has evolved in other scientific fields. Laboratory technicians with especialized skills and training have long kept tab on experiments and research performed in various fields.

Specialist skills are indispensable when we are faced with so much information, so much data, so many facts relating to so many problems. It has become impossible for one person to deal with every phase of the new, complex tasks that have become vital to our society.

And this is where young people will make their marks. Those graduating from high school must now decide what they will do. Will they continue their formal schooling by entering college? For some, this is the next step; and certainly the knowledge boom puts a premium on college training. But how about the majority who are not going on to college? Whatever their decisions, I can assure them of one thing: while their formal schooling may be finished, their education has just begun.

With a minimum of searching, they will find that the boom in knowledge has created intense demand for skilled technicians trained in highly specialized fields. College training alone cannot satisfy the demand. Successful management of the rapidly growing wealth of information requires skilled specialists in nearly every field—for example, technicians, laboratory specialists, quality control people, trained supporting personnel of unlimited description—all kinds of essential jobs. But without interested people, without a new crop of graduating seniors capable of applying the available knowledge, these opportunities will go begging, and the wealth of knowledge will become worthless.

The knowledge boom has left in its wake the unskilled and the untrained. While a premium is placed on formal education, an equally high value should be placed on tech-

nical skills and training. Enterprising high school graduates have only to look about them to find that they are in great demand as trainees in technical, highly specialized jobs. College provides one path into the mainstream of our society. But we should keep in mind also that this is by no means the only path. Our nation's continued progress depends on our applying what we know. This, in turn, depends on the youth of our nation. Only in them will we find the human resources, the technical skills, the talents to do the job effectively.

WHY USELESSLY CONTAMINATE GOOD AMERICAN EARTH?

Mr. COOK. Mr. President, before the Senate adjourns, I should like to read, from the United Press International wire service, a report just issued. It reads as follows:

DUGWAY, UTAH.—The Army has admitted contaminating a remote area of Dugway proving grounds with a teacup full of deadly Anthrax bacteria.

But authorities said the threat to humans and animals is almost non-existent, at least partly because of the area's remote location.

Brig. Gen. John G. Appel, commander of the desert test center, said today a 100-square-yard area of nearly pure crystalline salt on the western Utah salt flats was contaminated with the bacteria 15 years ago "To determine how long it might present a hazard."

Similar tests by Britain during World War II indicated areas contaminated with Anthrax bacteria would be uninhabitable for more than 100 years.

The bacteria can be fatal to humans and animals if they are inhaled into the lungs or contact a cut in the skin.

I conclude my remarks, Mr. President, by asking the military, with the results of the tests by Britain, tests that have already been successfully completed, why was it necessary to contaminate 100 square yards of pure crystalline salt? Or, more pertinent still, why was it necessary to contaminate 1 square foot of American ground with tests that had already been made and the results established and proved?

ADJOURNMENT UNTIL MONDAY, JUNE 2, 1969

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 1 o'clock and 46 minutes p.m.) the Senate adjourned until Monday, June 2, 1969, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate May 28, 1969, under authority of the order of the Senate of May 27, 1969:

U.S. CIRCUIT JUDGE

Charles A. Bane, of Illinois, to be U.S. circuit judge for the Seventh Circuit, vice Elmer J. Schnackenberg, deceased.

SECURITIES AND EXCHANGE COMMISSION

Hamer H. Budge, of Idaho, to be a Member of the Securities and Exchange Commission for the term of 5 years expiring June 5, 1974; reappointment.

James J. Needham, of New York, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1973, vice Manuel Frederick Cohen, resigned.

IN THE ARMY

I nominate Brig. Gen. Hal Bruce Jennings, Jr., [redacted], Army of the United States (colonel, Medical Corps, U.S. Army), for appointment as the Surgeon General, U.S. Army, and for appointment to the grade of lieutenant general under the provisions of title 10, United States Code, section 3036.

I nominate the following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Arthur William Oberbeck, [redacted], U.S. Army.

IN THE MARINE CORPS

I nominate Lt. Gen. Richard G. Weede, U.S. Marine Corps, when retired, to be placed on the retired list in the grade of lieutenant general in accordance with the provisions of title 10, U.S. Code, section 5233.

Having designated, in accordance with the provisions of title 10, U.S. Code, section 5232, Maj. Gen. Frederick E. Leek, U.S. Marine Corps, for commands and other duties determined by the President to be within the contemplation of said section, I nominate him for appointment to the grade of lieutenant general while so serving.

EXTENSIONS OF REMARKS

HUBERT HUMPHREY OFFERS COMMENCEMENT ADDRESS FOR ALL AMERICA

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, May 29, 1969

Mr. RANDOLPH. Mr. President, this is the time of year when high schools, colleges, and universities across the entire country are conducting their commencement programs.

A great amount of wisdom and good advice is being dispensed by thousands of speakers at these programs. Deserving of careful attention also is the advice offered by former Vice President Humphrey in an article entitled "An Open Letter to America's Youth," published in Parade magazine for May 18, 1969. What he has to say should be pondered carefully by every American, young and old alike.

Mr. Humphrey's article could well be classed as a commencement address for all of us.

Mr. President, 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:

AN OPEN LETTER TO AMERICA'S YOUTH

(By Hubert Humphrey)

No age group has a monopoly on idealism. The desire for justice, freedom and peace is as alive among the old as it is among the young. Idealism, nevertheless, is most apparent in the young. Our students have the time and the energy and the motivation to express their discontent with the failures of our civilization, and to try in their own way to remedy these failings. Their discontent is praiseworthy, since we live in an imperfect world.

I find it unfortunate, however, that so much of the admirable energy of our youth is being dissipated on the fringes of society. While young people have been justly proud of some of their victories, and even prouder, perhaps, of some of their efforts that ended in defeat, they are falling far short of making their power felt on our society.

It seemed, a year ago when students banded together to advance the candidacy of Senator Eugene McCarthy, that they had gained an understanding of their power. Working within the democratic system, they proclaimed their message across the country, and they were heard. Unquestionably, a large part of Senator McCarthy's success in the primaries can be credited to young people who gave so much of themselves to his campaign. They also had an impact on the push for a Vietnam peace.

Although a good bit of the protest voiced during the last election campaign was directed against me, the greatest part of it was responsible protest. The youth of America had a message, and it did not go unheard or unheeded.

HEALTHY FOR COUNTRY

Certainly, I was disturbed when some groups interrupted my public talks and kept me from communicating with others who wanted to listen, but most of the young people who involved themselves in the last campaign respected the rights of others. These young people were directed toward issues, and I think their participation was healthy for the country and for American politics. The Student Coalition—composed of McCarthy, Kennedy and Humphrey supporters—was among the most effective and hard-working campaign organizations supporting my candidacy.

Most of the students on our campuses, like most of the students who were involved in the last campaign, are concerned Americans. Most of the violent and destructive campus protests have been provoked by a relative few.

We find faults and deficiencies in all of our institutions—our universities, our government, our political parties, our corporations and labor unions, even our churches—but they will not be remedied by the actions of screaming, rock-throwing mobs. The answer lies in sustained positive action. This process of peaceful change is the foundation of a democratic society.

I urge that the doors to participation in our society be thrown open to young people who want to take an active part in the future course of this nation. It is one thing to stand on the outside and complain when our institutions seem unfair, unresponsive, irrelevant—or to resort to violence and other illegal tactics. It is another to do the work that is needed to make them fair and responsive and relevant. That is the opportunity that beckons young Americans today—as it has every generation.

In my youth, and that of most other parents of today's young people, much of our energy went to help our families and relatives survive the rigors of the Depression—and to educate ourselves like every generation, today's young people also want to be involved in building a more just and humane social order. But in most cases, their contributions are not essential to the welfare of