ings, exchange programs, black studies programs, and even electronics—books apparently are given the lowest priority in the Federal programs for the spending of taxpayers dollars.

The editorial follows:

WONDROUS MENTAL MEANDERINGS

The mental meanderings in the U.S. Department of Health, Education, and Welfare are wondrous.

Here's a sample of what we mean:

"In the context of the total federal program for education, special programs for books and equipment are considered low priority."

The statement was by HEW Undersecretary John Venneman and apparently sums up the attitude which accounts for a projected 66 per cent slash of federal money assistance to school, public, college and university libraries.

Books, in education, are considered low priority? Holy Cow!

The recommended slash has some drastic meaning to library services in Louisiana. It would preclude any expansion of existing services and compel a cutback in services now provided.

Specifically, the State Library—hub of library service in Louisiana—would face an approximately 50 per cent cut in 1969–70 appropriations under Title I (public library service) of the federal Library Services and Construction Act. There would be no appropriations for construction. Because they depend on the State Library for specialized services and materials, all public libraries in Louisiana would suffer.

There would be no funds for school libraries under Title II of the Elementary and Secondary Education Act, through which has come money greatly enriching the library resources of 1,961 schools in 56 public school systems in the state. Half of the funds for college library services would be lost. Training opportunities for future librarians would be slashed about half. Twenty-one academic institutions in the state have benefited from the Higher Education Act; it provided 40 fellowships for graduate study annually. Nine institutes offering advanced training to librarians were underwritten by the act.

The federal government has moved brazenly into public education, more often than not questionably. The least it can do for the children of the people who foot the bills is to shun an attitude that books are of low priority "in the context of the total federal program for education."

The effects cited here relate only to Louisiana. The other 49 states are confronted with the same situation.

Less federal spending is more than desirable. It is urgent. It equally is urgent to do the cutting where it ought to be done. No end of congressional committees have reviewed programs in which millions upon millions of dollars have been squandered. Most of the programs are still operative. The gravy train still runs.

But when economy is called for, books are "low priority" in the federal attitude toward education!

How fatuous can the wonderful wizards of Washington get?

THE TRUTH ABOUT GREECE

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1969

Mr. PUCINSKI. Mr. Speaker, the New Hampshire Sunday News is one of many newspapers across the country which recently carried the syndicated column by Edith Kermit Roosevelt entitled, "The Truth About Greece."

It is most significant that this highly responsible and respected American journalist would devote considerable space to the discussion of the situation which currently prevails in Greece.

It is my hope that Miss Roosevelt's excellent column will help Americans better understand the problems that we are dealing with in trying to influence the restoration of parliamentary government in Greece.

I am pleased that Miss Roosevelt quotes extensively from my recent remarks in Congress on this subject. The wide distribution of her highly respected column gives added impetus toward better understanding between the United States and the people of Greece.

Miss Roosevelt's column follows:

THE TRUTH ABOUT GREECE

(By Edith Kermit Roosevelt)

WASHINGTON.—Two years ago a group of colonels in the Greek Army led some fellow army officers in a bloodless revolt against those forces which would have delivered Greece unquestionably into Communist hands. They promised they would restore order out of chaos.

Since the coup d'etat, the Greek caretaker government has moved towards restoration of a constitution and election of a Parliament to manage Greek affairs in the spirit of democracy.

The former colonels gave the Greek people an opportunity to vote on a constitution which has been hailed by students of political science as an outstanding document spelling out and guaranteeing freedom and human dignity for the people of Greece. A total of 92 per cent of the voters approved the constitution and Premier Papadopoulas and his associates have taken direct steps to implement the Constitution as quickly as possible. The Greek government recently announced that the people were restored the rights to peaceful assembly, lawful association and the inviolability of the home.

Rep. Roman C. Pucinski (D-Ill.), a member of the House Education and Labor Committee, like other Americans looks forward to the complete restoration of parliamentary government in Greece—selected by the Greek people. However, while he believes the U.S. should continue to apply pressure for restoration of complete parliamentary government, he thinks we do a disservice to the cause of freedom when we permit "misleading" contentions of tortures in Greece to go unchallenged. Specifically, he rejects as untrue the serious charges of tortures and brutality made in the May 27, 1969 issue of Look Magazine and Amnesty International, a private organization chaired by Michael Straight, former editor of the New Republic.

Pucinski calls their charges a misrepresentation of the political situation in Greece which he says does "an injustice to the people of Greece and more seriously presents a grave threat to relations between the United States and Greece at a time when America needs all of her NATO allies to deal with the growing menace of Soviet influence in the Mediterranean and the Middle East."

Amnesty International as well as the article in Look Magazine have charged that political prisoners were suffering great tortures on the island of Yaros, off the coast of Greece. But Pucinski, who claims to be the only American ever permitted to visit Yaros, says that "after interviewing several hundred prisoners, it was my conclusion that charges of torture and brutality were completely untrue and a complete fabrication. Many of the prisoners," he continues, "frankly told me they were Communists and would refuse stubbornly to issue any assurance they would not conspire against the government in their efforts to overthrow the new regime."

Pucinski's visit to Yaros occurred six months after the April 21, 1967 takeover by the Greek colonels. The Illinois Democrat took with him his own Greek interpreter so there would be no chance for misinterpreting what the prisoners were telling him. He returned to Greece recently where he says he spoke to some of the most respected leaders of that country who are in no way affiliated with the caretaker government nor do they owe the present government any particular allegiance.

"In not a single instance," according to Pucinski, "did these impartial observers report any such tortures and brutalities as reported in Look's article."

Furthermore, thousands of American citizens of Greek ancestry from Chicago visit their native Greece frequently. Pucinski says he has talked to many of these people upon their return from Greece to see if any of their relatives have mentioned the alleged tortures or brutalities. Pucinski, who incidentally was the chief investigator for the House Committee which exposed the atrocities committed by the Russians against the Poles at Katyn, says:

"In not a single instance, have we received any evidence that would substantiate the Look magazine charges."

The matter of alleged tortures in Greece was also totally demolished as untrue after on-site inspections by the International Red Cross and a British Inter-party Committee conducted at the request of the Greek caretaker government. These two organizations concluded there was no basis for the accusations.

Last October 7, the authoritative magazine, U.S. News and World Report, wrote that while the Army colonels are "authoritarian" there is "no widespread clamor for a return to the freewheeling democracy of the past. . . . Controls are strict, but they are used to promote economic and social progress."

SENATE—*Thursday, June 12, 1969*

The Senate met at 11 o'clock a.m., and was called to order by the Vice President.

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

O Thou whom no man hath seen, the invisible cause of all that is visible, break through the things which do appear that we may know Thy nearness in this place. Subdue our jaded and vexed natures. Discipline our wandering spirits and strengthen our feeble faith. O Thou who givest freely of Thyself, order what is disordered in our lives, bring our minds to Thy truth, our conscience to Thy law, our hearts to Thy love, and our souls to fellowship with all mankind. Enable us to hear Thy voice, and hearing it make answer with humble trust and willing obedience. Brood over our troubled world that Thy grace may penetrate all men's hearts until the old refrain, "Peace on earth among men of good will," is the song and the desire of all nations.

In the Great Redeemer's name. Amen.

THE JOURNAL

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, June 9, 1969, be dispensed with.

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

MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT (H. DOC. NO. 91–126)

Under authority of the order of the Senate of June 9, 1969, the Secretary of the Senate on June 11, 1969, received a message from the President of the United States.

THE VICE PRESIDENT. The Chair lays before the Senate a message from the President of the United States transmitting the Second Annual Report of the National Advisory Council on Economic Opportunity. Without objection the message will be printed in the RECORD, without being read, and appropriately referred.

The message, together with the accompanying report, was referred to the Committee on Labor and Public Welfare, as follows:

To the Congress of the United States:

I transmit herewith the Second Annual Report of the National Advisory Council on Economic Opportunity.

RICHARD NIXON.

THE WHITE HOUSE, *June 11, 1969.*

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of June 9, 1969, the Secretary of the Senate, on June 11, 1969, received messages in writing from the President of the United State submitting sundry nominations which were referred to the appropriate committees.

(For nominations received on June 11, 1969, see the end of the proceedings of today, June 12, 1969.)

EXECUTIVE REPORTS OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of June 9, 1969, the following favorable executive reports of nominations were submitted:

On June 10, 1969:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Robert H. McBride, of the District of Columbia, a Foreign Service officer of the class of career minister to be Ambassador Extraordinary and Plenipotentiary to Mexico.

Richard Funkhouser, of New Jersey, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Gabon Republic;

G. McMurtrie Godley, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of Laos;

J. William Middendorf II, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of the Netherlands;

Lane Dwinell, of New Hampshire, to be an Assistant Administrator of the Agency for International Development; and

Thomas J. Houser, of Illinois, to be Deputy Director of the Peace Corps.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the Senate of February 7, 1969, the following report of a committee was received on June 11, 1969:

By Mr. BYRD of West Virginia, from the Committee on Appropriations, with amendments:

H.R. 11400. An act making supplemental appropriations for the fiscal year ending June 30, 1969, and for other purposes (Rept. No. 91–228).

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT—ENROLLED JOINT RESOLUTION SIGNED

Under authority of the order of the Senate of June 9, 1969, the Secretary of the Senate, on June 11, 1969, received a message from the House of Representatives which announced that the Speaker had affixed his signature to the joint resolution (S.J. Res. 35) to provide for the appointment of Thomas J. Watson, Jr., as Citizen Regent of the Board of Regents of the Smithsonian Institution, and it was signed by the Vice President.

ENROLLED BILL SIGNED DURING ADJOURNMENT

Under authority of the order of the Senate of June 9, 1969, the Vice President announced that on Wednesday, June 11, 1969, he had signed the enrolled bill (H.R. 3480) for the relief of the New Bedford Storage Warehouse Co., which had previously been signed by the Speaker of the House of Representatives.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on June 11, 1969, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 35) to provide for the appointment of Thomas J. Watson, Jr., as Citizen Regent of the Board of Regents of the Smithsonian Institution.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. KENNEDY. 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 16, 1969

Mr. KENNEDY. Mr. President, I ask unanimous consent that at the conclusion of business today, the Senate stand in adjournment until Monday, June 16, 1969, at 12 o'clock noon.

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

EXECUTIVE SESSION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar, commencing with "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The VICE PRESIDENT. The nominations on the Executive Calendar will be stated, as requested by the Senator from Massachusetts.

AMBASSADORS

The assistant legislative clerk read the nominations of Ambassadors, as follows:

Robert H. McBride, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

Richard Funkhouser, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabon Republic.

G. McMurtrie Godley, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Laos.

J. William Middendorf II, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

The VICE PRESIDENT. Without objection the nominations are confirmed.

AGENCY FOR INTERNATIONAL DEVELOPMENT

The assistant legislative clerk read the nomination of Lane Dwinell, of New Hampshire, to be an Assistant Administrator of the Agency for International Development.

The VICE PRESIDENT. Without objection, the nomination is considered and confirmed.

PEACE CORPS

The assistant legislative clerk read the nomination of Thomas J. Houser, of Illinois, to be Deputy Director of the Peace Corps.

Mr. DIRKSEN. Mr. President, on behalf of my colleague from Illinois (Mr. PERCY), I ask unanimous consent to have printed in the RECORD a statement by him relative to the nomination of Thomas J. Houser to be Deputy Director of the Peace Corps.

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

STATEMENT BY SENATOR PERCY

The nomination of Mr. Thomas J. Houser to be Deputy Director of the Peace Corps is now before the Senate. I enthusiastically recommend that the Senate confirm the nomination.

It has been my privilege to know Tom Houser for many years, and I deeply believe that he is just the kind of man we so urgently need in public service today.

Mr. Houser received his degree of Bachelor of Arts in political science from Hanover College, Hanover, Indiana. Subsequently, he earned a law degree at Northwestern University Law School and attended Johns Hopkins University School of Advanced International Studies. As Commerce Counsel for the Burlington Railroad, in Chicago, he gained widespread respect from the business community and the legal profession alike. He has been active in Illinois political life,

bringing to his work a deep commitment to progressive and enlightened government. Following my election to the Senate, he served as my chief counsel in Chicago for a year. Now he is prepared to relinquish an outstanding law practice in Chicago to serve the Peace Corps and the Nation.

The country is most fortunate in having Joseph Blatchford as Director of the Peace Corps. He needs—and wants—a deputy who is a competent aidministrator and a practical idealist—a man who works well with people as well as with ideas, a man who believes in the program and in the Director to whom he reports. Thomas Houser is just such a man. He has won the confidence of the Administration; and I know that in time, he will earn the confidence of Congress and of the country.

So it is without reservation or qualification that I endorse the nomination of Thomas J. Houser to be Deputy Director of the Peace Corps.

The VICE PRESIDENT. Without objection, the nomination is considered and confirmed.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. KENNEDY. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

PROTECTION OF DISABILITY EVALUATION IN EFFECT FOR 20 OR MORE YEARS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 208, H.R. 4622.

The VICE PRESIDENT. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 4622) 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.

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

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

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–219), explaining the purposes of the bill.

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

EXPLANATION OF BILL

By law, compensation is paid to veterans who suffer disabling conditions as a result of military service. As the name implies, the purpose of the payments is to compensate the veteran for the average economic loss resulting from the disease or injury sustained during his military service. Thus compensation payments are based not on need, but on the degree of disability of the veteran. On the basis of a medical evaluation, the veteran's disability is rated between 10 percent and 100 percent (total disability). Under present law, monthly compensation rates for disabilities incurred in time of war range from $23 for veterans with a 10-percent disabling condition to $400 for totally disabled veterans. Higher compensation payments are authorized for certain very serious disabilities; for example, a blind veteran requiring regular aid and attendance receives $550 in monthly compensation.

The law also provides for additional compensation payments for the loss or loss of use of certain specified limbs or organs. For example, a veteran who lost an arm in wartime military service would receive $47 monthly in addition to his basic disability compensation.

In 1954, the Congress enacted a law (Public Law 311, 83d Congress) which guaranteed that a veteran rated as totally disabled for 20 or more years could not have this rating reduced thereafter unless fraud could be shown.

Ten years later, another law was enacted (Public Law 88–445) which prevented the reduction of any disability rating of 10 to 90 percent which had been in effect for 20 or more years.

Because the law speaks of preserving the "percentage" of disability, however, the higher payments to totally disabled veterans and the additional compensation payments for a specific anatomical loss or loss of use are not presently included with the guarantee provision. Thus; for example, the Veterans' Administration could decide that a $47 award for loss of use of a foot, even though received for more than 20 years, was no longer payable because the foot was now usable.

This bill, which the Committee on Finance approves, without amendment, would preserve higher or additional compensation payments received for 20 or more years in the same way as disability ratings are preserved under present law.

The cost of the bill is nominal.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

THE CASE OF THE SECRET CHART

Mr. SYMINGTON. Mr. President, earlier this week the distinguished junior Senator from Tennessee and the distinguished junior Senator from Colorado expressed disagreement with my belief that the publication of a certain classified chart presented by the Defense Department to the Senate Armed Services Committee would go a long way toward letting the public make up its own mind about this costly new venture into national defense weaponry.

Because there is this difference, and because much of the information contained on the chart is already a matter of public record, I would again urge that this chart be made public.

I ask unanimous consent that an editorial on this subject, published in the St. Louis Post-Dispatch of last Sunday, June 8, entitled, "Case of the Secret Chart," be printed at this point in the RECORD.

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

CASE OF THE SECRET CHART

Senator Symington carries exceptional weight in the ABM debate because he knows the thickets of the Pentagon bureaucracy, and the behavior of its bureaucrats, so well. Drawing upon that intimate acquaintance, he has hurled another deadly harpoon at the case for deploying Safeguard by challenging the Pentagon to publish a "classified" chart which it has been using to bolster its argument. If the chart is exposed to public view, he says, the argument will be over, for everyone can then see that Safeguard will not accomplish its alleged mission of "protecting our Minuteman deterrent."

As could have been predicted, the Senator's initiative soon brought out from others enough unofficial information about the classified chart to permit deductions about it. Evidently its purpose is to show that if the Soviets continue building their SS-9 missiles at the present rate, and if we now immediately deploy Safeguard, then at a certain point in 1975, assuming a Soviet attack on our Minuteman, the antimissile system will protect enough Minutemen to permit a retaliatory blow. Ergo, the deterrent will be protected.

But reportedly the chart also shows something else. It shows that if the Soviets withhold their attack in mid-1975, but go on building SS-9s instead, then within a few months they will have the capacity to saturate Safeguard defenses so thoroughly that our Minuteman deterrent will *not* be protected. In other words, even if the intricate electronics of Safeguard work to perfection, which many qualified scientists doubt, the system would afford only a few months' "protection" from a nuclear attack.

Of course everybody knows what the script calls for. Long before mid-1975, the Pentagon would undoubtedly go to Congress with the alarming news of a forthcoming Safeguard gap, and the public would be told that national security imperatively demanded an enormous expansion of the antimissile system. This is, quite obviously, the true mission of Safeguard—to serve as the first stage of an unlimited escalation of the nuclear arms race, guaranteeing juicy contracts and military proliferation and cold war psychosis far into the future.

The Pentagon has long been accustomed to scaring Congress and the public into providing unlimited weaponry funds by darkly referring to horrendous military secrets which cannot be told. Senator Symington deserves the public's thanks for putting a neat, round hole in these tactics as applied to the ABM. If Safeguard cannot be justified on the basis of public information and common sense, it cannot be justified at all.

NATIONAL COMMITMENTS—SENATE RESOLUTION 85

Mr. HARRIS. Mr. President, I would like to speak briefly in support of Senate Resolution 85.

After studying the report of the Committee on Foreign Relations, I am convinced that the Senate should reassert its constitutional duties in regard to the "national commitments" of this country.

It has only been in this century that the role of the Senate in making commitments involving our Armed Forces has become obscure.

During the period from 1789 to 1900 there was no question that article I of the Constitution vested the warmaking power with Congress. The President was simply the director of our Armed Forces with the power and authority to commit our forces in defense of the United States in the event of a sudden attack.

There was equally no question that, although the President was given the power in article II of the Constitution to make treaties, his action required the consent of the Senate. Since then, considerable confusion has arisen in regard to the respective roles of Congress and the President in making commitments with foreign countries.

While Senate Resolution 85 will not have the force and effect of law, it will serve very useful purposes. First, it will make it clear to the President that the Senate will expect to exercise the authority given to it under article I. Second, it will place all foreign countries on notice that any commitment not passed upon by the Senate, may well have no binding force.

The resolution is nonpartisan—having been approved by the Foreign Relations Committee by a vote of 11 to 1—and is not aimed at any particular administration, past or present.

When an executive commitment seeks to obligate this Nation, such a commitment should be submitted regularly for Senate or congressional approval, as the case may be, before it becomes binding and effective. Otherwise, our system of checks and balances, written into the Constitution is not being allowed to function as intended.

OHIO COLLEGE LEADS THE WAY

Mr. YOUNG of Ohio. Mr. President, college students demonstrating peaceably or violently, complaining against archaic policies, denouncing the establishment governed by trustees, who were graduates 20, 30, and 40 years ago, and demanding that college courses which have not been changed in more than 20 years be brought up to date, have a point. In fact, it is becoming crystal clear to any thoughtful person searching for answers that university trustees and students have become further apart in the past 20 years. There is real reason for demonstrations by college students. The old order, or establishment, must accept change voluntarily else it may be changed violently.

Very definitely, I do not condone violence. I favor immediate expulsion and arrest of all campus demonstrators who resort to violence. Those belligerent gun-toting Cornell "students" should have been expelled forthwith. Also, they should have been arrested for disorderly conduct and threatening violence. I agree with Father Hesburgh, president of Notre Dame University. He said:

> Any group that substitutes force for rational persuasion, be it violent or non-violent, will be given fifteen minutes of meditation to cease and desist . . . if there is not then within five minutes a movement to cease and desist, students will be notified of expulsion from this community and the law will deal with them as non-students.

We must, however, have complete sympathy with the views of the majority of students who know that the colleges and universities of this country have not kept pace with the times in this fast-moving space age of change and challenge. The establishment should realize that as Washington Irving wrote:

> Change is inevitable and brings with it a surprising amount of relief.

Unfortunately, three of five trustees in the Nation believe that speakers invited to address their students should be screened before being allowed on the campus. A majority even believe that all faculty members should be required to swear to a loyalty oath as a condition for employment as instructor or professor. This, despite the fact that no Member of the U.S. Congress is required to swear to such an oath.

Peculiarly also, nearly a majority of present college trustees state that college students demonstrating against any professor or against university policy should be disciplined or expelled even though such demonstration is entirely nonviolent. Such trustees would do well to reread the Bill of Rights to the Constitution of our country.

The facts are that only a very few, possibly 2 percent, of the trustees of American universities have read any books or journals on higher education. It has been the rule of the establishment in the past that there has been no mutual discussion and determination between students, trustees and faculty members on goals and purposes.

I propose that in every college in our country some junior and senior students and faculty members should be selected to membership of boards of trustees to help govern their own universities.

I have made that proposal in my State of Ohio and I have made speeches in the Senate for more than 6 weeks in that connection. I am very pleased to note that Princeton University has followed the suggestion and has elected two students to serve on its board of trustees.

Now a small college in Ohio leads the way. Most universities in our country have not basically changed their policies and their courses of study at any time in the last generation. Unfortunately, this is the result of colleges and universities being run by trustees who are highly respected, but most of whom are millionaires selected because they and their wealthy friends can contribute financially to the universities of which they are trustees. They suffer no pain from these tax deductions. Historic Hiram College will introduce in September a major yearlong course, "Twentieth Century and Its Roots," as a requirement for all freshmen. We have reason to be proud that this Ohio college is the first in the Nation to produce an answer to student demands for more meaningful modern education. Hiram College officials have already arranged for nationally known experts to meet with students and discuss current topics such as student alienation, poverty, civil liberties, pollution, and prevalent confusion over moral values. In this course, filmed interviews with Malcolm X, James Baldwin, and the late Dr. Martin Luther King, Jr., will be shown and discussed. Were President Garfield, a famed Hiram alumnus, alive today, he would no doubt rejoice that other university presidents, including Stanford of California, have written Hiram authorities expressing interest in this program. Also, Hiram faculty members are giving serious consideration to offering an additional important major study course—"History of Blacks in America—Their Achievements and Influence From Colonial Times to Today." Hiram's program will surely be copied in colleges throughout the country.

I extend my congratulations and thanks to the administrators, faculty members, and students of Hiram College. Paraphrasing the famed words of Daniel Webster:

> It is, Sir, as I have said, a small college and yet there are those who love it.

SOUTH VIETNAM

Mr. MATHIAS. Mr. President, as a long advocate of a political settlement in South Vietnam, acceptable to the widest possible range of South Vietnamese opinion, I was dismayed by the statements of President Thieu on his arrival in Saigon. Even before the afterglow of the Midway Conference had died away, Thieu has threatened his non-Communist opposition, specifically including political leaders, legislators, and intellectuals, with "severe punishment" if they so much as discuss broader alternatives to his own leadership.

This approach is reprehensible. Thieu should understand, Congress should advise him and the President should insist he recognize, that the American people deplore his attempts to muzzle political opposition on the crucial question of a "coalition," "reconciliatory," or "transitional" government in his divided country.

Mr. President, let me say, parenthetically, that those adjectives are the adjectives of President Thieu and not my own.

I am well aware that people who hold an official position in one government ordinarily must exercise the greatest tact and caution in criticizing officials in another government. But these circumstances are not normal. The hostile forces, military and paramilitary, which confront our arms in Vietnam are predominantly South Vietnamese and their numbers are increasing. When President Thieu asks us to continue military participation in a struggle against forces predominantly his own countrymen, I think he must grant us some latitude to consider the impact of our military intervention on political prospects in his country. President Thieu cannot be allowed to regard U.S. soldiers as exterminators called in to eradicate his political opposition.

For American goals in Vietnam are radically inconsistent with such an approach. We are fighting at enormous human and monetary expense to buy time precisely in order to achieve a political settlement acceptable to the followers of these non-Communist leaders who together received a majority in the elections and are now either imprisoned or intimidated by the present regime.

It is up to Thieu to take every possible step to make such a settlement feasible, and we expect him to do that as the price for our continued support of his government. Many of these non-Communist political leaders in fact might make important contributions to political unity if given an opportunity to exercise their leadership and even their minimum constitutional rights. We are fast approaching the time when a democratic assem-

bly of non-Communist South Vietnamese leaders could only take place in jail.

Of course it is possible that President Thieu is correct in his view of the prerequisites of his continued rule. But since his conception is inconsistent with a democratic political settlement, it must not be allowed to prevail even if an end to widespread repression also means an end to the Thieu regime.

A democratic political process by definition is, to some extent, unpredictable and thus, to some extent, hazardous. The risks of continued war, however, far exceed the risks of the free political activity among non-Communist South Vietnamese that is indispensable to a broadly based political settlement.

RAILROAD PASSENGER SERVICE

Mr. SPARKMAN. Mr. President, recently, there was published in the New Yorker magazine an article dealing with railroading. It was entitled "Mr. Frimbo on the Metroliner."

The article was written in a rather light manner but I feel that there is a great deal of substance in it and some very good suggestions. I, for one, regret very much the deterioration in railroad passenger service. I wish that we could develop a program whereby good, adequate railway passenger transportation would return for the benefit of towns and cities throughout the country and, I may add, for the benefit of the traveling public who would like so much to have good passenger service on the railroads.

Mr. President, I ask unanimous consent to have the article printed in the RECORD.

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

MR. FRIMBO ON THE METROLINER

We spent a delightful day last week traveling to and from Washington, D.C., on the Penn Central's new non-stop, high-speed train in the company of our old friend Ernest M. Frimbo, the world's leading railroad buff. We met Mr. Frimbo, by prearrangement, at Penn Station at a quarter to seven in the morning, and he greeted us with his usual booming "Hello," adding "My, it's good to see you. Haven't caught sight of you since—Let's see, must have been my two-millionth mile. Well, it's up to two million eighty-two thousand three hundred and ninety-five miles now, and we'll add four hundred and fifty today. You are going to enjoy today's jaunt. The Metroliner, which is what the Penn Central calls this new high-speed train, is the first forward step taken by any form of transportation in this country in donkey's years." Mr. Frimbo was wearing a tweed suit from Bernard Weatherill in two hues of gray, a pink button-down shirt, and a stripy tie. On his head was his familiar black homburg, and he was carrying, out of pure devilment, a maroon Qantas Airways bag. He looked fit. We said hello as soon as we were able, and he told us that it time to get going. "The train leaves at seven-ten, but I wanted you here a few minutes early, so you could get a good look at her," he said.

We followed Mr. Frimbo down a flight of stairs and gazed, with him, at a sleek and slightly convex six-car stainless-steel train that was humming quietly on Track 12. "Four coaches and two parlor cars," Mr. Frimbo said proudly. "Built in two-car units, and there's no locomotive. Each unit is really its own locomotive. For a faster getaway. The rounded shape is called 'tumble home' by designers. Each of the coaches has a snack bar in the middle, and the seats, as in every ordinary coach, are four abreast, with an aisle down the middle. On an airplane, they call four abreast First Class. Huh! The parlor cars on the Metroliner have one seat on each side of the aisle. That's what *I* call First Class. Each of the parlor cars also has a small kitchen at one end, and for that reason the train crews call them galley cars. The Penn Central people don't call them parlor cars, either, by the way. They call them club cars—or, to be precise, in the present instance, Metroclub cars.

"That's an idea they borrowed from the Canadian National Railways. The people up there decided that 'club' sounds more modern and more tony. You know—'I belong to an exclusive club.' They thought 'parlor' sounded Victorian and fusty. Of course, I myself have spent many an enjoyable hour in parlors. And many an enjoyable hour in clubs, too, for that matter."

Mr. Frimbo went aboard one of the parlor cars, and we followed him. He called out a good morning to a porter, and the porter said, "Good morning to you, Mr. Frimbo. Glad to have you aboard, sir. We'll be serving breakfast soon."

"Good," Mr. Frimbo said.

We found our seats—Nos. 24 and 26. They were salmon wing chairs, with the wings slightly raked, and they had pea-green paper antimacassars on them. We sat down, and agreed that our chairs were very comfortable. "This is the first high-speed train to be built by someone who knows how to build railroad cars," Mr. Frimbo remarked. "They had some models run up by people who built buses, and they put in—What do you think? Plastic seats. It was awful. The Penn Central people, be it said, have gone about this in the right way."

It was now seven-ten, and, right on the dot, and very smoothly, the Metroliner began to move out of the station. A voice said "Good morning, ladies and gentlemen" over a loudspeaker, and wished us a pleasant trip. The voice was replaced by soft music, which wobbled slightly as the train picked up speed. Mr. Frimbo caught our glance. "I know, I know," he said. "Just like the airlines. Oh, well, people probably wouldn't feel comfortable without it these days. You'll find it isn't obtrusive. This is my sixth trip on a Metroliner, and it hasn't been late yet. One day, we *were* six minutes late out of Philly, any everyone said, 'There we go,' but we were two minutes early into New York. We had made up eight minutes."

The train passed through Newark at that moment, exactly on schedule, and Mr. Frimbo started counting heads in the two parlor cars. Both were nearly full. "The Metroliners are doing a rocketing good business, and I'm very pleased," he said. "All in all, it's a damn good train, and two hours and thirty minutes from New York to Washington is a speed to be proud of. The first time I rode a Metroliner, the run took just a minute less than three hours. When I worked in the Pentagon, in the Transportation Corps, back in the Second World War, I used to come up to New York on the Advance Congressional Limited. It ran out of Washington Friday afternoons, and made one stop—at Newark, where it did not pick up passengers. That train carried ten of the heavy old ninety-ton parlor cars and a ninety-five-ton diner, and it was scheduled to arrive in three hours and fifteen minutes. One glorious day, we made it in three hours and ten minutes. So, despite all the streamlining and yelping, the Metroliner had cut eleven minutes off the run in tewnty-five years. Today's run—two and a half hours—is all right, though. But that Turbotrain to Boston—running on the schedule of the Merchants Limited of twenty years ago, and not even going into South Station!"

The porter now appeared with two small trays, which he placed on two small tables by the sides of our seats, and Mr. Frimbo paused to eat breakfast. Our breakfast consisted of a dish of orange slices, a plate of corned-beef hash with grilled tomato, a piece of Danish pastry and a croissant, and a pat of butter, a jar of preserves, and a cup of coffee. We noticed that the porter had brought Mr. Frimbo a glass of iced tea, instead of coffee, without his having asked for it. Mr. Frimbo always starts the day with a glass of iced tea.

After breakfast, we leaned back on our pea-green antimacassar and asked Mr. Frimbo if he didn't think that transportation in the United States was improving. When he didn't reply, we looked at him and saw that he was sitting with his head propped on one arm, staring out the window at New Jersey. We repeated our question, thinking that perhaps he hadn't heard it, and he looked at us. "I heard you," he said. "That's a good question, I guess, and I was just thinking up the best answer to it. Yes and mostly no is the right answer, I think. The Metroliners are what we need, and if they have one every hour, as they keep saying they're going to, things will be moving in the right direction, but the truth of it is that transportation in this country is in one hell of a mess. I'm not talking just about the railroads this time, either.

"You've heard me often enough on the subject of the chicanery of railroads. It's the airlines and bus companies too. But I'll start with the railroads, as usual. In the first place, the railroads are hard-pressed, to give them their due. When an airline wants a new terminal, it gets the government to build it, and the men who run it are all government employees. When a bus company wants a new stop, it approaches the proprietor of a local hotel and tells him, 'We'll give you five per cent of the revenue we make on our ticket sales if we can use your hotel as a depot.' A railroad, on the other hand, is expected to build its own station, staff it, and pay real-estate taxes on it. It doesn't make sense, does it? You and I would both do very well if we were tax-exempt, like the airports. The railroads would do very well if all the signalmen were paid by the government, like the air-control staff. Of course, there are—Well, I won't call them rascals but people in the railroad business who would just as soon forget their responsibilities to the public, cut out passenger service altogether, and go into the real-estate and hotel business. Some of the railroads are already part of these giant new conglomerates, and are doing just that. There are even some people in the Penn Central hierarchy who are nauseated by the smell of success of the Metroliners. People like that are responsible for the fact that you can't get a train out of New York for Hartford on a weekday after 6:05 p.m. Imagine! A town the size of Hartford, one hundred and nine miles from New York City, and you can't take a train to it after 6:05 p.m.! This is curfew transportation. It's back in the nineteenth century."

"But *how* do they get rid of passenger trains?" we asked. "Doesn't public necessity count for anything?"

"I'll give you a primer," said Mr. Frimbo. "You have a fast train from New York City to upstate New York at half past four in the afternoon. You push its departure time up to two o'clock, and business falls off so fast that you can ask the Interstate Commerce Commission for permission to take it off. You schedule a train to arrive in Chicago an hour and a half later than it used to, thereby missing a dozen good connections. You take off the dining cars—that's the Penn Central's favorite stunt—and make the travellers pay as much for a couple of sandwiches as they used to pay for lunch. The Pennsylvania wasn't so bad, but then after the merger the New York Central men moved into the hierarchy. Now the trains are later

than ever, dirtier than ever, less air-conditioned than ever, and more expensive than ever. The poor customers of the New Haven! It can cost you up to twenty per cent more to ride the coaches on what few New Haven trains are left, the parlor-car fares have gone up twenty-five per cent, and now they want to end the service at the Route 128 station, a dozen miles this side of Boston. The argument is that in five or six years there will be a rapid-transit line from Boston out to Route 128. So the passengers can get off there and wait five or six years. The same sort of scheme is on the books for Washington. Those scoundrels are such . . ."

We observed a growing empurplement of Mr. Frimbo's countenance, and we sought to divert him. Remembering that he had persuaded us to make the final run of the Twentieth Century Limited, a year ago last December, we asked him whether he had a new favorite means of conveyance.

"I'll be riding the Century again in a couple of weeks," he said, subsiding.

We goggled.

"Oh," Mr. Frimbo said, "the Penn Central sold it all, and a lot of other cars besides, to the National of Mexico, and now it runs every night—and all-Pullman, too, the way it used to be—from Mexico City to Guadalajara, only it's called El Tapatio now. A great train! At ten at night, the diner is so full of happy customers that you have to be a regular rider to get a table. It's Mexico's most popular night club, you might say. When I see people standing up on Penn Central trains, I ask an official I know why people have to stand all the time. 'Shortage of equipment,' he says. 'Why don't you buy some of that stuff back from Mexico, then?' I ask, and he pretends that he doesn't know what I am talking about."

Mr. Frimbo shifted in his seat. "But now let's take the other forms of his public transportation in this country," he said. "Let's talk about all those towns with one train and one bus a day—or none at all. What happens is that the railroads give up when the airlines move in, and then the airlines discontinue. I can tell you a horror tale or two. I remember flying to Grand Forks, North Dakota, one night some years ago—there was no suitable train—and asking the stewardess about bus service from the airport. 'Oh, there isn't any bus service, sir,' she said. I asked about taxi service. 'Oh, there isn't any taxi service, sir,' she said. I asked her what I was supposed to do to get into town. 'Oh, well, sir,' she said, 'you *could* talk to the airport manager, and he *might* be able to persuade someone to drive you.' Of course, you can always fall back on the rent-a-car, but not at that hour of the night. And buses! I was stuck in Aberdeen, *South* Dakota once, and the only thing for me to do was to catch the through bus from Seattle to Chicago. It got to Aberdeen six and a half hours late. Those are just examples that spring to mind. Everything that can be done in this country is being done to force people to get on the highways. And where will they all be when we have weather like the weather we had this past winter? Buses and airlines are fine, but in proportion. I fly to the Coast myself. No one would take the train nowadays, except on holiday. But once you get rid of the trains, just where are you in a bad snowstorm? Buses simply quit; the airlines are helpless. Only the train limps through. There was hardly a day last January and February when there wasn't something wrong with at least one airport in New York, Baltimore, Washington, Philadelphia, or Hartford. Ninety per cent of all inter-city traffic is already in private cars. But what's the answer? Get rid of the trains? The National Transportation Safety Board said that last year fifty-five thousand people were killed on the highways, and nine million nine hundred and thirty thousand were injured; the amount of money lost in highway accidents was three and a half billion dollars. *Three and a half billion dollars!* And that doesn't include job loss or hospitalization. There isn't a country in the world whose transportation is as disorganized as ours. If that three and a half billion were spent on transportation, maybe we could approach the standards of civilization."

Mr. Frimbo glanced out the window. "The crews call this stretch of track, between Wilmington and Baltimore, the race track," he said. "We are now doing a hundred and ten miles an hour."

Just then the voice on the loudspeaker announced, "We are now traveling at a speed of one hundred and ten miles per hour."

"We'll be in Washington soon," Mr. Frimbo said happily. "Then we'll have time for lunch at the Occidental Restaurant and perhaps a short visit to the Railroad Hall of the new Smithsonian Museum of History and Technology. They've got a Southern Railway old Pacific-type passenger locomotive, No. 1401, there, and she's painted the proper lovely shade of Southern Railway green. Haven't seen here in a number of years. And then we'll catch the afternoon Metroliner back to New York. It should be a *very* pleasant day indeed."

DEATH OF JAMES GORDON CURRY, SENATE DOORKEEPER

Mr. SPARKMAN. Mr. President, on Tuesday night of this week, Mr. James Gordon Curry, who for many years served as Doorkeeper in the gallery of the Senate, died. Mr. Curry originally became an employee of the Senate under my patronage. Later he was promoted to the position that he held so long under the Sergeant at Arms of the Senate.

I have known Gordon Curry ever since he was a young man living in the same general community in which I lived. He was one of the finest, most gentle persons I have ever known.

During the years that he served as a Doorkeeper for the Senate, he was always extremely courteous and kind to those who came seeking a place in the galleries. He was indeed a loyal, faithful and efficient public servant.

His was a good life throughout the years. A good family man and a good citizen, he was liked by all who knew him and who had occasion to deal with him.

I mourn his passing and both Mrs. Sparkman and I extend to his widow, to his children and grandchildren, and to all of his loved ones, our deepest sympathy.

CONSTRUCTIVE PROGRAMS OF YOUTH ACTION

Mr. JAVITS. Mr. President, I have recently become aware of a group within the U.S. Department of Labor which has initiated a series of constructive programs of youth action. We are constantly hearing about youths today—both black and white—who have decided that it is impossible to reform this society by peaceful means and so have turned to violence. We sometimes forget that there are many more youths who do not make the headlines who have not yet despaired of the system. One of these groups is the Coalition for Youth Action, which is comprised of Department of Labor management interns and other young professionals. This group was organized last year by then Secretary of Labor W. Willard Wirtz, and the 1967 intern class for two major reasons: first, to give the interns meaningful experience during part of their year-long training period; and, second, to help make the Federal Government more responsive to the voice of youth.

To accomplish this, the interns devised three program areas, received funds from the Secretary, and exercised programmatic and administrative control over the grants they gave. The three programs were EPIC—effective partnerships in communities, SAGA—starting a generation alliance, and LINC—learning in new curriculum. EPIC projects were grants to coalitions of campus and ghetto youth working together to determine and solve community problems; SAGA coordinated the use of volunteers from campuses and communities with ongoing manpower programs—chiefly the Employment Service's youth opportunity centers; and LINC enabled colleges and universities to work with students to establish courses relating to manpower problems, with credit given for relevant field work. Another program has been added by this year's interns, offering administrative and management training to ghetto youth.

I understand that most of their projects have been fairly successful. But I think that the idea of youth involvement in the Government on a decisionmaking level may even be more important than the actual work output, as long as that output is satisfactory. This effort shows young people that there are those in Government who are willing to listen and willing to give them a chance. Perhaps if there were more groups like the Coalition for Youth Action in the Government, more youths would work for the peaceful reform of the system.

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. 1035. An act limiting the use of publicly owned or controlled property in the District of Columbia, requiring the posting of a bond for the use of such property, and for other purposes; and

H.R. 11271. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

HOUSE BILLS REFERRED

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

H.R. 1035. An act limiting the use of publicly owned or controlled property in the District of Columbia, requiring the posting of a bond for the use of such property, and

for other purposes; to the Committee on the District of Columbia.

H.R. 11271. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Aeronautical and Space Sciences.

FLY THE AMERICAN FLAG ON THE MOON

Mr. BENNETT. Mr. President, on Saturday we shall celebrate Flag Day in the United States. Like most holidays it will come and go with little thought given to the significance of the day and the deep meaning that the American flag holds for all true Americans.

We live in difficult times and Flag Day for some will be meaningless. It is sad but true, some of our citizens have burned it, walked upon it, and desecrated it with reckless abandon.

Many of the homes across America will not have a flag flying on Saturday simply because they do not own one. I suppose a great many Americans will go through the day not even aware that it is set aside for honoring the flag of the United States. However, as we approach this day I wonder if the time is not at hand to reexamine the meaning of patriotism and what a flag really does mean to a people. Let me quote from Harry Ward Beecher, who said:

> A thoughtful man when he sees a nation's flag sees not the flag, but the nation itself and whatever may be its symbols, its insignia, he reads chiefly in the flag, the government, the principles, the truths, the history that belongs to the nation that sets it forth.

The American flag has been a symbol of liberty and men rejoiced in it.

The American flag has participated in all of the great historical events of this Republic. It is true that the flag has changed, but one cannot deny its role and its deep significance at Bunker Hill, at Yorktown, and at Washington during the War of 1812. One cannot forget that the Civil War itself was fought over the issue of whether there would be one flag for this Nation or two. Old Glory crossed the Atlantic in 1917 and was flying proudly at Pearl Harbor on December 7, 1941. In times of peace and in time of war the flag has played a significant role. The Stars and Stripes that flew over Pearl Harbor on December 7 rippled above the United Nations charter meeting at San Francisco, and over the Big Three Conference at Potsdam. This same flag was flying over the White House on August 14, 1945, when the Japanese accepted the Allied surrender terms. Thus, we see that Old Glory has played a key role in the declaration of war and in the formation of peace. I submit that in future centuries, when historians review the problems and the achievements of our generation and our Republic, they will consider our wars, our form of government, and undoubtedly our significant achievements. Among these achievements will be the first human being from this earth to visit the moon and walk upon its surface.

I believe that this event is one in which the flag of the United States should properly play a role.

As I have pointed out, there is precedent for it and there is justification based upon the accomplishments of the American people. I believe that "Old Glory" should go to the moon with the Apollo 11 crew and I believe it should be placed there not as an American claim to moon ownership, but as a token and a symbol that this great accomplishment came from a free Republic and was supported by a people who believed in liberty, freedom, and justice. I make no apology for my recommendation, because I am one man who is still touched when the American flag passes by in review, and when the National Anthem is played.

I believe the flag that goes to the moon with the Apollo 11 crew should be flown on July 4 over Independence Hall in Philadelphia, to signify the birth of this Nation, and then fly over the Capitol to represent the strength of a sovereign, self-governing people.

I am deeply pleased that the National Aeronautics and Space Administration has agreed to my proposal and that the House of Representatives has added it as an amendment to the NASA appropriation bill. I call upon the Senate to accept this amendment and I urge the President to cooperate with NASA and the Congress to allow the flag to make this journey.

In closing may I say that it will not only be the flag itself that goes there, but the hopes, the dreams, the hard work, and the principles of free government that have made the Apollo 11 journey a reality.

Thank you, Mr. President.

LIMITATION OF LAMB IMPORTS

Mr. MOSS. Mr. President, there is pending before the Senate an amendment to limit lamb imports into the United States. I shall support this amendment.

Lamb imports for the calendar year 1968 were the highest in history—22.9 million pounds—and the volume continues to swing upward. Imports for the first 3 months of this year were three times their volume in the first 4 months of 1968. Imports represented 7.7 percent of domestic production, and in the month of April, the last month for which figures are available, imports actually represented 16.6 percent of domestic production. Our domestic sheep industry cannot stand this kind of competition from countries where substantially lower production costs allow cheaper prices for lamb products.

The amendment pending before the Senate by no means shuts out lamb imports. It would allow yearly imports of approximately 8 million pounds, which is 80 percent higher than the average level of lamb imports in the last 15 years. This seems eminently fair—the domestic livestock industry would be protected, but our international relations would not suffer. Reasonable quantities of lamb could continue to come in.

Those opposed to the lamb import amendment have raised many objections. They have indicated that since lamb prices are at an alltime high, the stockmen can well afford to weather the higher rate of imports. They have also raised questions about the consumption levels of lamb, and about the market for imported lamb. Many of their allegations are not soundly based, and they are dealt with in some detail in statements made by officials of the National Woolgrowers Association, the American Sheep Producers' Council, and the National Lamb Feeders Association.

I ask that press releases detailing the statements made by these officials be carried in the RECORD, as I believe they will be helpful. The officials also discuss the self-help program of promotion and marketing in which American lamb producers have been engaged, and give some interesting sidelights on the economic battle on lamb imports, in which Australia, New Zealand, and Canada are involved, all of which have bearing on the situation.

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

UNCONTROLLED LAMB IMPORTS COULD DESTROY DOMESTIC SHEEP INDUSTRY

DENVER, COLO.—M. Joseph Burke of Casper, Wyo., president of the American Sheep Producers Council, with national headquarters in Denver, said today that he was concerned about a statement by a New Zealand representative that the American sheep producers are enjoying the highest prices for their product in eighteen years while completely ignoring the discouraging effect uncontrolled imports are having on future lamb production in this country.

"Even though present prices appear to be at eighteen year highs," Burke said, "they are not as high for domestic lamb as normally accepted supply-demand relationships would indicate, if only domestic supplies were considered. Also, it should be pointed out that labor, taxes, interest rates and other costs have increased at an even higher rate. It would be an irresponsibility to permit uncontrolled lamb imports to return the economic situation of the lamb industry to previously disastrous years just when the domestic sheep producers are beginning to realize some benefits from their efforts and financial investments.

"Cheap imports of lamb and mutton should not be permitted to work in opposition to the American producers' self-help program of promotion and marketing," Burke continued. "The American sheep producers are united 100% in an attempt to save their industry. Through their own efforts and financial contributions to develop improved production and market procedures in support of the Sheep Industry Development Program, the American sheep industry is beginning to turn around the decline in production. If unlimited, underpriced imports are permitted to flood our domestic market it will prevent the domestic sheep industry from rebuilding its former contributions to the food and fiber requirements of American consumers."

Burke said that the sheep industry self-help program is designed to assist with the fluctuations of domestic lamb supplies but this concept is destroyed when those imports disrupt normal supplies. Import statistics are not available until two months after supplies arrive in this country thereby not

permitting adjustments to our promotion and merchandising efforts.

"Although it is our opinion that a reasonable amount of imported lamb can be absorbed in the American market," Burke concluded, "the alarming situation is that lamb imports for the first four months of 1969 were 301% of the same period last year. With no protection for the domestic market, the effectiveness of the domestic self-help program will be greatly reduced. As an example, Australia and New Zealand voluntarily cut back their exports of red meat to the United States which would have been subject to present import limitations. At the same time these countries attempted to partially maintain their trade balances with heavy lamb exports to the United States. This caused an interruption of orderly movement of domestic fed lambs to market and resulted in a three dollar drop in live lamb prices."

U.S. MARKETING SYSTEM UPSET BY IMPORTED LAMBS FLOODING MARKET

DENVER, COLO.—"When opponents of the proposed import quota on lamb stress the fact that lamb consumption in the U.S. has declined, they miss the point that lamb consumption has gone down due to the reduction in production caused by the cost/price squeeze," said Reed C. Culp of Salt Lake City, Utah, president of the National Lamb Feeders Association (with headquarters in Salt Lake City.)

The increase in quantity of lamb imported in 1968 was substantial following the voluntary cutback by New Zealand and Australia of other meats, including beef, veal and mutton which came under the meat quota law.

"In fact, imports of lamb in November and December of 1968 were 270% of the same period in 1967. This resulted in a materially lower price in the domestic market.

"And the lamb feeders are fearful that the fall of 1969 may be a replay of the fall of 1968, if there are voluntary cutbacks by foreign exporters of other red meats," Culp continued. "Our lamb feeders cannot survive another drop in price such as that which occurred in 1968.

"Similar price difficulties were experienced in April of 1969. Imports the first four months were three times the amount received in the like period of 1968 resulting in a price decline."

Culp further stated, "Having no restrictions on lamb imports leaves the lamb market highly vulnerable to a large increase of imports in a short period of time . . . thus completely upsetting the domestic marketing picture.

"We do not want imports cut off completely but what we do want are reasonable, orderly imports so that we can have a well-planned domestic marketing system.

"The suggested control in the proposed lamb quota bill allows for yearly imports higher than the last 15-year average, yet it insures the survival of the domestic industry," he concluded.

SHEEP INDUSTRY LEADER DEFENDS LAMB QUOTA BILL

DENVER, COLO.—Opponents of the proposed import quota on lamb base their opposition on the erroneous belief that the quota "is economically indefensible," the president of one of the largest sheep organizations said.

"In reality the exact opposite is true," said James L. Powell of Fort McKavett, Texas, president of the National Wool Growers Association of Salt Lake City, Utah. "The attempt to impose reasonable lamb import limitations is based entirely upon concern over the domestic producers' economical survival."

"The opponents of the quota bill fail to realize or to take into account the relationship between the cost of production and the price level in the United States as compared with the lower cost of production in the exporting countries. Opponents state that lamb prices in the U.S. are the highest they have been for 18 years, but they fail to take into account the fact that production costs during that period have increased proportionately more."

Because of the rise of costs of production during that period, there was not enough profit to remain in the sheep business in the United States—the result being a continued lowering of production with many producers going out of business.

Powell stated that if there is to be any domestic sheep industry in the future, there has to be a beneficial price level which cannot be maintained if foreign producers are allowed to flood the market.

Even though present prices appear to be at 18-year highs, they are not as high for domestic lamb as normally accepted supply-demand relationships would indicate, if only domestic supplies were considered.

Powell further stated that in 1967, 12.3 million pounds of lamb were imported in the U.S. and in 1968, 22.9 million pounds were imported. This compares to 4.3 million pounds in the like period in 1968. In other words, 1969 imports so far are 301% of 1968 levels. Projecting this for the remaining months of 1969, 301% x 22.9 mil. # (1968 imports), the estimated total of lamb imports would be about 68.9 million pounds.

Sir John Ormond, chairman of the New Zealand Meat Board, points out that they "merely want the chance to sell our product on a fair trading basis".

Wholesale prices (cost to the retailer) for New Zealand and Australian lamb arriving in the U.S. in primal form are substantially under U.S. prices. Examples: Imported loins are 40¢ a pound under domestic prices; imported racks, 46¢ a pound under the domestic; and shoulders, 19¢ a pound under domestic prices.

The relationship of these prices refutes Sir John Ormond's statement about Fair Trade.

Powell further stated that Australia and New Zealand are having an economic battle on lamb imports at the present time.

Australian sheep producers are in an uproar because of the increase in exports of lamb from New Zealand to Australia, increasing from 11,000 pounds in 1966 over a 12-month period to 2,177,000 pounds in 1968 for the same period. Australia is retaliating by large exports of lamb to the United States and Canada and undercutting New Zealand prices in these same markets.

The American Sheep Industry feels the Australians and New Zealanders should fight their trade battles at home and not at the expense of American producers.

"It might be pointed out," Powell said, "that the major importers of lamb are our own domestic packers and thus they know of coming arrivals of imports before the U.S. producer—thus affecting the marketing system.

"We are not asking that lamb imports be completely shut off. International relations would not permit that. In fact, the proposed quota bill allows imports at a level of 8,000,000 pound higher than the past 15-year average annual rate. However, we do ask for control which will insure the economic health and survival of the domestic industry."

THE RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM

Mr. AIKEN. Mr. President, I have noted with concern the proposed budget request of $8,452,000 for the resource conservation and development program and further note that the House has proposed a reduction to $7,452,000. Instead, I would urge that the Senator consider increasing the level of this appropriation.

I take pride in the fact that one of the first R.C. & D. projects in the Nation was established in Vermont, in 1964. It was originally set up as the White River Valley Resource Conservation and Development District, consisting of some 635,000 acres in four counties. Twenty-three towns, most of them suffering from the severe decline of agriculture in their locality, were included in the district.

The work of developing small industry and recreation has been so encouraging that the original district was recently expanded to include an additional 470,000 acres. There are now some 1.1 million acres in the district which stretches in a broad band across the central part of my State. That is why the name has now been changed to the east-central Vermont resource conservation and development project.

I have concluded that no program of the Federal Government is more oriented to the development and revitalization of rural America. Such projects are an outstanding example of practical teamwork among and between Federal, State, and local agencies and local citizenry. They can and have served to reduce the exodus of rural people to the big cities by creating job opportunities in rural areas.

My principal concern is that in spite of the demonstrated effectiveness of this program nationally, the proposed level of funding will continue further the record of the past few years in which we annually have provided less money per project than in the pervious year.

This program emphasizes local participation, and successful project activity is based on the development of dynamic local leadership. Federal funds supplement local endeavor and a progressive decline in R.C. & D. funds available for assistance in the installation of urgently needed project measures make long-range planning and programing extremely difficult for local sponsors. The level of funding during the past years has resulted in a year-by-year delay in the installation of measures for which local sponsors have been ready to commit their funds and resources. The accumulated deficiency in Federal funds needed to support such installations along with program needs for planning and operations of all projects in 1970 adds up to about $24,800,000.

The continued inability to carry through on planned measures because of the lack of R.C. & D. funds will cause severe damage to this program, in disillusionment of local leadership, and to the Nation through failure to contribute more fully to the economic improvement of rural America.

Mr. President, I strongly urge that we consider an appropriation of up to $10 million, or at least the full budget request of $8.5 million. This level would provide for only a very modest increase in funds per project over that provided in fiscal year 1969.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT ON VALUE OF PROPERTY, SUPPLIES, AND COMMODITIES PROVIDED BY THE BERLIN MAGISTRAT

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, on the value of property, supplies, and commodities provided by the Berlin Magistrat for the quarter January 1 to March 31, 1969; to the Committee on Armed Services.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on problems in the Administration of the military building program in Thailand, Department of Defense (with an accompanying report): to the Committee on Government Operations.

EXECUTIVE REPORT OF A COMMITTEE

As in executive session,

The following favorable report of a nomination was submitted:

By Mr. COTTON, from the Committee on Commerce:

John N. Nassikas, of New Hampshire, to be a member of the Federal Power Commission.

PETITIONS AND MEMORIALS

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

By the VICE PRESIDENT:

A Senate resolution adopted by the Legislature of the State of Hawaii; to the Committee on Labor and Public Welfare:

"S. RES. No. 76

"Resolution requesting the Congress of the United States establish a guaranteed annual income

"Whereas the present proliferation of public assistance and public welfare programs in numeous federal departments makes for a fragmented approach to America's poverty problems, with one agency providing job training, another financial assistance, another mental health treatment, another housing, another unemployment insurance benefits, and yet another retirement benefits; and

"Whereas there are obvious correlations between the problems of poverty, health, education, housing, and financial need; and

"Whereas 1966 data from the U.S. Bureau of Labor Statistics indicates that the cost of living in the city of Honolulu for a family of four persons is 23 percent greater than the United States city average; and

"Whereas real growth in Hawaii's per capita income has not been as rapid as the rest of the United States because Hawaii's job expansions since 1961 have been concentrated in low-pay jobs where the average annual earning in 1967 was $3,490; and

"Whereas serious consideration has been given to various concepts of income maintenance by such groups as the United States Department of Health, Education and Welfare, the United States Office of Economic Opportunity, the President's Commission on Law Enforcement and the Administration of Justice, and the Chamber of Commerce of the United States; Now, therefore, be it

"Resolved by the Senate of the Fifth Legislature of the State of Hawaii, Regular Session of 1969, That the Congress of the United States be requested to establish a guaranteed annual income program which will provide both economic security and individual incentive; and be it further

"Resolved, That duly certified copies of this Resolution be transmitted to the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of Hawaii's delegation to the Congress of the United States.

"The Senate of the State of Hawaii, May 8, 1969, Honolulu, Hawaii

"We hereby certify that the foregoing Resolution was adopted by the Senate of the Fifth Legislature of the State of Hawaii, Regular Session of 1969.

"DAVID C. MCCLUNG,
"President of the Senate.
"SEICHI HIRAI,
"Clerk of the Senate."

A Senate joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce:

"Senate joint resolution 7 relative to the effect of supersonic jet aircraft

"Whereas sonic booms caused by supersonic flights of modern jet aircrafts have already caused extensive property damage and untold aesthetic harm; and

"Whereas the destructive capacity of sonic booms is attested to by the fact they have destroyed a substantial control tower and severely damaged houses; and

"Whereas there are presently under construction jet transports capable of speeds in excess of 1,000 miles per hour, which would produce sonic booms of a greater magnitude than those currently being produced and with consequently greater damage; and

"Whereas the Federal Aviation Agency estimates that there may be as many as 200 transcontinental flights daily by these planes within a decade, subjecting many citizens to these supersonic booms 15 to 20 times a day; and

"Whereas it has also been estimated that property damages from these sonic booms may exceed one billion dollars a year, and cause increases in property insurance rates and taxes, besides causing untold psychological damage: Now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to comprehensively examine and review the contention of the Federal Aviation Agency and other authorities concerning the inevitability of the coming of the supersonic boom as an immutable condition in the lives of the citizens of California and the United States, and to take appropriate action to forestall any such eventuality with its possible catastrophic effects and determine what can be done to alleviate what could become the most offensive environmental blight of the 20th century; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A Senate resolution adopted by the Legislature of the State of Arkansas; to the Committee on the Judiciary:

"S. RES. 32

"Condemning the abusive and unfair treatment of officials of this State by Senator Thomas J. Dodd, Chairman of the Juvenile Delinquency Subcommittee of the United States Senate.

"Whereas the Juvenile Delinquency Subcommittee of the Senate of the United States has been holding hearings concerning conditions in prison institutions; and

"Whereas in connection with these hearings, such Committee heard testimony from Thomas O. Murton, former Superintendent of the Arkansas State Penitentiary which was represented to the Committee and to the Nation as being testimony of conditions now existing at the Arkansas Penitentiary; and

"Whereas the testimony of Thomas O. Murton was a total distortion of conditions at the Arkansas Penitentiary, and has resulted in irreparable harm to the image of this State; and

"Whereas in an effort to correct the great damage to this State and its penal program brought about by the highly publicized and untruthful testimony of Thomas O. Murton, the Governor of the State of Arkansas requested an opportunity for Mr. Robert Sarver, Commissioner of the Department of Correction to appear before the Juvenile Delinquency Subcommittee to present a factual statement of the substantial progress being made in improving the State's penal program; and

"Whereas during Mr. Sarver's testimony before the Juvenile Delinquency Subcommittee, he was subjected to sarcastic and abusive treatment by its Chairman, Senator Thomas J. Dodd; and

"Whereas it is obvious from the conduct of the Juvenile Delinquency Subcommittee hearing being conducted at the direction of its Chairman, Senator Thomas J. Dodd, that such Subcommitee, or at least its Chairman, does not desire to obtain the truth, but is seeking to emphasize and publicize outright falsehoods and misrepresentations which are both unfair and insulting to this State; and

"Whereas the State of Arkansas is shocked at the vicious and vindicative treatment received by one of its public officials by Senator Thomas J. Dodd, Chairman of the Juvenile Delinquency Subcommittee; and

"Whereas it is unfortunate that a member of the Senate of the United States has engaged in a vehement and vicious attack upon this State, especially when it is remembered that the Senate of the United States, after a lengthy investigation, was compelled to censure Senator Thomas J. Dodd for conduct contrary to accepted morals, which derogates from the public trust expected of a Senator, and which the Senate of the United States determined had brought dishonor and disrepute upon the Senate: Now, therefore, be it

"Resolved by the Senate of the Sixty-Seventh General Assembly of the State of Arkansas, That the Senate condemns the activities and efforts of the Juvenile Delinquency Subcommittee of the Senate of the United States in its consideration of the testimony of Thomas O. Murter, former Superintendent of the State Penitentiary of Arkansas, and especially condemns the vicious, unwarranted and unstatesmanlike conduct of Chairman Thomas J. Dodd, in ridiculing and harassing Mr. Robert Sarver, Commissioner of the Department of Correction of this State, in his efforts to convey to such Subcommittee a constructive, fair and honest statement of present conditions in the Arkansas Penal System, reforms that have been accomplished, and efforts now underway to bring about further penal reform, Be it further

"Resolved, That the Senate of the State of Arkansas is shocked by the unwarranted and unjustified adverse nationwide publicity that the Juvenile Delinquency Subcommittee of the Senate of the United States has brought upon this State and its constructive efforts to bring about penal reform, and by the Subcommittee's reliance upon overmagnification of and apparent trust in the testimony of Thomas O. Murton, whose very discharge from his position in this State as Superintendent of the State Penitentiary

came at the hands of the Governor and the Board of Corrections who had employed him, but who found it necessary to discharge him from such position because of his incompetence as an administrator, his failure to abide by lawful processes and authority, and because of his personal character and emotional tendencies which rendered him unfit for his position of public trust; be it further

"Resolved, That the Senate of the State of Arkansas resents the vicious and unwarranted conduct of Senator Thomas J. Dodd in his treatment of public officials of this State, and it is the consensus of the Senate of the State of Arkansas that Senator Dodd's unwarranted tirade is substantial proof of the previous findings of the Senate of the United States in censuring Senator Dodd for his conduct, 'which is contrary to accepted morals and derogates from the public trust expected of a Senator and tends to bring the Senate into dishonor and disrepute.' Be it further

"Resolved, That the Senate of the State of Arkansas commends Mr. Robert Sarver, Commissioner of the Department of Corrections of this State, for his efforts to convey to the Juvenile Delinquency Subcommittee a constructive and truthful picture of the progress that this State has made and is now making in improving its penal program, and the Senate extends to Mr. Sarver its wholehearted support in the position he took before the Subcommittee in defending this State, for which he was subjected to ridicule and abusive treatment by the Subcommittee and its Chairman, Senator Thomas J. Dodd. Be it further

"Resolved, That a copy of this Resolution shall be furnished to the members of the Senate from the State of Arkansas with the respectful request that the Senators of Arkansas use the full influence of their office to correct the vicious and unstatesmanlike activities of Senator Thomas J. Dodd, Chairman of the Juvenile Delinquency Subcommittee of the Senate of the United States with respect to his treatment of the Commissioner of he Department of Correction, Mr. Robert Sarver, in his efforts to represent the interests of the people of this State in testifying before this Committee."

A resolution adopted by the city council of the city of Trinidad, Colo., memorializing the Congress relating to taxations of local government bonds;

A resolution adopted by the board of supervisors of the county of Los Angeles, expressing opposition to any alteration of the tax-exempt status of local bond issues; and

A resolution adopted by the Baltimore City Council expressing opposition to any alteration of the tax-exempt status of local bond issues; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

H.R. 2667. An act to revise the pay structure of the police force of the National Zoological Park, and for other purposes (Rept. No. 91–231);

S. Res. 204. Resolution to provide additional funds for the Committee on Appropriations; and

S. Res. 207. Resolution authorizing the printing of the 1968 Annual Report of the National Forest Reservation Commission as a Senate document (Rept. No. 91–230).

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

S. Res. 206. Resolution authorizing the printing of the report entitled "Effect of Lumber Pricing and Production on the Nation's Housing Goals" as a Senate document (Rept. No. 91–229).

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

S. Con. Res. 12. Concurrent resolution to express the sense of Congress on participation in the Ninth International Congress on High Speed Photography, to be held in Denver, Colo., in August 1970 (Rept. No. 91–232).

TO PRINT AS A SENATE DOCUMENT LIST OF NAMES OF UNITED STATES SERVICEMEN WHO HAVE DIED IN VIETNAM—REPORT OF A COMMITTEE

Mr. CHURCH, from the Committee on Foreign Relations reported an original resolution (S. Res. 208) that there be printed as a Senate document a list of U.S. military personnel who have died in connection with the conflict in Vietnam, and submitted a report thereon, which resolution was referred to the Committee on Rules and Administration, as follows:

S. RES. 208

Resolved, That there shall be printed as a Senate Document a list of U.S. military personnel who have died in connection with the conflict in Vietnam.

SEC. 2. There shall be printed one thousand additional copies of such Senate Document. Such additional copies shall be for the use of the Committee on Foreign Relations.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO MAKE CERTAIN TRANSFERS OF APPROPRIATIONS

Mr. RUSSELL, from the Committee on Appropriations reported an original resolution (S. Res. 209) to authorize the Secretary of the Senate to make certain transfers of appropriations.

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. GOLDWATER (for himself Mr. ALLOTT, Mr. BROOKE, Mr. CURTIS, Mr. DODD, Mr. ERVIN, Mr. FANNIN, Mr. HANSEN, Mr. HARTKE, Mr. GOODELL, Mr. JORDAN of Idaho, Mr. MOSS, Mr. PACKWOOD, Mr. PEARSON, Mr. SPARKMAN, and Mr. STEVENS):

S. 2360. A bill to enlarge the boundaries of the Grand Canyon National Park in the State of Arizona; to the Committee on Interior and Insular Affairs.

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

By Mr. KENNEDY (for himself, Mr. YARBOROUGH, and Mr. CRANSTON):

S. 2361. A bill to amend chapter 34 of title 38, United States Code, in order to provide special educational services to veterans; to the Committee on Labor and Public Welfare.

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

By Mr. HARRIS:

S. 2362. A bill to amend certain Federal laws relating to the State of Oklahoma; to the Committee on Interior and Insular Affairs.

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

By Mr. MOSS:

S. 2363. A bill to confer U.S. citizenship posthumously upon L. Cpl. Andre L. Knoppert; to the Committee on the Judiciary.

By Mr. YOUNG of Ohio (for himself and Mr. SAXBE):

S. 2364. A bill to establish one additional district and one additional permanent district judgeship in Ohio, and for other purposes; to the Committee on the Judiciary.

By Mr. DODD:

S. 2365. A bill for the relief of Loreto Malone; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 2366. A bill to exempt certain State-owned passenger vessels from the requirement of paying for overtime services of customs officers and employees; to the Committee on Finance.

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

By Mr. JAVITS (for himself, Mr. BAKER, Mr. BOGGS, Mr. BROOKE, Mr. CASE, Mr. COOK, Mr. DODD, Mr. GOODELL, Mr. GRAVEL, Mr. HART, Mr. MATHIAS, Mr. MCGEE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PELL, Mr. PROUTY, Mr. PERCY, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. SCOTT, Mr. STEVENS, Mr. TYDINGS, and Mr. YARBOROUGH):

S. 2367. A bill to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. JAVITS (for himself, Mr. BROOKE, Mr. GOODELL, Mr. MONDALE, Mr. NELSON, Mr. PACKWOOD, Mr. SCOTT, Mr. TOWER, and Mr. TYDINGS):

S. 2368. A bill to establish a National Institute of Building Sciences; to the Committee on Banking and Currency.

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

By Mr. JAVITS:

S. 2369. A bill for the relief of Mrs. Geraldine O. Bull; to the Committee on the Judiciary.

By Mr. AIKEN (for himself, Mr. COOK, Mr. CURTIS, Mr. DIRKSEN, Mr. MILLER, Mr. PEARSON, and Mr. YOUNG of North Dakota):

S. 2370. A bill to amend the Food Stamp Act of 1964, as amended; to the Committee on Agriculture and Forestry.

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

By Mr. Moss:

S. 2371. A bill to provide an equitable system for fixing and adjusting the rates of compensation of wage board employees; to the Committee on Post Office and Civil Service.

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

By Mr. METCALF (for Mr. GRAVEL) (for himself, Mr. MANSFIELD, Mr. METCALF, Mr. MAGNUSON, Mr. JACKSON, Mr. CHURCH, and Mr. STEVENS):

S. 2372. A bill to authorize the appropriation of funds for the construction, reconstruction, and improvement of the Alaska Highway; to the Committee on Public Works.

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

By Mr. METCALF (for himself and Mr. ERVIN):

S. 2373. A bill to provide for certain jury trials in condemnation proceedings in district courts of the United States; to the Committee on the Judiciary.

By Mr. METCALF:

S. 2374. A bill for the relief of Kam Lam Tsui; to the Committee on the Judiciary.

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

S. 2375. A bill to amend section 407 of the Civil Rights Act of 1964 to permit the Attorney General to institute upon his own motion certain actions for the desegregation of public education; to the Committee on the Judiciary.

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

By Mr. MONDALE:

S. 2376. A bill for the relief of Lan Chi Ming;

S. 2377. A bill for the relief of Constantine Spiro Tsoukalis; and

S. 2378. A bill for the relief of Christos P. Tamboukos; to the Committee on the Judiciary.

By Mr. DODD:

S. 2379. A bill to protect the executive, legislative, and judicial branches of the U.S. Government by prohibiting the unauthorized entry into U.S. Government offices and the unauthorized removal or use of certain records of the U.S. Government; to the Committee on the Judiciary.

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

By Mr. STEVENS:

S. 2380. A bill to permit all compensation paid at regular rates to certain employees of the Alaska Railroad to be included in the computation of their civil service retirement annuities; to the Committee on Post Office and Civil Service.

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

By Mr. DOLE:

S. 2381. A bill to prohibit the mailing of pandering advertisements to deceased persons; to the Committee on Post Office and Civil Service.

By Mr. MUNDT:

S. 2382. A bill to enable honey producers to finance a nationally coordinated research and promotion program to improve their competitive position and expand their markets for honey, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. YARBOROUGH:

S. 2383. A bill to amend section 312 of the Immigration and Nationality Act to exempt certain additional persons from the requirement as to understanding the English language before their naturalization as citizens of the United States; to the Committee on the Judiciary.

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

By Mr. TYDINGS:

S. 2384. A bill for the relief of Dr. Estrellita Trias; to the Committee on the Judiciary.

By Mr. BROOKE (for himself, Mr. CASE, Mr. COOPER, Mr. HATFIELD, Mr. JAVITS, and Mr. PERCY):

S. 2385. A bill to amend the Small Business Act to apply an acceptable credit risk standard for loans to small business concerns in certain high-risk areas; to the Committee on Banking and Currency.

S. 2386. A bill to amend title VII of the Civil Rights Act of 1964 to provide for the application of such title to State and Federal employees; to the Committee on the Judiciary.

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

By Mr. MCCLELLAN:

S. 2387. A bill to facilitate representation of persons having claims against the United States by legal counsel of their own choosing; to the Committee on the Judiciary.

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

By Mr. HATFIELD:

S. 2388. A bill to provide procedures for calling conventions for proposing amendments to the Constitution of the United States, on application of the legislatures of two-thirds of the States, pursuant to article V of the Constitution; to the Committee on the Judiciary.

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

By Mr. MUNDT:

S. 2389. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments; to the Committee on Interior and Insular Affairs.

By Mr. BROOKE:

S. 2390. A bill to promote the general welfare, foreign policy, and national security of the United States through the expansion of international trade and through the regulation of certain exports, and for other purposes; to the Committee on Banking and Currency.

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

By Mr. MUSKIE (for himself, Mr. RANDOLPH, Mr. BAKER, Mr. BAYH, Mr. BIBLE, Mr. BOGGS, Mr. BROOKE, Mr. BURDICK, Mr. BYRD of West Virginia, Mr. COOPER, Mr. COTTON, Mr. CRANSTON, Mr. DODD, Mr. EAGLETON, Mr. ERVIN, Mr. FONG, Mr. GOODELL, Mr. GORE, Mr. GRAVEL, Mr. HARRIS, Mr. HARTKE, Mr. HOLLINGS, Mr. INOUYE, Mr. JAVITS, Mr. KENNEDY, Mr. MCCARTHY, Mr. MONDALE, Mr. MONTOYA, Mr. NELSON, Mr. PACKWOOD, Mr. PELL, Mr. PERCY, Mr. PROXMIRE, Mr. RIBICOFF, Mr. SCOTT, Mr. SPONG, Mr. TALMADGE, Mr. THURMOND, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. YOUNG of Ohio):

S. 2391. A bill to provide for the more effective coordination of Federal air quality, water quality, and solid waste disposal programs, for the consideration of environmental quality in public works programs and projects, for the coordination of all Federal research programs which improve knowledge of environmental modifications resulting from increased population and urban concentration, and for other purposes; to the Committee on Public Works.

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

By Mr. KENNEDY (for himself, Mr. BROOKE, Mr. JORDAN of North Carolina, Mr. ERVIN, Mr. ALLEN, Mr. SPARKMAN, Mr. SCOTT, Mr. SCHWEIKER, Mr. YARBOROUGH, and Mr. TOWER):

S. 2392. A bill to incorporate the Historic Naval Ships Association; to the Committee on the Judiciary.

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

By Mr. MUSKIE (for himself, Mr. ANDERSON, Mr. BAYH, Mr. BIBLE, Mr. COOPER, Mr. CRANSTON, Mr. DODD, Mr. HART, Mr. INOUYE, Mr. JAVITS, Mr. MONDALE, Mr. MCCARTHY, Mr. PACKWOOD, Mr. RIBICOFF, Mrs. SMITH, Mr. SPONG, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. YOUNG of Ohio):

S. 2393. A bill to authorize the Secretary of the Interior to study the most feasible and desirable means of protecting certain portions of the tidelands, Outer Continental Shelf, seaward areas, Great Lakes of the United States, and the adjoining shorelines thereof as marine preserves and for other purposes; to the Committee on Commerce.

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

By Mr. EAGLETON:

S. 2394. A bill for the relief of Dr. Marcos C. Nalagan; to the Committee on the Judiciary.

By Mr. MAGNUSON:

S. 2395. A bill to provide for the mailing of certain election material to voters free of postage, and for other purposes; to the Committee on Post Office and Civil Service.

S. 2396. A bill to amend section 4 of the Act of October 30, 1965, to extend the term during which the Secretary of the Interior is authorized to initiate with the several States a cooperative program for the conservation, development, and enhancement of the Nation's anadromous fish; to the Committee on Commerce.

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

By Mr. WILLIAMS of New Jersey:

S. 2397. A bill for the relief of Fong Kee Chan; to the Committee on the Judiciary.

By Mr. MILLER:

S. 2398. A bill for the relief of Sergio Castiglioni, his wife, Carla Castiglioni, and their children, Carlo and Frank Castiglioni; to the Committee on the Judiciary.

By Mr. COOPER:

S. 2399. A bill to provide a formula for apportionment of State and community highway funds for fiscal year 1970 and thereafter; to the Committee on Public Works.

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

By Mr. HRUSKA:

S. 2400. A bill to revise the quota-control system on the importation of certain meat and meat products; to the Committee on Finance.

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

By Mr. FONG:

S. 2401. A bill for the relief of Antonio Ballestores;

S. 2402. A bill for the relief of Branislav Nikola Maksimovic (Branko Maksimovich);

S. 2403. A bill for the relief of Man Loi Chu; and

S. 2404. A bill for the relief of Mrs. Chung Ja Nohara; to the Committee on the Judiciary.

By Mr. JAVITS:

S. 2405. A bill to improve the health and safety conditions of persons working in the coal mining industry of the United States; to the Committee on Labor and Public Welfare.

By Mr. MOSS:

S.J. Res. 120. A joint resolution providing for the preparation and submission to the Congress of a master ground transportation plan for the United States; to the Committee on Commerce.

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

By Mr. JACKSON:

S.J. Res. 121. A joint resolution to authorize appropriations for expenses of the National Council on Indian Opportunity; to the Committee on Interior and Insular Affairs.

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

By Mr. BROOKE (for himself, Mr. SPARKMAN, Mr. MUSKIE, and Mr. BENNETT):

S.J. Res. 122. A joint resolution to provide for a temporary extension of the authority conferred by the Export Control Act of 1949; to the Committee on Banking and Currency.

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

S. 2360—INTRODUCTION OF A BILL TO ENLARGE THE BOUNDARIES OF THE GRAND CANYON NATIONAL PARK IN THE STATE OF ARIZONA

Mr. GOLDWATER. Mr. President, it is my great pleasure today to introduce a bill, for myself and other Senators, to carry out a plan which I have long endorsed as a means to better preserve and protect one of nature's most magnificent creations—the Grand Canyon of Arizona.

Mr. President, it was 50 years ago last February when a portion of this great structure was established as the 17th national park. This achievement had been 33 years in the making since Benjamin Harrison, then a Senator, first attempted to preserve vast areas of the canyon by means of a Federal law. In recognition that this year is the golden anniversary year for the Grand Canyon National Park, I can think of no more fitting occasion for a return toward the original, grand scheme once designed for the canyon's protection.

In order to take a long step in this direction—a step that will more than double the stretch of the canyon protected within the park structure—I am offering today a bill to extend the boundaries of the park so as to include certain major portions of the upper and lower canyon that are natural extensions of that part of the canyon already given park status. The measure is a refinement of a proposal that I submitted, for myself and Senator Hayden, some 12 years ago. I am happy to say that a companion measure to the bill is being offered today in the House by Congressman UDALL—giving the legislation a bipartisan spirit that I hope will mark its future course.

In brief, our proposal would bring within one great park all of the existing national park, all of the recently proclaimed Marble Canyon National Monument and 86 percent of the Grand Canyon National Monument. In addition, the measure would extend the limits of the park upstream to embrace the historic Lees Ferry region, the only launching site for river trips through the Grand Canyon—trips which are probably the longest, wildest canyon water runs in the world.

Finally, there are sizable, important areas that my bill will place into the park in the Kanab Creek and Long Mesa areas, which lie adjacent to the points where the present national park and national monument meet. These additions alone cover almost 52,000 acres of land with outstanding scenic and scientific importance.

In all, the existing park boundaries would be extended to include an additional 255,250 acres—an increase of more than one-third in the total land acreage of the park. The new total would thereby rise to 928,825 acres. This extension would mean that the park would jump from eighth to fifth place in size among all of America's national parks.

And, perhaps most significant of all, it would mean that 184.5 miles of the prime canyon would be encompassed by the new park. This is double the 90 miles that are now within the national park and represents 85 percent of the total river stretch of the canyon.

The legislation also provides for a boundary revision of the existing Grand Canyon National Monument which would result in two exclusions, one on the north rim and the other on the south rim. These are plateau lands covered with pinon pine, juniper, and sagebrush and lie back from the canyon rims. For a long time, these areas have not been considered necessary for the proper development or administration of the proposed new park. They constitute 29,520 acres of land that will be returned to the public domain.

In addition to the lands to be incorporated into the park by the act, one unique provision of the bill will provide authority to the Secretary of the Interior to negotiate for and acquire by purchase, donation, or exchange, any land or interests in land which he finds necessary to include within the park inside a 1-mile buffer zone on either side of Marble Canyon. Further, as a last resort, procedure which is to be utilized only after voluntary efforts in good faith have failed and after the giving of at least 60 days' notice, the Secretary may acquire by condemnation a scenic easement to protect the scenic value of the canyon area within the 1-mile buffer zone at Marble Canyon. This power does not extend to any interest except a scenic easement. And payment is provided for the acquisition of the easement based upon an appraisal of its full market value.

One additional feature of the measure that I wish to call attention to is the provision that gives specific protection to the rights of the Havasupai Indians. This tribe, whose ancestral home is situated entirely within the park at the canyon floor, lives in the most isolated Indian reservation in the United States. Nothing in the bill will affect their established rights or their opportunity to enjoy increased benefits, including grazing rights within the park.

Mr. President, my purpose in introducing this legislation is to secure a strong, protective status for the canyon regions which will be added to the park, but do not now possess a permanent statutory base for their preservation. With the demand on earth's resources becoming greater daily, it is none too soon to bar the door to any future pressures for the exploitation of the canyon area.

Mr. President, the concept of national parks as we know them today is a contribution of the United States. The basis for the law which I propose is founded upon a policy that began in 1864 with the establishment under law of the Yosemite Valley as a protected region, and the creation in 1872 of the Yellowstone National Park. It is to build upon this movement, which set the pattern for the erection of national parks throughout the world, that I introduce the bill today. It is my hope that the enactment of this measure will come about promptly and that thereby the world's most unbelievable, natural wonder will be better preserved for all Americans to enjoy and appreciate as a part of their permanent heritage.

Mr. President, I ask unanimous consent that the text of the bill we are introducing be printed at this point in the RECORD.

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

The bill (S. 2360) to enlarge the boundaries of the Grand Canyon National Park in the State of Arizona, introduced by Mr. GOLDWATER (for himself and other Senators) was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 2360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to add to the Grand Canyon National Park certain major portions of the Grand Canyon adjacent to the existing boundaries of the park, totaling approximately 255,250 acres, which possess outstanding scenic grandeur and unique natural and scientific values and which logically should be protected and preserved for all generations in the same manner and to the same extent as the lands presently included within the park, the areas shown as "proposed additions" on the drawing entitled "Proposed Additions to Grand Canyon National Park", numbered 113–91,000, and dated March 1969, are, subject to valid existing rights, hereby made a part of the Grand Canyon National Park.

SEC. 2. (a) In addition to the lands incorporated into the Grand Canyon National Park pursuant to the first section of this Act, the Secretary of the Interior may, with the concurrence of the Secretary of Ariculture where national forest lands are involved, and with the concurrence of the Navajo Tribal Council where Navajo Indian Reservation lands are involved, revise the boundary of the park, or provide for protected areas, along and adjacent to the east and west rims of Marble Canyon so as to include sites, or to establish protected areas, within an area not to exceed one mile from either rim, which the Secretary of the Interior determines are necessary or desirable to protect the scenic or scientific value of the canyon area or to provide overlooks and related facilities above the canyon rim. Any such revision shall be on file and available for public inspection in the Office of the National Parks Service, Department of the Interior.

(b) In order to carry out the purposes of this section, the Secretary of the Interior may acquire land and interests in land, within the boundaries of the park as proposed to be revised or within the proposed protected area, by donation, purchase with donated or appropriated funds, or exchange; but not by condemnation. Any property or interests therein owned by the State of Arizona may be acquired only by donation. Title to property held in trust for the Navajo Indian Tribe which may be included within the boundary of the park with the concurrence of the Navajo Tribal Council shall be transferred by the Secretary of the Interior to the United States and made a part of the park. National forest land within the revised

boundary of the park is hereby excluded from the national forest and transferred to the Secretary of the Interior for administration as part of the park.

(c) Notwithstanding any provision of subsection (b), the Secretary of the Interior may, whenever he certifies—

(1) that it is necessary and appropriate to protect the scenic value of the canyon and its immediate vicinity, and

(2) that he has made reasonable efforts in good faith to provide such protection through voluntary methods of conference and negotiation or the acquisition of such interests as are necessary to provide such protection by negotiated purchase or donation, but that such efforts have been unsuccessful; and

(3) that he has furnished at least 60 days notice to the party or parties concerned of his intention to utilize the authority provided under this subsection,

acquire, by condemnation, a scenic easement with respect to any land along and adjacent to the east and west rim of Marble Canyon, which is within an area not to exceed one mile from either rim. No scenic easement may be acquired pursuant to this subsection except upon payment of the fair market value thereof, as determined by the Secretary of the Interior after appraisal.

SEC. 3. (a) The Grand Canyon National Monument and the Marble Canyon National Monument are abolished, and all lands in the monuments which are within the areas shown as "proposed additions" on the drawing referred to in the first section of this Act are made a part of the Grand Canyon National Park and shall be administered pursuant to the provisions of this Act and the Act of February 26, 1919 (40 Stat. 1175), as amended. Any funds available for purposes of the Grand National Monument or the Marble Canyon National Monument shall remain available for the Grand Canyon National Park.

(b) The lands formerly within the Grand Canyon National Monument, totaling approximately 29,520 acres, shown as "proposed deletions" on the drawing referred to in the first section of this Act which were withdrawn for the purposes of the Grand Canyon National Monument shall return to their status prior to such withdrawal and be administered by the Secretary of the Interior in accordance with the laws applicable to the public lands of the United States.

SEC. 4. Where any Federal lands within the Grand Canyon National Park are legally occupied or utilized on the effective date of this Act for grazing purposes, pursuant to a Federal lease, permit, or license, the Secretary of the Interior shall permit the persons holding such grazing privileges to continue in the exercise thereof for a period ending on December 31 following ten years from the effective date of this Act, or for such lesser period as any such person may desire.

SEC. 5. Nothing in this Act shall affect the rights of the Havasupai Tribe of Indians as described in the Executive Order of March 31, 1882, and in section 3 of the Act of February 26, 1919; nor shall anything in this Act affect the authority of the Secretary of the Interior under section 3 of the Act of February 26, 1919, to permit individual members of the said Tribe to use and occupy lands within the park for agricultural purposes, including grazing.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

S. 2361—INTRODUCTION OF A BILL TO PROVIDE SPECIAL EDUCATIONAL SERVICES TO VETERANS

Mr. KENNEDY. Mr. President, I introduce today a bill to establish a new program for veterans to be called educational services for veterans. The bill authorizes grants to and contracts with institutions of higher education to develop special programs of tutorial, counseling, and other educational services specifically for veterans. The purpose is both to encourage colleges and other post-secondary institutions to seek out and admit veterans, and to provide a greater opportunity for veterans with academic deficiencies to improve their qualifications and continue their education.

Mr. President, this Nation has a fundamental obligation to the men and women who have served so well in the Armed Forces, risking their lives and sacrificing opportunities to contribute to their country. There are over 26 million living veterans in the United States today, and veterans and their families make up close to half of our population. In addition, thousands of servicemen are discharged every day to rejoin civilian life as veterans of their Nation's armed services.

Over 100 years ago, Abraham Lincoln stressed the duty of the United States "to care for him who shall have borne the battle and for his widow and orphan."

In 1944, we passed the first GI bill, to provide readjustment assistance to those who had served in the armed services during World War II. In announcing that program, President Roosevelt said:

> We must make provision now to help our returning servicemen . . . bridge the gap from war to peace activity. . . .
>
> The members of the armed forces have been compelled to make greater economic sacrifice and every other kind of sacrifice than the rest of us, and are entitled to definite action to help take care of their special problems.

Since World War II, the United States has continued to recognize its obligation to those young men and women who have spent a portion of their lives in the military service.

We passed a Korean war GI bill to assist veterans of that conflict. In 1966, recognizing the sacrifices of veterans who had served after January 31, 1955, and therefore could not qualify for the Korean benefits, Congress passed the cold war GI bill—providing education and training benefits for our more recent veterans. In 1967, the amounts of the benefits were raised, and the type of training covered was expanded. In 1968, education benefits were extended to widows and wives of servicemen killed or totally disabled on active duty.

The recent emphasis on veterans benefits and expansion of the GI bill reflects a growing concern for veterans of the conflict in Vietnam. At the present time, over 540,000 servicemen are stationed in Vietnam. Both at home and around the world, our military ranks have been swelled. As a result, increasing numbers of servicemen are being discharged and joining the ranks of veterans each month.

In 1966, approximately 544,000 servicemen returned to civilian life. In 1967, there were 610,000 new veterans. In 1968, the figure for the year was 915,000, with a peak discharge of 110,000 servicemen in October.

This year, over 1 million GI's who have seen service during the Vietnam conflict will return as civilians, at a rate of approximately 90,000 a month. The figures will rise even further if the peace which we all so fervently hope for is achieved in Vietnam.

I am extremely concerned that full and constructive benefits be given to veterans of the Vietnam conflict. Many thousands of young men have had their education interrupted. Others have been called away just as they were starting their careers. Many have been sent to fight a battle which they do not understand and in some cases disagree with. And most have returned to a country which is quite indifferent to their hardship and sacrifice.

Regardless of how we may feel about the merits of the war in Vietnam, many Americans serving there and elsewhere are performing bravely under extremely difficult circumstances. In many cases they are risking their lives daily, under constant pressure in unfamiliar surroundings. In all cases, they have sacrificed personal comfort and gain for the service of the Nation.

For their work on active duty these men have earned the admiration and respect of a grateful country. They have earned also the right to our attention and assistance on their return.

They deserve this attention, however, not just in appreciation for sacrifices they have made on the battlefield and elsewhere, although this would be reason enough.

They deserve the attention also because they represent a resource which society can utilize to the best advantage of all concerned. These men have acquired wisdom and judgment by having handled responsibility in critical situations. They have demonstrated discipline and ability.

With these qualities and background, returning veterans can be among our most constructive and valuable citizens, if only they are given the chance to channel their talents in a productive way.

Life is particularly difficult for returning servicemen today. Unlike so many veterans of World War II and Korea, soldiers returning from Vietnam certainly are not given a hero's welcome, or indeed much of any welcome at all. Because most Americans are not emotionally committed to the war in Vietnam, they tend not to appreciate the grueling psychological and physical experience which GI's over there endure. For a GI who has suffered greatly, who perhaps has been wounded, and who has seen his friends injured and killed in brutal fashion, it is a tremendous shock to get the sense that his countrymen do not care. Whether or not we care for the war, we must show that we care for the men.

Because their educational and career development has been interrupted, because they have made great sacrifice in Vietnam and elsewhere, and because they represent a national resource of disciplined and dedicated citizens, we must assure adequate benefits for all veterans—

the returning servicemen of today and the dedicated veterans of yesterday.

Congress has established programs for our veterans in many areas, including training, employment, medical and hospital benefits, pension and compensation—and education. All are important, and I will continue my efforts to strengthen the broad range of veterans programs. Today, I address myself to the particular problem of education.

This country has long recognized the importance of education for all citizens. It makes us more productive and constructive members of society, and enhances personal development.

From a financial point of view, there is a direct general relationship between number of years of schooling and level of income. According to recent figures from the Bureau of Census, college graduates earn twice as much in their lifetimes as high school dropouts and three times as much as grade school dropouts. The Bureau has estimated lifetime incomes for men in terms of the number of years of formal education:

Less than 8 years of grade school	$189,000
Eight years of grade school	247,000
One to 3 years of high school	284,000
Four years of high school	341,000
One to 3 years of college	394,000
Four years of college	508,000
Five or more years of college	587,000

The personal and intellectual rewards of a full education are of course immeasurable.

The Congress of the United States recognized the importance of education as a continuing obligation to veterans in passing the cold war GI bill in 1966. The purpose of veterans' educational assistance was spelled out in the preamble to that bill:

> The Congress of the United States hereby declares that the education program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the Armed Forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might not otherwise be able to afford such an education, (3) providing vocational readjustment and restoring lost educational opportunities to those service men and women whose careers have been interrupted or impeded by reason of active duty after January 31, 1955, and (4) aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country.

Unfortunately, our present GI programs do not attain the high goal which we have set for them. While they do help those who enter the service with a relatively high level of education but want more, or those with some job training who want to increase their skills, they fail to reach the poor and the disadvantaged—the veterans who are most in need of aid.

Approximately 20 percent of our discharged veterans—or about 18,000 a month—have not completed high school or its equivalent. But according to statistics furnished to me by the Veterans' Administration in January of this year, only about 2.4 percent of returning veterans are pursuing training at the high school level or its equivalent. This means that only about one out of every 10 returning veterans without a high school education returns to school. Close to nine out of 10, or over 15,000 new veterans a month, have not completed high school and do not enter education programs with the benefit of the GI bill to correct their deficiency. To me, Mr. President, this is a tragically wasted opportunity, and we should do all we can to encourage veterans with weak academic backgrounds to continue their education.

Indeed, Congress recognized this special need in the Cold War GI Bill Amendments of 1967. In that bill, Congress provided that a veteran who needs additional high school training or its equivalent will be paid the full educational assistance allowance of the GI bill and still not have it charged to the period of educational entitlement which the veteran has earned. Unfortunately, the amendment has not met the need.

A basic problem is that high school is not a very attractive place for the kind of veteran I am talking about to go. He may have dropped out in the first place because he did not like the high school environment. Or he may have finished with a bad academic record—again reflecting his distaste for that type of institution and carrying with it many unpleasant memories.

More important, experience has shown that the returning veteran—who is now in his early twenties or perhaps much older, who has been engaged in fierce combat, who has seen his friend injured and killed, who has developed a new maturity in the service—is reluctant to return to high school classes with immature 16- and 17-year-olds. Certainly it is understandable and that he might be uncomfortable and uneasy, and that he therefore might not use his benefits.

An additional problem with the present set-up is that high school or adult education courses, not specifically directed to veterans or to an individual veteran, take more time than is necessary to improve particular weaknesses.

This bill which I introduce today represents a two-pronged approach. First, it seeks to make education more attractive to the veterans with academic deficiencies by offering improved attention in a more comfortable environment. Second, it seeks to encourage colleges and other postsecondary institutions to develop programs and admit veterans, thereby expanding the educational opportunities open to the veteran.

As expressed in the bill, the purpose is—"To assist veterans with academic deficiencies to qualify for and pursue courses of higher education through the development of programs for special counseling, tutorial or other educational services at institutions of higher education."

The theory behind the proposal is that even though a veteran may have dropped out of high school or had a mediocre record, presumably in his years in the service he has developed maturity and responsibility. If he does have the motivation to go to college with this background, we should recognize that he is a good prospect and that his high school record is an inaccurate indication of his ability and potential. We want to assure that he has a chance to develop fully, recognizing that a person with this high school background should be at an institution of higher education and not in another high school.

The Administrator for Veterans' Affairs will have the responsibility for a program of grants and contracts with colleges and other postsecondary institutions to support programs which meet this objective.

One notion would be for colleges to give special precollege training to veterans, right on the campus, strengthening their background so that they can gain admission to an institution of higher education. That could eventually attend the college which gave them the preparatory training, or they could go elsewhere.

Once a veteran with academic deficiencies is admitted and attending a postsecondary school he may still need special tutoring in order to succeed in his studies. Such support could be assisted under this bill.

Colleges could be encouraged to develop accelerated and concentrated programs of education for veterans, enabling them to earn a bachelor's degree in 2¼ or 3 years, for example, rather than the usual 4 years. For a person starting college at the age of 22 or 23 or older, perhaps with dependents and with a need to start earning money as soon as possible, this would be a tremendous help.

Institutions of higher education also might establish a 5- or 6-year program of study for veterans—with an easier course load for those who do not have the background for more concentrated study or those who need to work full time while pursuing their education.

Postsecondary schools also might develop a course of study to encourage and train veterans to pursue public service occupations to meet community needs. They could offer special incentives and courses to become teachers in disadvantaged areas, or to work in social action programs, or to join undermanned police departments, and so forth.

One idea which might be incorporated into some of these programs would be to hire older veterans, in their later years of college, to help the incoming students.

My expectation is that given the encouragement and assistance of this bill, institutions of higher education would use a great deal of imagination, and appropriate innovation, in establishing programs to meet veterans' needs. While specific types of projects are mentioned in this bill, the operative language is left broad enough to cover a wide range of possible programs.

Final and overall authority for educational services for veterans is in the Veterans' Administration. Overall policy guidelines would be promulgated by the Administrator of Veterans' Affairs, after consultation with the Commissioner of Education, to take advantage of his background in the area of education.

The function of reviewing applications and making grants and contracts

would be carried out by the Commissioner. For he already has the contracts with postsecondary schools, and the expertise in educational programs and curriculums, which are required. But I want to emphasize that this would not be a program which could be intermingled with other activities of the Department of Health, Education, and Welfare. Rather, it is a program specifically and clearly for veterans—run by the Veterans' Administration as part of title 38 of the United States Code.

As in the Higher Education Act, the term "institution of higher education" is broadly defined to cover a whole range of postsecondary schools—including, for example, vocational schools and junior colleges as well as 4-year universities.

Mr. President, the possibilities for educational services for veterans have been dramatically illustrated by a program at Webster College in St. Louis.

Last year, Webster instituted Project VAULT—veterans accelerated urban learning for teaching—to recruit and train veterans to become teachers in urban ghetto schools.

The VAULT staff went out to an army base about 130 miles from St. Louis and looked for servicemen who were nearing the end of their military obligation and who had no plans to attend college. Ultimately a group of 42 were selected for VAULT, with a total of 31 finally carrying through with the program.

These men all came from disadvantaged, improverished backgrounds. Some were in their early 20's, and others were veterans of 20 years of military service. Most had weak academic records and a few had no high school diploma.

For several weeks before discharge, the GI's participated in seminars with the VAULT staff on the Army base. Upon discharge they went to Webster for an intensive college-level training which is still going on.

During the predischarge phase of the program, the emphasis was on current social problems rather than on learning for its own sake. Indeed, the whole program's curriculum has barred the teaching of simply mechanical courses to compensate for cultural or educational deficiencies in the students. Rather, "hooker courses," concentrating on issues of interest to the men and relevance to current social conflicts, have been emphasized.

The VAULT program is designed to interest and train the participants to become teachers in ghetto schools. Through arrangements with the St. Louis public school system, which has demonstrated a progressive and cooperative interest, the veterans are serving as observers and practice teachers for the following year. Meanwhile, Webster is giving academic credit for the teaching experience.

With the intensive training and active teaching by the participants, Webster will award these veterans the bachelor of arts degree at the end of only 2½ years, rather than the usual 4 years.

Webster's effort in Project VAULT is one example of how a larger scale educational services for veterans program can contribute both to the education of disadvantaged veterans and to meeting of current social needs, in this case ghetto teachers.

Other colleges have shown an interest in this type of idea, and some have started small veterans programs of their own. It is an exciting social development.

This Nation has a rare opportunity to assist and benefit from the men who have broken out of disadvantaged backgrounds and matured in the service. It we follow through with full veterans programs, including educational services for veterans, we can insure that returning servicemen will not revert to unproductive lives in ghetto or other areas. Rather, veterans whose horizons and aspirations have been broadened in the service can continue to contribute to our national welfare as constructive, well-educated citizens.

We have an obligation both to the men as individuals and to society as a whole to give them the chance.

Mr. President, I ask unanimous consent that the bill which I introduce for myself and the Senator from Texas (Mr. YARBOROUGH) and the Senator from California (Mr. CRANSTON), be printed in the RECORD at this point.

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

The bill (S. 2361), to amend chapter 34 of title 38, United States Code, in order to provide special educational services to veterans, introduced by Mr. KENNEDY (for himself and other Senators), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 2361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 34 of title 38, United States Code, is amended by adding at the end thereof a new subchapter V as follows:

"SUBCHAPTER V—EDUCATIONAL SERVICES FOR VETERANS

"§ 1691. Purpose.

"The purpose of this subchapter is to assist veterans with academic deficiencies to qualify for and pursue courses of higher education through the development of programs for special counseling, tutorial or other educational services at institutions of higher education.

"§ 1692. Definitions.

"For the purpose of this subchapter—

"(1) The term 'veteran with academic deficiencies' means an eligible veteran who by reason of deprived educational, cultural or economic background or physical handicap, is in need of services authorized under this subchapter to assist him to prepare for, initiate, continue, or resume his postsecondary education.

"(2) The term 'institution of higher education' means institution of higher education as defined in Section 1201 (a) of the Higher Education Act of 1965.

"§ 1693. Services for veterans with academic deficiencies

"To meet the objectives of this subchapter, programs to be known as 'Educational Services for Veterans' shall be carried out through grants and contracts with institutions of higher education, to enable such institutions to plan, develop, strengthen, improve, or conduct programs or projects to provide, among other things, counseling, tutorial, or other special educational services, including summer, preparatory, and accelerated programs for veterans with academic deficiencies. Educational Services for Veterans may include, but shall not be limited to—

"(1) programs to enable veterans to prepare and qualify for attendance at institutions of higher education;

"(2) programs of remedial assistance to veterans in regular attendance at institutions of higher education;

"(3) programs for accelerated and concentrated education of veterans at institutions of higher education;

"(4) programs for education of veterans extending beyond the usual period for completion of the course of study at a particular institution of higher education; and

"(5) programs to encourage and train veterans to pursue public service occupations to meet community needs.

"§ 1694. Administration of program

"The Administrator shall have responsibility for coordination and overall planning with respect to Educational Services for Veterans, and shall annually report to Congress on the program. The Administrator shall, jointly with the Commissioner of Education, prescribe regulations governing the administration of Educational Services for Veterans, including the review of applications and making of grants and contracts. The Commissioner, shall, in accordance with those regulations and in coordination with the Administrator, have the function of reviewing applications and making grants and contracts. The Administrator shall have the function of providing information, advice and assistance regarding the program to eligible veterans and service men being released, and of otherwise administering the program.

"§ 1695. Effect on other benefits

"No benefits received by any veteran under this subchapter shall in any way affect his eligibility or qualification for benefits under other provisions of this title or under other provisions of law.

"§ 1696. Authorization for appropriations

"There are authorized to be appropriated to carry out this subchapter $10,000,000 in the fiscal year ending June 30, 1970, and $30,000,000 in the fiscal year ending June 30, 1971."

SEC. 2. The table of sections at the beginning of chapter 34 of title 38, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER V—EDUCATIONAL SERVICES FOR VETERANS

"1691. Purpose.
"1692. Definitions.
"1693. Services for veterans with academic deficiencies.
"1694. Administration of program.
"1695. Effect on other benefits.
"1696. Authorization for appropriations.

S. 2362—INTRODUCTION OF A BILL TO AMEND CERTAIN FEDERAL STATUTES RELATING TO THE JUDICIAL SYSTEM OF THE STATE OF OKLAHOMA

Mr. HARRIS. Mr. President, I introduce, for appropriate reference, a bill to amend certain Federal statutes relating to the judicial system of the State of Oklahoma.

As a special election held on July 11, 1967, the voters of Oklahoma voted to repeal article VII of the constitution of

Oklahoma and voted to replace it with a new article VII, effective on January 13, 1969.

Pursuant to the terms of the new article VII, all county courts were abolished and their jurisdiction vested in the State district courts. Any reference in any of the Oklahoma statutes to the county court or county judge shall, according to implementing legislation, be deemed to refer to the district court or district judge.

Several Federal statutes relating to Indians in Oklahoma, and to action which can be taken relating to restricted lands, confer jurisdiction on the county court and in some instances refer to action to be taken by the county judge. Being aware of the amendments to the State constitution, I considered it advisable during the last session of Congress to introduce a bill, S. 2716, which would amend all applicable Federal statutes to conform with the new laws of Oklahoma. S. 2716 was not enacted into law by the 90th Congress.

There is divided opinion on the necessity of this bill. An Associate Solicitor for Indian Affairs, Henry B. Taliaferro, Jr., and the attorney general of the State of Oklahoma, G. T. Blankenship, both agree under the new Oklahoma judicial system that the district court and district judge can assume the responsibilities of the county court and county judge without amending the Federal statutes. I ask unanimous consent that their letters, stating their opinions, be printed in the RECORD at this point.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., January 22, 1969.

Hon. G. T. BLANKENSHIP,
Attorney General,
State of Oklahoma,
Oklahoma City, Okla.

DEAR MR. ATTORNEY GENERAL: As you are aware, the 31st Legislature of the State of Oklahoma adopted H.J. Res. No. 508, filed May 11, 1967, which was approved by the electors of Oklahoma at an election held on July 11, 1967. It amended the Constitution of Oklahoma by repealing Article VII thereof and replacing it with a new Article VII. The constitutional amendment which became effective January 13, 1969, establishes a new judicial department for the State. By its terms all County Courts were abolished at midnight of January 12, 1969, and their jurisdiction, functions, powers and duties were transferred to the respective State district courts.

Our interest in this matter arises from the fact that many special federal laws have been enacted for Oklahoma Indian tribes, especially for the Osage and the Five Civilized Tribes. These laws have conferred on the courts of the State of Oklahoma various measures of jurisdiction in Indian affairs, including those involving the probate of wills, determination of heirs and guardianship matters. Such jurisdiction also extends to the partition of land and in certain cases to the conveyance of lands by members of the Five Civilized Tribes. For the most part, the County Courts of the State of Oklahoma have had jurisdiction over such matters referred to in the federal laws and for this reason are frequently specifically named therein.

The above amendment to the Oklahoma Constitution was implemented by legislation enacted by the Oklahoma State Legislature. Thus, it is provided in 20 Okla. St. Ann. 91.1 that "The District Courts of the State of Oklahoma are the successors to the jurisdiction of all other courts, including the . . . County Courts . . .," and that "Wherever reference is made in the Oklahoma Statutes to any of the above courts or to a judge thereof, it shall be deemed to refer to the District Court or a judge theerof. . . ."

We have considered the advisability of seeking amendatory federal legislation which would substitute the term "District Court" in lieu of "County Court" and related references wherever they now appear in the federal Indian legislation. However, upon further analysis of the law providing for the use of Oklahoma State courts as agencies for the protection of restricted Indian lands, we are of the view that the broad legislative intent evident in existing federal laws permits, without further federal enactment, ready adjustment to the change in the Oklahoma judicial system. We have no doubt that existing laws apply to new situations not originally anticipated, if when fairly construed, such situations come within the intent and meaning of the laws. See *Feitler* v. *United States,* 34 F.2d 30 (3rd Cir. 1929), *aff'd* 281 U.S. 389 (1930); *Jerome H. Remick & Co.* v. *American Automobile Accessories Co.,* 5 F.2d 411 (6th Cir. 1925), *cert. denied,* 269 U.S. 556 (1925).

The federal legislative purpose in utilizing Oklahoma State courts has, for the most part, been stated quite broadly. That purpose was to invoke in the situations described, the use of such state courts in Oklahoma as were assigned by state law identical or related functions. It is clear that the name or title of the particular court, whether District or County was of no prompting significance. Thus, by Section 3(a) of the Act of August 4, 1947 (61 Stat. 731, 732), "the State courts of Oklahoma" were given jurisdiction in guardianship and estate matters affecting Indians of the Five Civilized Tribes. Under Section 9 of the Five Tribes Act of May 27, 1908 (35 Stat. 312, 315), conveyances of the interests of full-blood Indian heirs were to be "approved by the [Oklahoma state] court having jurisdiction of the settlement of the estate of said deceased allottee." The latter provision was changed by Section 1 of the 1947 Act to authorize the approval of conveyances by the County Court of the County in Oklahoma in which the land is located. While for the most part this would be the same County Court having jurisdiction of the settlement of the estate, as provided by the earlier law, the change was made to distinguish between sales by adult heirs on the one hand and minors and incompetents on the other.

Of course, the use of general language in federal statutes, noted above, avoids the question raised by the transfer of functions from the County Courts of Oklahoma to the District Courts. We do not regard those instances where County Courts are specifically mentioned by name in federal legislation as evidencing a contrary legislative intent or as calling for a different result. In either case, the purpose of the federal legislation is to utilize that court in Oklahoma adapted to the type of function involved. Thus, Osage Indian probate matters were made subject to the jurisdiction of the County Courts of Oklahoma because County Courts were the probate courts (Sec. 3, Act of April 18, 1912, 37 Stat. 86). This functional approach is also demonstrated in other instances where authority over certain Indian matters involving guardianships and heirship was given to the "probate courts" of the State of Oklahoma (Sec. 6, Act of May 27, 1908, 35 Stat. 312, 313; Sec. 1, Act of June 14, 1918, 40 Stat. 606).

An additional point requires some comment. This deals with the right granted the probate attorneys of this Department under Section 1(e) of the Act of August 4, 1947, *supra,* to take an appeal from a County Court order approving a conveyance of restricted Indian lands of the Five Civilized Tribes. This section provides for an appeal to the "district court of the county in which the proceedings are conducted . . . ." We see no problem in this regard if, after January 12, 1969, the right to appeal is continued in some manner from initial actions by the district court. In this regard, we have noted the provisions for appellate review of action by the state District Courts found in 12 Okla. St. Ann., 952, which also were designed to implement the constitutional amendment found in H.J. Res. No. 508. We believe these provisions for appeal to the Oklahoma Supreme Court adequately preserve the right of appeal assured by the 1947 Act.

In sum, we believe that the action of the Oklahoma Legislature, effective January 13, 1969, which transferred the jurisdiction and duties of the County Courts to the state District Courts continues undiminished the protective measures for Indians provided by the federal statutes even where County Courts are specifically mentioned in the federal enactments. We would be pleased to receive your opinion, together with such comments as you may have regarding our analysis of H.J. Res. No. 508, its implementing legislation and the possible impact of the latter on existing federal legislation concerning the Indians and their restricted property in Oklahoma. In particular, we would appreciate advice as to whether or not you believe that because of any changes in state law the Oklahoma courts as constituted after January 12, 1969, will be unable to utilize existing federal legislation to provide the services to Indians which Oklahoma courts previously provided.

Sincerely yours,
HENRY B. TALIAFERRO, Jr.,
Associate Solicitor for Indian Affairs.

OKLAHOMA CITY, OKLA.,
March 11, 1969.

Hon. HENRY B. TALIAFERRO, Jr.,
Associate Solicitor for Indians Affairs, U.S. Department of the Interior, Office of the Solicitor, Washington, D.C.

DEAR SIR: We read, with interest, your letter of January 22, 1969, regarding our new judicial department for the State of Oklahoma where by its terms all County Courts were abolished January 12, 1969, and their jurisdiction, functions, powers and duties were transferred to the respective State District Courts. As a matter of fact the County Judge in Oklahoma was made the Associate District Judge, and our Justices of the Peace were made Special District Judges, which, of course, combines all of our trial courts into "District Courts."

We feel that your conclusions in regard to the use of the District Courts in place of County Courts where the name County Court is used in federal law is entirely correct. We have checked many of the federal statutes where the words County Court are used with regard to Indian matters in Oklahoma and we feel that the legislative intent evidenced by Congress would permit use of our District Courts in the same way that County Courts have been used in the past.

There is some slight problem in regard to appellate procedures from the County Court to the District Court which we have had in the past. However, as you noted in your letter, the right to appeal has been preserved, the only thing is that the appeals are to be made to the Supreme Court in place of to the District Court. We also have statutes in this area which set up an Intermediate Court of Appeals and many of the cases that are appealed to the Supreme Court

will be assigned back to the Intermediate Court of Appeals for final decision. These various statutes we feel adequately preserve the right of appeal to all restricted Indians and those others concerned in such cases.

We feel that all protective measures for Indians provided in federal statutes have been protected in the amendment to the Oklahoma Constitution regarding our judicial department and the statutes which have been enacted pursuant thereto. We believe that none of the changes in state law will change the services to the Indians which have previously been provided by the Oklahoma courts.

If we can be of further service to you in this matter, please feel free to call upon us. We have not made this letter in the form of an official opinion of this office since our legislation authorizes us to write formal opinions only to state officers, boards and commissions.

Sincerely,

G. T. BLANKENSHIP,
Attorney General.

Mr. HARRIS. Mr. President, I informed the chairman of the real property committee of the Oklahoma Bar Association, Howard Davis, of the above opinions. Subsequently I received a letter from the chairman notifying me that members of this committee and Dr. Joseph F. Rarick, professor of Indian land titles at the University of Oklahoma Law School were of the opinion that, because of concern by many lawyers of the State that action in a State district court might not be valid when the Federal statute vested jurisdiction in a county court, it would be advisable to again introduce a bill similar to S. 2716. I ask unanimous consent that the letter from Howard Davis with the enclosed letter from Dr. Rarick be printed in the RECORD at this point.

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

KERR, DAVIS, IRVINE & BURBAGE,
Oklahoma City, Okla., May 6, 1969.

Re Senate bill No. 2716 90th Congress.
Senator FRED R. HARRIS,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR HARRIS: Please refer to my letter of March 31, 1969 and your reply of April 8, 1969.

I have discussed the problem concerning court approval of Indian deeds and leases with most of the influential members of my committee, and find that they are unanimously of the opinion that only Congressional action could avoid serious doubt with respect to Indian deeds and leases approved by the District Court, at least until the matter has been litigated.

I have looked over Bill No. 2716 and think it would meet our needs, but I think it would be improved if it had a provision which would validate District Court approvals subsequent to January 13, 1969.

The position of the members of the Real Property Committee is very clearly set forth in the letter dated April 30, 1969 which I received from Dr. Rarick, copy of which is enclosed.

Yours very truly,

HOWARD DAVIS.

UNIVERSITY OF OKLAHOMA,
April 30, 1969.

HOWARD DAVIS, Esq.,
Chairman, Real Property Committee,
Oklahoma Bar Association,
Oklahoma City, Okla.

DEAR HOWARD: I am enclosing some material relevant to the proposed act transferring to the district court powers bestowed upon Oklahoma county courts by Congress.

I am not prepared to suggest that Senator Harris has taken a position in his letter to you that is unsound. I am persuaded, however, that there is a segment of the bar which believes that only Congress can act effectively in this matter. This doubt will cause an additional segment of the bar to be cautious about approving titles based on district court action.

It is this division of opinion that is material. It was divisions of opinion about some things that led in part to the chaos that necessitated the curative acts of 1945 and 1947.

It is my guess that if Congress does not act soon in this matter that we have several prolonged and expensive suits before this doubt is finally laid to rest. The history of Indian land titles is replete with instances of uncertainty breeding litigation. In many cases Congress moved to solve these problems but only after much harm was done. I would hope that Congress would move quickly to prevent difficulty this time. Since the effective date of the change is now passed, the legislation should confirm action taken by a district court since the effective date of the act rather than being purely prospective in operation.

Sincerely yours,

JOSEPH F. RARICK,
David Ross Boyd, Professor of Law (Professor of Indian Land Titles).

Mr. HARRIS. Mr. President, in addition to these letters, I have received letters from the county bar association expressing concern over this problem and their belief that Federal legislation is necessary.

While I agree with the opinions of the Associate Solicitor for Indian Affairs and the attorney general of the State of Oklahoma, I recognize, as a lawyer, the wisdom in taking the action suggested by the real property committee and accordingly I introduce this bill today. It would be most unfortunate if lengthy and expensive litigation resulted from this problem.

Since the bill has an effective date of January 13, 1969, any uncertainty as to the validity of court proceedings from January 13, 1969, to date of passage of the bill will be eliminated.

The bill is noncontroversial, and I hope will be acted upon immediately by Congress.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

The bill (S. 2362), to amend certain Federal laws relating to the State of Oklahoma, introduced by Mr. HARRIS, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 2362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 23 of the Act of April 26, 1906 (34 Stat. 145) as amended by the Act of May 27, 1908 (35 Stat. 314), is amended by deleting "or a judge of a county court of the State of Oklahoma" and inserting in lieu thereof "or a judge of a district court of the State of Oklahoma".

SEC. 2. The Act of May 27, 1908 (35 Stat. 312), is amended by adding at the end thereof the following new section:

"SEC. 15. Wherever the term 'probate court' or 'county court' is used in this Act, such term shall mean the proper district court of the State of Oklahoma."

SEC. 3. (a) Section 7 of the Act of April 18, 1912 (37 Stat. 86), is amended by deleting "county court of Osage County, State of Oklahoma" and inserting in lieu thereof "district court of the State of Oklahoma having jurisdiction over the district within which is located Osage County".

(b) The Act of April 18, 1912 (37 Stat. 86), is further amended by adding at the end thereof the following new section:

"SEC. 12. Wherever the term 'county court' is used in this Act, such term shall mean the proper district court of the State of Oklahoma."

SEC. 4. The first section of the Act of August 4, 1947 (61 Stat. 731), is amended (1) by deleting "county court of the county in Oklahoma in which the land is situated; (b) that petition for approval of conveyance shall be set for hearing not less than ten days from date of filing, and notice of hearing thereon, signed by the county judge" and inserting in lieu thereof "district court of the State of Oklahoma of the district in which the land is situated; (b) that petition for approval of conveyance shall be set for hearing not less than ten days from date of filing, and notice of hearing thereon, signed by the district judge"; and (2) by deleting "(c) that the probate attorney shall have the right to appeal from any order approving conveyances to the district court of the county in which the proceedings are conducted within the time and in the manner provided by the laws of the State of Oklahoma in cases of appeal in probate matters generally, except that no appeal bond shall be required;".

SEC. 5. (a) Subsection (b) of section 2 of the Act of August 11, 1955 (69 Stat. 666), is amended by deleting "county court" and inserting in lieu thereof "district court of the State of Oklahoma".

(b) Subsection (c) of section 2 of the Act of August 11, 1955 (69 Stat. 666), is amended by deleting "county court for the county in which he, or she, resides for an order removing restrictions. If the Secretary issues an order removing restrictions without application therefor in accordance with the provisions of subsection (b) of this section, either the Indian affected or the board of county commissioners may apply to the county court for the county in which the Indian resides for an order setting aside such order," and inserting in lieu thereof "district court of the State of Oklahoma for the district in which he, or she, resides for an order removing restrictions. If the Secretary issues an order removing restrictions without application therefor in accordance with the provisions of subsection (b) of this section, either the Indian affected or the board of county commissioners may apply to the district court for the district in which the Indian resides for an order setting aside such order."

SEC. 6. Whenever any statute of the United States enacted prior to the effective date of this Act authorizes any subsequent action to be taken or approved by the county court or the judge of the county court, the term 'county court' therein shall mean in relation to the State of Oklahoma the district court of the State of Oklahoma.

SEC. 7. The provisions of this Act shall take effect as of January 13, 1969.

S. 2366—INTRODUCTION OF A BILL TO EXEMPT CERTAIN STATE-OWNED PASSENGER VESSELS FROM THE REQUIREMENT OF PAYING FOR OVERTIME SERVICES OF CUSTOMS OFFICERS AND EMPLOYEES

Mr. STEVENS. Mr. President, today I am introducing a bill to amend the Tariff

Act of 1930. The act provides that the operators of ferries shall be exempt from compensating the Customs Service for overtime pay to customs employees necessitated by service to ferries that operate on regular schedules at intervals of at least 1 hour. This provision is made in conjunction with the exemptions for service to the operators of tunnels, bridges, and highway vehicles. It seems clear that this provision is designed to aid in the operation of State-owned highway facilities for public service at points of entry into the United States.

The Tariff Act does not take into account the special circumstances of a noncontiguous State, such as Alaska. The ferries operated by the State of Alaska in its marine highway system are operated as a public service in much the same manner as bridges, tunnels, highway vehicles, and ferries are operated at other points of entry into the United States. Unlike other border service areas, the distance between points is great, yet the volume is not large enough to permit or require hourly service. Nonetheless, the service provided by the Alaskan marine highway is done on a regular schedule. The wording of the present law discriminates against operations between noncontiguous States and foreign nations merely because the existing law did not envision the admission of Alaska and Hawaii to the Union. The bill I am introducing today will correct this inequity and extend the level of Federal-State cooperation to the noncontiguous States.

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

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

The bill (S. 2366), to exempt certain State-owned passenger vessels from the requirement of paying for overtime services of customs officers and employees, introduced by Mr. Stevens, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 2366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) is amended—

(1) by inserting "(1)" after "shall mean" in the last sentence, and

(2) by inserting before the period at the end of the last sentence the following: ", and (2) a passenger service (including the service of transporting automobiles of passengers) operated with the use of vessels which are owned by a State and which arrive in the United States on regular schedules".

(b) The amendment made by subsection (a) shall take effect on the first day of the first month which begins after the date of the enactment of this Act.

S. 2367—INTRODUCTION OF A BILL TO CONTINUE THE OFFICE OF ECONOMIC OPPORTUNITY

Mr. JAVITS. Mr. President, I introduce today, with a number of cosponsors whose names I shall state in a moment, the President's request for an extension of the antipoverty program for an additional 2 years.

The names of the cosponsors are as follows:

Senators PROUTY, GRAVEL, PERCY, MATHIAS, SCOTT, CASE, COOK, MCGEE, PELL, RIBICOFF, SCHWEIKER, GOODELL, BOGGS, STEVENS, BAKER, HARTKE, HART, MOSS, DODD, MUSKIE, MONTOYA, PASTORE, BROOKE, TYDINGS—as well as the chairman of the Labor and Public Welfare Committee, of which I am ranking member, the Senator from Texas (Mr. YARBOROUGH); and the chairman of the Employment Manpower and Poverty Subcommittee, the Senator from Wisconsin (Mr. NELSON).

Mr. President, the authorization for fiscal year 1970 contained in the bill is $2,048 million. This compares with an appropriation of $1,948 million for fiscal year 1969. The provision in the Johnson budget was $2,180 million, accordingly, the authorization contained in the bill which I introduce is just about the in-between figure.

In his message to Congress on February 19, 1969, the President indicated that he would ask Congress that the authorization for appropriations be extended for 1 year. The President's message of June 2, 1969, indicating that a 2-year extension would provide a more stable environment in which to consider changes, represents a substantial and laudable commitment of the administration to aggressive and sustained attack on poverty.

As a result of our previous neglect, poverty has already claimed a tenure which will exceed the life of the Economic Opportunity Act under this or any other extension bill now before the Congress. The President and Director Rumsfeld have revealed the broad outlines of the new approaches. OEO will be an innovative agency, developing new knowledge about poverty, nuturing and evaluating new programs. In the areas of manpower, hunger, and health, community action agencies will play a crucial role in ensuring that the poor benefit from new initiatives undertaken by OEO, the Department of Labor, Agriculture, HEW, HUD, and other agencies. Programs which encourage entrepreneurship and community stability, such as the economic opportunity loan and special impact programs, will be strengthened. Volunteers will be encouraged to participate in antipoverty efforts. If these sound approaches are to be translated into effective realities a 2-year extension is clearly required. Innovation, experimentation, and evaluation cannot be effectively conducted with only a 1-year tenure. Administration initiatives and programs to provide an opportunity for jobs for our citizens and to eliminate hunger look years into the future and require a sustained involvement by community action agencies. Individual volunteers, those who administer the poverty program, and business and financial institutions will more willingly lend their efforts in the security that their commitments of time are paralleled by those of the administration and the Congress through extension of the program. I am very proud to introduce this bill on the part of the administration.

The President has given OEO a new directive. The amendment which I introduce today would give the poverty program a new tenure. But as the President has indicated, it will be up to the administration and the Members and committees of the Congress to give further definition to the poverty program in the coming weeks and months. Difficult questions await us: Is the authorization contained in this bill for fiscal year 1970 adequate to provide the momentum for the administration's renewed attack on poverty or should a reevaluation of priorities dictate a general authorization, so that the Congress will have the flexibility to meet crucial needs as they arise? Are advance funding and earmarking provisions required to insure additional stability and effectiveness?

Can the States and localities exercise a greater role without hamstringing the independence of OEO? What shall be the form and extent of new efforts under the Economic Opportunity Act to eliminate hunger and malnutrition, to insure opportunities in day care and child development, health services, manpower training and legal services, and financial assistance for our urban, rural, and migrant poor?

The bill which I introduce today will give the war against poverty a new life; it will be incumbent upon all of us to give it new meaning. As author Samuel Johnson observed centuries ago: "A decent provision for the poor is the true test of civilization."

I urge acceptance of the President's recommendation that the Economic Opportunity Act be extended for 2 years and ask unanimous consent that the text of this bill to effect that extension be printed in the RECORD; as well as a memorandum summarizing the bill.

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

The bill (S. 2367), to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes, introduced by Mr. JAVITS (for himself and other Senators), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 2367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of carrying out programs under the Economic Opportunity Act of 1964, there are hereby authorized to be appropriated $2,048,000,000 for the fiscal year ending June 30, 1970, and such amounts as may be necessary for the fiscal year ending June 30, 1971.

SEC. 2. Sections 161, 245, 321, 408, 615, and 835 of the Economic Opportunity Act of 1964 are each amended by striking out "1967" and by inserting in lieu thereof "1969". Section 523 of such Act is amended by striking out "June 30, 1968, and the two succeeding fiscal years" and by inserting in lieu

thereof "June 30, 1969, and the three succeeding fiscal years".

The material, presented by Mr. JAVITS, follows:

The bill would amend the Economic Opportunity Act of 1964 to authorize an appropriation of $2,048,000,000 for the fiscal year ending June 30, 1970, and "such amounts as may be necessary for the fiscal year ending June 30, 1971." Without amendment, the authorization would expire this June 30. The amendment would also extend the Act for two years beyond its expiration on June 30, 1970.

Mr. NELSON. Mr. President, I have been asked to join as a cosponsor of the administration bill being introduced today which would extend the Office of Economic Opportunity for another 2 years beyond the present expiration date of June 30, 1969.

As a bipartisan gesture, I am glad to add my name to the list of sponsors. Many of us are pleased at the administration's willingness to reconsider its earlier position and request a 2-year extension. This should narrow the differences considerably and set the stage for approval of a genuine bipartisan bill in the Senate Subcommittee on Employment, Manpower, and Poverty, of which I have the honor to serve as chairman. We are planning to hold executive sessions on June 20, 25, and 26 to seek approval of a revised bill.

Ever since the beginning of this session of Congress in January, those of us who are deeply concerned about the problems of poverty and hunger in this country have anxiously awaited the recommendations of the new administration in this area.

Early in the year there was considerable speculation to the effect that the administration would virtually abandon the war on poverty or make drastic cutbacks in the various programs which have been developed over the past 4 years to deal with the poor, the hungry, and the disadvantaged.

On February 4, 1969, Senator YARBOROUGH, as chairman of the Senate Labor and Public Welfare Committee; Congressman PERKINS, as chairman of the House Committee on Education and Labor, and I sent a letter to Mr. Daniel Patrick Moynihan in the President's office expressing our concern about such reports. We said at that time:

We are well aware ourselves of certain administrative improvements which could be made in the War on Poverty, and we are most anxious to work with the Administration in taking corrective steps which seem to be timely and wise. But we are concerned that precipitate action would cause needless bitterness and misunderstanding.

We were considerably relieved on February 19 when the President announced that he was embracing the basic goals of the Office of Economic Opportunity and was recommending that it be extended in its present form for an additional year.

No legislation was introduced to carry the administration's request of February 19 so, after careful consideration of the matter, I introduced a bill, S. 1809, on April 15, 1969. This bill has been thoroughly discussed at a series of public hearings which began on April 23, and is now ready for executive action by the Subcommittee on Employment, Manpower, and Poverty.

When I introduced S. 1809, I emphasized that it was an effort to present a bill to extend the Office of Economic Opportunity in such a way as to merit broad bipartisan support. As I explained at that time, I could find almost no one familiar with the present antipoverty program who would endorse only a 1-year extension. It seemed to be extremely important that the program be extended for at least 2 years and also that authorization be provided for the concept known as "forward funding," so that funds could be committed at least 1 year in advance. Consequently I proposed a 3-year extension.

S. 1809 would authorize appropriations of $2,180 million per year for the Office of Economic Opportunity and the programs for which it is responsible. The administration bill would authorize appropriations of $2,048 million but only for the first year. The difference between these funding levels is largely in the $100 million cut which the administration has made in the Job Corps and $36 million cut in the neighborhood youth program. Those most concerned about the problems of poverty in America are pleased that the administration has decided to request a full 2-year extension.

There still are some significant differences between the bill which our subcommittee has been considering and the administration bill. We are most anxious to work out a bipartisan resolution of these differences over the next 2 or 3 weeks and act promptly on a bill to extend this program so that it does not suffer from uncertainty during the summer months.

The administration has itself expressed interest in some of the features which are included in the bill, S. 1809.

The most important feature contained in S. 1809 which is not contained in the administration bill is a major expansion of the emergency food and medical services program now operated under OEO. This program is presently funded at the level of about $17 million a year. In our bill we propose a funding of $1 billion a year.

The pilot program of emergency food and medical services has so far been limited largely to a few rural areas. OEO has learned through this program that there is a tremendous job to do in reaching the poorest of the poor and the hungriest of the hungry and enabling them to qualify for the regular programs intended to benefit them such as the food stamp program and the commodity distribution program. The OEO is ideally suited to coordinate an interdepartmental war on hunger bringing together its own resources with those of the Department of Health, Education, and Welfare and the Department of Agriculture. The more than 900 community action agencies located throughout the Nation are the ideal agencies to serve as local offices in this effort to locate and assist poor and hungry families who are not now reached by the food stamp and commodity distribution program and school lunch programs.

The administration has recommended improvements in those programs. The Select Committee on Nutrition and Human Needs, chaired by Senator MCGOVERN, has made a number of excellent recommendations in those same areas. However, even if there is a major improvement in the food stamp and commodity distribution and school lunch programs, we still need a major expansion of the emergency food and medical services program of OEO if these programs are ever to be completely successful.

We were pleased when the new Director of OEO, Mr. Rumsfeld, testified before our committee:

The OEO is in the process of developing a considerably expanded role for the OEO not only in areas of hunger and malnutrition but also in the areas of potable water and sanitation. . . . It is intended . . . to dramatically step up the involvement of Community Action Agencies and VISTA and the Emergency Food and Medical Services program to perform this very important outreach activity that you highlighted in your comment.

The Community Action Agencies . . . can play an important role because they are in contact with the individuals who need the services and who we are anxious to see have the services.

Mr. Rumsfeld testified:

The President's position is that people in this country should not go hungry and should not be without the nutrition that they need for development.

The urgent need for a number of bold and immediate steps to fight hunger has been dramatically demonstrated in testimony before our subcommittee.

Mr. Robert Choate, a former consultant on hunger to the Department of Health, Education, and Welfare, has testified that of the 25 million or more poor people in this country, less than 6 million are served by the food stamp and commodity distribution programs combined. Mr. Choate has testified that there are at least 5 million people in the United States who suffer from severe hunger and another 10 million who suffer from malnourishment. Mr. Choate testified "that it is quite probable that approximately 3,000 infants die per year from malnutrition related causes in this country," and that he thinks the figure is actually much larger than that.

Dr. Jack Geiger of the Tufts Medical College in Boston, Mass., who operates an OEO financed medical clinic in Bolivar County, Miss., testified that 13 percent of the households in this county reported in a survey that they ate only one meal a day. He said:

We found people trying to subsist on pecans, nuts, and hunting rabbits and fishing, with corn syrup as a basic diet. Seventy percent of the county has no water supply at all. Most of it has no safe water supply of any kind.

Dr. Geiger testified regarding a series of tests given to disadvantaged in Bolivar County which indicated that they were suffering from severe mental and

physical deterioration because of malnutrition.

Obviously we need immediate, massive assistance to reach the most serious hunger problems in this Nation. We cannot wait for 1971 or 1972. Children are starving and they must be fed at once or America cannot live with its conscience. The OEO emergency food and medical services program is one way to attack this problem immediately, both at the national and local level. I hope that we will have the support of the administration for such immediate action.

There are other areas which must also be reconciled.

The extremely detailed audit of the OEO conducted by the General Accounting Office made as its number one recommendation the suggestion that a strong coordinating and evaluating agency be established in the White House to oversee all Federal programs relating to poverty—a total of almost $27 billion in Federal spending compared with only about $2 billion for the OEO. I have provided for such a proposal in S. 1809. The administration has made no firm recommendation in this area, but has indicated their willingness to consider it. Mr. Rumsfeld testified:

> I would have to agree completely with you that there is a need for the functions that the present statute outlines for the Economic Opportunity Council to be performed somewhere. There is a need for greater coordination. There is a need for greater evaluation of these programs and the total effect of Government throughout the Departments on these problems.

We hope the administration will support some form of independent coordinating and evaluating agency, to bring together the Government-wide effort to eradicate poverty and to provide the detailed systematic evaluation of OEO and other antipoverty programs, which the Congress has so long desired.

Overwhelming support has been expressed before our committee for the concept of "forward funding," now firmly established in our education programs and just as greatly needed in our various antipoverty programs. No single problem is as universally cited by antipoverty workers at the national and local level as the problem of inability to commit funds far enough in advance to permit sensible planning and efficient administration. I am certain that the administration will want OEO programs to be operated with the greatest possible degree of efficiency and that it will come to see the necessity of forward funding authorization.

S. 1809 would also provide funds to implement a program of day-care centers which testimony before our committee indicates is very seriously needed throughout the country, particularly if we are to find training opportunities and jobs for mothers with young children.

S. 2368—INTRODUCTION OF A BILL TO ESTABLISH A NATIONAL INSTITUTE OF BUILDING SCIENCES

Mr. JAVITS. Mr. President, I introduce today, for appropriate reference, a bill to establish a National Institute of Building Sciences. I am joined in sponsoring this bill by Senators BROOKE, GOODELL, MONDALE, NELSON, PACKWOOD, SCOTT, TOWER, and TYDINGS.

The establishment of such an institute will carry out recommendations contained in the reports of both the Douglas and Kaiser Commissions—national commissions which intensively studied the problems of urban housing.

The absence of an authoritative national source to advise the housing industry and local authorities as to the latest technological developments in building materials and construction techniques and to propose nationally acceptable standards for local building codes has proven to be a great obstacle to efforts to meet the national housing goals set forth in the Housing and Urban Development Act of 1968. Moreover, the lack of a system of uniform building code standards increases the cost of construction and inhibits innovation in building techniques. The resulting fragmentation in the housing industry is clearly not in the public interest.

This bill will establish a nongovernmental nonprofit corporation with a 15-man board of directors selected by the President from lists submitted by the National Academy of Sciences and the National Academy of Engineering. The directors will be selected so as to represent a wide variety of interests throughout the building industry and the National Academies will advise and assist establishing the Institute.

Among the powers and duties of the proposed National Institute of Building Sciences would be to develop and publish standards affecting all building materials; to develop and publish standards for use in local building codes; to promote and coordinate tests and studies of new building products and construction techniques; to provide research and technical services with respect to such materials and techniques; and, to assemble and coordinate to the extent practicable all present activities in this area.

The bill I introduce would authorize a $5 million Federal appropriation for each of the first 5 years of operation of the Institute. After that, it is hoped that the Institute will be largely self-supporting through fees and grants, although sufficient Federal funds are authorized to permit its operations to continue.

The need for such an authoritative national source of applied research in housing has been recognized by such groups as the American Institute of Architects and the Council of Housing Producers. It is recognized that the fragmentation in the housing industry—including the fragmentation caused by the multitude of differing local building codes and the differences in their application—must not be allowed to obstruct the development of new technologies and a mass market for the construction of low-cost housing and must not be allowed to defeat the national housing goals. Moreover, I believe that the establishment of this Institute can be of assistance to the current commitment of the Department of Housing and Urban Development to promote the development and institution of new low-cost housing technologies.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 2368), to establish a National Institute of Building Sciences, introduced by Mr. JAVITS (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Banking and Currency.

S. 2370—INTRODUCTION OF A BILL TO AMEND THE FOOD STAMP ACT OF 1964, AS AMENDED

Mr. AIKEN. Mr. President, I am very happy today to introduce, on behalf of Senators YOUNG of North Dakota, COOK, CURTIS, PEARSON, and DIRKSEN, the administration's proposal to strengthen and expand the food stamp program and make it the kind of program it should be. Members of this body will remember that, with Senator YOUNG and others, I have worked for the food stamp program for over 25 years, or ever since 1943.

The food stamp approach to improved nutrition has always been my idea of the best and most effective way to improve nutrition among our low-income families. The existing program has not been good enough. We have asked families to pay more for coupons than they have really been able to afford. And the coupons they have bought together with those given as a bonus have not been enough to provide the necessary purchasing power for an adequate diet.

The proposal which I introduce today will bring this program in line with what I have wanted for many years.

This is what the bill will do:

First. No family will pay more than 30 percent of its income for food coupons and the poorest families will pay less.

Second. The total amount of food coupons issued will be enough to provide an adequate diet.

Third. Families in extreme poverty will receive coupons without charge.

Fourth. Uniform national eligibility standards will be established.

Fifth. States will be required by 1970–71 to operate either a food stamp or commodity donation program in every political jurisdiction within the State.

Sixth. Require State and local welfare agencies to make an effective outreach to bring in as many eligible families as necessary. This outreach drive will receive some Federal assistance.

Seventh. Require States to establish a fair hearing procedure for households with grievances. Some Federal assistance will also be provided for this.

Eighth. If public assistance households wish to do so, they may have the purchase requirement charge deducted from welfare checks.

Ninth. Authorize, in certain circumstances, the operation of both a food stamp and a commodity donation program in the same area.

We have studied and probed hunger and malnutrition extensively for many years. It is now time to act. I urge prompt

action so we can get on with the practical job of improving nutrition.

Mr. President, I know there are other Senators who would gladly have sponsored this proposal. I have not been able to get in touch with some who I think would probably like to be sponsors, but in view of the advisability of acting upon it promptly, I am offering it today. I ask unanimous consent that the bill be printed in the RECORD, together with a section-by-section analysis; and, if other Senators wish to be cosponsors later, I shall ask that their names be added.

The VICE PRESIDENT. The bill will be received and appropriately referred, and, without objection, the bill and section-by-section analysis will be printed in the RECORD.

The bill (S. 2370) to amend the Food Stamp Act of 1964, as amended, introduced by Mr. AIKEN, for himself and other Senators, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 2 of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"It is hereby declared to be the policy of Congress, in order to promote the general welfare, that the Nation's abundance of food should be utilized cooperatively by the States, the Federal Government, local governmental units, and other agencies to safeguard the health and well-being of the Nation's population and raise levels of nutrition among low-income households. The Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. The Congress further finds that increased utilization of foods in establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of our agricultural abundances and will strengthen our agricultural economy, as well as result in more orderly marketing and distribution of food. To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to purchase a nutritionally adequate diet through normal channels of trade."

SEC. 2. Subsections (a) and (b) of Section 4 of the Food Stamp Act of 1964, as amended, are amended to read as follows:

"(a) The Secretary is authorized to formulate and administer a food stamp program under which, at the request of the State agency, eligible households within the State shall be provided with an opportunity to obtain a nutritionally adequate diet through the issuance to them of a coupon allotment which shall have a greater monetary value than the charge to be paid for such allotment by eligible households. The coupons so received by such households shall be used only to purchase food from retail food stores which have been approved for participation in the food stamp program. Coupons issued and used as provided in this Act shall be redeemable at face value by the Secretary through the facilities of the Treasury of the United States.

"(b) In areas where the food stamp program is in operation, there shall be no distribution of federally donated foods to households under the authority of any other law except that distribution thereunder may be made: (1) during temporary emergency situations when the Secretary determines that commercial channels of food distribution have been disrupted because of a disaster; (2) on request of the State agency, for such period of time as the Secretary determines necessary, to effect an orderly transition in an area in which the distribution of federally donated foods to households is being replaced by a food stamp program; or (3) on request of the State agency if the State agrees to finance, from funds available to the State or political subdivisions thereof, all of the costs, subsequent to the delivery of such foods within the State, of handling, storing and issuing federally donated food to eligible households in the area."

SEC. 3. Section 5 of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"(a) Except for the temporary participation of households that are victims of a disaster as provided in subsection (b) of this section, participation in the food stamp program shall be limited to those households whose income and other financial resources are determined to be substantial limiting factors in permitting them to purchase a nutritionally adequate diet.

"(b) The Secretary, in consultation with the Secretary of Health, Education and Welfare, shall establish uniform national standards of eligibility for participation by households in the food stamp program and no plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary. The standards established by the Secretary, at a minimum, shall prescribe the amounts of household income and other financial resources to be used as criteria of eligibility: *Provided,* That the Secretary may also establish temporary emergency standards of eligibility, without regard to income and other financial resources, for households that are victims of a disaster which disrupted commercial channels of food distribution when he determines that such households are in need of temporary food assistance, and that commercial channels of food distribution have again become available to meet the temporary food needs of such households."

SEC. 4. Subsections (a) and (b) of Section 7 of the Food Stamp Act of 1964, as amended, are amended to read as follows:

"(a) The face value of the coupon allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be in such amount as the Secretary determines to be the cost of a nutritionally adequate diet.

"(b) The maximum amount which State agencies shall be authorized to charge any eligible household for the coupon allotment issued to it shall not exceed 30 per centum of the household's income: *Provided,* That coupon allotments may be issued without charge to households with little or no income or other financial resources under standards of eligibility prescribed by the Secretary."

SEC. 5. Subsection (e) of Section 10 of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"The State agency of each State desiring to participate in the food stamp program shall submit for approval a plan of operation specifying the manner in which such program will be conducted within the State, the political subdivisions within the State in which the State desires to conduct the program, and the effective dates of participation by each such political subdivision. In addition, such plan of operation shall provide, among such other provisions as may by regulations be required, the following: (1) the specific standards to be used in determining the eligibility of applicant households; (2) that the State agency shall undertake the certification of applicant households in accordance with the general procedures and personnel standards used by them in the certification of applicants for benefits under the federally aided public assistance programs; (3) safeguards which restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions of this Act or the regulations issued pursuant to this Act; (4) for the submission of such reports and other information as from time to time may be required; (5) that the State agency shall undertake effective action, including the use of services provided by other federally funded agencies and organizations, to inform low-income households concerning the availability and benefits of the food stamp program and insure the participation of eligible households; and (6) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of a State agency under any provision of its plan of operation as it affects the participation of such household in the food stamp program. Upon the joint approval of the Secretary and the Secretary of Health, Education, and Welfare the State plan may provide for withholding the amount to be paid by a household for its coupon allotment from any payment made by the State agency to such household under a federally aided public assistance program, if such withholding is authorized by such household. In approving the participation of the subdivisions requested by each State in its plan of operation, the Secretary shall provide for an equitable and orderly expansion among the several States in accordance with their relative need and readiness to meet their requested effective dates of participation."

SEC. 6. Subsection (b) of Section 15 of the Food Stamp Act of 1964 as amended, is amended to read as follows:

"(b) The Secretary is authorized to pay to each State agency an amount equal to 50 per centum of the sum of: (1) the direct salary, travel, and travel-related cost (including such fringe benefits as are normally paid) of personnel, the immediate supervisors of such personnel, for such time as they are employed in taking the action required under the provisions of subsection 10(e)(5) of this Act and in making certification determinations for households other than those which consist solely of recipients of welfare assistance; (2) the direct salary, travel, and travel-related costs (including such fringe benefits as are normally paid) of personnel for such time as they are employed as hearing officials under section 10(e) of the Act, and (3) an amount equal to 25 per centum of the cost computed under (1) and (2)."

SEC. 7. Section 16(a) of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"To carry out the provisions of this Act, there is hereby authorized to be appropriated not in excess of $315,000,000 for the fiscal year ending June 30, 1969, $610,000,000 for the fiscal year ending June 30, 1970, such sums as the Congress may appropriate for the fiscal years ending June 30, 1971, June 30, 1972 and June 30, 1973, and not in excess of such sum as may hereafter be authorized by Congress for any subsequent fiscal year. Sums appropriated under this section shall, notwithstanding the provisions of any other law, continue to remain available for the purposes of this Act until expended. Such portion of any such appropriation as may be required to pay for the value of the coupon allotments issued to eligible households which is in excess of the charges paid by such households for such allotment shall be transferred to and made a part of the separate account created under section 7(d) of this Act. This Act shall be carried out

only with funds appropriated from the general fund of the Treasury for that specific purpose and in no event shall it be carried out with funds derived from permanent appropriations."

SEC. 8. State plans of operation approved by the Secretary of Agriculture under the Food Stamp Act of 1964, as amended, prior to the date of the enactment of amendments thereto by this Act shall continue in effect until such plans are changed to accord with such amendments: *Provided*, That no such previously approved plan shall remain unchanged for more than 180 days after the enactment of such amendments.

SEC. 9. (a) Notwithstanding any other provision of law, the Secretary of Agriculture, after June 30, 1970, shall not approve, or continue the approval of, the participation of any State in the food stamp program or the program for the distribution of federally donated foods to households unless the State makes provision for the operation of one of such programs in each political subdivision within such State: *Provided*, That the Secretary of Agriculture may extend the period for compliance with this section to June 30, 1971, upon notification by the Governor of any State that State legislative action is required to provide authority or funds to meet the requirements of this section and that the legislature of such State will not convene in regular session between the date of enactment of this Act and June 30, 1970: *Provided further*, That federally donated foods may be made available, under terms and conditions prescribed by the Secretary of Agriculture, to meet temporary emergency food needs of disaster victims of those States not approved in accordance with this section for participation in the food stamp program or the program for the distribution of federally donated foods to households.

(b) In making provision in accordance with subsection (a) of this section for operation of a food stamp program in any political subdivision, the State shall provide for the distribution of federally donated food to households in such political subdivision until the request by the State agency for the food stamp program in such political subdivision has been approved by the Secretary of Agriculture in accordance with the requirements of section 10(e) of the Food Stamp Act of 1964, as amended, relating to the equitable and orderly expansion of the food stamp program among the several States.

The section-by-section analysis, presented by Mr. AIKEN, follows:

SECTION-BY SECTION ANALYSIS

SECTION 1

This section of the bill amends section 2 of the Food Stamp Act of 1964, as amended.

While retaining the original policy of the Act that the Nation's abundance of food should be utilized to raise levels of nutrition among low-income households, the amendment changes the Declaration of Policy to reflect the finding of Congress that the limited food purchasing power of low-income households contributes to hunger and malnutrition. It also changes the current general purpose of the Act from that of "raising levels of nutrition" to that of enabling eligible households "to purchase a nutritionally adequate diet."

SECTION 2

This section of the bill revises subsections (a) and (b) of section 4 of the Act.

Subsection 4(a) of the Act sets forth a general description of the food stamp program authorized by the Act. The proposed amendment, by deleting the words "more nearly" from the first sentence of the subsection, will authorize the Secretary to formulate and administer a food stamp program which will provide eligible households with an opportunity to obtain a nutritionally adequate diet, rather than one which merely approaches this goal. Other provisions of the subsection remain unchanged.

The revisions in subsection 4(b) continue current authorities to temporarily operate a commodity distribution program in a food stamp area when a natural or other disaster disrupts commercial food distribution channels. The subsection contemplates that, in the event of such a disaster, federally donated commodities may be used to assist in mass feeding of households that are victims of the disaster and, when necessary, for distribution to individual households in the immediate aftermath of such a disaster until commercial food distribution facilities are again operating and the households have access to them.

In some disaster situations, commercial food distribution channels may become operative and available in some sections of a food stamp area before they are available in others. Therefore, revisions are also proposed in section 5 of the Act to authorize temporary food assistance through the food stamp program to households that are victims of a disaster, if and when such action is feasible. Thus, flexibility is provided in making the most effective use of Federal resources to provide emergency food assistance to households when disasters disrupt commercial food distribution facilities or prevent disaster victims from temporary access to such facilities.

The bill also amends subsection 4(b) to authorize the simultaneous operation of both the food stamp and commodity distribution programs in the same political subdivision in other than temporary situations caused by natural or other disasters when commercial food distribution facilities are disrupted. At the request of the State agency, such simultaneous operations can be authorized during the period deemed necessary (the initial months) to effect an orderly transition from the Commodity Distribution Program to the Food Stamp Program. During such a transition period, Federal payments would be available to help finance within-State administrative costs to the same extent such Federal payments are now, or may be, authorized under each of the two programs. If the State agency requests simultaneous operation for a period of time beyond that deemed necessary for an orderly transition to a stamp program, or if the State agency wishes to institute the Commodity Distribution Program in an existing food stamp area, the full cost of handling and issuing the commodities in the food stamp area would be at the expense of the State agency or the local government unit.

SECTION 3

This section of the bill revises section 5 of the Act.

The proposed amendment retains the concept that the food stamp program shall be limited to households whose income and resources are substantial limiting factors in the attainment of a nutritionally adequate diet. However, unlike the current Act which provides that maximum income limitations shall be consistent with those used by the State agency in the administration of its federally aided public assistance programs, the amendment directs the Secretary of Agriculture, in consultation with the Secretary of Health, Education and Welfare, to establish, from time to time, new uniform national standards of eligibility. At a minimum, these new uniform standards will include the amounts of income and other financial resources to be used as eligibility criteria for households of various sizes. The Secretary would also be authorized to establish eligibility standards to meet the temporary food needs of households through the food stamp program when such households have been victims of disasters which have disrupted commercial food distribution facilities if such facilities have again become available to meet these temporary needs.

SECTION 4

This section of the bill revises section 7 of the Act.

Subsection 7(a) of the Act would be amended to provide that the value of the total coupon allotment to be issued to eligible households will be equal to the cost of a nutritionally adequate diet, as determined by the Secretary.

Subsection 7(b) of the Act also would be changed to provide a new basis for determining the charges to be made (the purchase requirements) for coupon allotments. Unlike the present Act, which provides that households shall be charged an amount determined to be equivalent to their normal expenditures for food, the proposed amendment directs the Secretary to limit such charges to an amount not in excess of 30 percent of income.

Under the revised language it is intended that an increasing percentage of income will be charged as the income of the household increases but that no household will be charged more than the maximum of 30 percent of its income specified in the amendment. Compared with the current level of coupon charges, the revised system would provide relatively larger reductions in coupon charges for those eligible households with the lowest incomes, among whom the incidence of hunger and serious malnutrition is considered to be most prevalent.

The revised language of subsection 7(b) of the Act also authorizes the issuance of coupon allotments without charge to households with little or no income, under standards of eligibility determined by the Secretary. It is expected that, currently, these income standards of eligibility for free coupons will be set at a level of about $30 in monthly income for a household of four members.

SECTION 5

This section of the bill revises subsection 10(e) of the Act.

While retaining all of the existing minimum provisions to be included in the plan of operation to be submitted by a State agency which desires to participate in the program, the proposed amendment adds two new requirements, as well as language which will permit households to authorize the withholding of coupon purchase requirements from their public assistance payments.

New language added by the amendment would place a positive responsibility upon the State agency to take effective action to inform low-income people about the program and to encourage the participation of eligible households. In undertaking such outreach actions, the State agency would be required to utilize the resources of other federally funded agencies such as those financed under the Economic Opportunity Act, as amended.

State plans of operation also would be required to include provisions under which the State agencies will grant fair hearings to households aggrieved by action of the State agencies.

The revised language also provides that, with the approval of the Secretary of Agriculture and the Secretary of Health, Education and Welfare, a State agency may establish a system under which a food stamp household may elect to have its charge for the coupon allotment withheld from its public assistance check. The State agency could then automatically mail the monthly coupon allotment to certified public assistance households. State agencies may now issue coupons by mail but households must remit coupon charges to the State agency each month before the coupons can be mailed.

SECTION 6

This section revises subsection 15(b) of the Act.

The revised language will continue to provide for Federal payments to assist States in the costs they incur in the certification of non-welfare households. Federal payments now are available to pay a portion of the salary and travel costs of merit system caseworkers (and their immediate supervisors) used to make certification determinations in the local counterpart offices of the State welfare agency. The new language will provide Federal payments to assist States in the salary and travel costs incurred by personnel who undertake the outreach actions required under the new subsection 10(e)(5) and those who act as hearing officials under the new requirement for a State fair hearing procedure. It is deemed to be in the interest of the program to recognize the additional costs to States in insuring that there is a prompt and equitable system under which households can appeal State and local decisions concerning their program eligibility or basis of particpaton.

SECTION 7

This section of the bill revises subsection 16(a) of the Act.

The proposed amendment provides for appropriation authorities for the program through the fiscal year 1973. It also authorizes any portion of the sums appropriated for any fiscal year which are not expended in that fiscal year to remain available until expended.

SECTION 8

This section of the bill does not amend the Food Stamp Act of 1964, as amended. It provides for a period, not to exceed six months, in which existing State plans of operation may remain in effect while changes required in the plans by the proposed amendments are being made by the State agencies and the Federal Government. It is expected that State agencies will be able to carry out some changes in their plans of operation before others. In such cases these changes can be put into effect as soon as they have been approved in accordance with the provisions of section 10 of the Act.

SECTION 9

This section of the bill does not amend the Food Stamp Act of 1964, as amended.

Section 9 establishes a new requirement that each State shall provide for the operation of a food stamp or commodity distribution program in each of its political subdivisions of USDA food assistance is to be supplied to any of its low-income households. States will have until June 30, 1970, to meet the requirements of this section, or until June 30, 1971, if the Governor of any State notifies the Secretary of Agriculture that State legislative action is necessary to enable the State to meet this requirement and that the State Legislature will not convene in regular session by June 30, 1970. In the meantime, the Department will continue its plan to use all available alternatives to insure that every county will be committed to the operation of a USDA family food program by June 30, 1970.

However, the failure of a State to elect to participate in such USDA food programs will not preclude the continued use of federally donated foods to meet the emergency food needs of victims of natural or similar disasters in such a State.

It is contemplated that, over the period of the next few years, the Food Stamp Program will progressively replace the Commodity Distribution Program for households. Section 10(e) of the Food Stamp Act of 1964 authorizes the Secretary of Agriculture to approve new areas for the Food Stamp Program under a plan which, among other things, provides for the equitable and orderly expansion of the program among the several States. In the event that the sum appropriated for the program in any fiscal year is not sufficient to approve all new areas requesting participation, States will be required to operate a Commodity Distribution Program for households in such areas until their participation in the Food Stamp Program can be approved.

S. 2371—INTRODUCTION OF THE PREVAILING WAGE RATE DETERMINATION ACT OF 1969

Mr. MOSS. Mr. President, I introduce, for appropriate reference, a bill entitled the "Prevailing Wage Rate Determination Act of 1969." Its purpose is to provide an equitable system for fixing and adjusting the rates of compensation of wage board employees.

Because the number of wage board employees exceeds 765,000, this bill is of vital concern to one-fourth of all employees of the Federal Government. It directly affects their wages, their own individual rights and obligations as well as the rights and obligations of their union representatives who are bargaining for them and who represent them on the various wage board committees established by this bill.

Basically, my bill is intended to bring order and system out of the chaotic situation which now exists in the Federal Government's procedures for fixing the rates of pay of employees working under the so-called prevailing wage rate system. The information which I have been receiving for some time showed such a great discrepancy between rates of pay for wage board employees performing the identical functions and working in the same community that I found that the presumption of serious inequity and injustice could not be excluded.

This bill would reduce such a possibility of inequity.

While remedying abuses, the bill will preserve, nonetheless, the concept and procedures of the "prevailing wage" system. It thus is not a modification of the wage board system itself but simply a measure to eliminate injustice and inequity by providing new mechanisms to establish basic regulations, to conduct wage surveys and to adjudicate or arbitrate differences.

The most important single improvement in my bill over the present arrangement is that it will give a statutory foundation to improved procedures for wage board rate determinations. The principal instrumentality provided by the bill to assure that such a policy is pursued is a newly created standing committee within the Civil Service Commission, to be known as the National Wage Policy Committee.

Composed of 11 members, the National Wage Policy Committee will have as its Chairman a person who shall be from outside the Federal service and who shall be appointed directly by the President and shall hold no other office in the Federal service during his tenure as Chairman.

To assure that the Chairman is objective, my bill provides that he will serve exclusively at the pleasure of the President of the United States and that his compensation will be $75 for each day spent in the work of the policy committee.

In addition, the policy committee will have five Federal employee union representatives and five management representatives.

The Federal employee union representatives will be appointed as follows:

Two by the President of the AFL–CIO;

and one each appointed respectively by the President of the Federal employee union representing the first largest, the second largest, and the third largest number of Federal employees subject to this act.

The five employer representatives shall be appointed to the National Wage Policy Committee as follows:

Two management representatives will be appointed by the Secretary of Defense, at least one of whom shall be appointed on a rotational basis for a period of 2 years from the Department of the Army, the Department of the Navy, and the Department of the Air Force;

One management representative from the Veterans' Administration will be appointed by the Administrator of Veterans' Affairs;

One management representative from the Civil Service Commission will be appointed by the Chairman of the Civil Service Commission; and

One management representative will be appointed, on a rotational basis for a period of 2 years, by the Chairman of the Civil Service Commission from Federal agencies which are leading employers of employees subject to this act.

In addition to establishing the National Wage Policy Committee, my bill will require each Federal Department or independent agency designated by the National Wage Policy Committee to establish an Agency Wage Committee, composed of five members. The role of the Agency Wage Committee will be to assure the implementation within the agency of the wage surveys through the functioning of the local wage survey committees.

A most important feature of my bill is the inclusion under its wage rate system of all employees who are now paid from so-called nonappropriated funds. These employees will no longer be considered outsiders to the wage board, or prevailing wage rate system. They will be assured equity and justice in the same manner as if they were receiving their pay from appropriated funds. Certainly, it is improper that an employee should receive less money for his work simply because his employer or manager draws his checks on a different bank account.

As with all legislation, I realize that this bill may emerge in somewhat different form when it is finally enacted. However, on the basis of my experience, I am sure that the final statute will not be very much different in its essentials than the bill which I introduced today.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 2371), to provide an equitable system for fixing and adjust-

ing the rates of compensation of wage board employees, introduced by Mr. Moss, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

S. 2372—INTRODUCTION OF A BILL TO AUTHORIZE IMPROVEMENT OF THE ALASKA HIGHWAY

Mr. METCALF. Mr. President, on behalf of the junior Senator from Alaska (Mr. GRAVEL), I introduce, for appropriate reference, a bill to authorize the appropriation of funds for the improvement of the Al-Can Highway, and ask unanimous consent that a statement by Senator GRAVEL be printed in the RECORD at this point.

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

STATEMENT BY SENATOR GRAVEL

Mr. GRAVEL. Mr. President, I introduce for appropriate reference on my own behalf and on behalf of several senior colleagues a bill to authorize the paving and general improvement of a substantial portion of the Alaska Highway. For many years now there has been a pressing need to link Alaska through a viable and modern overland route with the so-called lower 48 states. There can be little doubt that a paved road, even a partially paved road would result in substantial economic benefit to Alaska, to the Northwestern portion of the lower 48 and to Canada. With national interest in Alaska growing rapidly, tourism already represents a major segment of the Alaskan economy. With a paved highway increasing access to the state, tourism will be an even larger segment of the Alaskan economy in the years ahead.

In addition there will be measurable benefits to commercial carriers, who, like private motorists and casual tourists, will find that a paved road makes for a much cheaper run to and from the state, a run cheap enough to be really feasible and thus to sustain a much heavier flow of commercial traffic.

As my distinguished predecessor, the late Senator Bartlett, observed in commenting on the Inter-American highway in Panama built at a cost of some $35 million to the United States, "If it makes good sense to link the United States and the nations of Central America with a road, if it makes good sense to help governments of these nations by helping build a highway, then it makes eminent good sense to build a better road linking one of our states with another. It makes eminent good sense to help build a toll-free road which will help develop not only our good neighbor to the North but our Northernmost state as well."

In order to encourage Canadian participation in paving the highway, my bill sets up an 80–20 formula for meeting the costs of improvement; that is, that 80% be borne by the U.S. and 20% be borne by Canada. The bill proposes in addition that Canada undertake the general maintenance of the road and the guarantee of rights-of-way.

I would also point out that the bill I am introducing today, in a responsible attempt to meet the immediate needs of the United States, calls for the paving of a particularly vital segment of the highway rather than for the paving of the entire length; this will result, necessarily, in a much lower cost to both countries, but will at the same time establish a precedent for the ultimate improvement of the full length of the road. The paved portion would run from Whitehorse, in the Yukon Territory, over a span of some 300 miles to the Alaska border, from which point the highway is already completely paved both in the direction of Fairbanks and in the direction of Anchorage; also included in the authorization is the paving of the so-called Haines Cut-off, a 160-mile span which will link Haines Junction in the Yukon Territory with Southeastern Alaska and the Marine Highway.

It will thus be possible for a person to drive from Portland, Oregon or Seattle, Washington to Anchorage or Fairbanks without driving even a mile over gravel roads. The 300-mile link from the border to Whitehorse will represent about 30% of the total unpaved portion between Dawson Creek, coming up from Montana, and the Alaska Border in the far Northwest.

Perhaps it is also worth mentioning at this time that beyond the economic justification, in terms of tourism and commercial freight carriers, there is a logistical or defense rationale for the proposals embodied in my bill. Certainly the paving of the Haines Cutoff portion in conjunction with the other segment could provide an important link for the easy overland transportation of men and materiel to our Northwesternmost frontier state—facing, as it does, across the Bering Sea toward the Soviet Union.

Mr. President, I want to take special care to clarify my intentions in proposing this bill; I am *not* wedded to any particular cost-allocation formula in the bill since to do that would be to limit our flexibility in negotiating with the Canadians—and Canadian participation is an absolute essential to the success of this project. I am extremely confident that we can ultimately reach an intelligent accommodation with Ottawa, one which will reflect the budgetary realities that prevail in both countries as well as our more important mutual commitment to the economic improvement and well-being of both nations. My bill is sincerely intended as a first vehicle for the realization, now long overdue, of a vital national goal, and as a stimulus to Canada for a heightened appreciation of the role that this highway might play in her future economic development.

Mr. President, I ask unanimous consent that the full text of my bill be printed at this point in the record.

Mr. METCALF. Mr. President, Senator MANSFIELD and I, for a number of years, have introduced legislation to authorize the improvement of the Al-Can Highway by paving it and making it a permanent road. Our State of Montana is the gateway to Alaska.

This year, the able and distinguished Senator from Alaska (Mr. GRAVEL) has revised and had redrawn the bill that Senator MANSFIELD and I had previously introduced, and as a result, I think he has a better piece of legislation; and it is with a great deal of pleasure that we yield to him the responsibility for the introduction of this measure. I completely concur with the statement that he makes, and urge early and favorable consideration of the bill.

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

The bill (S. 2372), to authorize the appropriation of funds for the construction, reconstruction, and improvement of the Alaska Highway, introduced by Mr. METCALF (for Mr. GRAVEL (for himself and other Senators)), was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there are hereby authorized to be appropriated such sums as may be necessary, to remain available until expended, to enable the United States to cooperate with the Government of Canada in the construction, reconstruction, and improvement of a portion of the Alaska Highway hereinafter specified within the borders of that country.

SEC. 2. Expenditure of the sums herein authorized shall be subject to receipt of satisfactory assurances from the Government of Canada that appropriate commitments have been made by that Government to assume at least one fifth of the expenditures proposed to be incurred henceforth by that country and the United States in the improvement of a portion of the Alaska Highway within the boundaries of Canada, specifically that segment of the highway extending from Whitehorse, Yukon Territory, to the Alaska Boundary, with a connection from Haines Junction, Yukon Territory, to Haines, Alaska.

SEC. 3. The construction work authorized by this Act shall be under the joint administration of the Secretary of Transportation and the Minister of Public Works, or other similar official, of the Government of Canada. The Secretary of Transportation shall consult with the Secretary of State with respect to matters involving the foreign relations of the United States, and such negotiations with the Government of Canada as may be required to carry out the purposes of this Act.

SEC. 4. Construction work to be performed under contract shall be advertised for a reasonable period by the Minister of Public Works, or other similar official, of the Government of Canada, and contracts shall be awarded pursuant to such advertisements with the concurrence of the Secretary of Transportation; but no part of the appropriations authorized in this Act shall be available for obligation or expenditure until the Government of Canada shall have entered into an agreement with the United States which shall provide, in part, that said Government—

(1) will provide, without participation of funds herein authorized, all necessary rights-of-way for the construction of the Alaska Highway, which shall forever be held inviolate as a part of the highway for public use;

(2) will not impose any highway toll, or permit any such toll to be charged, for use by vehicles or persons of any portion of the highway construction under the provisions of this Act;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for use of said highway by vehicles or persons of the United States that does not apply equally to vehicles or persons of such country;

(4) will grant reciprocal recognition of vehicle registration and drivers licenses; and

(5) will provide for the year-round maintenance of the highway, including snow removal, after its completion in condition adequately to serve the needs of present and future traffic.

SEC. 5. The provisions of this Act shall not create or authorize the creation of any obligation on the part of the Government of the United States with respect to any expenditures for highway construction heretofore or hereafter undertaken in Canada, other than the expenditures authorized by the provisions of this Act.

S. 2375—INTRODUCTION OF A BILL TO PERMIT THE ATTORNEY GENERAL TO INSTITUTE CERTAIN ACTIONS FOR THE DESEGREGATION OF PUBLIC EDUCATION

Mr. CASE. Mr. President, on behalf of the Senator from Michigan (Mr. HART) and myself, I introduce a bill to amend the Civil Rights Act of 1964 to authorize

the Attorney General to initiate school desegregation suits based on his finding that discrimination exists in a school district.

This bill is based on the belief that the Government has a positive duty to protect the fundamental rights of all its citizens, particularly when the individual may be financially unable to initiate legal proceedings, when he may be cowed by years of intimidation and harassment, or even when he may be unaware of the existence of his rights.

The Civil Rights Act currently requires that a complaint must be filed and the Attorney General must certify that the complainant is unable to pursue the complaint himself unless it can be proven that the lack of a complaint is due to economic considerations or personal jeopardy.

As the Supreme Court has recognized in its ruling on the so-called "freedom of choice" desegregation plans, these conditions are difficult, and perhaps in most cases impossible, to prove.

Evidence of the handicap that these conditions impose can be seen in the fact that only 26 suits have been initiated by the Justice Department in almost 200 cases in which Federal funds were cut off to Southern and border State school districts which refused to desegregate.

In other words, the Justice Department has been able to initiate legal action against only about one-eighth of the recalcitrant school districts which refused to desegregate even though it meant the loss of Federal aid.

It is always tragic when needed funds are unavailable to educate the youth of our country. But the tragedy is compounded in the case of many school districts which lose Federal assistance because of failure to desegregate.

Most of the Federal money involved is provided under title I of the Elementary and Secondary Education Act. Title I money is designed to "support special educational programs in areas which have a high concentration of low income families."

In the South, low income often means black families, and most of the money has been going to schools attended by black children.

In 88 of the terminated districts for which data is available, 48 percent of the school population is black.

In other words, some white dominated school boards have been willing to defy Federal orders to desegregate because by and large it means loss of funds to black, not white, schools.

For example, Ed Bailey, superintendent of the Sumpter County, Ga., schools said today:

> They (the federal government) are hurting precisely the ones they are trying to help—the Negro children. Not a dollar of that money was going to the white schools.

Sumpter County is one of those in which Federal aid has been cut off.

Bailey is quoted in the Wall Street Journal of April 25, 1969, which also paraphrases him as saying that inquiries around the South indicate that the fund cutoffs are having a disastrous effect on Negro schools while having little effect on predominantly white schools.

W. M. Perrigin, superintendent of schools in Choctaw County, Miss., is quoted in the same article as saying:

> Darn it, it's just not right to penalize the children because we aren't in compliance. If we aren't in compliance, let the courts deal with us.

One school official from a southern district which had had its funds cut off, when interviewed by an ABC newsman, said:

> I don't care what the Federal government does with its money because it went mostly to the (Negro) schools anyway.

I do not mean to imply that the school desegregation program contained in title VI of the Civil Rights Act, with its provision for cutting off funds to districts which refuse to desegregate, is a failure. The fact that 1,112 of the 4,476 southern and border State school districts had submitted desegregation plans under title VI by the end of May shows otherwise.

But it is not enough.

The change we are proposing affects only title IV, not title VI. It will not only strengthen the hand of the Justice Department in dealing with recalcitrant school districts which are willing to forgo Federal aid rather than desegregate, it will also strengthen the enforcement of title VI fund cutoff provisions.

Fewer districts will run the risk of having their Federal aid cut off if there is a greater likelihood in advance that they may be forced to desegregate through court order even after losing their funds.

Recognition of impediments to effective enforcement of the Civil Rights Act imposed by the conditions which must be met before the Attorney General can file a suit is not new. Although this bill is not being introduced at the request of the Justice Department, the Department itself recommended similar legislation in testimony on proposed amendments to the Civil Rights Act of 1966.

At that time the Attorney General said:

> The requirement that there be a written complaint and that the complainant be unable to bring suit has proven to be an obstacle to the 1964 statutory objective of furthering the orderly achievement of desegregation. The requirement is impractical, since deprived Negroes are often unfamiliar with the requirement that the complaint be in writing or that a complaint must be filed with the Attorney General at all. And in some places intimidation or fear of reprisals prevents persons seeking to exercise their rights from filing a complaint. Thus, it is often true that these restrictions prevent the Attorney General from acting in the very areas where there is the greatest need.

Actually, authority for the Government to act to protect a citizen's rights without requiring the filing of a complaint is incorporated in some of the other provisions of the Civil Rights Act itself. For example, the Attorney General is authorized under title VII of the act to file suit on his own initiative if he has reasonable cause to believe that a pattern or practice of discrimination in employment exists. Surely an individual's right to equal educational opportunity is entitled to no less protection than his right to equal employment opportunity.

Mr. President, the Senator from Michigan and I urge favorable consideration of this bill to strengthen enforcement of equal educational opportunities for all our citizens.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

The bill (S. 2375), to amend section 407 of the Civil Rights Act of 1964 to permit the Attorney General to institute upon his own motion certain actions for the desegregation of public education, introduced by Mr. CASE (for himself and Mr. HART), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 2375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the portion of section 407(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000c–6) which precedes the word "provided" contained in the first sentence thereof is amended to read as follows:

"SUITS BY THE ATTORNEY GENERAL

"SEC. 407. Whenever the Attorney General determines on the basis of his investigations—

"(1) that children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

"(2) that any individual or individuals have been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin,

and the Attorney General certifies that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section,".

(b) Subsection (b) and subsection (c) of section 407 of that Act are repealed.

S. 2380—INTRODUCTION OF A BILL TO PERMIT ALL COMPENSATION PAID AT REGULAR RATES TO CERTAIN EMPOYEES OF THE ALASKA RAILROAD TO BE INCLUDED IN THE COMPUTATION OF THEIR CIVIL SERVICE RETIREMENT ANNUITIES

Mr. STEVENS. Mr. President, today I am introducing a bill that will allow all compensation at regular rates to be used in figuring civil service retirement annuities for trainmen and enginemen of the Alaska Railroad.

Under the present method of civil service compensation, hours worked in excess of 40 hours per week are not subject pay for retirement purposes. However, the trainmen and enginemen of the Alaska Railroad are paid under the mileage system in which a 12½-mile run equals 1 hour of pay.

Because of the system, the trainmen and enginemen make comparable salary, but in many cases must work more than 40 hours a week to do so. By using the 40 hours to figure subject pay, for retirement purposes, these men are being deprived of their right to a proper retirement annuity.

Mr. President, my bill will rectify this situation and allow the trainmen and enginemen to receive proper credit of their wages toward retirement benefits.

I ask unanimous consent that the bill be printed at this point in the RECORD.

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

The bill (S. 2380), to permit all compensation paid at regular rates to certain employees of the Alaska Railroad to be included in the computation of their civil service retirement annuities, introduced by Mr. STEVENS, was received, read twice by its title, referred to the Committee on Post Office and Civil Service, and ordered to be printed in the RECORD, as follows:

S. 2380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (3) of section 8331 of title 5, United States Code, is amended—

(1) by striking out the word "and" at the end of subparagraph (B) (ii);

(2) by inserting the word "and" at the end of subparagraph (C);

(3) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) All compensation paid at straight time, regular rates and received by an employee of The Alaska Railroad who is paid under a dual system based on both hours and mileage;" and

(4) by striking out the phrase "subparagraphs (B) and (C)" and inserting in lieu thereof the following: "subparagraphs (B), (C), and (D)".

S. 2383—INTRODUCTION OF A BILL TO EXEMPT CERTAIN ADDITIONAL PERSONS FROM THE REQUIREMENTS AS TO UNDERSTANDING THE ENGLISH LANGUAGE BEFORE THEIR NATURALIZATION AS CITIZENS OF THE UNITED STATES

Mr. YARBOROUGH. Mr. President, I introduce, for appropriate reference, a bill to amend the Immigration and Nationality Act to exempt individuals who are 50 years of age, and who have resided in the United States for 20 years, from the English language requirement for citizenship.

A similar measure was included in the 1952 act, but it exempted only persons who qualified as of December 24, 1952. Thousands of worthy people who were born after 1902, or who came to this country after 1932, were arbitrarily excluded.

The exclusion is an unnecessary barrier to the achievement of citizenship by many old people who intensely desire to become citizens. They have usually been good and productive members of society for 20 years. Often they have raised families of children who are American citizens.

All that stands between these old people and citizenship is the requirement that they be able to speak, read, and write English.

A young immigrant, with all of our educational facilities open to him at a time when he is most capable of learning, can reasonably be expected to acquire an adequate knowledge of English. If he does so, and meets the other requirements, he can become a citizen in only 5 years.

There are thousands of people, however, whose age presents special barriers to attaining English literacy. Often these people have sacrificed their own advantage in order to give their children the education which they lack themselves. Whether or not they speak English, however, 20 years of residence and maturity of judgment ought to qualify these people for the citizenship which most of them so strongly desire.

This legislation is primarily a humane measure. It is not only because this country could gain worthy and useful citizens that we should consider it. It is because there are thousands of aged persons in this country who love it as faithfully as you and I do. Their children and grandchildren were born here. And they are prevented by the present law from living their last years as American citizens. It is almost impossible for us in this Chamber to understand what citizenship means to these people, but it is a matter of humanity for us to make it possible for them.

This legislation is not a new departure. The 82d Congress accepted the principle, but they limited the effect. This bill would not suspend the other requirements for citizenship; these people would still have to show knowledge of the forms and traditions of our Government. What my bill would do would be to apply the former precedent and to perform an act of kindness to thousands of noncitizens.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

The bill (S. 2383), to amend section 312 of the Immigration and Nationality Act to exempt certain additional persons from the requirements as to understanding the English language before their naturalization as citizens of the United States, introduced by Mr. YARBOROUGH, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 2383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first proviso contained in paragraph (1) of section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended by striking out "or to any person who, on the effective date of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years" and by inserting in lieu thereof the following: "or to any person who, on the date of the filing of his petition for naturalization as provided in section 334 of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years".

S. 2385 AND S. 2386—INTRODUCTION OF BILLS TO EXPAND ECONOMIC OPPORTUNITIES FOR AMERICA'S MINORITY CITIZENS

Mr. BROOKE. Mr. President, a year and a half ago, when the National Advisory Commission on Civil Disorders submitted its report, there were about 2 million unemployed and 10 million underemployed Americans. Of those 10 million, 6.5 million earned less than the annual poverty wage. The Commission rightly observed:

> The pervasive effect of these conditions on the racial ghetto is inextricably linked to the problem of civil disorders.

One year later, Urban America and the Urban Coalition report little progress. Despite the fact that as a general result of expansion in the economy, employment and income are rising in ghetto areas, the fact still remains that Negro family income in the cities is 68 percent of white family income. Negro college graduates earn only 74 percent of white college graduate incomes. A Negro college graduate can expect to make only $13 more per year than a white high school graduate.

In a word, inequities remain. And these inequities are not based on skill differentials or lack of motivation; they are largely the result of conscious or unconscious racial discrimination.

Many serious efforts have been made in recent years to overcome these inequities. There is scarcely a large company in America which does not have a special program for hiring and training minority employees. Police departments and fire departments across the Nation are looking for minority recruits. Colleges and universities are offering special scholarships for ghetto residents, and generally providing some kind of compensatory education program as well.

But two barriers to minority economic progress remain. The first of these, paradoxically and inexcusably, is in the area of equal employment by Federal, State, and local governments. The second pertains to the expansion and encouragement of minority entrepreneurship.

Last year the Civil Disorders Commission recommended as a first step in opening the existing job structure that title VII of the 1964 Civil Rights Act be expanded to cover the hiring practices of Federal, State, and local government agencies. As presently written, this title covers private businesses or other employers with 25 or more employees, as well as labor unions and employment agencies. It does not cover Government agencies and departments, where a black man in a position of responsibility is a rare sight indeed. If Government would seek to set the tone for race relations in this country, if it would strive to eliminate discrimination in business and com-

merce and industry, it would seem to me that a primary goal should be to eliminate discrimination within its own province.

For this reason, I introduce on behalf of myself and Senators CASE, COOPER, HATFIELD, HARTKE, JAVITS, and PERCY, a bill to amend title VII of the Civil Rights Act of 1964 to provide for the application of such title to State and Federal employers. I ask unanimous consent that the full text of the bill be printed at this point in the RECORD.

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

The bill (S. 2385), to amend the Small Business Act to apply an acceptable credit risk standard for loans to small business concerns in certain high-risk areas, introduced by Mr. BROOKE (for himself and other Senators), was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

S. 2385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(a) of the Small Business Act is amended by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) All loans under this subsection shall be of such sound value or so secured as reasonably to assure repayment; except that the Administration may waive the foregoing requirement in the case of any small business concern situated in a high-risk area, if the Administration determines that such concern is an acceptable credit risk considering the availability of counseling and related services under this Act, and the need to preserve the development of small business enterprise in such areas in furtherance of the purposes of this Act and in the public interest. For the purposes of this paragraph, the term 'high-risk area' means an area, designated by the Administrator, in which (A) there is a relatively large number of families having incomes below the national average, and (B) there is a relatively high incidence of business failures or removals from the area by small business concerns."

Mr. BROOKE. Mr. President, the second measure which I introduce today would revise the standard under which loans are made to small businesses in high-risk areas. This, too, was a recommendation of the Civil Disorders Commission; but the need for special attention to the development of minority businesses was made even clearer by subsequent findings published in the report, "One Year Later." According to the Urban Coalition and Urban America, blacks own and operate less than 1 percent of the nearly 5 million private businesses in the country. These typically are marginal businesses. Of 14,000 banks in America, blacks own only 20. The 50 small black insurance companies hold only 0.2 percent of the industry's total assets. The study also estimates that an appalling 98 percent of black income is spent outside the black community.

Clearly, we are not dealing with an ordinary situation, in which ordinary standards for loans can be applied. It is one thing for the Administrator of the Small Business Administration to state that his objective is to "help increase the strength and the effectiveness of small business," so that our economy will not be taken over by a few large concerns. This is a worthy goal. It is also important, as recent events have made clear, to check applications for loans carefully and to make them available on a sound fiscal basis.

But I submit that the Small Business Administration is more than an economic agency; it is a social agency as well. The minority business program, once known as Project Own, and now termed Operation Mainstream, has been charged with the specific responsibility for increasing loans to ghetto areas, while simultaneously providing management assistance and other types of advice.

In April of this year, an interesting memo was circulated to all members of Congress from the Assistant Administrator of the Small Business Administration. In this communication, the Members of Congress were told that the Small Business Administration was "delighted" to announce a liberalization of the disaster loan program. At the same time, a note of caution and regret was expressed that the new criteria were "not as liberal" as some have advocated.

Mr. President, there is a definite need for our Government to be able to move swiftly and efficiently to make assistance available to Americans facing uninsured losses as a result of natural disasters. But I submit that there is no greater or more prevailing disaster facing this Nation today than the disaster which keeps 20 million Americans in a state of economic servitude to the larger community, which deprives them, through lack of education and opportunity, of the right to develop their own businesses to hire people of their own choosing, and to make their dollars truly work for them.

Economic development in the central cities, including especially a priority for the Small Business Administration, for this administration, and for the Nation. It is for this reason that I introduce, on behalf of myself and Senators CASE, COOPER, HATFIELD, HARTKE, and JAVITS, a bill to amend the Small Business Act to apply an acceptable credit risk standard for loans to small business concerns in certain high-risk areas.

The Small Business Act presently requires that loans extended by the Small Business Administration be of such sound value or so secured as reasonably to assure repayment. I believe that in addition the Small Business Administration should be authorized to finance higher risk ventures in low-income areas as a means of preserving and encouraging the development of small-business enterprise in locations where such development is highly desirable. The bill I propose would authorize the Small Business Administrator to designate as "high-risk areas" those sections in which there is a relatively large number of families having incomes below the national average, and where there is a relatively high incidence of business failures or removals from the area by small-business concerns. The Small Business Administration would then be able to identify acceptable credit risks in ghetto areas, but without reference to the more rigid standards ordinarily applicable to SBA loans.

I ask unanimous consent that the full text of this measure be printed at this point in the RECORD.

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

The bill (S. 2386), to amend title VII of the Civil Rights Act of 1964 to provide for the application of such title to State and Federal employees, introduced by Mr. BROOKE (for himself and other Senators), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 2386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 701(a) of the Civil Rights Act of 1964 is amended by inserting "a Federal agency, a State or political subdivision of a State, and" after "includes".

(b) Section 701(b) of the Civil Rights Act of 1964 is amended (1) by inserting "a Federal agency, a State or political subdivision of a State, and" after "means", and (2) by striking out "the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or a State or political subdivision thereof," and substituting "an Indian tribe,".

(c) Section 701(c) of the Civil Rights Act of 1964 is amended by striking out all after "such a person;" and substituting "and such term shall include the system of State and local employment services receiving Federal assistance.".

(d) Section 701 of the Civil Rights Act of 1964 is amended by inserting the following new subsection at the end thereof:

"(k) The term 'Federal agency' means any department, agency, or instrumentality of the executive branch of the Government of the United States, any independent agency or instrumentality of the Government of the United States, and any corporation wholly owned by the Government of the United States."

(e) Title VII of the Civil Rights Act of 1964 is amended by adding the following new section at the end thereof:

"ENFORCEMENT IN CASES AGAINST FEDERAL AGENCIES

"SEC. 717. The President is authorized to take such action as may be necessary (1) to conform equal employment opportunity practices within Federal agencies with the policies of this title, and (2) to provide that any Federal employee aggrieved by any unlawful employment practice must exhaust administrative remedies prescribed by Executive order or regulations governing equal employment opportunity practices within Federal agencies prior to seeking relief under the provisions of this title. In the case of any unlawful employment practice by a Federal agency, the Commission may request the President to take such action as he deems appropriate to obtain compliance with this title. None of the other provisions of this title setting forth an administrative or judicial means of enforcement of this title shall be applicable to Federal agencies or any officers or employees thereof."

S. 2387—INTRODUCTION OF A BILL TO FACILITATE REPRESENTATION OF PERSONS HAVING CLAIMS AGAINST THE UNITED STATES BY LEGAL COUNSEL OF THEIR OWN CHOOSING

Mr. McCLELLAN. Mr. President, I introduce, for appropriate reference, a bill to facilitate representation of persons having claims against the United States by legal counsel of their own choosing.

In both the 89th and 90th Congresses the Senate unanimously passed bills—S. 1522 of the 89th Congress and S. 1073 of the 90th Congress—introduced by me for the removal of arbitrary limitations upon attorneys' fees for services rendered in proceedings before administrative agencies of the United States. No final action on either of these bills was taken by the House of Representatives, but late in the second session of the last Congress, the House Committee on the Judiciary reported S. 1073, with an amendment in the nature of a substitute. The bill which I am introducing today is substantially the measure reported by the House Judiciary Committee last year.

Section 1 of the bill provides for the repeal of section 2678 of title 28 of the United States Code, which is the section of the code which presently limits attorneys' fees in Federal tort claims cases. This section would remove the fixed limits now in the law so that the attorneys' fees will be fixed in the same manner as it is in tort litigation between private parties.

Section 2 of the bill provides a standard procedure for supervising and approving attorneys' fees for services rendered in connection with claims before specified agencies and departments of the Federal Government. These new procedures for determining attorneys' fees would apply to: First, the Secretary of Health, Education, and Welfare under title II of title XVIII of the Social Security Act, second, the Administrator of Veterans' Affairs under title 38 of the United States Code, third, the Foreign Claims Settlement Commission under any provision of law administered by that Commission, fourth, the Secretary of Labor with respect to the Federal employees compensation provisions of title 5 of the United States Code, fifth, the Railroad Retirement Board under the Railroad Unemployment Insurance Act, and sixth, the President or his delegate under the Trading With the Enemy Act.

The procedures in this bill for agency review of reported fees provide that a fee may be questioned if an agency "finds cause to inquire as to whether a fee is excessive" or improperly reported. After the attorney has had an opportunity to supply additional data and confer with agency representatives, the agency may determine a "maximum" fee. The bill reported last year by the House committee provided that in order to question a fee, the agency must initially make a finding that the reported fee was excessive and set a reasonable fee.

Section 3 of the bill contains provisions relating to the review and enforcement of limitations on attorneys' fees. These include provisions concerning jurisdiction in the Federal district courts, venue, actions for determination of reasonable attorneys' fees, the form of evidence to be considered by the court, and judgment by the court in such actions.

Sections 4 through 11 of the bill amend existing law so as to incorporate the new procedures specified in this legislation.

Section 6 is of particular interest since it reflects a substantial change in the provisions on this subject reported by the House committee with respect to veterans claims processed by the Veterans' Administration. This bill preserves the existing $10 limitation on "original claims" for Veterans' Administration benefits. Attorneys could be retained at fees subject to Veterans' Administration review, as provided in section 2 of the bill, only after a claim had been disallowed by that agency. Implicit in this change is the recognition that, in normal circumstances, there is no necessity for an attorney at the first stage of a claim for Veterans' Administration benefits. However, once a claim has been disallowed an attorney may be desired by the claimant in appealing the denial of a claim for benefits. It should be stressed that this bill does not seek to affect in any way the present system of representation of veterans by the various veterans organizations. The legislation would merely make it possible to obtain counsel in those cases where it appears to the claimant that legal counsel would be helpful or desirable.

When I originally introduced legislation on this subject in the 89th Congress I stated that I did so "to correct what I consider to be inequities in the allowance of attorneys' fees in proceedings before certain administrative agencies. Many of the existing limitations are a direct outgrowth of the depression years. The maximum amount now allowable reflects the general attitude of that time." I have worked closely with the American Bar Association in the preparation of the successive versions of this legislation. I hope that by introducing in this Congress a bill which is substantially similar to that reported by the House Judiciary Committee last year it may be possible to secure final action on this legislation during this session. I believe that the bill effects a proper balance of the interests of all parties concerned, namely, the individual claimant under a Federal statute, his private lawyer, and the Government.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 2387), to facilitate representation of persons having claims against the United States by legal counsel of their own choosing, introduced by Mr. McCLELLAN, was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 2388—INTRODUCTION OF A BILL TO PROVIDE PROCEDURES FOR CALLING CONVENTIONS FOR PROPOSING AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES

Mr. HATFIELD. Mr. President, article V of the Constitution reads as follows:

> The Congress, . . . on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, . . . shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; . . .

This method of proposing amendments has never been used, although more than 200 applications for a constitutional convention have been made to the Congress by State legislatures.

The pace of applications by the States for constitutional conventions has substantially increased over the last two decades. The applications most energetically urged have been those seeking to limit or abolish the Federal income tax; to undo the one-man, one-vote decision; and to amend article V to make it easier for the States to obtain amendments to the Constitution.

It seems likely the requisite number of applications on some issue will eventually be filed. But the Constitution lacks the specificity necessary for Congress to determine when, in fact, two-thirds of the State legislatures have applied for a constitutional convention. In other words, there are certain basic questions that are not answered in the Constitution, thus making it rather difficult for a State to successfully pursue a constitutional amendment by way of the convention route. Typical of such unanswered questions are: whether or not the requisite number of States must request a convention for the purpose of considering the identical proposed amendment and the specific time limit within which the requisite number of applications must be filed with Congress so that the Congress is compelled to call for a convention. In the bill I now offer, procedural steps are set forth, which are directed toward resolving such ambiguous issues.

Specific guidelines for proposing amendments to the Constitution are most essential, not only for the reasons earlier enunciated, but also to curb the growing fear that our long-lived Constitution would be totally abolished by way of a constitutional convention. This, too, is a most serious concern.

I introduce this bill to provide procedures for calling conventions for proposing amendments to the Constitution of the United States, on application of the legislatures of two-thirds of the States, pursuant to article V of the Constitution. I ask unanimous consent that an analysis of the bill and the bill be printed in the RECORD.

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

The bill (S. 2388), to provide procedures for calling conventions for proposing amendments to the Constitution of the United States, on application of the legislatures of two-thirds of the States, pursuant to article V of the Constitution, introduced by Mr. HATFIELD, was received, read twice by its title, referred to the Committee on the Judiciary,

and ordered to be printed in the RECORD, as follows:

S. 2388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Constitutional Convention Act."

APPLICATIONS FOR CONSTITUTIONAL CONVENTION

SEC. 2. The legislature of a State, in making application for a constitutional convention under article V of the Constitution of the United States, shall, after adopting with the approval of the Governor of the State a resolution pursuant to this Act, petition the Congress stating, in substance, that the legislature requests the calling of a convention for the purpose of proposing one or more amendments of a particular nature to the Constitution of the United States and stating the specific proposed amendment or amendments to be proposed.

APPLICATION PROCEDURE

SEC. 3. (a) The State legislature, with the approval of the Governor, shall adopt rules of procedure for the purpose of adopting or rescinding a resolution pursuant to section 2.

(b) Questions concerning the State legislative procedure and the validity of the adoption of a State resolution cognizable under this Act shall be determined by the State legislature, subject to review by a court of competent jurisdiction.

TRANSMITTAL OF APPLICATIONS

SEC. 4. (a) Within sixty days after a resolution to apply for the calling of a constitutional convention is adopted by the legislature of a State, the secretary of state of the State, or if there be no such officer, the person who is charged by the State law with such function, shall transmit to the Congress of the United States two copies of the application, one addressed to the President of the Senate, and one to the Speaker of the House of Representatives, and shall transmit to the President of the United States one copy thereof.

(b) Each copy of the application so made by any State shall contain—

(1) the title of the resolution,

(2) the exact text of the resolution, signed by the presiding officer of each house of the State legislature and by the Governor of the State, and

(3) the date on which the legislature adopted the resolution; and shall be accompanied by a certificate of the secretary of state of the State, or such other person as is charged by the State law with such function, certifying that the application accurately sets forth the text of the resolution.

(c) Upon receipt of a copy of any such application, the President of the Senate and Speaker of the House of Representatives shall cause copies to be made thereof and shall forthwith send a copy thereof to the Governor and the presiding officer of each House of the legislature of every other State.

EFFECTIVE PERIOD OF APPLICATIONS

SEC. 5. (a) An application submitted to the Congress by a State pursuant to this Act, unless sooner rescinded by the State legislature, shall remain effective for four calendar years after the date it is received by the Congress, except that whenever the Congress determines that within a period of four calendar years two-thirds or more of the several States have each submitted an application calling for a constitutional convention on the same subject all such applications shall remain in effect until the Congress has taken action on a concurrent resolution, pursuant to section 8, calling for a constitutional convention.

(b) A State may rescind its application calling for a constitutional convention by adopting and transmitting to the Congress a resolution of rescission in conformity with the procedure specified in sections 3 and 4, except that no such rescission shall be effective as to any application made for a constitutional convention with respect to any specific proposed amendment after the date on which two-thirds or more of the State legislatures have applications pending before the Congress seeking amendments on that proposed amendment.

CALLING OF A CONSTITUTIONAL CONVENTION

SEC. 6. (a) It shall be the duty of the Secretary of the Senate to maintain a record of all applications received by the President of the Senate, and it shall be the duty of the Clerk of the House of Representatives to maintain a tabulation of all applications received by the Speaker of the House of Representatives from the States for the calling of a constitutional convention with respect to each specific proposed amendment. Whenever the Secretary of the Clerk has reason to believe that such applications made by two-thirds or more of the Senate with respect to a specific proposed amendment are in effect, he shall so report in writing to the officer to whom those applications were transmitted, and such officer thereupon shall announce upon the floor of the House of which he is an officer the substance of such report. Pursuant to such rules as such House may adopt, it shall be the duty of such House to determine whether the recitation contained in any such report is correct. If either House of the Congress determines, upon a consideration of any such report or of a concurrent resolution agreed to by the other House of the Congress, that there are in effect applications made by two-thirds or more of the States for the calling of a constitutional convention upon the same specific proposed amendment, it shall be the duty of that House to agree to a concurrent resolution calling for the convening of a Federal constitutional convention upon that subject. Each such concurrent resolution shall (1) designate the place and time of meeting of the convention; (2) set forth the text of the specific proposed amendment or amendments for the consideration of which the convention was called; (3) prescribe the time within which any amendment or amendments proposed by such convention must be ratified by the legislatures of three-fourths of the States with the approval of the governors thereof or be deemed inoperative; and (4) specify the manner in which such amendment or amendments shall be ratified in accordance with article V of the Constitution. A copy of each such resolution agreed to by both House of the Congress shall be transmitted forthwith to the governor and to the presiding officer of each house of the legislature of each State.

(b) The convention shall be convened not later than one year after the adoption of the resolution.

DELEGATES

SEC. 7. (a) A convention called under this Act shall be composed of as many delegates from each State as it is entitled to Representatives in the Congress. Each delegate shall be elected by the people of the State in the manner provided by State law. Alternate delegates, in the number established by State law, shall be elected at the same time and in the same manner. Any vacancy occurring in the State delegation shall be filled by appointment of one of the alternate delegates in the manner provided at the time of his election as an alternate delegate. Each alternate delegate shall be entitled to take part in the proceedings of the convention, but no alternate delegate may cast any vote in the convention unless he is appointed a delegate.

(b) The secretary of state of each State, or, if there be no such officer, the person charged by State law to perform such function shall certify to the Vice President of the United States the name of each delegate and alternate delegate elected pursuant to this section.

(c) Delegates shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at a session of the convention, and in going to and returning from the same; and for any speech or debate in the convention they shall not be questioned in any other place.

(d) Each delegate and each alternate delegate shall receive compensation at the rate of $50 per day for each day of service and shall be compensated for traveling and related expenses in accordance with the provisions of sections 5701–5702 and 5704–5798, inclusive, of title 5 of the United States Code. The convention shall fix the compensation of employees of the convention.

CONVENING OF CONVENTION

SEC. 8. (a) The Vice President of the United States shall convene the constitutional convention. He shall administer the oath of office of the delegates to the convention and shall preside until the delegates elect a presiding officer who shall preside thereafter. Before taking his seat each delegate shall subscribe an oath not to attempt to change or alter any section, clause or article of the Constitution or propose additions thereto which have not been specified in the resolution calling the convention. Upon the election of permanent officers of the convention, the names of such officers shall be transmitted to the President, the President of the Senate, and the Speaker of the House of Representatives by the elected presiding officer of the convention. Further proceedings of the convention shall be conducted in accordance with such rules, not inconsistent with this Act, as the convention may adopt.

(b) The Congress shall appropriate moneys for the payment of all expenses of the convention.

(c) Under such regulations as the President shall prescribe, the Administrator of General Services shall provide such facilities, and each executive department and agency shall provide such information, as the convention may require upon written request made by the elected presiding officer of the convention.

PROCEEDINGS OF CONVENTION

SEC. 9. (a) In voting on any question before the convention each delegate shall have one vote. A majority of the elected delegates to the convention shall constitute a quorum for the transaction of business.

(b) The convention shall keep a daily verbatim record of its proceedings and publish the same. The votes of the delegates on any question shall be entered on the record.

(c) The convention shall terminate its proceedings within one year after the date of its first meeting unless the period is extended by the Congress by concurrent resolution.

(d) Within thirty days after the termination of the proceedings of the convention, the presiding officer shall transmit to the Archivist of the United States all records of official proceedings of the convention.

PROPOSAL OF AMENDMENTS

SEC. 10. (a) Except as provided in subsection (b) of this section, a convention called under this Act may propose amendments to the Constitution by a majority of the total votes cast on the question.

(b) No convention called under this Act may propose any specific amendment or specific amendments other than the specific amendment or specific amendments set forth

in the concurrent resolution calling the convention. The district court of the United States for the District of Columbia shall have jurisdiction to hear and determine any controversy arising under this subsection.

APPROVAL BY THE CONGRESS AND TRANSMITTAL TO THE STATES FOR RATIFICATION

SEC. 11. (a) The presiding officer of the convention shall, within thirty days after the termination of its proceedings, submit the exact text of any amendment or amendments agreed upon by the convention to the Congress for approval and transmittal to the several States for their ratification.

(b) Upon the expiration of the first period of three months of continuous session of the Congress following the receipt of any proposed amendment by the Congress, the President of the Senate and the Speaker of the House of Representatives, acting jointly, shall transmit such proposed amendments to the Administrator of General Services for submission to the States.

(c) Upon receipt of any such amendment or amendments, the Administrator of General Services shall transmit exact copies of the same, together with his certification thereof, to the governors and the legislatures of the several States.

RATIFICATION OF PROPOSED AMENDMENTS

SEC. 12. Any amendment proposed by the convention and submitted to the States in accordance with the provisions of this Act shall be valid for all intents and purposes as part of the Constitution of the United States when duly ratified within four years after the date of the transmittal thereof to the States by three-fourths of the States. Ratification thereof by each State shall require a majority vote of each House of the legislature and the approval of the governor, or the affirmative vote of two-thirds of the members of each House of the legislature.

TRANSMITTAL OF RATIFICATIONS

SEC. 13. The secretary of state of the State, or if there be no such officer, the person who is charged by State law with such function, shall transmit a certified copy of the State resolution ratifying any proposed amendment to the Administrator of General Services.

RESCISSION OI RATIFICATIONS

SEC. 14. (a) Any State may rescind its ratification of a proposed amendment except that no State may rescind when there are existing valid ratifications of such amendment by three-fourths of the States.

(b) Any State may ratify a proposed amendment even though it previously may have rejected the same proposal.

(c) The district court of the United States for the District of Columbia shall have jurisdiction to hear and determine all questions relating to the validity of any proposal or the rescission of any proposal for the calling of a constitutional convention, or to the validity of the ratification, rescission, or rejection of any amendment proposed to the Constitution of the United States. In any action instituted in that court under this section or under section 10 of this Act, the process of that court may be served in any judicial district of the United States.

DISQUALIFIED STATES

SEC. 15. Whenever the apportionment of membership in either House of the Legislature of a State shall have been finally determined by a court of competent jurisdiction to be in violation of the guaranty of equal protection of the laws contained in the Fourteenth Article of Amendment to the Constitution, that State shall not be eligible to propose the calling of a constitutional convention, to elect delegates to any constitutional convention, or to ratify any proposed amendment to the Constitution, until such time as membership in such House shall have been reapportioned in a manner not inconsistent with such guaranty.

PROCLAMATION OF CONSTITUTIONAL AMENDMENTS

SEC. 16. The Administrator of General Services, when three-fourths of the several States have ratified a proposed amendment to the Constitution of the United States, shall issue a proclamation proclaiming the amendment to be a part of the Constitution of the United States.

EFFECTIVE DATE OF AMENDMENTS

SEC. 17. An amendment proposed to the Constitution of the United States shall be effective from the date on which the legislature of the last State necessary to constitute three-fourths of the legislatures of the United States, as provided for in article V, has ratified the same.

The material presented by Mr. HATFIELD follows:

ANALYSIS OF THE BILL

Sec. 1 states the title to be the "Federal Constitutional Convention Act."

Sec. 2 provides for the State Legislature, with the approval of the Governor, to submit applications to the Congress requesting the calling of a Constitutional Convention.

Sec. 3 permits the State Legislature to adopt rules of procedure for the purpose of complying with Sec. 2, subject to review by a court of competent jurisdiction.

Sec. 4 specifies that: the application calling for a convention should be transmitted from the State to the Congress within 60 days; certain data must be included therein; and, Congress should send copies of such to each other state.

Sec. 5 provides that the requisite number of applications for calling a convention must be filed within four years and prior to the receipt of such number of applications a state may rescind its application.

Sec. 6 provides that the Congress is required to call for a constitutional convention upon its determination that the requisite number of applications have been received. Upon such determination, the place and time of the convention is designated, but such shall convene within one year after such determination.

Sec. 7 provides that delegates and alternates to the convention are to be elected by the people in the manner provided by state law and a state's delegation must be equivalent, in number, to its Representatives in the Congress. This section also provides for the method of certification, privilege from arrest, and compensation of the delegates and alternates.

Sec. 8 provides that the Vice-President of the U.S. shall convene the convention and preside until permanent officers are elected. The Congress and President are respectively required to appropriate moneys and facilities for the convention.

Sec. 9 provides that each delegate shall have one vote and a majority of the delegates shall constitute a quorum. The convention shall terminate within one year after the date of its first meeting unless the period is extended by Congress.

Sec. 10 provides that amendments may be proposed to the Constitution by a majority of the total votes cast on the question. Only the specific amendments set forth in the concurrent resolution calling the convention may be proposed.

Sec. 11 provides for the approval of proposed amendments by the Congress and transmittal of such to the States for ratification.

Sec. 12 provides that ratification must be within four years, by three-fourths of the States. Ratification shall be by a majority vote of each House of the State Legislature and the approval of the governor, or the affirmative vote of two-thirds of the members of each House of the legislature.

Sec. 13 provides that transmittal of state ratifications shall be transmitted to the Administrator of General Services.

Sec. 14 provides that a State may rescind its ratification and may ratify a proposed amendment even though it had earlier rejected the same.

Sec. 15 provides that a State Legislature that is determined to be malapportioned shall not participate in the convention or ratification process.

Sec. 16 provides for proclamation of Constitutional Amendments.

Sec. 17 indicates the effective date of the Amendments.

S. 2391—INTRODUCTION OF THE ENVIRONMENTAL QUALITY IMPROVEMENT ACT OF 1969

Mr. MUSKIE. Mr. President, on behalf of myself, Mr. RANDOLPH and Messrs. BAKER, BAYH, BIBLE, BOGGS, BROOKE, BURDICK, BYRD of West Virginia, COOPER, COTTON, CRANSTON, DODD, EAGLETON, ERVIN, FONG, GOODELL, GORE, GRAVEL, HARRIS, HARTKE, HOLLINGS, INOUYE, JAVITS, KENNEDY, MCCARTHY, MONDALE, MONTOYA, NELSON, PACKWOOD, PELL, PERCY, PROXMIRE, RIBICOFF, SCOTT, SPONG, TALMADGE, THURMOND, WILLIAMS of New Jersey, YARBOROUGH, and YOUNG of Ohio, I introduce the Environmental Quality Improvement Act of 1969—S. 2391.

Since its formation in 1963, the Subcommittee on Air and Water Pollution of the Senate Committee on Public Works has presented legislation designed to combat the degradation of our environment.

Of the many threats to civilization, deteriorating environmental quality must be placed among the major concerns of civilized man, along with war, hunger, disease, poverty, racial antagonisms, and crime. There are "environmental rights," just as there are social, economic, and civil rights and freedoms.

Environmental degradation has long been associated with the misuse and abuse of resources. Slashed forests, polluted streams, overgrazed grasslands, belching smokestacks, and open dumps have been visual reminders of our carelessness.

Any concept of the environment—air, water, or land—as an infinite reservoir, with an infinite capacity to dilute, disperse, and assimilate waste is outmoded and irresponsible. Our resources are limited, and we have overdrawn our bank account.

As we have pushed back the frontiers of scientific knowledge and devised technologies to apply that knowledge, we have multiplied our opportunities for material wealth and comfort. We have increased our capacity to manipulate the environment. In the process we have multiplied our impact on the environment. Through the misapplication of technology we have disrupted that environment.

We need to use political, economic, and social leadership to improve the quality of life, not to destroy it. We need to make technology serve man, not endanger him. We need to conserve our planet and the complex life systems which make it habitable, not disturb its balances for the sake of short-term economic gains.

During the last 6 years the Subcommittee on Air and Water Pollution has been instrumental in taking major steps in this Nation's efforts to protect the health and welfare of our citizens. Our work has resulted in the Clean Air Act of 1963, and the 1965 and 1966 amendments; the Air Quality Act of 1967; the Water Quality Act of 1965; the Clean Water Restoration Act of 1966; and the Solid Waste Disposal Act of 1965. Those acts have helped to form a national environmental policy.

The basis for the legislation is a strong Federal-State-local partnership. The States have the primary responsibility to protect and enhance the quality of air and water within their boundaries, and, in cooperation with other States, to protect and enhance the quality of air and water within resource areas common to those States. The Federal Government has the authority to act where States fail to fulfill their obligations.

The laws also provide Federal support for improved organization of State and local abatement programs, planning activities, and the research, development, and demonstration of new control technologies. The programs authorized under the acts are designed to reduce discharges into the atmosphere and public waterways. But they are limited by the effectiveness of existing technology and by the outmoded philosophy of waste disposal rather than waste management and reduction.

The Water Quality Improvement Act of 1969 and the Resource Recovery Act of 1969 are designed, in part, to shift the focus to waste management and reduction as the most effective guarantee of environmental improvement.

Our continued efforts to modify and improve pollution control programs reflect the fact that we have only recently begun to understand the importance of the environment to the human condition. We are only beginning to comprehend the magnitude of the real costs we are paying for the crowding, the fumes, the clutter, the noise, and the wasteful and monotonous sprawl of the great metropolitan concentrations where most Americans now live.

The subcommittee and the Congress are pledged to a national policy of enhancement of environmental quality, a policy based on the concept that man and his environment are interrelated and that a safe environment is necessary to the improvement of living standards for all men.

The environment we pass on to our children must reflect not our ability to define the problem, but our determination to solve it. If we fail to complete the work we have begun, our children will have to pay more than the price of our inaction. They will bear the tragedy of our failure to protect them against contaminants which can disrupt life processes, impair physical and mental health, and affect genetic inheritance.

The increased use of fossil fuels affects not only local environments but the global environment. The increased introduction of carbon dioxide into the atmosphere contributes to the "greenhouse effect," while increases in atmospheric turbidity act to reduce temperatures. The potential effects of such changes on weather, the environment, and man can be disastrous.

There is an increased input into the environment of toxic substances such as pesticides, detergents, and a variety of chemical additives, which are developed for special purposes. In too many cases we cannot predict the effects of such substances on individuals, on other species or on the physical environment.

Because of this, we ought to exercise great caution on every decision which may affect the environment. We ought to insure that our public institutions have the capacity to evaluate environmental hazards and to reduce those hazards to an absolute minimum.

We need to coordinate all Federal research programs which improve our knowledge of the consequences of environmental modifications, including the interrelationships between population increases, urbanization, and pollution.

We need to coordinate all Federal programs affecting environmental quality.

The bill I have introduced today would support such objectives by providing the following:

The development of criteria and standards to assure the protection and enhancement of environmental quality in all Federal and federally assisted public works projects and programs;

The coordination of all Federal research programs and activities to increase their contributions to our knowledge of the interrelationship of man and his environment; and

The creation of an Office of Environmental Quality and appropriate staff in the Executive Office of the President.

The proposed legislation is consistent with other congressional proposals directed toward implementing the national policy for the environment.

Many of these proposals have focused around a council of some description in the Executive Office of the President to furnish advice on ecology and environmental quality. In addition, some of the proposals would provide a statement of national policy.

I have introduced legislation to establish a Senate Select Committee on Technology and the Human Environment—Senate Resolution 78—which is now pending in the Government Operations Committee.

Senators CASE and Moss have introduced a bill S. 2312, to create a Federal Department of Conservation and the Environment.

Senator JACKSON and the members of the Committee on Interior and Insular Affairs have held hearings on several bills on the need for a national policy for the environment which include: S. 237, as introduced by Senator MCGOVERN; S. 1075, and amendments thereto, as introduced by Senator JACKSON; and S. 1752, as introduced by Senator NELSON.

Similar bills have been referred to the Committee on Public Works including S. 1085 introduced by Senator NELSON and S. 1818, introduced by Senator TYDINGS.

I ask unanimous consent that the text of S. 2391 and a summary of its provisions be printed in the RECORD at this point.

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

The bill (S. 2391), to provide for the more effective coordination of Federal air quality, water quality, and solid waste disposal programs, for the consideration of environmental quality in public works programs and projects, for the coordination of all Federal research programs which improve knowledge of environmental modifications resulting from increased population and urban concentration, and for other purposes, introduced by Mr. MUSKIE (for himself and other Senators), was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. 2391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Environmental Quality Improvement Act of 1969."

FINDINGS, DECLARATIONS, AND PURPOSES

(a) The Congress finds—

(1) that in the pursuit of social and economic advancement man has caused changes in the environment;

(2) that the degree of such changes endangers a harmonious relationship between man and his environment;

(3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment, increasing the severity of the physical, social, psychological, and economic problems of our society; and

(4) that changes in the environment should be restricted, insofar as possible, to avoid adverse effects on man, other species and the environment itself.

(b) The Congress declares—

(1) that there is a national policy for the environment which provides for the enhancement of environmental quality, which is enunciated in:

(A) Federal Water Pollution Control Act, as amended;

(B) Clean Air Act, as amended;

(C) Solid Waste Disposal Act, as amended;

(D) Federal-Aid Highway Act, as amended;

(E) Omnibus Rivers and Harbor and Flood Control Act;

(F) Appalachian Regional Development Act;

(G) Public Works and Economic Development Act; and

(H) Tennessee Valley Authority Act;

(2) that the primary responsibility for implementing this policy rests with State and local government;

(3) that the Federal government shall encourage and support implementation of this policy through appropriate regional organizations; and

(4) that Federal and federally assisted public works programs and projects shall, in all instances, be developed and implemented in a manner consistent with the enhancement of environmental quality.

(c) The purposes of the Act are—

(1) to provide for the development of criteria and standards to assure the protection and enhancement of environmental quality in all Federal and federally assisted projects and programs;

(2) to provide for the coordination of Federal research programs and activities which

contribute to knowledge of the interrelationships of man and his environment; and

(3) to authorize and to provide staff for an Office of Environmental Quality.

COORDINATION OF FEDERAL RESEARCH PROGRAMS DEALING WITH ENVIRONMENTAL QUALITY

SEC. 102. (a) Each Federal department or agency conducting or supporting public works activities which affect the environment shall implement the policies established by the President pursuant to this Act;

(b) Each Federal department or agency performing or supporting research relating to the interrelationships between man and his environment shall implement the policies and procedures established by the President pursuant to this Act.

(c) Each Federal department or agency in carrying out the provisions of this section shall place emphasis on research activities which improve the Nation's understanding of—

(1) the effects of environmental modifications on public health and welfare, including the social and psychological well-being of man;

(2) the effects of rapid population growth and increased urban concentration on the environment;

(3) the effects of noise on man and his environment;

(4) the effects of waste heat disposal practices on man and his environment;

(5) the occurrence, dispersal, biological concentration and environmental effects of pesticides and other materials;

(6) the occurrence, dispersal, biological concentration, and effects of natural environmental contaminants, including radioactive materials;

(7) the effects of increases in atmospheric levels of carbon dioxide, atmospheric turbidity, and other contaminants on weather, climate, and ecological processes;

(8) the effects on man's activities on the productive capacity of soil;

(9) the basic patterns and processes of ecosystems;

(10) the effects of introducing new species into existing ecosystems;

(11) the effects of modification of biological and physical diversity on the stability and dynamics of ecosystems; and

(12) the destruction or degradation of unique ecosystems and endangered species.

OFFICE OF ENVIRONMENTAL QUALITY

SEC. 103(a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (herein referred to as the "Office"). There shall be in the Office a director and a deputy director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Director and the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Director and the Deputy Director of the Bureau of the Budget.

(c) The Director is authorized to employ such officers and employees as may be necessary to enable the Office to carry out its functions under this Act.

(d) In carrying out the provisions of this section the Director shall—

(1) assist and advise the President on policies and programs of the Federal government affecting environmental quality;

(2) provide staff and support for any cabinet level council or committee established by the President to coordinate Federal activities which affect the environment;

(3) review and appraise existing and proposed projects, facilities, programs, policies, and activities of the Federal Government which affect environmental quality and make recommendations thereon;

(4) review the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(5) promote advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(6) develop proposed policies and programs to protect and enhance environmental quality;

(7) recommend priorities with respect to problems involving environmental quality;

(8) assure evaluation of new and changing technologies for their potential effects on the environment prior to their implementation;

(9) review and comment on the coordination of the programs and activities of Federal departments and agencies which affect, protect, and improve environmental quality;

(10) review and comment on the development and interrelationship of environmental quality criteria and standards established through the Federal government; and

(11) consult with and advise representatives of State and local governments and assist the President in efforts to achieve environmental quality in the community of nations.

(e) In carrying out the provisions of this section, the Director is authorized to contract with public or private agencies, institutions, and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) for research and surveys regarding any potential or existing problem of environmental quality.

(f) In carrying out the functions of this Act, the Director shall—

(1) not later than six months after the effective date of this Act and not later than January 10 of each calendar year beginning after such date, report to the Congress on measures taken toward implementing the purpose and intent of this Act;

(2) collect, collate, analyze, and interpret data and information on environmental quality and issue reports thereon, as he deems appropriate; and

(3) organize and convene a biennial symposium on current problems and issues concerning environmental quality, population, and the future, and publish the proceedings thereof. Participants shall be selected from among representatives of various States, interstate, and local government agencies, of public or private interests concerned with population growth, environmental quality, and planning for the future, and of other public and private agencies demonstrating an active interest, as well as other individuals in the fields of population, biology, psychology, medical sciences, social sciences, ecology, agriculture, economics, law, engineering and political science who have demonstrated competence with regard to problems of the environment.

ADVISORY COMMITTEES

SEC. 104. (a) In order to obtain assistance and independent advice in the development and implementation of the purposes of this Act the Director of the Office of Environmental Quality, established pursuant to section 103, shall from time to time establish advisory committees. Committee members shall be selected from among representatives of various State, interstate, and local government agencies, of public or private interests concerned with population growth, environmental quality, and planning for the future, and of other public and private agencies demonstrating an active interest, as well as other individuals in the fields of population, biology, medical sciences, psychology, social sciences, ecology, agriculture, economics, law, engineering, and political science who have demonstrated competence with regard to problems of the environment.

(b) The members of the advisory committee appointed pursuant to this Act shall be entitled to receive compensation at a rate to be fixed by the Director, but not exceeding $100 per diem, including travel time, and while 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 of the United States Code for persons in the Government service employed intermittently.

SEC. 105. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1969, and for each of five succeeding fiscal years, such amounts as may be necessary for the purposes of this Act.

The summary presented by Mr. MUSKIE is as follows:

ENVIRONMENTAL QUALITY IMPROVEMENT ACT OF 1969—SUMMARY OF PROVISIONS

1. Findings, declarations, and purposes.

2. Directs Federal departments and agencies conducting or supporting public works projects or programs to implement existing environmental policies and the environmental policies established pursuant to this Act.

3. Directs Federal departments and agencies conducting or supporting research on the interrelationship between man and his environment to implement the research policies and procedures established pursuant to this Act.

4. Directs Federal departments and agencies to emphasize twelve environmental research areas which are of long-term concern.

5. Provides for the establishment of an Executive Office of Environmental Quality.

6. Directs the Director of the Office of Environmental Quality to provide staff and support for any environmental council and committees established by the President, and perform other functions.

7. Provides for an annual report to the Congress on measures taken to implement the Act.

8. Provides for a biennial symposium on current problems and issues concerning environmental quality, population, and the future.

9. Provides for the establishment of independent advisory committee to assist the Director of the Office of Environmental Quality.

10. Authorizes funding for Fiscal Years 1969 through 1974.

Mr. RANDOLPH. Mr. President, as noted by the diligent and knowledgeable chairman of the Subcommittee on Air and Water Pollution (Mr. MUSKIE), the Committee on Public Works has moved on numerous fronts to develop a national policy to combat the continuing degradation of the environment. The Air Quality Act of 1967, the Federal Water Pollution Control Act, as amended, in recent years, and the Solid Waste Disposal Act of 1965 represent significant steps toward the enhancement of environmental quality. Then, too, Federal-aid highway legislation of the 1960's has created highway beautification programs and has strengthened the protection of parklands. It also requires the consideration of social and environmental factors and community goals and objectives in the location of proposed highway projects.

The Appalachian Regional Development Act provides for the development of programs for mine land reclamation and pollution control.

All these measures, from the committee I have the responsibility to chair, are geared toward the abatement and control of existing adverse conditions. But when we look at projected population growth and distribution, waste output, and resource supply and use, we see growing threats to the quality of our environment which are beyond current management capabilities.

We must move now to establish an environment that promotes public health and welfare, diversity, space, and beauty.

There has been, in recent years, a growing concern to keep open the widest possible array of options for a more livable environment. This concern was expressed in June 1968 by President Johnson's Citizens Advisory Committee on Recreation and Natural Beauty:

> Nowhere within the Federal structure is there a clearly defined responsibility for environmental quality control. No one Federal authority can be identified with an overall responsibility for the environment. No single entity within the Federal structure can be counted on to weigh each decision or measure each new program objective against the impact that it will have on the natural environment.
>
> Federal programs are still being advanced with very little understanding of their impact upon the environment; some Federal projects are still going forward in full knowledge that they are disruptive or destructive of some element of man's ecology or some irreplaceable value of his environment.

Today, it is a privilege for me to join the distinguished Senator from Maine (Mr. MUSKIE) and 38 of our colleagues in the introduction of the Environmental Quality Improvement Act of 1969. This measure represents a major step toward the crystalization of a national posture of environmental quality management. It is my judgment that it reflects the consensus of recommendations made in testimony to the committee. Our bill provides means for combatting and, hopefully, overcoming the disruptive influence of man on his environment.

Environmental problems are not necessarily byproducts of technology. But their solutions almost invariably grow out of technological advances. The degradation of our environment is not an absolute price of our prosperity, but prosperity is a requirement if we are to meet the tragic costs of restoration. On the other hand, environmental problems often stem from the misapplication of technology and from its unwanted and unanticipated side effects. Too often we have failed to understand or anticipate the impact of man's technological activities upon a highly complex, highly interrelated natural environment. Now, the sum of our disruptive influences within natural systems is being tallied slowly, but at an ever-increasing rate. The cost is high and will become much higher until we come to appreciate the character of the total environment, and learn to manage our activities and waste disposal methods in accord with the interrelationships between man and his environment.

This does not mean that we must sacrifice our affluence and technical prowess in order to protect the beauty of nature and maintain stability in the environment. America can afford and can achieve the abundant life, as well as the improved environment.

We must make a new beginning by recognizing that the American environment is at a crossroad. Likewise, we must decide either to manage our environment in order to enhance it or to continue to contribute to the degradation of that quality which remains. The consequence of the latter would be to endanger plant, animal, and human life.

Even as President Johnson recognized the vast problem by appointing the Citizens' Advisory Committee on Recreation and Natural Beauty, President Nixon gave added attention recently to the environmental crisis in his Executive order establishing the Cabinet-level Environmental Quality Council and the Citizens' Advisory Committee on Environmental Quality. The President is to be commended for giving further leadership to this effort.

The legislation we introduce today extends the environmental management effort in several important areas. It would require that all federally supported public works projects and programs be planned and developed in full recognition of their ecological impact. Technological and economic developments that produce short-term benefits at the expense of the long-term health and productivity of the environment would be rejected.

For example, the location, design, and development of Corps of Engineers civil works projects should take into full account the ecological implications of the decisions involved. Alternatives should be chosen which minimize deleterious impacts. We should develop the means to evaluate the total environmental impact of Corps of Engineers rivers, harbors, flood control, and dredging projects.

I have spoken previously concerning our water resources programs and of the need for "developmental planning" rather than "response planning." The Committee on Public Works initiated the first program in this regard in section 206 of the Appalachian Regional Development Act of 1965, which authorizes regional water resources planning programs for the Appalachian region. As I have stated on other occasions, this concept and this approach should be extended to other regions of the country. We should especially emphasize the use of water resources development to reverse the trends of population movement from rural to the highly urbanized areas. The Office of Environmental Quality proposed in our measure would be an appropriate agency to give direction to this approach.

For too long, land has been considered an expendable resource to be abused, depleted, and disfigured. The Appalachian region is one example of such violated land. Appalachia is a region with an annual rainfall substantially above the national average; at Pickens in my home county, it is approximately 53.65 inches a year, which is the highest in West Virginia. Appalachia is a region where three-fifths of the land is forested; a region whose mountains offer some of the most beautiful landscapes in Eastern America, readily lending themselves to major tourism and recreation. Yet this natural wealth has benefited too few.

Below the crust of its land are some of the Nation's richest mineral deposits, including the coal seams which have provided almost two-thirds of this Nation's coal supply.

Environmental mismanagement has too frequently denied this area its natural heritage. Thousands of acres of wild beauty have been strip mined and have not been properly or adequately reclaimed. In recent years we have had reclamation improvements, but probably not enough. Though mining and reclamation practices continue to improve, too many orphaned acres mar the landscape and contribute to the pollution of our rivers and streams and also to frequent floods.

Such lands are stark testimony to the consequences of the lack of environmental quality planning. They can serve also as training ground to demonstrate the benefits to be derived from environmental planning.

Nowhere else in the United States is the scope and magnitude of need for environmental quality management comparable to that in Appalachia. The largest single geographical areas of underdevelopment in the United States, Appalachia could serve as a conservation training and proving ground. The outcome would benefit the citizens of the region, as well as the whole Nation.

A major activity area for improved environmental management in relation to public works exists in our massive Federal-aid highway program. The Interstate Highway System is one of the great achievements of this Nation. It is essential to the growth and prosperity of our national economy. It has served to link our urban centers in an ever-increasing flow of commerce, goods, and people. But the roads, and the economy they support, are not ends in themselves. Through environmental planning they can better serve the needs of our people by providing an opportunity to enjoy nature and natural and manmade beauty, while also providing increased income and swifter travel.

Our highways must be brought into harmony with the communities and countrysides they traverse. Too often in the past this need has received little more than lipservice. Locations seem often to be chosen to serve the more limited benefits of the user rather than the community at large.

Cities such as Baltimore and Chicago are attempting to manage the environmental impact of highways by employing urban design concept teams. This approach involves engineers, architects, sociologists, urban planners, economists, and other specialists to form a coordinated team. The team examines the highway corridor in a framework which emphasizes overall community goals and plans.

Although still experimental, this approach has proven worthwhile and will provide criteria to aid others to evaluate

urban transportation needs in terms of social, esthetic, and economic values. There is no doubt that the knowledge gained will yield new methods and techniques of assistance in the solution of complex urban problems.

Our concern for the environment must be guided by a search for beauty as well as cleanliness, including the quality and appearance of the everyday surroundings in the great urban areas. Many Americans spend most of their time in and around our cities. What they see, smell, and hear constitutes the environment that significantly influences their lives.

It does not require expertise to pass judgment on the quality of the environment of America where trees, flowers and green spaces are rarities. Littered streets and roadsides are common. Noise and fumes permeate many of the downtown regions and contribute to the cycle of commercial decline often found there.

American cities too often are marked by a clutter of billboards, traffic and other official signs, utility poles, and overhead wires.

And nowhere do we find ugliness more prevalent and oppressive than in the slums of our cities. Here, it seems, all forms of environmental deterioration have been assembled at their ugliest—the worst congestion, the worst blight, and the worst litter and waste problems. And, more often than not, among the worst air and noise pollution problems are in the slums.

Here, too, we find the least in the way of natural beauty to modify the harsh environment.

I am convinced that these urban environmental problems—ugliness, clutter, litter, the lack of parks and open space, and inadequate recreational opportunities—are basic components of the crisis in America's cities.

An effective response to the urban crisis, we now know, requires a series of measures responsive to citizens' needs for housing, health and sanitation, education, employment, transportation, and pollution abatement. I feel, too, that we must add provisions for improving the appearance of cities, for new urban parks and more open space, and for creating attractive and diverse recreational experiences.

The Federal Government has been organized to provide needed leadership in housing and urban development and in transportation. We have an urban open space program and an urban beautification program that have helped to improve the appearance of many American communities.

The Neighborhood Youth Corps and the Job Corps provide employment and training for young men and women engaged in community improvement work. And a comprehensive attack on the physical and social plight of rundown city neighborhoods has begun through the model cities program.

These instrumentalities enable us to obtain a better perspective of urban environmental problems. Our understanding of these problems is much greater than was the case a few years ago.

But our attention must also be directed to the rural areas, too.

Pollution and disorder are scattered over the total environment, sweeping across the countryside of America.

The application of agricultural technology on a large scale has resulted in many problems. Not the least of these is the depopulation of rural areas. More than half a million rural Americans migrate to the cities each year in search of livelihood and opportunity.

At the same time, we continue to sacrifice much prime agricultural land to urban development. California produces nearly half of our country's supply of fruit, nut crops, and vegetables. Yet at least one-half of the best cropland in that State has gone over to urban or industrial uses.

The environmental problems mentioned are urgent. But, I believe we are better equipped for action now than at any time in our national history.

The measure in which Senator MUSKIE and I join reflects our preparedness as a union of States and declares a national policy for better management of the environment.

The citizens of this Nation have the right to a policy and to enhancement programs that would assure a livable environment. Our proposed measure would provide a major step forward in the fulfillment of that right.

Mr. COOPER. Mr. President, I have today joined with Senator MUSKIE, Senator RANDOLPH, and Senator BOGGS and significantly 37 other Senators, in cosponsoring the Environmental Quality Improvement Act of 1969. There is no question that the quality of the natural environment underlies the quality of human life. It must be a paramount concern for us all.

Congressional recognition of the crisis facing our environment began slowly but has gathered great momentum over the past several years as witnessed by, among others, the Water Pollution Control Act of 1965, as amended; the Air Quality Act of 1967; the Solid Waste Disposal Act of 1965; and the Highway Beautification Act of 1965. The proposal offered today, complementing the President's recently established Cabinet Council, represents a mechanism to coordinate the programs enacted to date through an integrated policy, and with a coordinating administrative structure that would enable comprehensive Federal consideration of all aspects of environmental quality in the utilization of natural resources.

Senators MUSKIE and RANDOLPH have made excellent statements supporting the rationale of the proposed act and I will not add to that exposition. However, I would like to stress what I feel is a particularly important aspect of the bill; namely, its relationship to the Environmental Quality Council established by the President on May 29, 1969. Never before in our history has a President made such a commitment to environmental quality and he is to be congratulated and commended for his vision and wisdom in taking this action. The bill introduced today recognizes the President's action by integrating it into an overall plan for consolidating an improving Federal activity relating to the environment.

The bill recognizes that the framework of the Cabinet Council represents the best approach to implementing throughout the Federal Establishment the decisions of the President and the policies established by him and therefore proposes an Office of Environmental Quality in the Executive Office of the President to, among other things, provide for adequate independent staffing for the President's Council. This Office is designed to make available to the President the professional competence and facilities necessary to allow substantive review and analysis of all matters relating to the environment. In addition the Office shall report on environmental issues to the Congress, the Council, and the public.

It is expected that the Committee on Public Works will give immediate attention to this bill with hearings in Washington and hopefully in centrally located urban centers of the Nation. I invite the attention of my colleagues to this proposal and actively seek their assistance in considering this and similar measures.

I ask unanimous consent that the Executive order establishing the Environmental Quality Council and the President's accompanying statement be inserted at this point in the RECORD.

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

EXECUTIVE ORDER 11472, MAY 29, 1969, ESTABLISHING THE ENVIRONMENTAL QUALITY COUNCIL AND THE CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

PART I. ENVIRONMENTAL QUALITY COUNCIL

SECTION 101. *Establishment of the Council.* (a) There is hereby established the Environmental Quality Council (hereinafter referred to as "the Council.").

(b) The President of the United States shall preside over meetings of the Council. The Vice President shall preside in the absence of the President.

(c) The Council shall be composed of the following members: The Vice President of the United States, Secretary of Agriculture, Secretary of Commerce, Secretary of Health, Education, and Welfare, Secretary of Housing and Urban Development, Secretary of the Interior, Secretary of Transportation, and such other heads of departments and agencies and others as the President may from time to time direct.

(d) Each member of the Council may designate an alternate, who shall serve as a member of the Council whenever the regular member is unable to attend any meeting of the Council.

(e) When matters which affect the interests of Federal agencies the heads of which are not members of the Council are to be considered by the Council, the President or his representative may invite such agency heads or their alternates to participate in the deliberations of the Council.

(f) The Director of the Bureau of the Budget, the Chairman of the Council of Economic Advisers, and the Executive Secretary of the Council for Urban Affairs or their representatives may participate in the delib-

erations of the Environmental Quality Council as observers.

(g) The Science Adviser to the President shall be the Executive Secretary of the Council and shall assist the President in directing the affairs of the Council.

SEC. 102. *Functions of the Council.* (a) The Council shall advise and assist the President with respect to environmental quality matters and shall perform such other related duties as the President may from time to time prescribe. In addition thereto, the Council is directed to:

(1) Recommend measures to ensure that Federal policies and programs, including those for development and conservation of natural resources, take adequate account of environmental effects.

(2) Review the adequacy of existing systems for monitoring and predicting environmental changes so as to achieve effective coverage and efficient use of facilities and other resources.

(3) Foster cooperation between the Federal Government, State and local governments, and private organizations in environmental programs.

(4) Seek advancement of scientific knowledge of changes in the environment and encourage the development of technology to prevent or minimize adverse effects that endanger man's health and well-being.

(5) Stimulate public and private participation in programs and activities to protect against pollution of the Nation's air, water, and land and its living resources.

(6) Encourage timely public disclosure by all levels of government and by private parties of plans that would affect the quality of environment.

(7) Assure assessment of new and changing technologies for their potential effects on the environment.

(8) Facilitate coordination among departments and agencies of the Federal Government in protecting and improving the environment.

(b) The Council shall review plans and actions of Federal agencies affecting outdoor recreation and natural beauty. The Council may conduct studies and make recommendations to the President on matters of policy in the fields of outdoor recreation and natural beauty. In carrying out the foregoing provisions of this subsection, the Council shall, as far as may be practical, advise Federal agencies with respect to the effect of their respective plans and programs on recreation and natural beauty, and may suggest to such agencies ways to accomplish the purposes of this order. For the purposes of this order, plans and programs may include, but are not limited to, those for or affecting: (1) development, restoration, and preservation of the beauty of the countryside, urban and suburban areas, water resources, wild rivers, scenic roads, parkways and highways, (2) the protection and appropriate management of scenic or primitive areas, natural wonders, historic sites, and recreation areas, (3) the management of Federal land and water resources, including fish and wildlife, to enhance natural beauty and recreational opportunities consistent with other essential uses, (4) cooperation with the States and their local subdivisions and private organizations and individuals in areas of mutual interest, (5) interstate arrangements, including Federal participation where authorized and necessary, and (6) leadership in a nationwide recreation and beautification effort.

(c) The Council shall assist the President in preparing periodic reports to the Congress on the subjects of this order.

SEC. 103. *Coordination.* The Secretary of the Interior may make available to the Council for coordination of outdoor recreation the authorities and resources available to him under the Act of May 28, 1963, 77 Stat. 49; to the extent permitted by law, he may make such authorities and resources available to the Council also for promoting such coordination of other matters assigned to the Council by this order.

SEC. 104. *Assistance for the Council.* In compliance with provisions of applicable law, and as necessary to serve the purposes of this order, (1) the Office of Science and Technology shall provide or arrange for necessary administrative and staff services, support, and facilities for the Council, and (2) each department and agency which has membership on the Council under Section 101(c) hereof shall furnish the Council such information and other assistance as may be available.

PART II. CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

SEC. 201. *Establishment of the Committee.* There is hereby established the Citizens' Advisory Committee on Environmental Quality (hereinafter referred to as the "Committee"). The Committee shall be composed of a chairman and not more than 14 other members appointed by the President. Appointments to membership on the Committee shall be for staggered terms, except that the chairman of the Committee shall serve until his successor is appointed.

SEC. 202. *Functions of the Committee.* The Committee shall advise the President and the Council on matters assigned to the Council by the provisions of this order.

SEC. 203. *Expenses.* Members of the Committee shall receive no compensation from the United States by reason of their services under this order but shall be entitled to receive travel and expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701–5708) for persons in the Government service employed intermittently.

SEC. 204. *Continuity.* Persons who on the date of this order are members of the Citizens' Advisory Committee on Recreation and Natural Beauty established by Executive Order No. 11278 of May 4, 1966, as amended, shall, until the expirations of their respective terms and without further action by the President, be members of the Committee established by the provisions of this Part in lieu of an equal number of the members provided for in section 201 of this order.

PART III. GENERAL PROVISIONS

SEC. 301. *Construction.* Nothing in this order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

SEC. 302. *Prior bodies and orders.* The President's Council on Recreation and Natural Beauty and the Citizens' Advisory Committee on Recreation and Natural Beauty are hereby terminated and the following are revoked:

(1) Executive Order No. 11278 of May 4, 1966.

(2) Executive Order No. 11359A of June 29, 1967.

(3) Executive Order No. 11402 of March 29, 1968.

RICHARD NIXON.

THE WHITE HOUSE, *May 29, 1969.*

ENVIRONMENTAL QUALITY COUNCIL AND CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

(Statement by the President Upon Creating the Council and the Committee, May 29, 1969)

"The conservation of our natural resources and their proper use constitute the fundamental problem which underlies almost every other problem of our national life," Theodore Roosevelt said in 1907. When men talked about conservation in his time, they usually singled out the wild lands, plant and animal life, and valuable minerals, for in these areas they saw the threat of scarcity. Resources such as the air or the water or the countryside itself were of less concern, for the supply and the quality of such things seemed invulnerable.

I am sure that Roosevelt and his associates of sixty and more years ago would be most surprised if they knew that in our time technological development threatens the availability of good air and good water, of open space and even quiet neighborhoods. Yet that is exactly what is happening. Each day we receive new evidence of the declining quality of the American environment.

Because the quality of American environment is threatened as it has not been threatened before in our history, I am creating today, by Executive order, the Environmental Quality Council. This new body will be a Cabinet-level advisory group which will provide the focal point for this administration's efforts to protect all of our natural resources.

The Council, the structure of which in some respects parallels that of the National Security Council and the Urban Affairs Council, will have as its Executive Secretary the Science Advisor to the President, Dr. Lee A. DuBridge. My Executive order also creates a 15-member Citizens' Advisory Committee on Environmental Quality, which will be chaired by Laurance S. Rockefeller.

I am asking the new Council, with the assistance of the Citizens' Advisory Committee, to examine the full range of variables which affect environmental quality. I expect the group to review existing policies and programs and to suggest ways of improving them. Its members must project the impact of new technologies and encourage scientific developments which will help us protect our resources.

I am hopeful that the Environmental Quality Council will foster greater cooperation in this problem area between our Government and the governments of other nations, between the various levels of American government, and between governmental and relevant nongovernmental organizations.

Finally, I would suggest that this new body must anticipate new problems even as it focuses on present ones. It is not enough that it provide answers to the questions we are asking today. It must also pose the new questions which will face us tomorrow.

The deterioration of the environment is in large measure the result of our inability to keep pace with progress. We have become victims of our own technological genius. But I am confident that the same energy and skill which gave rise to these problems can also be marshaled for the purpose of conquering them. Together we have damaged the environment and together we can improve it.

As I said during last fall's campaign: "We need a high standard of living, but we also need a high quality of life. . . . We need a strategy of quality for the seventies to match the strategy of quantity of the past." I am pleased to announce the creation of the Environmental Quality Council, for I believe it will provide us with that strategy and will give us the means for implementing it.

Mr. BOGGS. Mr. President, it is with great hope for our Nation's future that I join with the Senator from Maine in cosponsoring this bill, the Environmental Quality Improvement Act of 1969. This proposed legislation offers new approaches and support to Government action on environmental pollution, and further clarifies our national commitment to this great task. I recommend it for the consideration of my colleagues.

The bill, I believe, would go far to assist the Nixon administration in its desire to tackle these problems now. The creation in the White House of an Office of Environmental Quality, with a staff of experts to meet the many problems of pollution, will complement and support the President's new Environmental Quality Council. With a basis of that commendable decision by the President, this bill, and the environmental policy already enunciated in legislation such as the Federal Water Pollution Control Act, the Clean Air Act, and the Solid Waste Disposal Act, our Nation is ready to master our pollution problems.

This bill also directs any Federal unit involved in public works projects or research relating to man and his environment to place new emphasis on activities to improve our national understanding of environmental problems and needs.

There are, I believe, some very relevant phrases in this bill, phrases that will engrave into the public code the need for Government to act "in a manner consistent with the enhancement of environmental quality."

The distinguished Under Secretary of the Interior, Russell E. Train, recently gave an address at the national convention of the Audubon Society that I believe offers eloquent testimony for this proposed legislation. Further, the Wilmington, Del., Evening Journal, on May 31, carried an editorial bearing on the President's new Environmental Quality Council.

I ask unanimous consent that the address and editorial be printed in the RECORD following my remarks. I encourage my colleagues to read the address and the editorial and to give your wholehearted support to the legislation we have placed before you.

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

NATIONAL PROBLEMS AND POLICIES IN ENVIRONMENTAL MANAGEMENT

Standing before you here, near the heart of our country and even closer to the juncture of the continent's two mightiest river systems, I am reminded of a fable written some years ago by a Missourian who now works in the Department of the Interior:

A man somehow got lost in the Missouri Ozarks. He knew enough of woods lore to realize that if he could find a small creek and follow it, it would lead him downhill to larger streams and eventually to civilization. Finding a creek, he set forth. As darkness fell he had reached a wider stream. The water was clear and sweet to drink. He was lucky enough to have a few matches in his pocket, and he gathered enough dead wood to build a fire.

The stars seemed so close he felt he could almost touch them. Up on a nearby ridge a fox barked, and from another ridge opposite he heard the hoot of an owl. Later he dozed, but was startled into momentary wakefulness by a sudden rustling, but quickly saw that it was only a deer, slipping down to the water's edge to drink.

The man fell asleep to the rhythmic sounds of night in the wilds. He awoke to find the morning sun on his brow, dew on the ground and mist rising off the stream. Stretching his legs, he acknowledged the chatter of a squirrel in a nearby oak, and resumed his journey.

The stream widened, and in its occasional pools he could see fish swimming. Occasionally a bass leaped from the water. Soon the stream led to a small river, which led to a large one. Within a short time he began seeing evidence of human habitation. And at last he stumbled across a flood plain toward the edge of a great river.

He tripped a few times over rusting cans and other debris, and several times had to detour around great piles of discarded auto and truck tires. At the river's bank he discerned gaseous bubbles rising through the mucky water, and a great oil slick moving along in midstream. Foul trash floated on the surface.

The traveler fell to his knees, raised his eyes and fervently exclaimed:

"God be praised—I'm back to civilization."

The United States Department of the Interior, like the Audubon Society, is dedicated to the proposition that this fable may some day be deprived of its ironic point. However, whether man *can* survive, in a *world worth living in*, is an issue that remains *in doubt*.

The ultimate answer will depend on man's actions and on the institutions he creates to anticipate, judge and control the potentially adverse effects of those actions as well as to give positive direction for human betterment to the forces which are now at his command.

The future is open. Whether we take the road to deterioration and destruction or turn toward a future environment that not only sustains but enriches human life, the choice is ours.

To proclaim that such a choice exists is itself something of an act of faith, one which I am afraid may be increasingly difficult to accept. The time in which we live is one when the forces around us—be they social, economic, or technological—seem all too frequently to be beyond our control. Indeed, for many individuals, it is probably a major source of current frustration that they have so little ability to shape and direct the events around them.

Particularly is this true with respect to the environment.

The roll-call of environmental problems is as familiar as it is discouraging and I will not impose a lengthy recital upon you.

Our greatest concern and the one from which many of our most pressing problems spring is the growth of human numbers. Our world population is estimated to double from the current 3.5 billion to 7 billion over the next 30 to 40 years. The optimists say that we will be able to feed these hordes, citing the new miracle grains, protein from the seas, and other sources of food. I am not so sure. The plain fact is that we are not feeding adequately the people we now have.

The adverse impacts of our technology multiply at an accelerating rate. Indeed, the very extent and rapidity of change appear to be a major characteristic of our time. Such change makes it increasingly difficult for man and his institutions to adapt successfully to the new environments which are created at every hand.

We continue to pump toxic substances into the living environment, so that you and I carry measurable amounts of DDT and other similar goodies in our bodies. Only a few weeks ago we read that 28,000 pounds of Lake Michigan Coho salmon were confiscated because of the high level of DDT and Dieldrin in their flesh. Recently, the Public Health Service warned of evidence that sugar substitutes in soft drinks are causing physical defects, including genetic damage. Man may be destroying himself, but he is determined not to become overweight in the process.

Pollution of air and water, despite some local improvement, is becoming world-wide in scope. In the developing countries, industrial and agricultural development, the latter characterized by massive applications of fertilizers and pesticides, is proceeding almost everywhere without regard to pollution control.

In this country, the use of chemical fertilizers is damaging the natural, organic fertility of our soil.

The solid wastes of our technological civilization mount on every hand. Dr. John Hanlon, new president of the American Public Health Association, describes us as "standing knee-deep in refuse, shooting rockets to the moon."

The combustion of fossil-fuels and the elimination of vegetation combine to produce changes in the oxygen-carbon dioxide balance of our atmosphere—with what results for our global climate, indeed for life itself, we are largely ignorant.

In our cities we see the adverse effects of environment at their starkest. Who is to doubt that the tensions, the frustrations, and the violence which have become part of the urban scene have their roots in some degree at least in the environment in which our city people live? Man is the biological product of an evolutionary process which has stretched over millions of years, and natural environments have been the primary determinant in shaping his character and being. As Rene Dubos has said, "man evolved as an animal, even while he was dreaming of God and the stars." The people of our cities are alienated from the natural world for which they are primarily adapted and live instead in a man-made environment from which there is no escape—an environment of constant stress, of crowds, noise, litter, and concrete.

From the perspective of the Department of the Interior, one is constantly reminded of the results of environmental mismanagement, as well as the opportunities for better management. The Department is sometimes described as the world's greatest conglomerate and, indeed, our programs cut across a very wide range of public concerns. I would like to take a few minutes to tell you something about this extraordinary organization.

We manage the national parks, historic monuments, national recreation areas, lakeshores and seashores. We administer the Land and Water Conservation Fund and we coordinate our government's outdoor recreation programs. We manage wildlife refuges and conduct programs of wildlife research, including the endangered species program. Our Bureau of Commercial Fisheries is active in marine exploration, marine biological research, and fish marketing studies. Indeed, the Department of the Interior has the largest oceanographic program of any civilian agency of Government. We are major participants in the Sealab project off the West Coast and Operation Tektite in the Virgin Islands—the so-called "man-in-the-sea" program. Operation Tektite recently put four men on the ocean floor for sixty days. All four participants were from the Department of the Interior—a fact which evidences our involvement in ocean programs. The wise management and utilization of marine resources will play a vital role in determining human survival—and the quality of life.

We believe that the resources of the sea and the resources of the land should be managed as interrelated parts of the total environment. Thus, one of our most critical resource problems is the protection of our estuaries, the interface of land and sea. It is an area of inestimable value for the production of marine life, as habitat for wildlife, for the control of pollution, and as a recreation facility, particularly for urban populations. Yet through lack of management, we have permitted this invaluable resource to be dredged, filled, bulkheaded, polluted and otherwise de-

stroyed or impaired. The Department is carrying out a large-scale survey of the nation's remaining estuaries, and we are hopeful that major legislation leading to better management of the total coastal zone will result.

In our concern for maintaining the natural functions of our estuarine systems, the Department must work closely with the Corps of Engineers which has primary responsibility for conducting or licensing public works in our navigable waters. This relationship is a good example of the need to provide within government at all levels effective mechanisms to ensure that single-interest agencies pursue environmental programs in ways which are consistent with our concern for the quality of the total environment.

Water pollution control is, of course, a major program of the Department of the Interior and one to which Secretary Hickel recently assigned highest priority. We must clean up the nation's water. Our people demand this. Moreover, I am confident that we cannot sustain our economic growth in an unhealthy, polluted environment. I do not believe that industry will want to locate or that people will want to work and live in the absence of clean water. Unfortunately, there is little evidence that we are making any significant progress in controlling water pollution. Indeed, we may even be falling behind. Less than a month ago, an enforcement conference on the Potomac River—sometimes called the "Nation's River"—concluded that the Potomac is in worse shape now than it was ten years ago. We have failed—and are continuing to fail—to make the investments necessary for water pollution abatement.

Not only do the varied—and sometimes conflicting—programs of the Department of the Interior illustrate the complex interrelationships of the environment but they also serve to emphasize that resource development and utilization must go hand in hand with environmental protection.

We have had a spectacular lesson in this regard in the Santa Barbara oil spill. There is little doubt that in our off-shore oil development we have permitted immediate monetary gains to overshadow potential environmental costs—costs measured in terms of polluted beaches, destroyed wildlife, and damage to marine ecosystems. Moreover, the technological explosion of our times doubtless can mean a constant succession of Santa Barbaras not only on the continental shelf but throughout the environment. These will not be isolated cases to be lamented but otherwise forgotten. I predict that environmental accidents will multiply at a geometric rate as man's power to modify the environment increases without parallel improvement in his organization for environmental management. Moreover, it is not only the spectacular accident that must concern us but also the less dramatic actions which gradually but just as surely erode the environment—the filling of an estuary, the paving of an aquifer, the destruction of a species.

In order to reverse this course, some basic changes must be made—changes in our attitudes, changes in our approach to planning, and changes in governmental organization. Let us look at each of these briefly.

Our belief in the individual's relative freedom to exploit and otherwise modify his environment for his own benefit evolved in a simpler, less crowded age when man's technological power was far less and when the environment was capable of absorbing and cleansing itself of most adverse impacts. This state of affairs simply no longer exists. We must take a far stricter view now and in the future of the duties of the individual, including businesses, toward the environment. The time has come to treat crimes against the environment on a par with crimes against society. Crimes against the environment strike at the very future of man.

A recent cartoon in a leading Midwestern newspaper, the Milwaukee Journal, showed two grim-faced industrialists standing amid polluted rivers, litter, poisoned plant life and smog. Their factories, in the background, poured smoke into the air and effluents into the streams. One of these gentlemen was saying to the other, "It's time the Government cracked down on these young college whippersnappers who have no regard for private property."

Fortunately, a large and growing number of highly responsible individuals and businesses take the longer view. But it is unrealistic to expect them, in the aggregate, to police themselves. The individual automobile owner whose vehicle contributes only minutely to the pollution of the air will seldom volunteer the investment necessary to control his own exhaust. In the case of industry, competitive conditions frequently make it impractical for the individual company to maintain higher standards than its competitors unless it possesses a high degree of market dominance. Thus, we must be willing to establish strict standards of conduct and performance and then rigorously enforce those standards.

Secretary of the Interior Hickel recently took an important step in this regard when he acted to impose absolute liability without limitation for the cost of clean-up upon those responsible for oil spills on the Outer Continental Shelf. I believe that this action constitutes an important landmark in the development of new concepts of responsibility for environmental protection.

Secondly, we must develop a far more positive approach to the need for long-range planning. Most of our environmental programs today represent limited—and usually belated—responses to problems. We can no longer afford the luxury of such an approach. During last autumn's campaign, then-candidate Nixon declared: "The battle for the quality of the American environment is a battle against neglect, mismanagement, poor planning and a piecemeal approach to problems of natural resources."

We must change this. We must develop long-range environmental policies for the future. We should seek to determine optimum relationships between people and their physical environment, including its quality, its ecological health, the supply of water and other natural resources, the supply and distribution of open space. We should determine long-range needs for energy and open space and natural resources generally and then develop policies designed to meet those needs. How large a population do we really want? How should it be distributed? At the present time, we simply make projections of future growth and then scramble frantically to provide the water, the sewers, and the highways to accommodate that growth—successfully insuring that the growth does in fact occur whether desirable or not.

The fate of the Everglades National Park is a case in point. It is totally dependent upon an assured water supply. Continued development of southern Florida creates competition for available water. If water is guaranteed presently projected urban, industrial and agricultural growth, it is plain that there will be insufficient water for the park in the future. Thus, some hard decisions must be made. Personally, I believe that the interest of the nation as a whole in the continued well-being of the Everglades National Park is such that it should insist that development plans not jeopardize that objective. Moreover, present plans for an international jet airport with connecting highways to be located just north of the Park could also have a disastrous impact through pollution and interference with water flow. Such projects should be the subject of careful planning in order to minimize or avoid environmental damage. Where environmental costs are too high, development projects should be modified, relocated, or even abandoned.

Following Secretary Hickel's visit to the Everglades, the Department of the Interior launched a cooperative program to measure ecological changes in the area. About twenty ecological monitoring stations have been set up to give us base lines—bench marks—for future measurement. We expect to measure water quality, both chemical and bacteriological; look for pesticide and fertilizer residues; examine animal tissues for residual deposits of contaminating substances; study soils and vegetation. The agencies involved include the Geological Survey, the Federal Water Pollution Control Administration, the Bureau of Sport Fisheries and Wildlife, the Bureau of Commercial Fisheries, the National Park Service, and lawyers from the Solicitor's Office. While such monitoring is no substitute for action, it will help provide invaluable data upon which long-range plans can be based.

Of course we will delude ourselves if we look solely to national planning for the solution to our environmental problems. This nation is too big and too diverse to permit such an approach. State, regional, and local planning are of the utmost importance. It is often at the local level, the county or the town, that critical decisions are made—decisions concerning open space, land fills, pollution control, and zoning variances of all sorts. It is the sum total of these local decisions which is reshaping the American landscape and shoreline.

Unfortunately, many local governments do a poor job in this respect. They either have no planning or zoning mechanism at all, or they give way too easily to the pressure for variances. As is true in the case of individuals and businesses, the leadership of local governments often permits short-term (and frequently illusory) development gains to outweigh the goal of long-range quality The pressure of competition with other local governments further distorts the decision-making process.

The solution to this problem does not lie in some utopian plan master-minded from Washington. On the contrary, we must develop more effective planning and land use controls at the local level. To this end, it may be that a system of national incentives would be in order. Above all, we need a recognition that sound land use is a matter of national concern.

The objective of sound environmental planning presupposes that planning not be whimsical or capricious but, on the contrary, be based upon a firm foundation of knowledge. Thus, it is essential that we increase substantially our investment in environmental research. We need to know far more than we presently do about human behavior, about human response to environmental factors, and about what constitutes an optimum environment for human life.

We need to develop far more effective guidelines for development, guidelines which will serve to protect and enhance environmental quality. It is a shocking fact that, due to an almost nonexistent budget for geophysical and geological survey on the Outer Continental Shelf, the Department of the Interior has been almost totally dependent upon data furnished by private oil companies in the development and execution of its off-shore leasing program. How many more Santa Barbaras must there be before we accept the fact that we can no longer afford such environmental ignorance?

This month the Interior Department has undertaken an action program designed to insure that oil development on the Arctic North Slope gives all practical attention to the protection of the environment. The petroleum industry has predicted that the huge

new oil discoveries at Prudhoe Bay in northernmost Alaska are only a forerunner of what will come from that region. Industry sources predict that reserves totaling 100 to 300 billion barrels of oil will be found in Alaska and the Canadian Arctic. In comparison, only 118 billion barrels of oil have been discovered in the entire North American Continent during the last century. Of course this situation poses a tremendous challenge, in part because of the fragility of the Arctic environment. Track vehicles leave scars that persist for years; badly planned pipelines could disrupt migrations of the caribou and other animal herds; uncontrolled taking of gravel from stream beds for construction can destroy salmon and char spawning beds; solid wastes pose tremendous management problems.

In response to this challenge, Secretary Hickel has announced the appointment of a special Interior Department Task Force to recommend guidelines for development on Alaska's Arctic Slope. I am chairman of the group. We will work closely with the State government and other Federal agencies. We will seek the involvement of private groups, including conservation organizations. As Secretary Hickel noted, transportation facilities may be the biggest problem; they must be planned with care. We must initiate some major research efforts, very soon, to protect a unique and majestic resource base from irrevocable, long-range damage. At the same time, there is an urgent need for immediate steps to be taken now.

I have suggested that the third major change lies in improved government organization. This need has several facets.

To implement our environmental goals and actions will require a massive infusion of resources—of funds, of new organizational and institutional arrangements, of needed laws, authority and responsibility, of manpower, training, and facilities—at each level of government—Federal, State and local. These needed actions, institutions, and resources must be coordinated and integrated into an overall, meaningful program for environmental protection and management.

First and foremost, I put the need for funding. If we are to protect the environment and provide the resources necessary to insure our standard of living, we must provide sharply increased funding for environmental management. Our natural resources are the capital assets of our people. Investment in resource management is an investment in the future of our country.

In the field of water pollution abatement, we are falling steadily behind, in large part because of funding limitations. The cost, measured now in the billions, of cleaning up Lake Erie—assuming that it can still be done—is an example of the price we pay for permitting environmental deterioration to continue unabated.

Moreover, lack of funding does not result simply in deferment of programs. It frequently means the permanent loss of opportunities. A prime example is open space acquisition. If we do not act now to set aside open spaces for the future, particularly in and around our rapidly growing urban centers, many of the best opportunities will be gone forever.

Of course, the need which I describe for a substantial increase in Federal spending for natural resource programs must be seen in the context of a tight budget situation, in which strong inflationary pressures combine with our continuing military requirements in Viet Nam. However, let us at least hope that in the fairly near future our circumstances will permit a reordering of national priorities.

The protection, wise management, and improvement of our priceless natural heritage must receive higher priority if we are to prosper as well as survive, and if future generations are to live in surroundings worth living in. Our goal must be an environment that not only sustains but also enriches human life.

The indicators of economic productivity and of the material goods available to the average citizen are no longer adequate measures of national or individual health and well-being—if they ever were.

Based on indicators of economic productivity, gross national product and per capita income, this Nation is moving ahead.

Yet, based on the average individual's freedom from noise, polluted air, access to unspoiled nature, and ability to escape the environmental degradation which surrounds us, we are falling behind.

While I have been talking of the environment as if it were strictly a national problem, of course it is not. The need for improved environmental management is world-wide. As radioactive wastes, pesticides, and the products of fossil-fuel combustion are distributed over the earth, we are beginning to understand that we live in one biosphere—a thin film of air, water, and soil on a small planet. The processes that affect the healthy functioning of the environment recognize no political boundaries. There is a critical need for closer international cooperation in dealing with these matters. The United Nations Conference on Problems of the Human Environment scheduled for 1972 is indicative of the growing world-wide interest and concern.

The national park concept first found its expression in the United States with the establishment of Yellowstone in 1872. Since then some 1200 parks and equivalent reserves have been established around the world. We should provide technical assistance whenever possible to encourage the establishment of such areas. There is a clear international interest in the protection of natural areas of major scientific or scenic significance no matter where located.

In conservation and environmental management generally, a major opportunity exists for the United States to provide world leadership and to assume an important new initiative in international development programs. For too long and with often disastrous effect, those programs have failed to take ecological and environmental impacts into account.

At home, we must improve our organization for environmental management at all levels of government.

We have discovered that traditional political boundaries create serious impediments to effective programs of river basin management and air and water pollution abatement. New regional mechanisms must be explored and tried. Interstate river basin compacts, such as that of the Delaware, are a promising step in that direction, although their full effectiveness remains to be determined.

Federal programs with major resource and environmental impact are scattered throughout the Federal establishment. The present fragmentation, piecemeal approach, inadequate coordination, and lack of central policy direction and control of these programs constitute a major obstacle to their effective implementation. More than just efficient administration is at issue. Federal programs with major environmental impacts, such as highway construction, must take into account the side effects, such as air pollution, which are the responsibility of completely separate agencies.

Just as we must avoid reductionism in our science, we must also avoid single-interest treatment of environmental problems. We must at all times seek to develop integrated approaches to the complex systems which constitute the total environment.

There is no easy solution to these problems. A mere reshuffling of agencies will not solve them although a more effective grouping of resource and environmental responsibilities would doubtless be helpful. A Department of Natural Resources has often been proposed, and the present Department of Interior could constitute the logical nucleus for such a development.

The new Administration is keenly aware of the need to improve environmental management within the Federal Government. President Nixon stated recently that he is establishing an interdepartmental Council on Environmental Quality. The new Council will provide a focal point for coordination of environmental protection and management programs within the Federal Government. It will help provide the overview necessary to predict, judge, and control the effects of our environmental actions. It is an important step, one which evidences clearly this Administration's determination to protect and enhance the quality of our environment.

The new Council will be no ordinary Cabinet-level committee. It will be chaired by the President himself. Thus, this will be no mere discussion group but a mechanism for effective decision-making.

In his testimony supporting the proposed Council Dr. Lee DuBridge, the President's Science Advisor, stated that President Nixon has committed himself personally to these major policy areas: national security and foreign relations, urban affairs, and the environment.

Surely such a Presidential commitment to the protection and enhancement of the quality of our environment is the best kind of news for conservation. Major battles lie ahead—of this we can have no doubt. But I am beginning to hope and believe that the tide of battle is turning. The National Audubon Society, its members and its friends across the land, will continue to play a major role in this great task. I pledge you the support, the cooperation, and the commitment of our government to this high endeavor.

[From the Wilmington (Del.) Evening Journal, May 31, 1969]

TIMELY ENVIRONMENTAL MOVE

President Kennedy's decision to put Americans on the moon in this decade led him to intensify the space program. He named Vice President Lyndon B. Johnson chairman of the National Aeronautics and Space Council and made clear that space was a top priority item.

The success of that top-level commitment is especially apparent at this time as the catalog of Apollo 10 accomplishments is released and the nation basks in the reasonable certainty of a manned landing on the moon next month.

One wishes for the same commitment and the same swift success for President Nixon's new Environmental Quality Council. As President Kennedy saw a menace from Soviet space technology, President Nixon sees a menace to the nation's air, water and open spaces as the greatest in the nation's history.

A measure of his concern is that he will serve personally as presiding officer of the council. It is a concern long felt by many Americans, among them Laurance S. Rockefeller, a defender of the nation's beauty and resources and head of a 15-member advisory committee to the new council.

Immediate topics on the council agenda include the pervasive effects of DDT and the search for effective and less dangerous substitutes; disposal of all types of waste and refuse and the problem of air pollution. That is a sobering first agenda for any organization.

Few Americans can be unaware of the alarming dossier of despair that has been compiled on the unintended effects of DDT. It stands as another of those advances that man uses indiscriminately with little thought of the consequences. As a result,

DDT can be found in the tissues of animal life at the farthest reaches of the Earth and man is suddenly and justifiably alarmed.

Not as deadly but also potentially disastrous is the condition of the air over many of our cities—Los Angeles leads the parade—where auto exhaust, combined with dashes of industrial smoke and burning refuse, make breathing difficult for the healthy and dangerous for the infirm. Reduction or elimination of such emissions has long been the dream of the smog-bound but so far with little sign of progress.

Every Delawarean able to travel knows the aesthetic and economic costs of waste disposal. Mountains of junked cars offend the eye and the roads between junkyards contain too many casual dumping grounds. The indestructible package threatens to overwhelm us in its instant disposal by the hundreds and thousands of litterers.

These areas are only the beginning for a genuine effort to restore the quality of the nation's air, water and natural resources. It is an imposing task but one that positively must be done. Mr. Nixon's creation of the Environmental Quality Council is an encouraging sign that he shares the concern of many Americans for the beauty of their nation.

One would add only a warning against faintheartedness. A menace characterized as the greatest in the nation's history demands the greatest effort the nation can muster to overcome it. There is no shortage of Americans willing to follow such a lead.

S. 2392—INTRODUCTION OF A BILL TO INCORPORATE THE HISTORIC NAVAL SHIPS ASSOCIATION

Mr. KENNEDY. Mr. President, on behalf of myself and of Senators BROOKE, JORDAN, ERVIN, ALLEN, SPARKMAN, SCOTT, SCHWEIKER, YARBOROUGH and TOWER, I introduce for appropriate reference a bill to incorporate the Historic Naval Ships Association.

This association presently includes the following former U.S. Navy ships, and the distinguished individuals and organizations representing them:

The U.S.S. *Olympia,* a Spanish-American War cruiser, berthed at Philadelphia;

The U.S.S. *Texas,* a World War I battleship berthed at Houston;

The U.S.S. *Alabama,* a World War II battleship berthed at Mobile;

The U.S.S. *North Carolina,* a World War II battleship berthed at Wilmington; and

The U.S.S. *Massachusetts,* a World War II battleship berthed at Fall River.

Many thousands of our finest Navy and Marine officers and men served on these ships. The ships themselves, in their years of service, took part in a number of naval engagements of great historical significance.

For these and other reasons, the five ships attract, collectively, some 1,250,000 visitors annually. Each visit is an educational and historic experience, for the association has over the years made a determined effort to expand the information about the ships available to visitors—about their role in naval and world history, about the bravery and dedication of those who served on the ships, and about the relationship of sea power to our Nation's role as a world power.

But the upkeep of these ships is no small task; neither is the development of educational materials relating to the ships; and neither is the provision of appropriate surroundings at the berths of the ships. Since 1966, the Historic Naval Ships Association has brought together the individuals and organizations comprising it, through regularly scheduled meetings, to develop plans for handling the anticipated increase in visitors, for the growing maintenance problems, and for stimulating public education about the ships and their place in our history. Part of the association's plans for the future includes obtaining a Federal charter, and each of the governing boards of each of the ships has reviewed the legislation I have drafted to accomplish this, and expressed its satisfaction.

The bill would make the Historic Naval Ships Association a corporation chartered by the Federal Government. It should be made plain that this bill authorizes no expenditure of Federal funds to or by the association. Rather, it is intended solely to facilitate the operations of the association and to better preserve the ships themselves, through increased public attention.

The specific purposes of the bill are as follows:

First, with the cooperation of the Department of the Navy, to maintain, preserve, and exhibit historical naval ships and associated memorials;

Second, to provide an organized corporate structure capable of maintaining liaison with the Department of the Navy and other Federal and State organizations and agencies;

Third, to provide a vehicle, in cooperation with the Department of the Navy, for developing and maintaining the highest educational standards in presenting the naval history backgrounds and traditions of the eras depicted by the various historic naval ships;

Fourth, to provide an organization capable of accepting private donations and public funds that might be contributed or made available directly or through other interested organizations; and

Fifth, to provide an organization for the exchange of information and advice concerning all aspects of historic naval ships among the charter members of the association.

These five ships represent a proud tradition, as do the fighting men who served on them. I have had prepared as an exhibit, to be printed in the RECORD, a summary of the history of each ship. It is indicative, I think, of just how much the ships can serve as living history to those who visit them. This is why I am introducing the bill today, and why I hope for its early passage.

Mr. President, I ask unanimous consent that the text of the bill and the ships' histories be printed at this point in the RECORD.

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

The bill (S. 2392), to incorporate the Historic Naval Ships Association, introduced by Mr. KENNEDY (for himself and other Senators), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 2392

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

CORPORATION CREATED

SECTION 1. The following-named persons and their successors are hereby created and declared to be a body corporate by the name of "Historic Naval Ships Association" (hereinafter referred to as the "corporation") and by such name shall be known and have perpetual succession and the powers and limitations contained in this Act:

William V. Davis, Junior, vice admiral, United States Navy (retired), executive director, United States Ship *Alabama;*

Frank H. Brumby, Junior, captain, United States Navy (retired), assistant director, United States Ship *Alabama;*

Henri M. Aldridge, chairman, United States Ship *Alabama;*

Charles L. McLafferty, treasurer, United States Ship *Alabama;*

Stephens G. Groom, secretary, United States Ship *Alabama;*

Robert S. Edington, State legislator, Alabama;

Lloyd J. Gregory, chairman, the Battleship Texas Commission;

S. M. Robinson, admiral, United States Navy (retired), Bellaire, Texas;

Joseph B. Hutchison, member, the Battleship Texas Commission:

R. C. Gusman, mayor of Bay City, Texas;

Mrs. Murray Ezzell, Port Neches, Texas;

Casper J. Knight, Junior, chairman of the board, Cruiser Olympia Association, Incorporated;

Philip M. Egan, president, Cruiser Olympia Association, Incorporated;

Judge Leo Weinrott, board of directors, Cruiser Olympia Association, Incorporated;

James E. VanZandt, board of directors, Cruiser Olympia Association, Incorporated;

Joseph D. Shein, board of directors, Cruiser Olympia Association, Incorporated;

Luther H. Hodges, North Carolina;

Terry Sanford, North Carolina;

Dan K. Moore, North Carolina;

Robert W. Scott, Governor of North Carolina;

C. Brooks Jennings, North Carolina;

Hugh Morton, former Chairman, United States Ship North Carolina Battleship Commission;

Edward L. Rankin, Junior, Chairman, United States Ship North Carolina Battleship Commission;

Francis W. Sargent, governor of Massachusetts;

John F. X. Davoren, secretary of the Commonwealth of Massachusetts;

Joseph H. Feitelberg, president, United States Ship Massachusetts Memorial Committee, Incorporated;

John S. Brayton, Junior, treasurer, United States Ship Massachusetts Memorial Committee, Incorporated;

James F. Gavin, captain, United States Navy (retired), executive director, Battleship Massachusetts; and

Martin R. Adler, vice president, United States Ship Massachusetts Memorial Committee, Incorporated.

OBJECTS AND PURPOSES OF THE CORPORATION

SEC. 2. The objects and purposes of the corporation shall be—

(1) with the cooperation of the Department of the Navy, to maintain, preserve, and exhibit historical naval ships and memorials connected therewith;

(2) to provide an organized corporate structure capable of maintaining liaison with the Navy Department and other Federal and State instrumentalities that may be involved

in order to effectuate clause (1) of this section;

(3) to provide a vehicle, in cooperation with the Department of the Navy, for developing and maintaining the highest educational standards in presenting the naval history backgrounds and traditions of the eras depicted by the various historic naval ships represented by this Charter;

(4) to provide an organization capable of accepting private donations and public funds that might be contributed or made available directly or through other interested organizations to carry out the purposes of clause (1) of this section; and

(5) to provide an organization for the exchange of information and advice concerning all aspects of historic naval ships among the charter members of the Association to more effectively implement the purposes of clause (1) of this section.

COMPLETION OF ORGANIZATION

SEC. 3. A majority of the persons named in the first section of this Act are hereby authorized to complete the organization of the corporation by the selection of officers, the adoption of a constitution and bylaws, the promulgation of rules or regulations that may be necessary for the accomplishment of the purposes of this corporation, and the doing of such other acts as may be necessary for such purposes. The persons so named may vote by proxy in accomplishing these acts.

CORPORATE POWERS

SEC. 4. The corporation shall have power:

(1) to have succession by its corporate name;

(2) to sue and be sued, complain and defend in any court of competent jurisdiction;

(3) to adopt, use, and alter a corporate seal;

(4) to choose such officers, managers, agents, and employees as the business of the corporation may require;

(5) to adopt, amend, and alter a constitution and bylaws, not inconsistent with the laws of the United States or any State in which the corporation is to operate, for the management of its property and the regulation of its affairs;

(6) to contract and be contracted with;

(7) to take by lease, gift, purchase, grant, devise, or bequest from any private corporation, association, partnership, firm or individual and to hold any property, real, personal or mixed, necessary or convenient for attaining the objects and carrying into effect the purposes of the corporation, subject, however, to applicable provisions of law of any State (A) governing the amount or kind of property which may be held by or (B) otherwise limiting or controlling the ownership of property by a corporation operating in such State;

(8) to transfer, convey, lease, sublease, encumber and otherwise alienate real, personal or mixed property·

(9) to borrow money for the purposes of the corporation, issue bonds therefor, and secure the same by mortgage, deed of trust, pledge or otherwise, subject in every case to all applicable provisions of Federal and State laws; and

(10) none of the aforesaid purposes or powers of the corporation shall be deemed to limit in any way the independence or autonomy of the governing board of any historic naval ship.

PRINCIPAL OFFICE, SCOPE OF ACTIVITIES

SEC. 5. (a) The principal office of the corporation shall be located in such place as may be later determined by the board of directors, but the activities of the corporation shall not be confined to that place, but may be conducted throughout the various States, territories, and possessions of the United States.

(b) The corporation shall have in the District of Columbia at all times a designated agent authorized to accept service of process for the corporation; and notice to or service upon such agent, or mailed to the business address of such agent, shall be deemed notice to or service upon the corporation.

MEMBERSHIP

SEC. 6. Eligibility for membership in the corporation and the rights, privileges, and designation of classes of members shall, except as provided in this Act, be determined as the constitution and bylaws of the corporation may provide.

BOARD OF DIRECTORS: COMPOSITION, RESPONSIBILITIES

SEC. 7. (a) Upon the enactment of this Act and for not more than two years thereafter, the membership of the initial board of directors of the corporation shall consist of: William V. Davis, Junior and Frank H. Brumby, Junior, of the United States Ship *Alabama;* Lloyd J. Gregory and Mrs. Murray Ezzell, of the United States Ship *Texas;* Casper J. Knight, Junior and Joseph D. Shein, of the Cruiser *Olympia;* Joseph H. Feitelberg and John S. Brayton, Junior, of the United States Ship *Massachusetts;* and Edward L. Rankin, Junor and C. Brooke Jennings, of the United States Ship *North Carolina.*

(b) Thereafter, the board of directors of the corporation shall consist of such number (not less than ten and not more than twenty-five), shall be selected in such manner (including the filling of vacancies), and shall serve for such term as may be prescribed in the constitution and bylaws of the corporation.

(c) The board of directors shall be the governing board of the corporation, and shall be responsible for the general policies and program of the corporation and for the control of all funds of the corporation. The board of directors may appoint committees to exercise such powers as may be prescribed in the bylaws or by resolution of the board of directors.

OFFICES: ELECTION AND DUTIES OF OFFICERS

SEC. 8. (a) The officers of the corporation shall be a president, one or more vice presidents (as may be prescribed in the constitution and bylaws of the corporation), a secretary, and a treasurer, and such other officers as may be provided in the constitution and bylaws.

(b) The officers of the corporation shall be elected in such manner and for such terms and with such duties as may be prescribed in the constitution and bylaws of the corporation.

USE OF INCOME: LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the corporation shall inure to any of its members, directors, or officers as such, or be distributable to any of them during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of compensation to officers of the corporation in amounts approved by the board of directors of the corporation.

(b) The corporation shall not make loans to its officers, directors, or employees. Any director who votes for or assents to the making of a loan or advance to any officer, director, or employee of the corporation, and any officer who participates in the making of such a loan or advance, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation, and its officers and directors as such, shall not contribute to or otherwise support or assist any political party or candidate for public office.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

BOOKS AND RECORDS: INSPECTION

SEC. 13. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having any authority under the board of directors, and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

SEC. 14. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets, if any, of the corporation shall be distributed in accordance with the determination of the board of directors of the corporation and in compliance with the constitution and bylaws of the corporation and all Federal and State laws applicable thereto.

EXCLUSIVE RIGHT TO NAME, EMBLEM, SEALS, AND BADGES

SEC. 15. The corporation shall have the sole and exclusive right to the name "Historic Naval Ships" and to have and to use in carrying out its purposes, distinctive insignia, emblems and badges, descriptive or designating marks, and words or phrases, as may be required in the furtherance of its functions. No powers or privileges hereby granted shall, however, interfere or conflict with established or vested rights.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 16. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

CONFORMING AMENDMENT

SEC. 17. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (78 Stat. 635; 36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(49) Historic Naval Ships Association."

The material furnished by Mr. KENNEDY is as follows:

HISTORY OF U.S.S. MASSACHUSETTS (BB–59)

The battleship *Massachusetts* (BB 59) is the fourth ship of the Fleet named for the Commonwealth of Massachusetts, the oldest of the former New England colonies and leader in the successful fight for American independence. Massachusetts derives her name from an Indian word meaning "At or about the Great Hills".

The first *Massachusetts* was a full rigged ship of 750 tons with auxiliary steam power, constructed in 1845 in the Boston shipyard of Samuel Hall for trans-Atlantic service.

The second *Massachusetts* was an iron steamer purchased at Boston on 3 May 1861 from the Boston and Southern Steam Ship Company for $172,000.

The third *Massachusetts* (BB 2) was a seagoing coastline battleship built by William Cramp and Sons, Philadelphia, Pennsylvania. Her keel was laid 25 June 1891 and she was launched 10 June 1893 under the

sponsorship of Miss Leila Herbert, daughter of Secretary of the Navy Hilary A. Herbert.

The fourth *Massachusetts* (BB 59) was built by the Bethlehem Steel Company, Fore River, Quincy, Massachusetts. Her keel was laid 20 July 1939 and she was launched 23 September 1941, under the sponsorship of Mrs. Charles Francis Adams, wife of the former Secretary of the Navy. The battleship was commissioned in the Boston Naval Shipyard on 12 May 1942, Captain Francis E. M. Whiting, U.S. Navy in command.

Massachusetts completed fitting out in the Boston Naval Shipyard on 12 July 1942 and trained in operating areas of the Chesapeake and Casco Bays before joining Admiral H. Kent Hewitt's Western Naval Task Force which would land some 35,000 Army troops at three different points on the Atlantic Coast of French Morocco. On 21 October 1942, in Casco Bay, Portland, Maine, she became flagship of Rear Admiral Robert C. Giffen's Task Group 34.1 which would give a protecting cover to the twelve transport and three cargo ships of the Central Attack Group which carried nearly twenty thousand Army troops to be landed on the beaches at Fedhala, a small fishing town and beach resort about 15 miles from Casablanca, French Morocco. Other ships of *Massachusetts'* Task Group 34.1 were the cruisers *Wichita* (CA 45) and *Tuscaloosa* (CA 27) and four destroyers.

On 24 October 1942 *Massachusetts* sailed from Casco Bay with her task group which combined with the entire Western Naval Task Force on the 28th, some 450 miles off Cape Race. The greatest war fleet sent forth to that time, the Western Naval Task Force spanned some 20 by 40 miles of ocean, making a sweep to the north on 6 November 1942, thence to the southeast as if to enter the Straits of Gibraltar. After dark the course was altered southeasterly towards Casablanca. Before the midnight of 7–8 November, three separate task groups closed three different points on the Moroccan coast while *Massachusetts* and her Covering Group moved to her assigned area. The mission of her task group was to cover the entire Task Force against a possible sortie by the formidable French ships in Dakar, contain enemy ships in Casablanca Harbor and destroy them if they made a fight; and, to neutralize shore batteries in or near Casablanca. As she steamed some ten miles southwest of the Center Attack Group in the direction of Casablanca, Admiral Giffen urged each man to fight hard and break clear, bearing in mind that if circumstances forced them to fire upon the French, once our victorious ally, that it be done with the firm conviction that it was not a strike at the French people, but at those few men who prefer slavery to freedom. Captain Whiting addressed the men of *Massachusetts*, concluding: "If it becomes our duty to open fire tomorrow, never forget the motto of the Commonwealth of Massachusetts whose name we proudly bear. That motto is: 'Ense Petit Plaoidam Sub Liberate Quietem, With the Sword She Seeks Peace under Liberty'. If we wield the sword, do so with all the strength in this mighty ship to destroy quickly and completely."

In the early morning twilight of 8 November 1942 *Massachusetts* catapulted her spotting planes, ran up her battle ensign, and bent on 25-knots as she assumed battle formation with her task group. Four destroyers steamed some 3000 yards ahead and she was followed at about 1000-yard intervals by cruisers *Wichita* and *Tuscaloosa* as she headed in for Casablanca. In that harbor was *Jean Bart*, newest battleship of the French Navy. About the same tonnage as *Massachusetts* and almost 800 feet long, the not yet completed French battleship was unable to move from her berth but her four 15-inch guns in the forward turret and her modern range-finding equipment made her a formidable shore battery. On El Hank promontory, just west of the harbor, was a battery of four 194-mm (about 8-inch guns) coast defense guns and another four 138-mm guns facing easterly. On the other side of the harbor toward Fedhala was a coast defense battery.

At 0642 on 8 November 1942, *Massachusetts* received the word "Play Ball!" (Commence attack) and eight minutes later her spotting plane reported two submarines moving out of Casablanca Harbor with anti-aircraft fire opening up to explode shells within twelve feet of the spotting aircraft. It was "Batter Up!" as gunners on *Massachusetts* opened up to turn away two hostile aircraft pursuing her spotting plane. Shortly thereafter three salvos from coast defense guns landed close aboard and five or six geysers of water rose in the air some 600 yards ahead of starboard to mark the landing of shells from *Jean Bart*.

Opening up on the French battleship, *Massachusetts* let go with nine 16-inch salvos of six to nine shots each and scored five hits. *Jean Bart* had her empty magazine penetrated, her after control station completely wrecked and there was a large hole below the waterline. Finally at the close of a sixteen minute action, a fifth shell from *Massachusetts* hit the forward gun turret of *Jean Bart*, jamming it before richocheting into the city without exploding. This silenced *Jean Bart's* entire main battery for some eight hours, eliminating one of the primary defenses of Casablanca, whose guns at extreme elevation might have been able to reach the American transport area off Fedhala. This armor-piercing shell of *Massachusetts* was recovered later and set up as a trophy at the French Admiralty building.

Admiral Giffen and Captain Whiting directed the battle from the open flying bridge of *Massachusetts* while her commissioning flag was pierced by an enemy shell and salvos from six Vichy-French destroyer force landed within fifty yards of the battleship on both sides, the fragments falling close aboard. The French destroyer charging in and out of a heavy smoke screen put up an admirable fight, being so nimble as to dodge most of the heavy caliber shells and were assisted by the French light cruiser *Primauguet*. Each time an enemy ship emerged out of the smoke, *Massachusetts* would open fire. She and cruiser *Tuscaloosa* landed two salvos on the leading destroyer *Fougueux* and that French warship blew up and sank about six miles north of the Casablanca breakwater. About the same time a shell from the El Hank shore batteries hit *Massachusetts'* main deck forward and exploded below, injuring nobody. Three minutes later four torpedo wakes were sighted on the port bow and the huge battleship was masterfully maneuvered between number three and four of this spread counting from left. The fourth torpedo passed about 15 feet from the starboard side. *Massachusetts* signaled her reentry into The Naval Battle of Casablanca by teaming with cruisers *Brooklyn* and *Augusta* to catch the enemy warships in a deadly cross-fire. She had the satisfaction of seeing destroyer *Boulonnais* list over to beams ends with stern awash. At 1052 enemy salvos were falling within 25 yards of her starboard beam and five minutes later *Massachusetts* received a hit on her starboard quarter as the shell ricocheted from her deck and burst over her gunners in 20mm group 13. There was a small fire but no casualties as the battleship answered with a direct hit on an enemy destroyer. Rear Admiral "Ike" Giffen on her flying bridge once remarked as an enemy salvo passed overhead: "If one lands at my feet, I'll be the first to line up to make a date with Helen of Troy!"

Massachusetts withdrew from the Naval Battle of Casablanca at 1105, 8 November 1942, because she had expended nearly sixty per cent of her 16-inch armor-piercing ammunition. The remainder would be needed if the *Reichelieu* made an appearance from Dakar. Leaving *Tuscaloosa* in tactical command of the two heavy cruisers and a destroyer with orders to polish off the enemy fleet, she pulled out of range with three screening destroyers. She returned the fire of the El Hank Point Battery some three hours later, followed by a six gun salvo at 1558 which hit and exploded a quantity of military stores, probably an ammunition dump. Full of fight and tip-top in morale, her men were at quarters from 0545 to 1610 of 8 November 1942, showing unusual endurance in handling sixteen-inch shells for hours on end. Out of her 113 officers and 2203 men, only three were in sick bay during the action. She expended 786 rounds of 16-inch .45 caliber ammunition in the Naval Battle of Casablanca, firing 134 salvos for an average of almost six shots per salvo.

Massachusetts patrolled to the west of Casablanca during further bombardments by other fleets. She received word of the capitulation of Casablanca on 11 November and during the night of the 12th started the "Great Circle Course" for Norfolk where she arrived on 20 November 1942. The following day Rear Admiral Robert C. Giffen left the *Massachusetts* officially, his flag being hauled down and replaced by the commission pennant.

Massachusetts onloaded supplies and 278,082 gallons of fuel from the pier at Norfolk, then shifted to the Boston Navy Yard on 26 December 1942 for alterations and repairs to improve her military efficiency. After gunnery training out of Casco Bay, Portland, Maine, she left that port astern on 6 February 1943 for the Pacific. She transited the Panama Canal the afternoon of 13 February and cleared Balboa two days later, repelling simulated torpedo attacks by motor torpedo boats and torpedo planes, as well as dive bombing and horizontal bombing and strafing attacks by U.S. Army planes. Screened by three destroyers she reached Noumea, New Caledonia, on 4 March 1943 to become a part of a powerful battleship force under Rear Admiral Willis A. Lee who flew his flag in battleship *Washington*. On 29 April 1943 *Massachusetts* became flagship of Captain G. B. Davis's Battleship Division 8 (comprising herself and *Indiana*). Basing at Noumea and in the New Hebrides Islands, she spent the following months protecting aircraft carriers *Saratoga* and HMS *Victorious* from air and surface raiders as the carrier-battleship-destroyer force guarded convoy lanes and provided combat air patrols for ships and forces in areas extending into the Solomon Islands. On 31 October 1943 she cleared Havannah Harbor, Efate, New Hebrides Islands, for rendezvous with the *Essex* Fast Carrier Task Group en route to Nandi Bay, Viti Levu, Fiji Islands. She entered Nandi Bay the morning of 7 November 1943 and three days later Rear Admiral G. B. Davis, USN, Commander Battleship Division Eight, transferred his flag from *Massachusetts* to *Indiana*.

Massachusetts stood out of Nandi Bay on 11 November 1943 and made rendezvous in a fueling area on the 15th with Rear Admiral A. W. Radford's *Enterprise* fast carrier task group that also included the light aircraft carriers *Belleau Wood* (CVL 24) and *Monterey* (CVL 26). With battleships *North Carolina* and *Indiana* and six destroyers, she guarded these aircraft carriers that gave direct support, 19–21 November 1943, to the landings at Makin, Tarawa and Apanama in the Gilbert Islands. The aircraft of the force conducted bombing and strafing attacks on the harbor at Makin; and, strafed and bombed enemy troop concentrations and gun emplacements throughout the islands. On the night of 25 November 1943, enemy planes dropped flares for torpedo runs but withdrew

as *Massachusetts* and other screening ships opened fire. Just after dark the following day, thirty or more enemy bombers, claimed to be the largest night air attack to that time against the Pacific fleet, dropped flares and their attack was immediately commenced. A pioneering night fighter "Bat Team" from *Enterprise* (one Avenger torpedo plane guided to vicinity of enemy by ships radar, then locking its radar on enemy to guide in two Hellcat fighters) intercepted and shot down two bombers. The enemy aircraft evidenced bewilderment by firing on one another and their attack dissipated and they withdrew. Now the task force circled north of the Marshall Islands where on 4 December 1943 each aircraft carrier launched one strike each on Kwajalein Atoll to attack shipping and enemy aircraft on the ground. One transport and five cargo ships were sunk, two light cruisers and other enemy ships were damaged, and at least 55 enemy aircraft were destroyed.

On the night of 4–5 December 1943 *Yorktown* carrier task force was hit by enemy aircraft and scored a torpedo hit on aircraft carrier *Lexington*. As it was suspected that these enemy bombers and torpedo planes had landed at Nauru, Rear Admiral Willis A. Lee was assigned a force comprising carriers *Bunker Hill* and *Monterey*, five fast battleships including *Massachusetts* and twelve destroyers. Near daybreak of 8 December 1943 the force reached a point some fifty miles northeast of Nauru and divided into bombardment and carrier groups, each taking screening destroyers in with them.

Massachusetts sighted Nauru at 0616 of 8 December as flashes of antiaircraft fire lit up the morning darkness in a vain attempt to stave off attacks of the American carrier-based planes. At 0702 *Massachusetts* opened fire with a full nine-gun salvo from her main battery on the barracks area, then closed range to open up with her secondary battery on the air strip. She threw 136 sixteen-inch and 400 five-inch projectiles into the island from a distance of only 1500 yards while carrier planes dropped 51 tons of bombs and strafed enemy positions. After the bombardment *Massachusetts* set course for the New Hebrides Islands, leading the battle line into Havannah Harbor of Efate Island, on 12 December 1943.

After rehearsals from Funi Futi Atoll, Ellice Islands, *Massachusetts* cleared that port on 23 January 1944 with units of Rear Admiral Marc A. Mitschers Fast Carrier Task Force 58 for the capture and occupation of the Marshall Islands. With battleships *Washington* and *Indiana*, she protected the carriers *Enterprise* (CV 6), *Yorktown* (CV 10) and *Belleau Wood* from air and surface raiders as it struck the Taroa Island Air Base in the Marshalls on 29 January 1944. The following morning *Massachusetts* formed a bombardment unit for destroyers in her anti-submarine screen for the bombardment of Kwajalein Atoll. When her guns opened she was straddled by five-inch salvos from shore batteries, the first enemy salvo passing directly overhead and landing beyond the battleship. Assisted by *Indiana* and *Washington*, she silenced this battery on the eastern tip of Kwajalein and had the satisfaction of exploding an ammunition dump with a single salvo and silencing shore batteries in both the central and north point of Kwajalein. By afternoon she had hurled 362 sixteen-inch and 1,902 five-inch projectiles on coast defense guns enemy troop concentrations and landing strips of airfields made temporarily useless.

On 1 February 1944 *Massachusetts* received word of collision between *Indiana* and *Washington* that had occurred during early morning darkness as *Indiana* was leaving formation to carry out fueling operations. *Indiana* left for repairs at Makin, while *Massachusetts* continued to guard the aircraft carriers launching strike after strike in direct support of the assault forces landing on Kwajalein. She replenished in newly-won Majuro Lagoon 4–12 February 1944 then set course with Rear Admiral F. C. Sherman's *Bunker Hill* carrier task group for the Caroline Islands. Three fast carrier task groups were apparently undetected as it arrived off Truk the night of 16 February 1944. Before dawn of the 17th twelve torpedo bombers from *Enterprise* made the first night radar bombing attack in the history of United States carrier operations. The combined strikes that continued through the 18th inflicted enemy shipping losses of two light cruisers, four destroyers, three auxiliary cruisers, two submarine tenders, two submarine chasers, an armed trawler, a plane ferry, and twenty-four auxiliaries which included six tankers. Some 250–275 enemy planes were destroyed or damaged. Truk, the "impregnable" and advanced naval base of the Japanese was shattered in this spectacular raid that also decimated enemy air threats to the American forces engaged in the capture and occupation of the Marshall Islands.

From Truk, *Massachusetts* continued with the Fast Carrier Task Force 58 that launched massive air strikes on the Marianas Islands on 22 February 1944. She returned to Majuro Lagoon on 27 February to replenish before proceeding with the carriers for strikes on Palau, Yap and Woleai Islands, followed by rehearsal and battle maneuvers out of Seeadler Harbor, Manus, Admiralty Islands. On 19 April she turned away from Manus with Rear Admiral Reeves' *Enterprise* carrier task group which assisted in the capture and occupation of the Hollandia area of New Guinea, including Wakde, Sawar and Sarmi. Aircraft of the force helped neutralize airfields at Hollandia, 21–24 April 1944, and gave close support to the amphibious landings at Tanahmerah Bay. On 27 April the force set course for Seeadler Harbor, Manus, Admiralty Islands. She reached that base on 28 April and Rear Admiral Davis, commanding Battleship Division 8, shifted his flag from *Indiana* to *Massachusetts*. That night *Massachusetts* put to sea with the *Enterprise* carrier group for air strikes on Truk carried out 29–30 April 1944.

On 1 May, *Massachusetts* joined in the aerial-surface bombardment of Ponape, followed by replenishment at Majuro in the Marshalls before she was routed onward with aircraft carrier *Yorktown* to the Hawaiian Islands, thence with two screening destroyers to the Puget Sound Naval Shipyard, Bremerton, Washington. She entered the Puget Sound Naval Shipyard on 19 May and put to sea on 15 July for battle practice in the Hawaiian Area with aircraft carrier *Independence* in whose company she sailed for Eniwetok in the Marshall Islands.

After battle rehearsals in waters of the Marshall Islands, *Massachusetts* sailed from Eniwetok on 30 August 1944 in company with Admiral F. C. Sherman's *Essex* carrier task group for heavy strikes designed to gain domination of all airfields in the Philippines preparatory to the invasion for the liberation of those islands. She assisted in driving off a night aerial attack the night of 13 September as her heavy striking force launched attacks against Negros, Leyte, Cebu and Samar in the Central Philippines. All airfields were hit hard along with shipping and shore installations in a move to support the seizure of Morotai and the Palau Islands. Luzon, containing the important harbor of Manila where a great number of airfields, some having as many as eight flying strips, was the objective of a devastating strike which started at dawn of 21 September 1944. The Central Philippines area was hit again on 24 September and the task group entered Saipan Harbor in the Marianas to replenish on the 28th, thence to Ulithi Atoll in the Caroline Islands where *Massachusetts* arrived on 1 October 1944. Here Rear Admiral G. B. Davis, Commander of Battleship Division 8, shifted his flag once again to *Massachusetts*.

Continuing with Rear Admiral F. C. Sherman's *Essex* carrier task group, *Massachusetts* departed Ulithi on 6 October to support landings of General MacArthur's Southwest Pacific Forces in Leyte Gulf. The 10th of October found her off Okinawa, about three hundred miles from Japan proper. This important enemy base, ten times as large as Saipan with several good harbors was the Japanese staging point for aircraft flown from Japan proper, southward to Formosa, thence to the Philippines and the East Indies. The object of *Massachusetts* and her task force was to wreck the air facilities on Okinawa to cut off the flow of reinforcing aircraft the Japanese might throw into the fight against the American invasion forces in Leyte Gulf. Strikes on Okinawa were completed on the 11th of October and the next morning *Massachusetts* was 100 miles from Formosa and 250 miles from the China coast. She assisted in driving off enemy aerial attacks the night of 12 October and aerial strikes were launched at dawn of the 13th for Formosa. During the day *Massachusetts* fought off air attacks as cruiser *Canberra* was reported torpedoed and dead in the water with engine rooms flooded. Cruiser *Wichita* took the damaged cruiser in tow for safer waters. The next morning *Massachusetts* received word that *Houston*, protecting the *Canberra*, was torpedoed by a Japanese plane. During the mid-afternoon a few enemy aircraft were repulsed without inflicting damage to *Massachusetts'* task group. At dusk another group of enemy planes attacked and succeeded in breaking through to her formation. One enemy torpedo plane launched an unsuccessful torpedo attack on carrier *Langley* then approached *Massachusetts* whose gunners shot it down in flames a short distance off her starboard bow. Moments later her gunners downed another enemy aircraft on her starboard quarter while cruiser *Reno* suffered an enemy suicide crash on her fantail which caused a few casualties and minor damage. By the 15th of October the task force was on its way to a fueling rendezvous while conducting long range searches for an enemy fleet that was located too far distant to attack.

As American troops stormed the shores of Leyte Gulf on 20 October 1944 to commence the liberation of the Philippine Islands, *Massachusetts* with Admiral Halsey's Third Fleet fast carriers, battleships and destroyers, moved off the North coast of Samar Island, where air strikes were launched in direct support of the invasion forces.

Stung to desperation by the invasion of Leyte, which in American hands, would cut off their fuel supplies from the East Indies, the Japanese threw their entire fleet into one last desperate gamble which was aimed at wiping out the transport fleet around Leyte. Their forces were planned to converge in three prongs upon the Philippines; a Center Force of battleships, cruisers and destroyers to sweep through San Bernardino Straits and combine with a Southern Force of battleships, cruisers and destroyers that would have already passed through Surigao Straits to the south, while a third and Northern Force of decoy heavy aircraft carriers from Japan would deliberately draw attention to themselves off Cape Engano to lure away the protecting heavy warships of Admiral Halsey's Third Fleet.

The powerful Japanese Center Force lost three cruisers in the Palawan Passage on 23 October 1944 to two American submarines. The next morning, aircraft from the fast carriers of *Massachusetts'* task force bombed the Japanese Southern Force, damaging a battleship and knocking out a gun crew of a destroyer. Later in the morning the carrier

aircraft shifted attention to the Japanese Center Force in the Sibuyan Sea, sinking a Japanese battleship, inflicting damage on three others, and so damaged a cruiser that it turned back for Brunei. Land-based enemy aircraft retaliated with air attacks and scored a lucky bomb hit on light carrier *Princeton*, starting a fire that eventually consumed her in flames. By early afternoon of 4 October, erroneously thinking the Japanese Center Force had been turned back and heavily damaged, Admiral Halsey's Third Fleet Fast Carriers and heavy warships that included *Massachusetts*, taking the bait, sped north to engage the Japanese Northern Force of decoy aircraft carriers off Cape Engano, leaving sixteen little escort aircraft carriers and a handful of destroyers and destroyer escorts to guard the American invasion fleet at Leyte.

The Japanese Southern Force which tried to bull its way through Surigao Straits before the dawn of 25 October 1944 was practically annihilated by Admiral Oldendorf's battleships and cruisers and destroyers of Admiral Kinkaid's Seventh Fleet. While the little escort carriers held off the mighty Japanese Center Force in the Battle off Samar, the carrier aircraft of *Massachusetts'* force destroyed half the available aircraft carriers of the Japanese Fleet off Cape Engano by sinking four aircraft carriers as well as a destroyer and a cruiser for good measure. To this total American submarines added two destroyers and a light cruiser. This historic Battle off Cape Engano numbered among its victims the Japanese aircraft carrier *Zuikaku*, the last afloat of the six Japanese carriers that had participated in the infamous raid on Pearl Harbor.

After chasing remnants of the defeated Japanese Fleet retiring at high speed from the Battle of Leyte Gulf, *Massachusetts* replenished at Ulithi Atoll in the Caroline Islands, then carried out raids from that base with fast carriers to waters east of Northern Luzon to hit enemy airfields throughout the Philippines. She reached a fueling rendezvous on 17 December 1944 but rising winds and seas forced abandonment of that operation and the mighty battleship soon found herself plowing into the teeth of a howling typhoon. Bucking monstrous seas brought on by a titanic gale estimated at 120 knots, she avoided the helpless escort carrier *Rudyard Bay* who swept by some 500 yards distant in the eerie midday darkness of 18 December and flashed warning to other ships in the area of the added navigational hazard. She sustained only minor damage which was repaired by her own force excepting one of her scout planes which was damaged beyond repair. During the day of the 19th she received word that destroyers *Hull*, *Spence*, and *Monoghan* capsized and sank. After joining in the search for survivors, she replenished at Ulithi (24–26 December 1944). She then set course with the fast carrier task force to hit Formosa, thence to the shores of Lingayen Gulf to support the initial invasion forces on 7 January before entering the South China Seas to destroy seaborne trade, shipping and installations along the sea coast running from Saigon to Hong Kong and Formosa. She re-entered the Philippine Sea on 20 January for strikes on the Philippine Islands and Formosa before returning to Ulithi in the Caroline Islands on 26 January 1945. She put to sea on 10 February 1945 for waters of the Tokyo area to act as cover for the fast carriers attacking enemy air forces and aircraft factories around Tokyo on the 16th of February. Retirement from the Tokyo-Yokohama area commenced on 18 February and carriers launched planes for Chichi Jima throughout the day of the 18th.

Dawn of 19 March 1945 found *Massachusetts* to the west of Iwo Jima to support the landing of troops that continued throughout the day of the 20th. The aircraft engine plants of Tokyo area were the primary targets on 25 February and Okinawa was again hit hard on 1 March 1945. On that day Lieutenant Robinson catapulted his plane from *Massachusetts* to rescue a fighter pilot from carrier *Bennington* off southeastern Okinawa. She was again off Kyushu on 18 March. That day *Massachusetts* helped drive off determined enemy aerial attacks, assisting carrier *Wasp* in downing one suicide plane and shooting down another that tried to dive bomb carrier *Hornet*. She shot down another enemy aircraft the night of 18 March and scored hits on another while the badly damaged carrier *Franklin* put up an epic and successful fight for her life off the southern tip of Kyushu. Air strikes were made on Okinawa the 23rd of March. *Massachusetts* spent the following day bombarding that shore with the fast battleships preparatory to the American invasion of that "last stepping stone" to Japan itself.

American troops stormed the shores of Okinawa on 1 April 1945, supported by the carriers of *Massachusetts'* striking force which hit the aircraft and facilities on Sakishima Gunto on the 3rd. On 6 April an enemy suicide plane made a dive for carrier *Bennington* and was downed by the fire of *Massachusetts* and other covering ships of the force. Another in a shallow dive above carrier *Hornet* and *Massachusetts* lost enthusiasm as he pulled up sharply to gain altitude, burst into flames and fell in a slow spin into the sea. About this same moment another suicide plane dived towards cruiser *Vincennes* on *Massachusetts* starboard hand. That Kamikaze plane was downed by *Massachusetts* gunners before reaching the cruiser. That same afternoon an enemy plane dove out of a cloud towards carrier *San Jacinto* and was set afire by gunners of *Massachusetts* who knocked off a wheel of the aircraft before it crashed into the sea just forward of *San Jacinto's* bow. On 7 April 1945 *Massachusetts* received word that air strikes against a Japanese fleet that sortied from Bungo Suido had resulted in the sinking of the mighty Japanese 18-inch gunned YAMATO along with several light cruisers and destroyers.

Massachusetts continued to fight off the day and night air attacks of the enemy off Okinawa until the night of 27 April 1945 when she set course to replenish at Ulithi in the Caroline Islands. On 10 May 1945 she passed out to sea with the *Hornet* fast carrier task group to give the airfields of Kyushu a good going over and to destroy the remnants of the Japanese Fleet in the Inland Sea of Japan. As of midnight of 28–29 May 1945 Vice Admiral Raymond S. Spruance hauled down his Fifth Fleet flag and relinquished his command to Admiral W. F. Halsey, who hoisted his Third Fleet flag in battleship *Missouri* to continue the raids on the Japanese Home Islands.

An hour after midnight of 4 June the barometer dropped to 29.42. The force of the wind rose to an estimated 100 knots by 0630 of 5 June 1945 and some ships had serious difficulties including cruiser *Pittsburgh* who lost her bow and cruiser *Duluth* having her bow buckled. About 0700 *Massachusetts* passed through the "eye" of the typhoon and the barometer dropped to 28.30, the wind decreased to 26 knots and visibility increased from a few hundred feet to about 10,000 yards. The ceiling rose from zero visibility to an estimated 5000 feet and the circular structure of the typhoon was clearly discernible. The seas in the typhoon's 12-mile diameter eye were mountainous, being much greater even than those encountered when the wind was estimated at 100 knots. At the edge of the typhoon's eye the waves were 50–60 feet from crest to trough in long curving swells radiating from the typhoon's center, but within the eye itself they were pyramidal and confused. When *Massachusetts* emerged on the other side of the eye she found the seas subsiding and the barometer rose steadily. She suffered only minor damage and one of her Kingfisher planes was destroyed by the battering waves.

The carrier task group reformed to the southeast of Okinawa on 9 June when air strikes were flown against Okino Diato Jima and Minami Diato Jima, the latter being hit the following morning by a fierce bombardment from the main battery of *Massachusetts, Alabama, Indiana,* and five destroyers. The task group reached San Pedro Bay, Leyte, on 13 June 1945 after almost three months of continuous operations in support of the Okinawa Campaign. Here, on 19 June 1945, Rear Admiral J. F. Shafroth, Jr., Commander of Battleship Division 8, transferred his flag from *Massachusetts* to *South Dakota.*

Massachusetts departed San Pedro Bay of Leyte Gulf on 1 July 1945, bound with the Fast Carrier Task Force 38 for operations close to Japan where it remained until Japan surrendered. Screened by a powerful battleship-cruiser-destroyer force, each of the three task groups which made up the force at this time included three heavy carries and two light carriers. After a fueling rendezvous to the east of Iwo Jima the task force set course for the strikes against the airfields of Tokyo on the 10th. Four days later more than twelve hundred sorties were launched by carriers against targets in northern Honshu and Hokkaido from only eighty miles off shore. That morning of 14 July 1945 *Massachusetts* formed in Rear Admiral Shafroth's bombardment unit that included battleships *South Dakota, Indiana* and *Massachusetts,* heavy cruisers *Quincy* and *Chicago* and nine destroyers. Simultaneously with the airstrikes, and for the first time, a naval gunfire force bombarded a major installation within the home islands of Japan. Their target was the iron works at Kamaishi, one of the seven plants of the big Japan Iron Company that lay in the narrow valley of the Otatari River with steep hills on each side. The battleships approached undetected and opened fire ten minutes after high noon, *Massachusetts* sending 300 rounds of sixteen-inch shells slamming into the industrial target where fires kindled by the heavy explosions obscured the target from her spotting planes.

While carrier-based planes hit the Kure-Kobe areas of the Inland Sea of Japan on 29 July 1945, *Massachusetts* joined the naval gunfire force in the bombardment of the industrial city of Hamamatsu, Honshu, blasting the Japanese Musical Instrument Company with 270 rounds of 16-inch shells in an effort to halt production of airplane propellers there. Her carrier task group continued to hit communication lines, air facilities and industrial targets in the following days. On 9 August her naval gunfire force under Rear Admiral Shafroth, with two more heavy cruisers (*Boston* and *St. Paul*) and ten destroyers, bombarded Kamaishi a second time. Making four runs past the town, *Massachusetts* fired 265 sixteen-inch shells into the iron works and docks. A Royal Navy bombardment unit which included light cruisers HMS *Newfoundland* and HMNZS *Gambia,* with three destroyers gave an assist to add to the general destruction on this day when the second atomic bomb was dropped.

Air strikes were called back to the aircraft carriers on 15 August 1945 when word was received that hostilities with Japan had ceased. After embarking passengers from various ships in waters south of Tokyo, *Massachusetts* set course for the United States. Accompanied by carriers *Essex* and *San Jacinto,* and cruiser *Astoria,* she anchored off the Puget Sound Navy Yard at Bremerton, Washington, on 13 September 1945, after a 5,000 mile non-stop voyage from waters off Tokyo.

Massachusetts remained at the Puget Sound Naval Shipyard until 28 January 1946 when she set course for operations at Long Beach and San Francisco, California. She cleared San Francisco Bay on 4 April and was assisted through the Panama Canal by three tugs on 17 April when she passed into the Caribbean Sea on her way to Lynnhaven Roads, Virginia, where she anchored the morning of 22 April 1946. At 0942 *Massachusetts* manned the rail to render honors to President Harry S. Truman embarked in the new heavy aircraft carrier *Franklin D. Roosevelt* standing out of the harbor. She entered the Norfolk Naval Shipyard for inactivation overhaul on 20 May 1946. She decommissioned 27 March 1947, and was assigned to the Norfolk Group, U.S. Atlantic Reserve Fleet. She is now preserved at a permanent berth at Fall River, Massachusetts.

HISTORY OF U.S.S. "NORTH CAROLINA" (BB–55)

North Carolina (BB–55), first of the Navy's modern super-dreadnaughts, continued the name of illustrious predecessors reaching back to 7 September 1820 when another super-dreadnaught of that day, 74-gun Ship-of-the-Line *North Carolina* was launched in the Philadelphia Navy Yard. The name was later carried by a Confederate Ironclad sloop and a powerful cruiser of the United States Navy.

The name *North Carolina* (BB–52) was assigned to a battleship under construction in the Norfolk Navy Yard. Her keel was laid 12 January 1920 but work was suspended 8 February 1922 under terms of the Washington Treaty limiting naval armaments. Her name was struck from the Navy List 10 November 1923, her uncompleted hull having been sold for scrapping 25 October 1923. The uncompleted battleship was designed as follows: Length overall, 684 feet; extreme beam, 105 feet; normal displacement of 43,200 tons; mean draft, 33 feet; designed speed of 23 knots; and a designed complement of 67 officers and 1,474 men. Her designed armament was twelve 16-inch .50 caliber guns; sixteen 6-inch .53 caliber guns; four 3-inch .50 caliber guns; four 6-pounders and two 21-inch submerged torpedo tubes.

The third *North Carolina* (BB–55), first commissioned of the Navy's modern battleships, is a veteran of every major Pacific campaign of World War II from the time of the landings on Guadalcanal 7 November 1942 until the formal signing of the document for the unconditional surrender of Japan on board battleship *Missouri* in Tokyo Bay, 2 September 1945. During forty months of combat duty in the Pacific, she steamed 307,000 miles and was six times reported sunk by Japanese propagandist "Tokyo Rose."

North Carolina (BB–55) was built by the New York Naval Shipyard. Her keel was laid on Navy Day (27 October 1937). She launched 13 June 1940, under the sponsorship of Miss Isabel Hoey, daughter of the Honorable Clyde R. Hoey, Governor of the State of North Carolina. First of the American super-dreadnaught and the nation's pride, she commissioned in the New York Naval Shipyard 9 April 1941, Captain Olaf M. Hustvedt, USN, commanding. First of 10 Steelhearted sisters to step into line for defense of the United States, she was welcomed by President Franklin D. Roosevelt and Secretary of the Navy Frank Knox as a fact and a symbol in the nation's ever-quickening drive toward supremacy of the seas. Speaking after the commissioning ceremony, Secretary Knox declared: "The *North Carolina* is one of a new line of ships that will give the United States unchallenged supremacy of the seas. America has no aggressive designs on any power on earth. The United States is still dedicated to peace. But at long last, we are convinced that peace and security can be had only by building a fleet with such strength that no one will want to challenge it. . . ."

Upon commissioning, *North Carolina* (BB–55) was hailed as the mightiest warship afloat. She had a length over all of 728 feet, 9 inches; extreme beam, 108 feet, 4 inches; standard displacement, 35,000 tons; mean draft, 26 feet, 8 inches; designed speed of 27 knots; and a designed complement of 108 officers and 1,772 enlisted men. Her original armament was nine 16-inch. 45 caliber guns; twenty 5-inch .38 caliber guns; four quadruple 1.1-inch gun mounts, and twelve .50 caliber machine guns. She had two plane catapults aft. The maximum thickness of her armor was 18 inches.

The pride of the Navy and her country, the majestic *North Carolina* drew so much attention as she passed in and out of New York Harbor for trials that she earned the title "Showboat", a nickname which continues to the present day. She departed New York 3 September 1941 for the Chesapeake Bay, thence on shakedown into the Caribbean Sea and back up the eastern seaboard to the New York Navy Yard. While there, 6 December 1941, Rear Admiral J. W. Wilcox, commanding Battle Division 6 hoisted his flag in *North Carolina*. The following day, when the Japanese made their perfidious attack on Pearl Harbor, Rear Admiral Wilcox transferred his flag to battleship *Texas* (BB–35). After intensive gunnery and other battle practice ranging from the coast of Maine into the Caribbean, she departed Norfolk 5 June 1942 to enter the Pacific.

North Carolina transited the Panama Canal 10 June 1942 for San Pedro, California, where she became flagship of Rear Admiral Anderson, commanding Battleship Division 4, and Commander Battleships, U.S. Pacific Fleet. Admiral Anderson shifted his flag to battleship Maryland 24 June and *North Carolina* stood out of San Francisco Bay 5 July 1942. After exercises off the California Coast, she set course 8 July for Pearl Harbor where she became a screening unit for the famed carrier *Enterprise* (CV–6). She sailed from Pearl Harbor in the screen of *Enterprise* 15 July for amphibious assault rehearsals preparatory to the initial assaults for the capture and occupation of the Solomon Islands. South of the Fiji Islands, 26 July, *North Carolina* became a unit of Task Force 61, formed around carriers *Enterprise, Saratoga,* and *Wasp* comprising the Air Support Force for Rear Admiral Richmond K. Turner's amphibious expedition enroute to Guadalcanal.

Marines stormed the shores of the Tulagi-Guadalcanal areas 7 August 1942. *North Carolina* protected the carriers providing direct support to the landings into the following day. Airstrikes concentrated on enemy troops, supply and ammunitions dumps and gun emplacements. The next two weeks were spent protecting the supply and communication lines southeast of the Solomons. Two Japanese carrier forces were located 24 August and strikes launched to damage two enemy carriers. The Japanese carrier *Ryujo* was sunk and other enemy units damaged. Unfortunately, the Japanese had learned the location of the American carrier task force and planned to avenge their losses at Midway as their aircraft were launched from carriers *Zuikaku* and *Shokaku,* 24 August 1942. At that very moment, *Enterprise* had launched her planes to attack *Ryujo,* 36 Japanese bombers with many fighters, and a group of enemy torpedo planes escorted by fighters, headed to attack. That carrier came under attack by about 30 dive bombers, receiving three direct hits and four near misses as at least twenty bombs were dropped in her vicinity.

North Carolina, of the *Enterprise* carrier task group, in direct combat for the first time, was having a naval battle all her own. She first divided her gunfire on the enemy attacking *Enterprise* as well as about 10 dive bombers which attacked her. The superior speed of *Enterprise* caused *North Carolina* to gradually fall astern where she stood alone against an attack by six more dive bombers, joined seconds later by other torpedo planes. In the midst of all this action, 8 to 12 high altitude bombers dropped a pattern of heavy bombs between *North Carolina* and *Enterprise.* So furious was the action of *North Carolina* gunners, *Enterprise* anxiously inquired whether the battleship was afire. She was afire—afire with the determination to destroy the enemy as her 5-inch battery opposed 18 aerial attacks in an eight-minute action in which she shot down at least seven and possibly 14 enemy raiders. Close bomb hits, one only 15 yards from her port quarter, knocked down machine gunners and jarred the battleship. But whether hampered by the deluge of water or knocked down by the detonation of near-miss bombs (seven in number), her men immediately resumed battle stations. She suffered no damage but lost one gunner who was killed by a bullet from an enemy plane which strafed the battleship after a dive bombing attack. Meanwhile *Enterprise* planes had severely damaged Japanese carrier *Chitose* and hit other enemy ships. By the morning of 25 August, the Japanese force, only slightly less than that of Midway, had most of their aerial striking force destroyed. Not only had their landing expedition been turned back, but Americans had won control of the air. In this action, known as the Battle of the Eastern Solomons, the Japanese had lost two carrier plane groups and other aircraft totaling about 100 planes.

Enterprise sailed for repairs at Pearl Harbor and *North Carolina* joined the *Saratoga* carrier task group 25 August 1944. About midday of 6 September, a Japanese submarine surfaced about 2,000 yards from the battleship, then crash-dived under attack by a *Hornet* aircraft whose bomb apparently exploded two of three torpedoes launched by the enemy submarine. *North Carolina* swung in a radical maneuver to dodge a torpedo wake which passed 400 yards on her port beam. She continued to protect the carriers landing direct support to the Marines on Guadalcanal. On 15 September 1942, *North Carolina,* in company with the *Hornet* carrier task group, observed carried *Wasp* in a distant group smoking heavy and on fire as the result of a torpedo attack. About 1450 destroyer *Lansdowne* of the *Wasp* group reported a torpedo had passed directly under that destroyer and was headed directly for *North Carolina.* Her rudder was put full right at emergency speed at 1452.

Despite the instant evasive measure taken by *North Carolina,* the ponderous battleship was unable to dodge the torpedo which had been launched by Japanese submarine. But she demonstrated that new battleships could take severe punishment as well as dish it out. The torpedo struck portside, 20 feet below her waterline, killing five men. It opened a gash 32 feet long by 18 feet high, and flooding seas poured through four bulkheads. The torpedo hit also sent a flash into her No. 1 turret handling room but the forward magazines were flooded to prevent any disaster. None of this damage kept the fighting battleship from keeping her station in formation, even when it moved at 25 knots. Her damage control parties eliminated her 5.5 degree list in as many minutes.

North Carolina entered the Pearl Harbor Navy Yard 30 September for permanent battle-damage repairs completed by 17 November 1942 when she departed for Noumea, Caledonia. She rejoined the *Enterprise* carrier task force to protect logistic and troopship movements in approaches to the Solomons until 18 March 1943, then again set course for Pearl Harbor. She entered the Pearl Harbor Navy Yard 27 March 1943 for alterations that included new and better gunnery, fire control and radar gear. After battle practice in the Hawaiian area, she helped escort British carrier HMS *Victorious* to Noumea, New Caledonia, arriving 27 May

1943. Joining the *Saratoga* carrier tasks group she continued to patrol as a covering force in the Solomons until 17 September when she returned to Pearl Harbor to prepare for participation in the capture and occupation of the Gilbert Islands.

On 10 November 1943 *North Carolina* departed Pearl Harbor with the *Enterprise* Carrier group 50.2 (Northern Covering Goup) to participate in the capture and occupation of Makin, Tarawa and Apamama in the Gilbert Islands. The first air strikes were launched against Makin 19 November and continued through the 21st. Bombing and straffing attacks were made on enemy harbor installations, direct support was given to landing forces, and other enemy troop concentrations and gun emplacements were destroyed. On the night of 25 November, enemy planes closing the formation withdrew under the withering fire of *North Carolina* and sister ships. Night fighting was born on *Enterprise* the following night when three-plane "Bat-Teams" took to the air against Japanese night raiders. Two hellcat fighters escorted by a radar-equipped Avenger torpedo plane were guided by *Enterprise* radar to the enemy aerial formation, then using its own radar, the Avenger led the two hellcats within visual range of the enemy. Two enemy bombers were shot down and the enemy evidenced complete surprise and bewilderment by firing on one another and withdrew.

North Carolina joined the *Saratoga* carrier group 28 November 1943 to continue support of the Gilbert Islands Campaign. On 8 December 1943 she joined in the battleship bombardment of Nauru Island. *North Carolina* hurled 538 explosive shells to destroy the Japanese air base runways, radio stations, beach defenses, radar positions and revetment areas. Retiring to the New Hebrides Islands, she departed Efate 25 December 1943 with the *Bunker Hill* carrier task group enroute for diversionary air strikes against Japanese Shipping and airfields at Kavieng, New Ireland. She joined battleship *Washington* and three destroyers to be in position to intercept any enemy cripples that might sortie from the enemy held harbor, then returned to Havannah Harbor, Efate, New Hebrides Islands, 7 January 1944. After replenishment, she proceeded to Funa Futi, Ellice Islands. Here, she became a unit of Rear Admiral Marc A. Mitscher's Fast Carrier Striking Force 58, being assigned to the *Essex* carrier task group for the forthcoming Marshall Islands Campaign.

The initial airstrikes against Kwajalein began 29 January 1944, *North Carolina* moving in for bombardment of Roi and Namur Islands of that atoll. During the approach to Roi, she spotted a cargo ship inside the lagoon and sent salvos to set it afire fore and aft. Enemy airstrips on that island were blasted and she kept up a harassing night fire that continued into the next morning. She again joined in the preinvasion bombardments of Roi and Namur 30 January 1944, then helped protect carriers the next day as they supported a successful landing on the small islands adjacent to Roi and Namur. On 1 February her carrier force provided air cover for the landings on Roi and Namur. That morning she joined the screen of the famed *Enterprise* to continue supporting air strikes into 2 February 1944. She anchored in newly-won Majuro Lagoon 4 February to replenish her ammunition. The following day, *North Carolina* became flagship of Rear Admiral Willis A. Lee, Jr., (commander Battleships, Pacific) who transferred his flag from *Washington* recently damaged by collision with *Indiana*.

On 12 February 1944, *North Carolina* departed Majuro with the Fast Carrier Striking Force to wreak havoc on the Japanese Advance Fleet Base at Truk Atoll in the Carolines, 16–17 February 1944. Of an estimated fifty-five enemy ships at Truk, about 8 to 10 ships were all that remained undamaged. Thirty-nine large ships were sunk, burned or beached in a useless state and 211 enemy planes were destroyed. Another 104 enemy aircraft were severely damaged. The carriers approached the Marianas the night of 21 February and came under enemy aerial attack. *North Carolina* gunners shot one down, and two others were splashed into the sea by other ships. From that time on, the battleship helped drive off intermittent attacks by low flying enemy raiders. At sunrise of 22 February aerial attacks were launched against Saipan, Tinian and Guam in the Marianas. After replenishment in Majuro Lagoon, course was shaped for Palau. The night of 29 March 1944, *North Carolina* shot down another enemy plane. Palau was hard hit 30–31 March, followed by strikes 1 April on Woleai where more than 150 enemy aircraft were destroyed in addition to ground installations.

North Carolina returned with the carriers to Majuro 6 April 1944 and stood out to sea the 13th with the *Enterprise* carrier task group to support the capture and occupation of the Hollandia area of New Guinea, including Wakde, Sewar and Sarmi. On 21 April, neutralization strikes were launched against enemy airfields, continuing the next day as troops stormed the invasion beaches. Direct support to troops continued until 24 April when course was set for replenishment at Ulithi, West Carolina Island. From there, she proceeded to protect carriers inflicting maximum damage to shore installations and shipping at Truk, 29–30 April. The morning of 29 April *North Carolina* opened fire on two enemy planes closing her formation. Carrier *Lexington* shot down one of the raiders and the second disappeared in a trail of smoke after being hit by *North Carolina* gunfire.

In the forenoon of 30 April, two *North Carolina* scout planes were sent to rescue a pilot downed on the south reef of Truk Atoll. One turned over on landing, but the other, piloted by Lieutenant Burns, kept the pilot of the first plane afloat as well as the carrier aviator until these two were rescued by submarine *Tang*. Closing the east reef, Burns towed aviators from shore on rafts but found he was unable to take off. He and his radioman along with the aviators were also rescued by submarine *Tang*. The next day *North Carolina* poured 185 explosive shells onto Ponape Island for the destruction of coast defense guns, antiaircraft batteries, airfields and installations. She returned to Majuro Lagoon 4 May 1944 and found herself badly in need of major repairs to her rudder. Vice Admiral Willis A. Lee, Jr., transferred his flag from her to *New Jersey* 14 May, and *North Carolina* proceeded to Pearl Harbor for repairs. She returned to Majuro 30 May 1944 to prepare for the invasion and capture of the Marianas Islands.

On 6 June 1944, *North Carolina* departed Majuro in the screen of the *Enterprise* Carrier Task Group for the Marianas. Repeated strikes were launched against Saipan and Tinan 11–13 June 1944. On the latter date, *North Carolina* joined in the battleship bombardment of the west coast of Saipan to cover minesweeping operations. When the sweepers withdrew in the afternoon, she opened on shipping in Tanapag Harbor where several small craft were sunk or damaged. Numerous large fires were evidence that quantities of enemy munitions, fuel oil storages and supplies were destroyed or damaged. Air strikes continued through the day of 14 June 1944. That night, men on *North Carolina* heard a cry for help and tossed over a float light to mark the spot for destroyer *Caperton* who rescued an American carrier pilot who had been shot down during the strikes of 11 June. Direct aerial support was given 15 June as the initial invasion landings were made on Saipan. At dusk, *North Carolina* shot down an enemy plane, one of two that had managed to get past the combat air patrol.

On 18 June 1944, action with the Japanese Fleet appeared imminent and the carriers of Task Force 58 steamed to join forces to meet the Japanese First Mobile Fleet whose movements had been reported by submarines and aircraft since the 14th. The Battle of the Philippine Sea commenced the morning of 19 June when fighters badly outnumbered over Guam called for help and strikes were launched to destroy as many land-based enemy planes as possible before the enemy carrier planes came in. By 0959, many enemy carrier planes were detected 130 miles to the west. *North Carolina* was in the battle line fanning out from the central position of the American carriers to protect them from the massive aerial onslaught.

The American carrier fighter pilots did a magnificent job, shooting down most of the raiders before they reached the American warships. But a few got through to *North Carolina's* formation. Her gunners shot down two of the enemy and seven others were destroyed by gunfire of her sister ships. So great was the loss of Japanese aircraft, that the day of 19 June was afterwards remembered as "The Marianas Turkey Shoot." Two Japanese carriers had been sunk by United States submarines and a long range air strike late in the afternoon of 20 June, sank another enemy carrier and so damaged two tankers that they were abandoned and scuttled. On that day, the Japanese carrier-based aircraft strength was only 35 aircraft operational out of the 430 planes which were on hand at the commencement of the Battle of the Philippine Sea. The American Fleet had suffered no losses. Battleship *South Dakota* had suffered a bomb hit which did not impair her fighting efficiency. There was superficial damage to two carriers who received near misses by exploding bombs.

North Carolina refueled off Saipan, then helped protect carriers striking Guam, Rota, and Pagan Islands, and continuing support to troops ashore on Saipan. She returned to Eniwetok Atoll 9 July 1944 and departed the 17th for overhaul in the Puget Sound Navy Yard, Bremerton, Washington (23 July-1 October 1944). She returned to Pearl Harbor 20 October as landings were made on Leyte to commence the liberation of the Philippine Islands. After calling at Eniwetok for fuel she reached Ulithi 5 November 1944 and joined the screen of the Fast Carrier Task Force. That same day, she passed out to sea, joining the ESSEX carrier task group at a refueling rendezvous on the 7th. Seas were so rough that fuel hoses were carried away and two persons washed over the side of other ships. With a typhoon raging to southward, the battleship fought seas that broke over her main deck until the storm abated on 9 November. After aerial strikes on shipping westward of Leyte, the carriers made hard-hitting strikes in the Luzon-Visayas area. She returned to Ulithi 17 November for replenishment. While there the morning of 20 November, *North Carolina* witnessed the loss of fleet oiler *Mississinewa*, sunk at her berth by a midget Japanese submarine with a loss of 50 officers and men. Destroyer *Case* destroyed one of the midget submarines just outside the entrance and another was depth-charged by Marine aircraft the same day. These midgets were forerunners of a new type of "human torpedo", called by the Japanese "Kaiten", meaning "the turn towards Heaven." A "Kaiten" was carried on the deck of a conventional submarine which launched it close to the intended victim. A special device ejected the operator about 150 feet from the target. The midget who sank *Mississinewa* was one of four "Kaitens' launched by Japanese submarine I–47 outside Mugai Channel.

North Carolina departed Ulithi 22 Novem-

ber 1944 with the *Essex* carrier task group for air strikes on central Luzon. Shortly after high noon of the 25th, a single enemy aircraft made a vertical dive out of the sun to crash *Essex*. A few moments later, a second plane streaked over the formation, weaving and twisting to escape the storm of fire from *North Carolina* and her sister ships. After heading for *North Carolina*, it twisted around toward *Essex* and finally made a vertical dive into the water. Similar suicide attacks brought some damage to carriers *Hancock, Cabot* and *Intrepid*. The battleship returned to Ulithi 2 December 1944, preparatory to support of invasion troops who would soon land on Mindoro.

North Carolina departed Ulithi 10 December 1944 with the fast carriers for preliminary strikes on Luzon airfields, from which the Mindoro invasion force might be threatened. During 14–16 December, an umbrella of fighter planes was kept over Luzon airfields day and night, so that enemy aircraft could not take off to attack the Mindoro-bound convoys. The two enemy flights that did manage to get off the ground were intercepted by carrier fighters and a substantial number were shot down. Direct aerial support was given to the landings on Mindoro 15 December 1944. As her task force refueled, 17 December, seas rose to make refueling impossible.

By daybreak of the 18th, *North Carolina*, running with a 50-knot wind abaft, fought her way through one of the worst typhoons of the year, experiencing rolls of about ten degrees with occasional rolls up to 30 degrees. She suffered negligible damage as the result of the typhoon that had capsized and sank several destroyers. After replenishment at Ulithi, she guarded the carriers in devastating strikes ranging from Formosa, the coasts of Indo-China and China and Ryukus Islands. Great damage was inflicted on shore installations, aircraft and shipping to severely cripple the war capacity of Japan. She returned to Ulithi 26 January 1945. By this time, the mighty battleship had covered 23,217 nautical miles since first commissioned.

North Carolina was to sea again 10 February 1945. Her carrier group came within 110 miles of Honshu 16 February as carrier aircraft blasted the assembly plant at the Yokosuka naval base, and destroyed hundreds of enemy aircraft in raids that continued against the Tokyo Plain into the following day. The sunrise of 1 February 1945 found *North Carolina's* big guns opening up on coast defense guns, mortar installations and caves in direct support of Marines landing on Iwo Jima, Volcano Islands. Her powerful armament served as "artillery" for Marines on Iwo Jima through 22 February 1945. After guarding carriers launching sweeps against Tokyo and Hachijo Jima, she returned to Ulithi for replenishment 1 March 1945. On the 14th she again sailed with the carriers to blast centers of air power on Kyushu in support of the forthcoming Okinawa campaign. During these strikes, 19 March, carrier *Franklin* was hit by two semi-armor piercing bombs dropped by a single enemy plane which had pierced the cloud cover and made a low level run on that gallant ship. She was saved by sheer valor and tenacity of her crew, being taken under tow by cruiser *Pittsburgh* until she managed to churn up speed of 14 knots for Pearl Harbor. *North Carolina* helped cover the retirement of the gallant carrier opening up with her guns the afternoon of 20 March to stave off suicide attacks of Japanese planes.

On 24 March 1945 *North Carolina* cleared the formation with other battleships to bombard the south end of Okinawa with 158 sixteen-inch shells. She continued to support carriers launching pre-invasion strikes on that island and lending direct support to the main landings by elements of the Tenth Army 1 April 1945. While continuing support 6 April, *North Carolina* shot down three attacking suicide aircraft. During the melee a "friendly" 5-inch anti-aircraft shell from another ship struck *North Carolina's* Number 5 Gun Director, killing three men and wounding forty-four. The following day, her task force launched heavily armed strikes against a special Japanese attack force led by Japanese battleship YAMATO, the world's biggest battlewagon and the pride of the Imperial Japanese Navy. Aerial torpedoes and bombs sent that mammoth enemy to the bottom along with a cruiser and a destroyer. Three enemy destroyers were so heavily damaged that they were scuttled by their own crews. Four destroyers, sole remnants of the enemy fleet were damaged but made it back to Sasebo. That same day, 7 April, *North Carolina* shot down an enemy aircraft, which fell in flames near carrier *Essex*.

North Carolina again drove off enemy planes the morning of 17 April 1945, shooting down two, and assisting in destruction of a third. On the 19th, she sent 201 sixteen-inch shells onto the southeast part of Okinawa in a diversionary feint while other ships bombarded from Buckner Bay. She continued to serve under the threat of day and night air attacks off Okinawa until the night of 27 April 1945. After calling at Ulithi, she passed Biniki Atoll 5 May enroute to the Pearl Harbor Naval Shipyard, arriving 9 May for overhaul. Here, 15 June 1945, *North Carolina* became flagship of Rear Admiral T. R. Cooley, Commanding Battleship Division 6.

North Carolina left Hawaii astern 28 June 1945 and rendezvoused off the Marshalls 7 July with the *Randolph* carrier Task Group enroute to carry the war direct to the shores of Japan itself. Tokyo was taken by surprise aerial strikes on 10 July. Four days later, 1,391 aerial sorties were launched against northern Honshu and Hokkaido. On 15 July a naval gunfire force wrought destruction for the first time on a major installation within the home islands of Japan. The iron works at Kamashi was so extensively damaged that production was halted. A second bombardment, 15 July brought destruction to the Nihon Steel Company and the Wanishi Ironworks at Muroran, Hokkaido. *North Carolina* protected the carriers during these naval bombardments. Her chance came 19 July 1945 when she joined in the bombardment of six major industrial plants at Hitachi, about eight miles northeast of Tokyo. Strikes on Kure-Kobe areas continued through 28 July.

As carriers launched planes for targets in Northern Honshu the morning of 10 August two *North Carolina* scout planes were catapulted to rescue an *Essex* carrier pilot downed in Matsu Kaiwan (Tokyo Bay). Accompanied by a scout plane from cruiser *Pasadena* and escorted by eight fighters from carrier *Essex*, the *North Carolina* planes reached the eastern shore of Matsu Kaiwan about noontime. One *North Carolina* plane was piloted by Lieutenant R. J. Jacobs, USNR, who landed in a high wind and sea, then taxied into the edge of the breakers. It was evident that *Essex* pilot Lieutenant (jg) Vernon T. Coumbes could not swim very far out against such a rough sea. Jacobs stood up in the cockpit to throw a line to Coumbes when a heavy wave shook the plane, throwing Jacobs into the water. Jacobs believed that his foot must have struck the throttle, as his plane, now unmanned, taxied out in a wild run across Tokyo Bay and came under fire of Japanese shore batteries at Omimato.

The second *North Carolina* plane piloted by Lieutenant (jg) A. P. Oliver, USNR, landed and taxied in to pick up the two pilots. Jacobs and Coumbes climbed in. Despite the excessive weight, unfavorable sea conditions and enemy fire, Oliver took off successfully and returned the survivors to *North Carolina*. The courage of these two *North Carolina* scout plane pilots in performing this rescue at almost the maximum range of their aircraft and in an enemy landlocked body of water, won them decorations for valor. A few hours after they returned to *North Carolina*, word was received that the Japanese Government had made offers to surrender.

The morning of 15 August 1945, word was received that offensive action against Japan was to cease and strikes which had been launched against the Tokyo area was recalled. From Admiral William F. Halsey, Jr., commanding the Third Fleet, sent out a dispatch to Fast Carrier Task Force 38: "All snoopers will be investigated and shot down, not vindictively, but in a friendly sort of way." That late afternoon, five unreconstructed or poorly informed Japanese planes aggressively approached *North Carolina's* formation and were shot down by the combat air patrol.

In the following days, *North Carolina* transferred to various ships, detachments of Marines, Navy officers and men for temporary duty with the Tokyo Naval Occupation Forces. Her carrier air group maintained patrols over Central Honshu during the flight of transport planes from Okinawa to Atsugi Airfield, Honshu, to make the preliminary landings for the occupation of Japan. *North Carolina* patrolled in the area south of Shikoku as the formal surrender of the Japanese Imperial Government was signed on board battleship *Missouri* in Tokyo Bay, 2 September 1945. She anchored in Tokyo Bay 5 September to receive men and officers who had completed their temporary duties with the occupation forces. The following day, *North Carolina* was homeward bound.

After embarking veteran officers and enlisted passengers at Okinawa, *North Carolina* entered Pearl Harbor 20 September where passengers bound for the West Coast were debarked. On 25 September she stood out for the Panama Canal in company with a Task Group under Vice Admiral Forrest C. Sherman in the famed carrier *Enterprise*. Upon reaching Balboa, 8 October 1945, Rear Admiral T. Ross Cooley, commanding Battleship Division 6, from *North Carolina* to *Washington*. She transited the Panama Canal 11 October and came into Boston Harbor the 17th. On 15 November, Battleship Division 6 was redesignated Battleship Division Four, Battleships and Cruisers U.S. Atlantic Fleet. *North Carolina* shifted to New York 27 November 1944. Here, 3 December 1945, she again became flagship of Admiral Cooley, commander of Battleship Division Four, who shifted his pennant from *Washington* to *North Carolina*. She continued to serve as his flagship until 31 December 1945 when his pennant was shifted back to battleship *Washington*.

North Carolina was overhauled in the New York Naval Shipyard, then departed 6 June 1946 for exercises along the New England coast out of Newport. Course was then set for Annapolis where she embarked midshipmen for a training cruise ranging through the Caribbean to the Panama Canal. Departing Annapolis 1 October 1946, she entered the New York Naval Shipyard for inactivation. She decommissioned there 27 June 1947.

North Carolina remained in reserve until her name was struck from the Navy List 1 June 1960. An advisory committee was appointed 11 November 1960 by Governor Hodges to investigate her establishment as a state memorial. Following the inauguration of Governor Terry Sanford, the USS *North Carolina* Battleship Commission was sworn in, 4 May 1961.

Chief of Naval Operations, Admiral Arleigh Burke, met with Governor Terry Sanford and other state officials to pledge full Navy support. Admiral Burke told the group: "I'd like to say how much we of the Navy appreciate what you're doing for a ship many of us fought along side of and many fought in. It's a good thing. This Battleship helped keep these United States Free. A memorial such

as you propose means much more than preserving a gallant ship. It honors many men from North Carolina who served on the *North Carolina* and who acquitted themselves with such bravery and devotion. In addition, the physical presence of a ship like the *North Carolina* will serve to remind generations to come of the sacrifices their ancestors made so willingly so that they might enjoy freedom. It may also inspire them to make similar sacrifices in the years to come."

In ceremonies at Bayonne, New Jersey, 6 September 1961, Vice Chief of Naval Operations, Admiral James A. Russell, handed over the title of the battleship to Governor Sanford, who accepted it on behalf of the people of North Carolina. On 26 September 1961, two sea-going tugs towed the Navy's first super-dreadnaught out of the Bayonne Marine Terminal to begin her last voyage, enroute to Wilmington. The veteran of nearly every major Pacific Combat Operation of World War II, anchored at the mouth of the Cape Fear River, 1 October 1961.

Rain and fog delayed *North Carolina's* passage up the Cape Fear River until 2 October 1961. Thousands lined the banks of the stream from Southport northward to Wilmington to watch a veteran Southport pilot, Captain B. M. Burriss, guide the 108-foot wide battlewagon through the narrow channel without brushing a buoy. She passed majestically into the Port of Wilmington for the difficult maneuver into her permanent slip. The 728 foot-long dreadnaught was longer than the width of the channel. During two hours of maneuvering, tugs pushed and pulled at the 35,000-ton ship. At the last moment her stern rammed against a floating restaurant and her bow went aground.

For thirty feverish minutes eleven tugs and a bulldozer worked to free *North Carolina*. Waiting for her was Rear Admiral William S. Maxwell, USN, Retired, Superintendent of the North Carolina Battleship Memorial. As chief engineer, he had helped build her as well as sail her in combat. The admiral gripped the rail of her temporary gangway hard: "Come on baby. You never failed us before. Don't do it now." *North Carolina*, a lady to the last, responded faithfully as she had in so many battles. Her bow floated free and a final push of the tugs put her in her permanent site. The Battleship Memorial Berth, located across the river from downtown Wilmington, North Carolina.

North Carolina was dedicated as a Memorial at Wilmington 29 April 1962. Principal speaker for the ceremony was Admiral Arleigh A. Burke, retired Chief of Naval Operations whose constant interest and cooperation made possible the transfer of *North Carolina* to her permanent memorial site.

Sixty acres will be developed into a park as part of a long range program for the Battleship Memorial. Her original officers wardroom, on the main deck, has been turned into a ship's museum which houses exhibits designed by specialists of the Smithsonian Institution. A North Carolina Roll of Honor will list those killed in all services during World War II. From 8 a.m. to sundown, any day, it is possible to tour her main deck, navigation and signal bridges, and parts of her lower deck.

Known to her crew and other millions as "The Showboat". *North Carolina* promises to become just that. A production of sound and light is planned to dramatize her history as "The Immortal Showboat." Stands for over a thousand spectators, built near the bow, will be thrown in dark as will be the ship at commencement of the performance. The ghostly voice of Ship-of-the-Line *North Carolina* will ring out as lights come up across the battleship: "You out there. What have you done with my name? What have you done with my Glory?" Gradually voices of Brooklyn Navy Yard workers will be heard building the great battleship and telling of this first battlewagon to be built in many years. Her history then will be dramatically presented from launching, shakedown, and through all her battles. When her big guns fire, they will flash real smoke, simulated by firing of propane gas and chemicals developed by the Navy. Sounds in stereo by ten tracks will be amplified through speakers placed at points around the battleship and stands. The 45-minute production will complete *North Carolina's* history from time of building through her final docking as a memorial at Wilmington.

HISTORY OF U.S.S. "ALABAMA" (BB–60)

U.S.S. *Alabama* (BB–60) bears the name of a proud southern state admitted to the Union in 1819. In that year the name *Alabama* was assigned to a 74-gun ship of the line whose keel was laid in June 1819 by the Portsmouth Navy Yard, New Hampshire. Work progressed slowly until the civil war when the name was changed to *New Hampshire*. Since that time, the name *Alabama* has been borne by four gallant ships of the United States Navy as well as a famed Confederate raider of the Civil War.

The fourth *Alabama* (BB–60) is an outstanding representative of the tremendous power concentrated in these swift, hard-hitting, highly mobile and tough fortresses of the sea. The battleship in any generation has represented the maximum big gun power mounted in a speeding, maneuvering, fort that can avoid much damage by its own mobility but can take maximum punishment, if necessary, while pouring concentrated destruction on the enemy afloat, ashore or in the air.

The keel of *Alabama* was laid in the Norfolk Navy Yard 1 February 1940. She launched 16 February 1942, under the sponsorship of Mrs. Lister Hill, wife of U.S. Senator Hill of Alabama. Secretary of the Navy, Frank Knox, principal speaker for the launching ceremony, stated: "As *Alabama* slides down the ways today, she carries with her a great name and a great tradition. We cannot doubt that before many months have passed she will have had her first taste of battle. The Navy welcomes her as a new queen among her peers. In the future, as in the past, may the name *Alabama* ever stand for fighting spirit and devotion to a cause." The mighty battleship commissioned in the Norfolk Navy Yard 16 August 1942, Captain George B. Wilson, U.S. Navy, commanding.

Alabama (BB–60) had a length overall of 680 feet; extreme beam, 108 feet, 2 inches; standard displacement of 35,000 tons; mean draft, 29 feet, 3 inches; designed speed of 27 knots; and a designed complement of 115 officers and 1,678 men. She was originally armed with nine 16-inch .45 caliber guns, twenty 5-inch .38 caliber guns; six quadruple 40-mm anti-aircraft mounts; and twenty-two 20-mm anti-aircraft guns. She had two catapults aft and the maximum thickness of her armor was 18 inches.

Alabama departed the Norfolk Navy Yard 11 November 1942 to commence shakedown training in the Chesapeake Bay and up the eastern seaboard to Casco Bay, Portland, Maine. There, 24 March 1943, she became a unit of Task Force 22 under Rear Admiral Alva D. Bernhard in aircraft carrier *Ranger*. After North Atlantic Patrol reaching to Argentina, Newfoundland, she departed that port 12 May 1943 as a unit of Task Force 61 under Rear Admiral O. M. Hustvedt in *South Dakota*.

With a screen of five destroyers the two battleships set course for Scapa Flow, Orkney Islands, arriving 19 May for duty with the battle fleet of the British Home Fleet. In the following months she acted as a unit of the covering force for convoys making the run to Murmansk, Russia from Iceland and relieving the Spitzbergen garrison. Always the fleet was hopeful of enticing the German battleship *Tirpitz* out of her Norwegian haven and complete her destruction. *Alabama* detached from duty with the British Battlefleet 1 August 1943, forming Battleship Division 9 with *South Dakota* as course was set from Scapa Flow for Norfolk where *Alabama* arrived 9 August 1943.

After hurried preparations, *Alabama* stood out of Hampton Roads 20 August 1943, enroute with *South Dakota* via the Panama Canal for Havannah Harbor, Efate Islands, New Hebrides Islands. She reached her destination 14 September 1943, reporting for duty to Rear Admiral Willis A. Lee commanding Battleships, Pacific Fleet, in flagship *Washington*. The following weeks were spent in simulated battle poblems with fast carrier task groups ranging to the Fiji Islands in preparation for the capture and occupation of the Gilbert Islands.

On 11 November 1943 *Alabama* sortied from Nandi, Fiji Island, with three other battleships and destroyer screen which rendezvoused with the expeditionary Fleet bound for the Gilbert Islands. She became a part of the screen for the *Yorktown* carrier task group which launched strikes on Mille Atoll 19 November 1943, then struck hard at enemy installations on Tarawa and Makin in the Gilbert Islands where Naval, Marine, and Army forces landed 20 November 1943. Direct support of ground forces continued 23 November as Betio, Tarawa Atoll, and Makin were declared secured. Three days later she joined the screen of the *Bunker Hill* carrier Task Group with battleships *Washington* and *South Dakota*. That night, *Alabama* twice opened fire to drive off enemy aircraft which approached her formation. Her carrier task group continued air and surface protection for ground forces in the Gilberts in the following days.

The morning of 8 December *Alabama* was the fifth battleship in a column that closed and bombarded Nauru Island. After sending 535 exploding shells into enemy strongpoints there, she took destroyer *Boyd* alongside to receive and treat three men injured when that destroyer had received a direct hit from shore batteries on Nauru. After helping escort carriers *Bunker Hill* and *Monterey* back to the New Hebrides Islands, she received nine Japanese prisoners of war at Efate and departed 9 January 1944 for Pearl Harbor. *Alabama* entered that port 12 January for replacement of her port outboard propeller, routine cleaning and painting. Four days later she was enroute to Funa Futi, Ellice Islands, arriving 21 January 1944 to become a screening unit of the *Essex* Carrier Task Group 58.2 preparing for the capture and occupation of the Marshall Islands.

On 25 January 1944 *Alabama* departed the Ellice Islands enroute with the *Essex* Fast Carrier Task Group 58.2 for the Marshall Islands. On 29 January the fast carrier task force under Rear Admiral Marc A. Mitscher began a series of strikes to destroy Japanese air power and shipping in the Marshall Islands. That morning *Alabama* left the *Essex* carrier group formation to bombard Roi Island of Kwajalein Atoll.

At 1057, 30 January 1944, *Alabama* opened up with *South Dakota* and *North Carolina* in a surface bombardment that caused heavy explosions and large fires on Namur. Large quantities of fuel and ammunition were destroyed on Roi. Every effort was made to render the enemy airfield inoperative, to destroy planes, buildings and gun installations. Direct hits destroyed enemy blockhouses along with buildings and gun installations. In the following days *Alabama* patrolled the area north of Kwajalein atoll to protect the *Essex* carrier task group from enemy sea and air attack as the carriers launched direct air support to ground forces occupying Roi and Namur Islands. She anchored in newly won Majuro Lagoon 4 February 1944. The Navy now had a new base

in the "stepping stone" strategy across the Pacific to the doorstep of Japan itself.

On 12 February 1944 *Alabama* sortied with the *Bunker Hill* carrier task group of Admiral Mitschers Fast Carrier Striking Force which blasted "impregnable" Japanese Fleet base of Truk Atoll in the Carolinas during 16–17 February 1944. There, enemy shipping losses were 2 light cruisers, 4 destroyers, 3 auxiliary cruisers, 2 submarine tenders, 2 submarine chasers, an armed trawler, a plane ferry, and 24 auxiliaries which included 6 tankers. Of an estimated 55 enemy ships at Truk, about 8 to 10 ships were all that remained undamaged. A total of 211 enemy planes were destroyed and another 104 greatly damaged. Retiring from Truk, *Alabama* was in the screen of carriers approaching the Marianas the night of 21 February 1944 when she opened fire on an enemy aircraft approaching her formation. Her 5-inch mount number 9 was fired while in stops, firing into Mount Number 5 and killed five men. Eleven men were injured. From that time on, *Alabama* helped fight off intermittent attacks by low flying Japanese planes and two dive bombers. Three planes taken under fire by *Alabama* were seen to crash.

The morning of 22 February 1944, she protected the carriers as they launched strikes for Saipan, Tinian and Guam, sinking and damaging shipping, destroying hostile aircraft and shore installations. All this was accomplished without the enemy being able to damage a single ship of the American Task Force. After a sweep to search for enemy crippled ships south east of Saipan, *Alabama* returned to Majuro Atoll 26 February 1944. As she remained here 3 March, she received Rear Admiral Marc A. Mitscher from carrier *Yorktown* and served as his temporary flagship until 8 March when carrier *Lexington* arrived to assume that duty.

Alabama stood out of Majuro Lagoon with Rear Admiral Mitscher's Fast Carrier Striking Force 22 March 1944, forming in the screen of the *Yorktown* carrier group which launched air strikes against the Palau Islands. On the approach to the Palaus the evening twilight of 29 March, about six enemy planes approached *Alabama's* carrier group. Four attacked in her vicinity and her gunners splashed one into the sea, while three others met a similar fate from combined fire of surface ships.

On 30 March 1944 the fast carriers commenced intensive bombing of Japanese airfields, shipping, fleet servicing facilities, and other installations at Palau, Yap, Ulithi and Woleai in the Caroline Islands group. Extensive minefields were planted by carrier-based aircraft around Palau Island approaches and aerial attacks continued into 1 April.

Alabama returned to Majuro Lagoon 6 April to replenish and departed 13 April, enroute with Task Force 58 in the screen of the famed *Enterprise* (CV–6). Commencing 21 April enemy airfields and defensive positions were hard hit at Hollandia, Wakde, Sawar and Sarmi areas of New Guinea. They continued the next day as Army forces stormed the shores at Aitape, Tanahmerah Bay, and Humboldt Bay in New Guinea. After covering the landing operations in the area of Hollandia, *Alabama* guarded her carriers for strikes against Truk 29–30 April. The next day, she joined with *South Dakota* to bombard Ponape, Caroline Islands. Her devastating fire was directed against coast defense guns, airfields and installations. Many fires were started on Langar Island and several salvos landed in the waterfront warehouse district at Ponape Town. She also hit antiaircraft guns and installations on Peram Island. The battleship was back in Majuro Lagoon on 4 May 1944 to prepare for the invasion of the Marianas Islands.

On 6 June 1944 *Alabama* departed Majuro with the *Enterprise* carrier task group enroute with the Fast Carrier Striking force for the Marianas. Repeated air strikes began against Saipan the morning of 11 June and continued into the following day when *Alabama* opened fire to drive off two enemy planes. On 13 June 1944 she joined in a six-hour pre-invasion bombardment to cover mine-sweeping operations and to destroy coast defense batteries, field artillery emplacements and other defensive installations on northwest Saipan. Her air spotters reported that *Alabama* salvos caused great destruction and fires in Garapan Town.

Strikes against Saipan continued into 15 June 1944 as invasion troops hit the beaches. Carriers launched planes throughout the day to support the ground forces as reports indicated enemy surface units approaching the area from the southwest. One report at 1900 of 15 June 1944, reported a large force leaving San Bernardino Strait. Another report in the early morning of 18 June gave the course and speed of the same force that indicated the enemy would be in striking range by daylight of 19 June 1944. It was then that *Alabama* formed with other great battleships, cruisers and destroyers, fanning out to cover the carriers against both surface and aerial attacks. For five hours, repeated Japanese aerial raids were launched against the Carrier Task Force but American fighter pilot interceptions shot most down at some distance from the formation. Relatively few of the attacking enemy planes ever reached the carriers.

In the first raid that approached *Alabama's* formation, only two managed to penetrate to attack *South Dakota* and scored one 500-pound bomb hit for minor damage. One hour later a second wave, largely torpedo bombers closed in. The 5-inch guns of *Alabama* discouraged two enemy torpedo planes which had begun a torpedo run on *South Dakota*. The intense concentration on repulsing these two allowed a single dive bomber to approach *Alabama* undetected. This plane dropped two small bombs which were near misses to starboard and caused no damage. Coincident of this action, two other torpedo planes made a run on *Indiana*. One was driven off by antiaircraft fire. The second managed to launch a torpedo or bomb close aboard *Indiana*. But this enemy was hit by anti-aircraft fire and crashed into *Indiana* at her waterline. Fortunately, *Indiana* escaped serious damage as the torpedo or bomb exploded short of its mark.

The enemy carrier plane attacks met almost complete destruction in the great air battle of 19 June, commonly referred to afterwards as "The Marianas Turkey Shoot." Two of the Japanese carriers were sunk by United States submarines and a long range air strike late in the afternoon on 20 June sank another carrier and so damaged two tankers that they were abandoned and scuttled. Admiral Ozawa's own flag log for 20 June 1944, showed surviving carrier air power as 35 aircraft operational out of the 430 planes with which he had commenced the Battle of the Philippine Sea. His defeated fleet anchored in Nakagasuku Bay, Okinawa, the evening of 22 June 1944. Four of his six surviving carriers, with 2 battleships and a heavy cruiser, had to proceed to Japan, either for repairs or long-needed upkeep.

Commencing 21 June 1944 *Alabama* continued patrols around the Marianas to protect landing forces on Saipan Island from enemy attack by sea and air. Carriers of her task group struck enemy aircraft, shipping and shore installations on Guam, Tinian, Rota and Saipan. She returned to Eniwetok Atoll 9 July 1944 and became flagship of Rear Admiral E. W. Hanson, commanding Battleship Division 9. She put to sea the 14th with the *Bunker Hill* Carrier Task Group for pre-invasion assaults and support of Marine landings on Guam 21 July 1944. Support to ground forces there continued with a divisionary air strike and photo reconnaissance of the Japanese-held islands of Palau.

Alabama returned to Eniwetok 11 August 1944 and departed 30 August 1944 in the screen of the *Essex* carrier task group to support the seizure of the Japanese-held islands of Palau, Ulithi, and Yap in the Caroline Islands. Aircraft installations and defenses on those islands were rained with destruction 6–8 September 1944. *Alabama* then set course to protect carriers launching strikes 12–14 September against aircraft, shipping and installations on the Philippine Islands of Cebu, Leyte, Bohol and Negros. Invasion forces stormed the shores to take the Palau Islands under cover of naval air-sea bombardments 15–17 September. *Alabama* continued with the fast carriers to carry destruction to the enemy in the Central Philippines before entering the huge fleet base at Ulithi. There, 5 October 1944, Rear Admiral E. W. Hanson, commanding Battleship Division 9, transferred his flag from *Alabama* to *South Dakota*.

On 6 October 1944, *Alabama* sailed with Vice Admiral John S. McCain's Fast Carrier Task Force 38 which would form the strong right arm of Admiral Halsey's Third Fleet to support the liberation of the Philippine Islands. In the screen of the *Essex* carrier task group, she protected the carriers that hit centers of Japanse air power and shipping at Okinawa, the Pescadores and Formosa. As she retired from the latter island to strike at Luzon 14 October, her guns opened up on planes attacking her formation. Three of the attackers were shot down by *Alabama* gunners and a fourth damaged. Strikes began on Leyte 18 October and continued in support of the landing operations there 20 October 1944 and succeeding days.

As heavy units of the Japanese Fleet advanced upon the Philippines in a three pronged movement 24 October, *Alabama* joined the screen of the *Enterprise* carrier task group to the area off Surigao Strait. The fast carriers struck hard at the powerful Japanese Southern Force heading for Surigao Strait, then moved north to strike the powerful Japanese Central Force heading for San Bernardino Strait. After reports were received of a third Japanese Force, she sped with Admiral Halsey's fast carrier and battleships to close Japanese carriers off Cape Engano. Strikes by the fast carriers in the Battle off Cape Engano destroyed four Japanese carriers, a cruiser and four destroyers. Meanwhile, the units of Japanese Southern force had been either destroyed or turned in the Battle of Suraigo Strait. But the powerful Japanese Center force of battleships, cruisers and destroyers had slipped through San Bernardino Strait and emerged from the fog shrouded coast of Samar where it was held off by a half-dozen little escort carriers and destroyer-type screening ships.

Alabama immediately reversed course for Samar but the Center Force was speeding for Japan by the time she reached the scene. She then joined the protective screen for the *Essex* carrier task group to hit enemy ground and naval forces in the Central Philippines before retiring to Ulithi 30 October 1944 for replenishment. The next day *Alabama* was detached from Battleship Division 9 and assigned to Battleship Division 8, commanded by Rear Admiral G. B. Davis who flew his flag in battleship *Massachusetts*.

On 2 November 1944 *Alabama* sailed to join the screen of the *Hornet* carrier task group for strikes against the Northern Luzon-Manila areas 5 November 1944. She rode out a typhoon 7–8 November before carriers launched strikes on shipping and military targets in the Luzon-Visayas area. She then rearmed at Ulithi preparatory to the Third Fleet support of invasion forces that would land on Mindoro in mid-December 1944.

Alabama deported Ulithi 10 December 1944 with the fast carriers for preliminary strikes on Luzon airfields, from which the Mindoro

invasion force might be threatened. During 14–16 December, an umbrella of fighter planes was kept over Luzon airfields, day and night, so that enemy aircraft could not take off to attack the Mindoro-bound convoys. The two enemy flights that did manage to get off the ground were intercepted by carrier fighters and a substantial number shot down.

As the task force reached a fueling rendezvous 17 December, one of the worst typhoons of the year whirled undetected towards the rendezvous. Seas roughened and soon a harrowing and tossing sea made refueling impossible. By daybreak the following day, winds of 50 knots caused all ships to roll heavy, *Alabama* experiencing rolls of 25–30 degrees in weather that found carrier *Monterey* dead in the water and on fire. There were winds of maximum gust to 83 knots recorded by *Alabama*. By 1600, 18 December she passed out of the active storm area and into high seas. She suffered minor damage. Both her Kingfisher planes were of no further value because of damage and her speed boat had been washed overboard as a result of the typhoon that had capsized and sank destroyers *Hull, Spence, Dyson* and *Monaghan*.

Alabama touched Ulithi (24–26 December 1944) then set course by way of Pearl Harbor for the Puget Sound Naval Shipyard, arriving 12 January 1945 for overhaul. This was completed by 17 March 1945 when she departed for refresher training out of San Diego. She stood out of the latter port 4 April, en route via Pearl Harbor for Ulithi, Caroline Islands, arriving 28 April 1945.

Alabama reported for duty to Vice Admiral Marc A. Mitscher, commanding Fast Carrier Task Force 58, forming with the *Enterprise* carrier task group. Departing Ulithi 9 May 1945 she set course for Okinawa to support the advance of ground troops that had invaded that last stepping stone to Japan on 1 April. While striking Kyushu the morning of 14 May a lone suicide plane taken under fire by *Alabama* climbed into cloud cover, then dived out to crash *Enterprise*. Many more enemy planes headed for the formation but American fighters shot down many. However, a few got through to attack the formation. Two were shot down by *Alabama* and she assisted in shooting down another. The task force spent the following days giving direct support to ground forces on Okinawa. During this period 4–5 June, *Alabama* rode out a typhoon that wrenched the bow off cruiser *Pittsburgh*. At dawn, 10 June 1945, *Alabama* bombarded southern and eastern coastal Japanese installations on Minami Diato Shima. She entered San Pedro Bay 13 June 1945 to stage with Admiral Halsey's Third Fleet preparatory to striking the heart of Japan from within its home waters.

On 8 July 1945, *Alabama* departed the exercise area off San Pedro Bay to rendezvous with the *Randolph* carrier Task Group and steamed with the Fast Carrier Force that took Tokyo by surprise 10 July 1945. Four days later, the fast carriers launched 1,391 sorties against targets in northern Honshu and Hokkaido from only 80 miles off shore. Simultaneously, and for the first time, a naval gunfire force wrought destruction on a major installation within the home islands of Japan. The iron works at Kamashi was so extensively damaged that production was halted. Air strikes continued 15 July as a naval bombardment brought destruction to the Nihon Steel Company and the Wanishi Ironworks at Muroran, Hokkaido. *Alabama* protected carriers during these bombardments but her chance came on the night of 18–19 July when she joined the Fast battleship and heavy units of the British Pacific Fleet to bombard six major industrial plants at Hitachi, about eight miles northeast of Tokyo. When destroyer *Borie* was hit by a suicide plane 9 August, *Alabama* transferred a medical party to destroyer *Ault* who carried them to render medical aid to *Borie* on her distant picket station.

On 12 August 1945, *Alabama* came alongside battleship *South Dakota* to receive Rear Admiral J. F. Shafroth, Commander, Battleship Squadron 2. Air strikes lunched for the Tokyo Plains were recalled 15 August when word was received that hostilities with Japan had ceased. In the following days, *Alabama* transferred detachments of Marines, Naval officers and men for temporary duty with Tokyo Naval Occupation Forces. She served in the screen of carriers making reconnaissance to locate Prisoner of War camps, and launching flights over Tokyo Bay in a show of force 2 September 1945 when the formal surrender documents were signed on board battleship *Missouri*. She entered Tokyo Bay 5 September to receive men who had left to serve with the occupation forces, then sailed 20 September 1945, bound for home. She embarked some 700 veterans at Okinawa and formed off the entrance to Pearl Harbor the morning of 9 October 1945 with units of the Third Fleet. Led by Admiral William F. Halsey, Jr., in *South Dakota*, the units of the Third Fleet paraded past Waikiki and Diamond head on her way home. She passed under the Golden Gate Bridge mid-day of 15 October 1945 to receive the welcome of the city of San Francisco. Navy Day (27 October) was celebrated by receiving about 9,000 visitors. She departed San Francisco 29 October for San Pedro where 2 November 1945 Rear Admiral J. F. Shafroth, Commanding Battleship Squadron and Battleship Division 8, was relieved as Rear Admiral Oscar C. Badger who assumed duties of Battleship Squadron Two (temporary) in battleship *Iowa*. Concurrently, *Alabama* became flagship of Rear Admiral I. C. Sowell, USN, who relieved Rear Admiral Shafroth, as Commander Battleship Division 8. On reorganization of the United States Fleet, 15 November 1945, Battleship Division 8 was redesignated Battleship Division 3 with *Alabama* continuing as Flagship of Rear Admiral I. C. Sowell, commanding that Division and temporarily serving as Commander Battleship Squadron Two.

Alabama remained in San Pedro Bay, California to 27 February 1946 when she set course via San Francisco enroute to Seattle, Washington, arriving 5 April 1946. She entered the Puget Sound Naval Shipyard 23 May 1946 for inactivation overhaul and decommissioned at the U.S. Naval Station, Seattle, 9 January 1947.

Alabama was assigned to the Bremerton Group, U.S. Pacific Reserve Fleet until her name was struck from the Navy List 1 June 1962. Her preservation as a memorial was undertaken by the USS *Alabama* Battleship Commission with funds raised by popular subscription in the State. She was awarded to the State of Alabama 16 June 1964 and formally turned over to the state 7 July 1964 in ceremonies on her deck at Seattle, Wash.

Alabama was towed 5,600 miles to her permanent berth at Mobile, Alabama. Proceeding down the western seaboard and through the Panama Canal, she entered Mobile Bay 14 September 1964. It is appropriate indeed that this mighty fighting lady came to Mobile as a perpetual reminder of America's sea destiny and as a memorial to the fighting spirit of gallant men and women who fought in World War II. As with the spirit of Raphael Semmes, one of the boldest of sailors, *Alabama* continues to serve and highlight the mighty influence of the sea and the traditions of valor. The achievements and sacrifices of *Alabama* are providing reinforcement to our great heritage. For it was with her big guns, high speed and valiant crew that she provided the powerful fire support to protect the fast carrier fleet as well as mighty and overwhelming concentrated destruction on targets ashore.

At a magnificient 100 acre Marine Park at Mobile, *Alabama* stands guard to perpetuate the Fleet of Battleships that once sailed the vast oceans of the world. The people of Alabama have saved a gallant fighter that served so well and once operated in the battle zone over two years without major repairs.

HISTORY OF THE U.S.S. "OLYMPIA" (C–6)

Olympia (C–6), a protected cruiser, was built by Union Iron Works, San Francisco, California. She was authorized on 7 September 1888, and her keel was laid 17 June 1891. She was launched 5 November 1892, and sponsored by Miss Ann Belle Dickie, daughter of an official of the building yard. The ship was commissioned 5 February 1895, Captain J. J. Read in command.

Her dimensions are:

Length overall, 344 feet, 1 inch.

Breadth on waterline, 53 feet.

Normal displacement, 5,870 tons.

Speed, 21.69 knots.

Armament, 4 8'', 10 5''/51; 6 18'' torpedo tubes.

Complement, 34 officers, 378 men.

Olympia departed Mare Island on 25 August 1895 to join the Asiatic Fleet as flagship of Rear Admiral F. V. McNair. Between 1895 and 1898 she cruised in the Far Eastern waters, visiting Japan, China, and the Sandwich Islands. On 3 January 1898 she became the flagship of Commodore George Dewey. During the winter of 1898 *Olympia* remained at Hong Kong with the rest of the squadron, awaiting orders to proceed to the Philippines in the event that war was declared on Spain. On 25 April 1898, on request of the Governor of Hong Kong, the squadron proceeded to Mirs Bay, China, to await further orders. The orders were not long in arriving, and on 27 April 1898 *Olympia* and the Asiatic Squadron got underway for the Philippine Islands. The darkened squadron stole past the batteries on Corregidor and arrived off Manila at daybreak on the morning of 1 May 1898. They immediately engaged the Spanish forces. Admiral Dewey, in his autobiography, recounts:

"At 5:40 when we were within a distance of 5,000 yards, I turned to Captain Gridley and said 'You may fire when you are ready Gridley'. While I remained on the bridge with Lamberton, Brumby and Stickney, Gridley took his station in the conning tower and gave the order to the battery. The very first gun to speak was an 8-inch from the forward turret of the *Olympia*, and this was the signal for all the other ships to join in the action." The action lasted from 0541 (with an interruption of three hours) until 1230 and ended in the destruction of Spain's Philippine fleet. On 7 May 1898 Dewey was promoted to the flag rank of rear-admiral, in recognition of his splendid achievement at Manila Bay.

Olympia remained in the Philippines until 20 May 1899 assisting in the blockade and capture of Manila, and aiding the army in repelling the attacks of the natives. She arrived at Hong Kong on 23 May 1899, and on 6 June 1899 departed China for her return to the United States, via Suez and the Mediterranean. Arriving at Boston 10 October 1899, she went out of commission in reserve on 8 November 1899.

Olympia underwent general repairs during 1901, and was recommissioned in January 1902. She reported to the North Atlantic Squadron on 4 April, and was assigned as flagship for the newly formed Caribbean division of the North Atlantic Station. Between December 1903 and December 1905 *Olympia* protected American interests at: Panama (December 1903–March 1904); Tangier, Morocco (June 1904); Smyrna, Turkey (August 1904); and in Dominican waters (May–December 1905).

Olympia was placed out of commission in reserve on 2 April 1906, at Norfolk. She was recommissioned 15 May 1907 and cruised with the midshipmen along the East coast until 25 August 1907. She was again placed out of commission in reserve, at Annapolis, on 26 August 1907.

Olympia was in commission during 1 June–1 September 1908 and 14 May–28 August 1909 for the annual summer midshipmen cruises. She remained at Annapolis, in reserve, until 2 March 1912, when she sailed for Charleston, South Carolina, arriving 6 March 1912, for service as barracks ship for the personnel of the reserve torpedo group.

Rearmed with 12 4"/40 guns and recommissioned in late 1916, *Olympia* joined the Atlantic Fleet. She was designated flagship of the Patrol Force, Rear Admiral Henry B. Wilson, 13 April 1917 and patrolled off New York until running aground near Cerberus Shoal in Long Island Sound on 25 June. Badly damaged, *Olympia* entered drydock at the New York Navy Yard on 13 July. During her repairs, which lasted until 4 February 1918, she was rearmed with 10 5"/51 caliber guns, that were in the Navy Yard at Brooklyn waiting the completion of *Tennessee*.

Following patrol duty off Halifax, Nova Scotia, in February, and convoy duty in March, she proceeded to Charleston Navy Yard to prepare for service in Northern waters. She sailed 28 April and arrived at Murmansk, Russia, on 24 May 1918. *Olympia* remained in Northern Russian waters until 8 November 1918, as part of an Allied force protecting military supplies from the Germans and cooperating with the anti-Bolsheviks. Departing Archangel on the 8th, *Olympia* arrived Murmansk on the morning of the 11th and coaled ship. On 12 November, 47 wounded American soldiers embarked for transfer to their homes. *Olympia* sailed from Murmansk on 13 November, arriving Invergordon, Scotland 5 days later. During her stay, *Olympia* landed 108 men on 8 June to garrison Murmansk and contributed 54 men to the Allied expedition which recaptured Archangel. She served as flagship of Rear Admiral Newton C. McCully, Commander, U.S. Naval Forces in Northern Russia, between 26 October and 6 November 1918.

Following repairs at Portsmouth, England, between 28 November and 26 December 1918, *Olympia* steamed to Gibraltar. She embarked Rear Admiral Albert P. Niblack, Commander U.S. Naval Forces, Eastern Mediterranean on 10 January 1919 and proceeded to Spalatao, Dalmatia. After cruising in Adriatic waters from 21 January until 18 August *Olympia* visited Constantinople, the Black Sea ports, and Smyrna, Turkey. She returned to Spalato on 19 September. Continuing her policing of the disputed Dalmation coast, *Olympia* put ashore a landing party of 101 men at Trau on 23 September to prevent a clash between the Yugoslavs and renegade Italian troops. She left the Adriatic on 25 October and returned home, arriving at Charleston, South Carolina, on 24 November 1919.

Departing New York on 14 February 1920, *Olympia* arrived at Spalato on 8 April for another cruise of the Adriatic. She remained there until 4 May 1921. During this time she took part in the 7 November 1920 delivery of the ex-Austrian battleships *Radetzsky* and *Zrinyi* to the Italians. She returned to Philadelphia 25 May 1921 and became the flagship of the Train, Atlantic Fleet 9 June 1921. Between 14–21 July 1921 she plied between Hampton Roads and the Virginia Capes to assist in preparation of the target ships *Frankfurt* and *Osterfriesland* and remained as an observation ship during the famous Army-Navy bombing experiments that demonstrated the potency of attack from the air.

Olympia remained off the east coast until 3 October 1921 when she left Philadelphia bound for Le Havre to embark the "Unknown Soldier" for internment in Arlington Cemetary. The officers and crew assembled on deck 25 October 1921 to receive the "unknown warrior". She stood out from Le Havre with an honor escort of French Destroyers until on the high seas, then continued alone to bear home the honored dead.

Olympia arrived at the mouth of the Potomac River 8 November 1921 where she was joined by *North Dakota* (BB–29) and *Bernadou* (DD–153) 9 November. She moved up to the river to the Washington Navy Yard where the coffin of the "unknown soldier" was turned over to the waiting regiment of cavalry with its black draped caisson. As the body was piped over the side the *Olympia*'s guns boomed a last salute to her fallen comrades.

She remained flagship of Train until 29 April 1922. After completing the summer Midshipman's cruise 31 August 1922, she arrived at Philadelphia Navy Yard on 1 September 1922. Decommissioned there 9 December 1922 *Olympia* was subsequently reclassified an auxiliary ship (IX–40) on 30 June 1931.

While she lay inactive and deteriorating at Philadelphia numerous proposals to scrap *Olympia* were made. Public opinion however, demanded that Dewey's famous flagship be saved for posterity. Eventually Congress decreed (23 July 1954) that *Olympia* among several historic ships, must be scrapped unless they were claimed by a patriotic organization capable of reconditioning and maintaining them. The public spirited citizens of Philadelphia rescued the *Olympia* from the fate of the scrap heap. The Cruiser *Olympia* Association formed in that city took title to the famed cruiser on 11 September 1957 and she entered the Keystone Drydock and Ship Repair Company where repairs were started February 1958 and completed in October.

On 4 October 1958 the historic *Olympia*, bedecked with flags, made a triumphant two mile journey from the yards of the Keystone Drydock and Ship Repair Company to a municipal pier down the river. The sole survivor of the Navy's Spanish-American War fleet was given a seventeen gun greeting as she moved to her new berth on the Delaware River.

The famous flagship of Admiral Dewey is the oldest steel ship of the Navy in existence. She now houses many relics of the Spanish-American War and other periods of our naval history. The glistening white cruiser, restored as near as possible to her appearance in the 1890's serves as a shrine of our great heritage at the foot of Chestnut Street in Philadelphia.

HISTORY OF THE U.S.S. "TEXAS" (BB–35)

USS *Texas* (BB–35) is the third ship of the United States Navy named for the State of Texas. The first *Texas* was originally a Confederate twin-screw ironclad ram.

The second *Texas* was the first battleship to be commissioned in the United States Navy. Her keel was laid in the Norfolk Navy Yard 1 June 1889.

The third *Texas* (BB–35) was built by the Newport News Shipbuilding and Dry Dock Company, Newport News, Virginia. Her keel was laid 17 April 1911. She launched 18 May 1912, under the sponsorship of Miss Claudia Lyon, young daughter of Colonel Cecil Lyon, Republican national committeeman from Texas. The battleship commissioned at Norfolk 12 March 1914, Captain Albert Weston Grant, U.S. Navy, commanding.

Texas (BB–35) had a length overall of 573 feet; extreme beam, 93 feet, 3 inches; normal displacement, 27,000 tons; mean draft, 28 feet, 6 inches; designed speed, 21 knots; and a designed complement of 58 officers and 994 men. Her original armament was ten 14-inch .45 caliber guns; twenty-one 5-inch .51 caliber guns and four 21-inch submerged torpedo tubes. The maximum thickness of her armor was 14 inches.

Texas departed Norfolk 24 March 1914 to receive installation of gunsights and other alterations in the New York Navy Yard. She returned to Hampton Roads 14 May for ammunition and coal, putting to sea the 19th for Vera Cruz, Mexico, which had been occupied by an American seaborne assault 21 April 1914 to secure redress of grievances and uphold United States rights against the brutality of General Victoriano Heurta, who had ousted Mexico's President Madero, ordered him executed, and had assumed the reins of the Mexican government himself.

Texas reached her destination 26 May 1914, helping maintain a blockade along the Mexican coast until Huerta fled to Europe, allowing a Mexican provisional government to be established for peaceful solution of differences. The battleship departed Vera Cruz 8 August 1914 for New York but returned 14 September to give her support until United States Occupation Forces withdrew from Vera Cruz, 23 November 1914. She had intervened her special service on the Mexican Coast by a visit to Galveston, Texas (6–14 November 1914). Here, the battleship received a magnificent silver service as a present from the State of Texas.

Texas departed Tampico, Mexico, 20 December 1914 for repairs in the New York Navy Yard until 18 February 1915. For the next two years, she engaged in fleet tactics and battle problems from the coast of New England south into the Caribbean Sea. When the United States entered World War I, the battleship was a unit of Battleship Division 6, based in the York River off Yorktown, Virginia. Her primary duty for the remainder of 1917 was the training of engineers and gun crews for armed merchant shipping in waters reaching to New York. On 28 September 1917, she grounded near the north end of Block Island. Her crew worked three days to lighten ship.

On the morning of 1 October 1917, tugs were along side to assist and her main engines went full astern. The battleship would not budge. As the minutes wore on, it appeared she was stuck fast and hope began to wane in more than one seaman's heart. Her sister battleship *New York*, lying-to close aboard then gave birth to words that would ever after form the *Texas'* battle cry. When it appeared that *Texas* would not move, men on *New York* cheered in unison "Come on, *Texas!*" Almost imperceptibly the great battleship began to move, and suddenly she was backing cleanly and smoothly clear of the Island. After minor repairs in the New York Naval Shipyard, *Texas* resumed her training and maneuvers until 19 January 1918 when she entered the same yard to prepare for distant service. She sailed 30 January 1918 and reached Scapa Flow, Orkney Island, 11 February 1918.

Texas joined United States battleships that formed the Sixth Battle Squadron of the British Grand Fleet. Until the Armistice of World War I, she cruised off the British Isles to meet the possible threat of the sortie German High Seas Fleet into internment at Firth of Forth, 21 November 1918. The battleship proceeded to sea from Portland 12 December 1918. The following day she and her sister battleships made rendezvous with President Woodrow Wilson on board Navy Transport *George Washington*. The President was enroute to the Paris Peace Conference with his fourteen-point proposal for a lasting world peace to be perpetuated in a living organism of international cooperation and good will—The League of Nations. *Texas* was a unit of the honor escort that brought the President into Brest, France, 13 December 1918. The following day, she put to sea with her sister battleships for home. The day after Christmas, she passed in review before Secretary of the Navy, Josephus Daniels to enter New York Harbor for the great home-coming celebration parade.

Sailing from New York in May 1919, *Texas* was on station the evening of 16 May when Navy Seaplane Division One took off from Trepassey Bay, Newfoundland, to be guided on its 1,380-mile flight to the Azores by *Texas* and other warships. The Navy ships poured smoke from their gunnels in daylight and fired starshells or turned on searchlights during the night. The battleship joined in

the search for Navy Seaplane NC–3 which descended about 35 miles off the Flores Island but taxied into Ponta Del Gada under its own power. The NC–4 finished the historic 4,500-mile flight at Plymouth, England, 31 May 1919. This first trans-oceanic flight, aided by *Texas*, brought much honor and prestige to the Navy and the nation.

On 14 July 1919, *Texas* sailed from New York to join the Pacific Fleet in maneuvers on the West Coast. She returned to the east coast early in 1924 and sailed from Annapolis 5 June 1924 on a United States Naval Academy Practice cruise that took her to ports of England, Holland, France, Gibraltar and the Azores. She returned to Hampton Roads 18 August 1924. The following fifteen years were spent along the eastern seaboard and in the Caribbean, with time out for combined Fleet Maneuvers that took her up the Western Seaboard and as far as Hawaii. She was modernized in the Norfolk Navy Yard 1925–1926. During this overhaul, her cagemasts were removed. A high tripod foremast was fitted along with advance fire control equipment and other ordnance improvements. Additional armor, a precaution against skyward attack, and anti-torpedo blisters toughened the *Texas* hull. On 1 September 1927, she hoisted the flag of Admiral Charles F. Hughes, Commander-in-Chief, United States Fleet. On the 26th she sailed for combined Fleet maneuvers in the Caribbean and Pacific, returning in December to New York to prepare for her voyage in January 1928, during which she carried President Hoover to the Pan-American Conference at Havana, Cuba.

The outbreak of war in Europe 3 September 1939 found *Texas* assigned to the Atlantic Squadron, comprising three other old battleships, four cruisers, a destroyer squadron and the aircraft carrier *Ranger*. Carrier *Wasp* later joined this nucleus of the great Atlantic Fleet, United States Navy, of which Admiral Ernest J. King became Commander in Chief on 1 February 1941, the day of its organization. After preparing in the Norfolk Navy Yard, *Texas* began long and tedious neutrality patrols in the stormy North Atlantic.

The first blood for Germany was narrowly averted 20 June 1941 when German submarine U–203 sighted the battleship on patrol between Newfoundland and Greenland. Assuming *Texas* had been lend-leased to England, U–203 tracked the battleship for long hours but was unable to gain attack position because of *Texas's* speed and zigzag course.

Texas steamed south for Casco Bay, Maine, where she was anchored when the Japanese made their attack on Pearl Harbor, 7 December 1941. After further North Atlantic patrol out of Newfoundland, she departed New York 15 January 1942, enroute with a task force to Hvalfjordur, Iceland. There she waited as a reinforcement for the possible sortie of the dreaded German battleship *Tirpitz* from a haven in the Norwegian Fjord until 1 March 1942. Returning to Norfolk, she departed 10 April to help guard a troop and logistic convoy as far as the Panama Canal. She returned to Norfolk 24 April, again sailing 20 May 1942 as flagship of a task force that escorted a convoy to the coast of West Africa.

After touching Bermuda, 1 June, two destroyers of her screen picked up survivors of the torpedoed British merchantmen *Fred V. Green*. 24 of the survivors were transferred to *Texas* who made rendezvous with British corvettes off the coast of Africa 9 June 1942. The British warships took up escort of the convoy destined for Liberia and Freetown. *Texas* and her three screening destroyers transferred survivors of the British merchantman at Bermuda and reached New York 19 June 1942. Seven days later she stood out with a convoy of Army troopships bound to Greenock, Scotland. She returned to New York with the empty troopships 27 July 1942.

Texas was now the flagship of Rear Admiral Alexander Sharp, Commander Battleships, Atlantic Fleet. At Norfolk, 22 August 1942, Rear Admiral Sharp was relieved by Rear Admiral Monroe Kelly who retained his flag in *Texas*. The following weeks were spent preparing for the invasion of North Africa. The battleship joined Rear Admiral H. Kent Hewitt's Western Naval Task Force which would land some 35,000 troops and 250 tanks at three different points on the Atlantic Coast of French Morocco. *Texas* became flagship of the Northern Attack Group under Rear Admiral Monroe Kelly. Her group floated nearly 10,000 officers and men, and 65 light tanks, under Brigadier General Lucian K. Truscott, Jr., United States Army.

Texas's group departed Norfolk 23 October 1942 to effect rendezvous with all the Western Naval Task Force 28 October. Comprising 102 ships, it spanned an ocean area some 20 to 40 miles. This was the greatest war fleet yet sent forth by the United States to that time. The task force made a wide sweep to the north on 6 November, thence northeast as if to enter the Straits of Gibraltar. After dark, it set a southeasterly course towards Casablanca. Shortly before midnight of 7–8 November 1942, three separate task groups closed three different points on the Moroccan Coast.

Flagship *Texas* lay to off Mahedia, French Morocco, the early morning of 8 November 1942. As word was passed to "Play Ball!" (commence attack), she launched her scout planes to spot her 14-inch gun salvos. A broadcasting station installed in her before, sailing, broadcast on the wave length of Radio Rabat, in French, the proclamations of President Roosevelt, General Eisenhower, and recordings of the "Star Spangled Banner" and "The Marseillaise." In the following days she broadcast spot news, comment and music, also the proclamations of Rear Admiral Kelly and Brigadier General Truscott.

The heavy guns of *Texas* were not wanted in the vicinity of the landing troops. That afternoon she bombarded a munitions dump near Port Lyautey. The morning of 10 November she commenced a bombardment of enemy reinforcement convoys on the Meenes road, leaving it littered with wreckage and stalled vehicles and craters of her shell hits. That afternoon the Army reported tanks and troops advancing on the Rabat Road. *Texas* scout planes strafed the column. One of her planes released a depth charge (with instant fuse setting) for a direct hit on an enemy tank. The explosion overturned two additional tanks and tore a gaping hole in the road. The same day, *Texas* landed a party under Lieutenant J. R. Blackburn who assumed temporary duties as Captain of Port Lyautey.

Cease fire went into effect at Mahedia the morning of 11 November 1942. A little before midnight Rear Admiral Kelly received a message from Admiral Hewitt: "Hostilities in French Morocco have ceased. Be especially vigilant against Axis submarines." Salvage operations by a landing party from *Texas* immediately started and one raised in time to serve in transferring stores from the transports to Port Lyautey. Three other steamers were nearing service condition by the time *Texas* departed.

In the bright moonlight of 12 November 1942 *Texas* was north of transports when the first patterns of depth charges were dropped on Axis submarines by her destroyer screen. She hurried for the southern area, greeted with submarine contact reports and the explosions of depth charge patterns in that area. Captain Roy Pfaff then said to himself, "Where do I go from here?" Finding no answer he decided to stay where he was. *Texas* then ran figure eights and circles inside the antisubmarine screen until the situation cleared. The following day Mr. Walter Kronkite, United Press War correspondent, landed at Port Lyautey from *Texas*. She departed 15 November and brought her task group safely into Norfolk the 26th.

As flaghip of Task Force 34 under Rear Admiral Monroe Kelly, *Texas* led the escort for a convoy from New York to Casablanca and return (25 January–14 February 1943). While in New York Harbor, 25 April 1943, Rear Admiral Kelly shifted his flag to battleship *New York*. *Texas* then served as flagship of the escort for another convoy run to Casablanca and return (29 April 1943–1 June 1943). In this outbound run, Convoy UGF–8 included HMS *Tracker* with a cargo of planes, two tankers with gasoline, one merchantman with general cargo, and 19 troopships carrying 61,170 of the United States Army.

Texas became flagship of Battleship Division Five, 2 July 1943 when Rear Admiral Carleton F. Bryant transferred his flag from battleship *New York*. Admiral Bryant shifted his flag to *Iowa* 14 July and *Texas* departed New York 21 August to head the ocean escort of a 21-convoy carrying general cargo and 63,970 troops bound for North Africa. *Texas* stopped short at Gibraltar where 8 September she received word of the unconditional surrender in Italy. She returned to New York 21 September 1943.

After gunnery exercises in the Chesapeake Bay, *Texas* departed New York with a 21-ship convoy carrying 46,955 troops, general cargo, planes, and oil destined for the British Isles. She came into Belfast 31 October and returned to New York 19 November 1943. The battleship again hoisted the flag of Rear Admiral Bryant 20 March 1944, then headed the escort for another convoy to Clyde, Scotland and return (29 December 1943–23 January 1944). She entered the Boston Naval Shipyard for repairs until 25 February then trained out of Casco Bay where Admiral Bryant shifted his flag to *Nevada* 20 March 1944. Rear Admiral Bryant returned on board at New York, 1 April 1944. Five days later, she stood out with a convoy for Clyde, Scotland. She arrived 17 April and soon entered Belfast Lough to prepare for the forthcoming invasion of France. Special installations included equipment for jamming of German radar, radio and guided missile transmissions, plus equipment for the British Loran network.

On 19 May 1944, Supreme Commander of the Allied Expeditionary Force, General Dwight D. Eisenhower, accompanied by Rear Admiral Allan G. Kirk, Commander of the Western Task Force, came on board *Texas* to address her officers and crew. The flagship of Rear Admiral Carleton F. Bryant's naval bombardment support group, she took up her battle station 6 June 1944 off Omaha Beach (The Vierville-Colleville Sector of the French Coastline, Bai de la Seine). For little more than a half-hour, beginning at 0550, *Texas* and her gunfire support group worked over the beach exit leading to Vierville. Amphibious craft scheduled to land artillery were drowned in the choppy sea save five, thus only one Army battery got into action that D-day. But the drowned artillery was gallantly replaced by 5-inch guns of Navy destroyers. At 0950, Admiral Bryant in *Texas* called to all gunfire support ships over TBS: "Get on them, men! Get on them! They are raising hell with the men on the beach, and we can't have any more of that. We must stop it!" The response of the bombardment group was magnificent. "Tin Can" destroyers closed the shore until little more than a few inches of water remained between keel and sand to give direct support on the beach. *Texas* and *Arkansas* and other heavy units hit inland strongpoints and batteries.

After raining destruction on six 155-mm guns on Point du Hoe, *Texas* scored direct hits on artillery positions, machine gun nests, pill boxes and fortified positions including four 155-mm mortars, a mobile field battery and gun positions in a wooded area—all before noon. By that time, the initial

landing had become stalled by snipers, unreduced pillboxes and strongpoints in the area of the beach near Exit D–1 at Vierville-sur-mer. The exit was impossible for troops to penetrate due to houses lining the exit and concealed howitzer batteries. Shortly after high noon, 6 June 1944, *Texas* moved in to solve this problem. At 1223, aided by destroyers, she completely demolished the obstacles, reducing every structure in the exit to rubble. Army units, previously pinned down by the Howitzer fire, formed and cleared the beach. At 1400 *Texas* hit antiaircraft batteries west of Vierville, then slamming 14-inch salvos to disperse enemy troop columns at the cross roads southwest of there. "Without that gunfire," wrote the chief of staff of the Army 1st Division, "we positively could not have crossed the beaches."

German artillery continued to harass the Omaha beaches 7 June 1944 but naval gunfire support came to the rescue. *Texas* was called upon five different times to fire on targets at Formigny and the nearby village of Trevieres, which were laid waste by her big guns. She also dispersed a troop and vehicle column. After securing fire at 1607, she received word that the Ranger Battalion which had landed at Point du Hoe was still isolated from our own troops and were low on ammunition. The Rangers also had a number of prisoners and casualties to be evacuated. Two LCVP were obtained by *Texas*. She loaded them with provisions and ammunitions and sent them to relieve the Rangers. At 1730 the amphibious vehicles returned with 28 prisoners and 34 wounded Rangers. The wounded Rangers were given medical attentions and the prisoners transferred to LST–266 for further transfer to England. *Texas* ended the day of firing, commencing at 2048, when she bombarded suspected position of German mortars which were shelling the beach.

Naval gunfire continued to support the troops 8 June 1944. *Texas* took up position off the town of Isigny in the morning, forcing enemy troops to seek cover and halting their movements. The railroad tracks and depot were destroyed as she drove back enemy troops advancing on the town that afternoon. She left the assault area 9 June but was back on the job after replenishment at Plymouth 11 June 1944. Anchored in the Baie de la Seine, she stood-by for call fire missions to support the advance of the first United States Army. On the 15th she bombarded enemy strong points on the highland between the town of Isigny and Caretan at the request of the First Army. With effective range more than 20,000 yards, it was necessary to put a two-degree starboard list on *Texas* by flooding her starboard blisters. She came into Portland Harbor 18 June 1944, having earned the praise of Admiral J. L. Hall, Jr., Commander of the Omaha Amphibious Force who stated: "The support of the 14-inch guns of *Texas* was invaluable."

On 25 June 1944 *Texas* departed Portland Harbor as flagship of a bombardment group which included *Arkansas* and three destroyers. Her mission was to bombard coastal defenses and installations in the Cherbourg area as the Seventh Army Corps attacked the port from inland. At 1229, the first salvo of "Battery Hamburg" straddled the stern of destroyer *Barton*. This battery was one of the most powerful German strongpoints on the Cotentin Peninsula. It comprised four 280-mm (11-inch) guns protected by steel shields and reinforced by concrete casements. About them were six 88-mm, six heavy and six light antiaircraft guns. Sited to cover the sea approaches to Cherbourg, the powerful battery had a range of 40,000 yards as opposed the guns of *Texas* and *Arkansas* which ranged only half that distance.

The salvo that straddled *Barton* was followed by a near miss about 500 yards ahead of *Texas*. A second enemy salvo completely enveloped the minesweeper on her port bow. The third salvo straddled the bow of *Texas*. She swung hard to starboard just in time for a three-shell salvo to whistle over her stern. Straddles began to fall at about half-minute intervals. Twisting and turning *Texas* ran through the smoke screen into view of the beach at 1314 and was promptly taken under heavy fire. Two minutes later a 280-mm shell glanced across the top of her conning tower, hit the supporting column of the pilot house and exploded to wreck her bridge. Her helmsman was killed and ten men were wounded. Captain Baker was thrown to her deck but was uninjured. His executive officer in the conning tower immediately took over ship control and she steadied on a northern course, continuing to fire without a pause.

Both *Texas* and *Arkansas* continued to slug it out with "Battery Hamburg" until retirement was ordered at 1500. *Texas* had thrown 206 rounds of 14-inch shells at the enemy. A few minutes before retirement was ordered, her central station reported an unexploded shell in forward, In Officer Country, in an officer's room. The exact time of the hit was unknown. It was believed one of the same salvos that had landed close aboard her port at 1234. The shell, a 240-mm H.C., was later disarmed by the Bomb Disposal officer in Portland, England.

Admiral Bryant reported: "The performance of *Texas* while under heavy and accurate fire of the enemy was outstanding. She was smartly handled and continued the engagement until ordered to withdraw, although hopelessly outranged and continuously harassed by enemy fire over a period of two hours and twenty minutes. . . ." More praise came from Admiral M. L. Deyo who reported that *Texas'* bombardment group, in occupying the attention of "Battery Hamburg" greatly relieved the pressure on another naval bombardment group executing an effective mission for the Army. Admiral Deyo quoted a part of a letter written him 29 June 1944 by Major General J. L. Collins:

"The success of our initial landing on the Cotentin Peninsula culminating in the capture of Cherbourg was due in a great measure to the fine support given my troops by the gunfire of your Naval Forces on D-Day and thereafter until the Quineville Ridge was seized."

"I witnessed your Naval Bombardment on the coastal batteries and the enemy strong points around Cherbourg which were engaged by your guns on 25 June. The results were excellent and did much to engage the enemy's fire while our troops stormed into Cherbourg from the rear."

Texas had completed battle damage repairs by 15 July 1944 when she departed Belfast Lough for Mers-el-Kebir Harbor, Oran, Algeria. There she formed a heavy bombardment group with battleship *Nevada*, joining the Delta Attack Force staging for the invasion of Southern France. Still the flagship of Rear Admiral Carleton F. Bryant, she led the strong gunfire support group into the Assault Area 15 August 1944 to support the landing of Major General Eagle's famed "Thunderbirds" of the 45th Army Division on a beach outside the beautiful Golfe de Saint-Tropez. She opened counter-battery fire at 0653 and continued for two hours in a preinvasion bombardment. According to Rear Admiral Rodgers who commanded the Delta Attack Force: "Inspection on D plus one showed that the men manning their guns were either dead when the 45th Division hit the beaches, or that the pre-H-Hour aerial bombardment and Navy shell and rocket fire was so intense that it frightened the defenders out of the ground and away from the guns." Without enemy opposition the landing of the Delta Force was a "dream landing."

Texas was released from the Delta Attack Force 16 August and set course for Salerno thence via Algiers and Oran for return to the United States. She arrived in New York 14 September 1944 and went into the Navy Yard for overhaul. Here, 13 October 1944, Rear Admiral Careleton F. Bryant, was relieved as Commander of Battleship Division 5, by Rear Admiral Isaac C. Sowell who retained his flag in *Texas*. After training out of Casco Bay, Maine, the battleship departed 10 November, joining *Missouri* and *Arkansas* in transit of the Panama Canal for San Pedro, California. She arrived in Pearl Harbor from that port 9 December and departed 9 January 1945 for Ulithi Atoll, West Caroline Island. There, 30 January, she hoisted the flag of Rear Admiral Peter K. Fishler, new commander of Battleship Division 5.

On 10 February *Texas* was underway with the Amphibious Assault Task Force 52 under Rear Admiral W.H.P. Blandy to carry out battle rehearsals off Tinian for the forthcoming invasion of Iwo Jima. She came off that enemy-held bastion the morning of 15 February 1945, opening a pre-invasion bombardment that sealed caves and knocked out enemy artillery emplacements. She continued to silence enemy batteries the following day, hitting two aircraft as she pounded the air strip, pill boxes and enemy emplacements on the island. She covered operations of Underwater Demolition Teams the afternoon of 17 February. The following day she destroyed three antiaircraft gun emplacements, silenced a coastal defense gun and destroyed other installations including a radar control station. That afternoon one of her scout planes returned, having rescued a Marine fighter pilot from escort carrier *Natoma Bay* who had been shot down 100 miles east of Mount Suribachi.

The morning of 19 February 1945, *Texas* moved within 4,200 yards from the southwestern tip of Iwo Jima to assist in the heaviest prelanding bombardment of World War II. One minute short of H-hour naval gunfire shifted to targets about 200 yards inland, then formed a rolling barrage ahead of the initial invasion troops, constantly adjusting to their actual rate of advance. The battleship continued to stand by for fire support, observing the American flag hoisted on top of Mount Suribachi at 1037, 23 February 1945. She departed the shores of Iwo Jima 7 March for logistics at Ulithi in preparation for the Okinawa campaign.

On 21 March 1945, *Texas* departed Ulithi with a heavy bombardment support force under Rear Admiral M. L. Deyo. She arrived off Okinawa 25 March to cover minesweeping operations until afternoon when she formed as flagship of a heavy bombardment unit under Rear Admiral Peter K. Fishler to hit shore installations for two hours. The following days were spent in support of minesweeping and underwater demolition teams. On 1 April 1945, she joined in a diversionary feint on the southeastern beaches to divert enemy attention and strength there from the site of the actual invasion. She continued fire support under the day and night threats of enemy suicide plane attacks. The morning of 12 April a twin-engined bomber crashed in the water some 500 yards off her starboard bow. An hour later, the battleship had another enemy aircraft under fire. That afternoon, eleven different groups of enemy planes were on her radar screen. Every ship in range soon opened fire on three enemy planes closing the formation but only one was shot down. Minutes later three more bore in only 15 feet above the water. Two were shot down but one crashed destroyer *Zellars* who was enveloped in great sheets of flames. Five more suicide planes came in as *Texas* guns blazed away but one managed to crash the bridge of *Tennessee* for light material damage, though her casualties were many. As *Texas* fired in support of the landings of the

77th Infantry Division at Ie Shime the morning of 16 April 1945, again she opened fire on enemy planes, shooting down one which made an attempted suicide run on her. On 19 April the battleship again supported a landing feint on the southeast beaches to support the all-out offensive of the Army. She continued to render fire support for the advance of ground troops until 14 May 1945 when she left Okinawa astern for San Pedro Bay, Leyte, Philippine Islands.

Texas arrived in San Pedro Bay 17 May 1945 for upkeep and repairs, followed by patrols and battle practice in Philippine waters until hostilities ceased with Japan 15 August 1945. Still the flagship of Battleship Division 5, she sailed 21 August for Buckner Bay, Okinawa. There, 29 August 1945, Rear Admiral Calvin H. Cobb assumed command of Battleship Division 5. Rear Admiral Oliver M. Read succeeded to that command 15 September and *Texas* sailed on the 23rd for home. After embarking veteran passengers at Pearl Harbor she reached San Pedro, California, 15 October 1945.

After a tremendous welcome and Navy Day Celebrations that saw 13,454 visitors board *Texas* 27 October 1945, the battleship departed 30 October on the first of three "magic carpet" runs to Pearl Harbor and return to the West Coast. Her last voyage terminated 24 December 1945 at San Diego, California. In these three voyages, *Texas* had returned 4,267 fighting veterans of the great war home. She remained in San Pedro Bay until 21 January 1946, then set course to transit the Panama Canal for Norfolk, arriving 13 February 1946.

Texas underwent inactivation preparations in the Norfolk Naval Shipyard, taking departure for the last voyage of her career 17 March 1948. Towed by fleet tugs *Mosopelia* (ATF–158) and *Paiute* (ATF–159), she entered Bolivar Roads, Galveston, Texas, the afternoon of 28 March. After proceeding up the channel to Houston, Texas, she completed mooring in her slip in the San Jacinto State Park, 20 April 1948.

On 21 April 1948, the Anniversary of Texas' Independence from Mexico, *Texas* was decommissioned in the United States Navy and accepted as a State Memorial by Governor Jester of the State of Texas. Fleet Admiral Chester W. Nimitz, a native Texan who had brilliantly directed the Fleet to victory in the Pacific, was the principal speaker for the transfer ceremonies:

"Here in the shadow of the great monument to the heroes of San Jacinto, you are standing today on the decks of a great fighting ship—the battleship which bears the name of the State whose independence was secured on these hallowed grounds.

"By demonstrating the fighting spirit of Texas to our enemies in two world wars, this gallant ship has proved worthy or her name. Neither the Germans at Normandy, nor the Japanese at Okinawa, will ever forget the weight of the guns, nor the courage of the crew of *Texas*.

"Texans are proud of the privilege of providing a snug harbor for the old "T", and preserving her as another symbol of Texas greatness. It is particularly fitting that her final resting place be adjacent to these historic battlegrounds where so much of the Lone Star State tradition was born.

"As admiral of the Texas Navy, I am proud to have the U.S.S. *Texas* under my command."

S. 2393—INTRODUCTION OF THE MARINE RESOURCES PRESERVATION ACT OF 1969

Mr. MUSKIE. Mr. President, on behalf of myself and Senators ANDERSON, BAYH, BIBLE, COOPER, CRANSTON, DODD, HART, INOUYE, JAVITS, MONDALE, MCCARTHY, PACKWOOD, RIBICOFF, SMITH, SPONG, TYDINGS, WILLIAMS of New Jersey, YARBOROUGH, and YOUNG of Ohio, I introduce the Marine Resources Preservation Act of 1969.

Recent oil spills from giant tankers, the blowout of the drilling rig in the Santa Barbara Channel, and burgeoning sales of coastal lands have focused national attention on the importance of applying our Nation's conservation ethic to the resources of the sea as we have to the resources of the land.

The exploitation and development of our oceans is still in its earliest stages, and we have an opportunity to assure continuing public access to these resources. Although exploitation of beaches and marshlands has progressed more rapidly, there is still time to regulate the uses of some of these areas for the benefit of all Americans. We have a chance to avoid repeating the mistakes we have made with respect to so many of our resources and so much of our environment.

At the present time there is no way that portions of our tidelands and outer Continental Shelf can be set aside for research, recreation, or other specific purposes. And as far as beaches and shorelines are concerned, the alternatives are limited to strict conservation with no development of any kind or open and relatively uncontrolled exploitation. Unless we find ways to encourage the balanced, multiple use of our marine resources, future generations will be faced with the same staggering problems of restoration and reclamation that we now face with our land, our air, and our waters.

The Marine Resources Preservation Act would constitute an effective first step in planning the uses of the sea. The bill authorizes the Secretary of the Interior to recommend the best means of establishing portions of our tidelands, Outer Continental Shelf, seaward areas, Great Lakes, and adjoining shorelines as marine preserves. It also directs the Secretary to enter into agreements with affected State or local governments for the purpose of establishing regulations concerning the uses of areas designated by the Congress as marine preserves.

Through this mechanism, I feel that we will have the opportunity to preserve our marine resources for ourselves and future generations. A haphazard policy of laissez-faire will only lead to the forfeit of this part of our environment.

I ask that the text of the bill and a summary of its provisions be printed in the RECORD at this point.

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

The bill (S. 2393), to authorize the Secretary of the Interior to study the most feasible and desirable means of protecting certain portions of the tidelands, Outer Continental Shelf, seaward areas, Great Lakes of the United States, and the adjoining shorelines thereof as marine preserves and for other purposes, introduced by Mr. MUSKIE (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. 2393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this bill shall be cited as "The Marine Resources Preservation Act of 1969."

SEC. 2. Congress finds and declares that the tidelands, Outer Continental Shelf, seaward areas and Great Lakes of the United States, and the adjoining shorelines thereof are rich in a variety of natural, commercial, recreational and esthetic resources of immediate and potential value to the present and future generations of Americans; that many of these areas are in danger of damage or destruction by commercial and industrial development; and that it is the policy of Congress to preserve, protect, restore, make accessible for the benefit of all the people and encourage balanced use of selected portions of the Nation's tidelands, Outer Continental Shelf, seaward areas, Great Lakes and adjoining shorelines.

SEC. 3. (a) In furtherance of this policy, the Secretary of the Interior, hereinafter referred to as "the Secretary," shall study, investigate, and formulate recommendations on the most feasible and desirable means of preserving portions of the Nation's tidelands, Outer Continental Shelf, seaward areas, Great Lakes, and adjoining shorelines.

(b) The Secretary shall cooperate and consult with other interested Federal and State agencies as well as other interested public and private organizations and shall coordinate his studies, to the extent feasible, with all other applicable planning activities related to the areas under consideration.

(c) In conducting the studies, the Secretary shall schedule hearings in areas contiguous to the proposed preservation sites, for the purposes of receiving views on the establishment of such marine preserves.

SEC. 4. During the study and following the establishment by the Congress of any area as a marine preserve the Secretary is authorized to enter into agreements with affected State and local governments for the purpose of establishing regulations concerning exploration, exploitation or development of such portions of the tidelands, Outer Continental Shelf, seaward areas, Great Lakes, and adjoining shorelines which are under consideration or have been established as marine preserves: *Provided,* That no exploration, development, mining, or other removal of any minerals (including gas and oil) shall take place in any marine preserve following establishment of such preserve by the Congress.

SEC. 5. Within two years after the date of this Act, the Secretary shall submit to the Congress a report of his findings and recommendations, including such legislation as he deems appropriate. The Secretary's report shall contain, but not be limited to findings with respect to: (1) the sport and commercial fishing, wildlife conservation, recreation, esthetic and ecological research values of such tidelands, Outer Continental Shelf, seaward areas, Great Lakes, and adjoining shorelines; (2) the impact of alternative uses of these waters, including mining, agriculture, transportation, and other public purposes; (3) the possible industrial and recreational development of these regions in conjunction with those values set forth in clause (1); and (4) the most feasible and desirable means of creating a national system of marine preserves.

SEC. 6. The Secretary shall consult with the Secretary of State concerning international agreements where potential marine preserves extend into international waters contiguous to the territorial waters of the United States, or lie wholly within international waters.

SEC. 7. For the purposes of this Act—

(a) The term "tidelands" means bays, estuaries, land, and waters within the three-mile territorial limit of the United States.

(b) The term "Outer Continental Shelf" means land and waters extending from the three-mile territorial limit out to the two-hundred-meter depth contour.

(c) The term "seaward areas" means land and waters contiguous to and extending from the two-hundred-meter depth contour.

(d) The term "adjoining shorelines" includes but is not limited to beaches and marshlands contiguous to the tidelands, the Outer Continental Shelf, the seaward areas, and the Great Lakes of the United States.

SEC. 8. There is authorized to be appropriated not to exceed $1,000,000 to carry out the purposes of this Act.

SEC. 9. Nothing in this Act shall be construed as affecting or modifying the existing authority of the Secretary under 33 U.S.C. 466.

The summary presented by Mr. MUSKIE is as follows:

SUMMARY OF THE PROVISIONS OF THE MARINE RESOURCES PRESERVATION ACT OF 1969

Section 1: Short title;

Section 2: Findings and declaration of policy;

Section 3: Secretary of the Interior is authorized to study and formulate recommendations on the most feasible means of preserving portions of our Nation's marine resources; provision for consultation and hearings;

Section 4: Secretary is authorized to enter into agreements with State and local governments for the purpose of establishing regulations concerning the use of marine preserves; prohibition of the development or removal of any minerals, including gas and oil, from preserves which have been designated by Congress;

Section 5: Secretary is directed to report findings to Congress, including legislative recommendations; outline of areas of findings;

Section 6: Secretary is directed to consult with the Secretary of State on international matters;

Section 7: Definitions;

Section 8: Authorization of $1 million;

Section 9: Disclaimer.

S. 2395—INTRODUCTION OF A BILL TO PROVIDE FOR MAILING OF EDUCATIONAL ELECTION MATERIAL TO VOTERS FREE OF POSTAGE

Mr. MAGNUSON. Mr. President, I introduce a bill which will provide for the free mailing of educational election material to voters. This bill allows a State official or agency administering election laws to mail election material to voters if the material gives equal space to all candidates and opposite views on important issues.

Unfortunately, few voters have time or resources to inform themselves about all issues and candidates. State election pamphlets are an imaginative and effective device to place this information in the hands of every voter.

Our times demand a more knowledgeable electorate than ever before. Passage of this bill will facilitate the effects of those who attempt to provide the voters with this much needed information.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 2395), to provide for the mailing of certain election material to voters free of postage, and for other purposes, introduced by Mr. MAGNUSON, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

S. 2396—INTRODUCTION OF A BILL TO EXTEND THE TERM DURING WHICH THE SECRETARY OF THE INTERIOR IS AUTHORIZED TO INITIATE A COOPERATIVE PROGRAM FOR THE CONSERVATION, DEVELOPMENT, AND ENHANCEMENT OF THE NATION'S ANADROMOUS FISH

Mr. MAGNUSON. Mr. President, I introduce, for appropriate reference, a bill to extend the term during which the Secretary of the Interior is authorized to initiate with the several States a cooperative program for the conservation, development, and enhancement of the Nation's anadromous fish.

The extension would include the period beginning July 1, 1970, and ending June 30, 1975, with an authorized appropriation of $30 million.

The reason for extending this measure in advance concerns the need for State legislatures to receive assurance that funds will be available so that they may provide the necessary matching funds to carry out the purpose of the act.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 2396) to amend section 4 of the act of October 30, 1965, to extend the term during which the Secretary of the Interior is authorized to initiate with the several States a cooperative program for the conservation, development, and enhancement of the Nation's anadromous fish; introduced by Mr. MAGNUSON, was received, read twice by its title, and referred to the Committee on Commerce.

SENATE JOINT RESOLUTION 120—INTRODUCTION OF A JOINT RESOLUTION TO AUTHORIZE THE PREPARATION AND SUBMISSION TO THE CONGRESS OF A MASTER GROUND TRANSPORTATION PLAN FOR THE UNITED STATES

Mr. MOSS. Mr. President, I introduce for appropriate reference a joint resolution to authorize the preparation and submission to the Congress of a master ground transportation plan for the United States.

This same resolution was before the 90th Congress, and 5 days of hearings were held on it, and other legislation having similar objectives, in July and August of 1967 by the Ground Transportation Subcommittee of the Senate Commerce Committee. The resolution was given careful consideration by the subcommittee and reported to the full committee on June 27, 1968. No further action was taken.

However, the need for a blueprint for a national transportation plan is even more urgent now than it was when this resolution was first proposed.

The Nation especially needs a rail transportation system which is national in scope to replace our present collection of regional systems which operate without regard to one another. Mergers and consolidations of separate systems continue with improved service in some instances, but in many others, result in poorer service or no service at all. We are not going to have either adequate passenger or freight service in this country if we do not replace our case-by-case method of dealing with train discontinuances with an overall plan that will assure a balanced network for all of the Nation.

An identical resolution to the one I am introducing today has already been introduced in the House of Representatives by the Congressman from California, the Honorable JOHN MOSS.

The report provided for by the resolution must be submitted to the Committee on Commerce in the Senate and the Committee on Interstate and Foreign Commerce in the House 1 year after its enactment. In the meantime, the ICC could not take action on consolidations, or discontinuance of service. This temporary freeze would help us evaluate our present system before any other irrevocable actions are taken.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD at the conclusion of my remarks.

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

The joint resolution (S.J. Res. 120), providing for the preparation and submission to the Congress of a master ground transportation plan for the United States, introduced by Mr. MOSS, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S.J. RES. 120

Joint resolution providing for the preparation and submission to the Congress of a master ground transportation plan for the United States

Whereas there does not currently exist a master ground transportation plan for the United States; and

Whereas since 1958 the Interstate Commerce Commission has processed more than two hundred train discontinuance proceedings alone in a piecemeal fashion due to nonexistence of a national transportation plan; and

Whereas the best interest of the citizenry and the business community of our Nation would be served by establishment of a national transportation plan; and

Whereas the recognition of the need for comprehensive transportation planning has been acknowledged by the Congress in establishing the Department of Transportation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Transportation acting in cooperation with the Interstate Commerce Commission shall, within one year after the date of enactment of this joint resolution, prepare and submit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a master ground transportation plan for the United States.

SEC. 2. Until the sixtieth day after the submission of the master ground transportation plan to the committees of the Senate and House of Representatives as provided by the first section of this joint resolution, the Interstate Commerce Commission may not

approve any consolidation, unification, merger, or acquisition of control of a railroad corporation, nor may there be any discontinuance or change, in whole or in part, of the operation or service of any train or ferry subject to part I of the Interstate Commerce Act, unless such discontinuance or change is approved by the appropriate State regulatory agency of each State affected by such discontinuance or change. During the period while the Interstate Commerce Commission may not approve any consolidation, unification, merger, or acquisition of control of a railroad corporation, the operation of any provisions of antitrust laws applicable to mergers or consolidations that are not operative while the Commission has such authority shall be in full force and have full effect.

SENATE JOINT RESOLUTION 121—INTRODUCTION OF A JOINT RESOLUTION TO AUTHORIZE APPROPRIATIONS FOR EXPENSES OF THE NATIONAL COUNCIL ON INDIAN OPPORTUNITY

Mr. JACKSON. Mr. President, I introduce for appropriate reference a joint resolution to authorize appropriations for expenses of the National Council on Indian Opportunity.

This joint resolution was submitted and recommended by the Bureau of the Budget and I ask unanimous consent that the executive communication accompanying the proposal be printed in the RECORD at this point.

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

The joint resolution (S.J. Res. 121), to authorize appropriations for expenses of the National Council on Indian Opportunity, introduced by Mr. JACKSON, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

The material presented by Mr. JACKSON follows:

BUREAU OF THE BUDGET
Washington, D.C., May 23, 1969.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for your consideration and appropriate reference is a draft of a proposed Joint Resolution to authorize appropriations for expenses of the National Council on Indian Opportunity.

The National Council on Indian Opportunity was established by Executive Order No. 11399 of March 6, 1968. The purpose of the Council is to encourage full use of Federal programs to benefit the Indian population, including interagency coordination and cooperation and appraising the impact and progress of Federal programs for Indians. The Executive Order designates the Vice President as Chairman of the Council and provides for a membership consisting of six Indian leaders appointed by the President for two-year terms and representatives of the Departments of Agriculture, Commerce, Health, Education, and Welfare, Housing and Urban Development, the Interior, and Labor, and the Office of Economic Opportunity.

The President's Budget for 1970 includes an estimate of $300,000 for the expenses of this Council, the appropriation of which is dependent upon the enactment of the proposed authorizing legislation.

Accordingly, I urge early and favorable consideration of the enclosed draft resolution.

Sincerely,

PHILLIP S. HUGHES,
Acting Director.

ADDITIONAL COSPONSORS OF BILLS

S. 309

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that, at its next printing, the names of the distinguished minority whip, the Senator from Pennsylvania (Mr. SCOTT), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Idaho (Mr. CHURCH) be added as cosponsors of the bill (S. 309), to provide for improved employee-management relations in the postal services, and for other purposes.

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

S. 740

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from New Mexico (Mr. MONTOYA), I ask unanimous consent that, at its next printing, the name of the Senator from Texas (Mr. TOWER) be added as a cosponsor of the bill (S. 740), to establish the Inter-Agency Committee on Mexican American Affairs.

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

S. 1708

Mr. JACKSON. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Pennsylvania (Mr. SCOTT) be added as a cosponsor of the bill (S. 1708) to amend title I of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), and for other purposes.

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

S. 2283

Mr. MAGNUSON. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Alaska (Mr. GRAVEL) be added as a cosponsor of the bill (S. 2283) to promote the foreign policy and security of the United States by providing authority to negotiate commercial agreements with countries, and for other purposes.

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

S. 2315

Mr. JACKSON. I ask unanimous consent that, at its next printing, the name of the Senator from Oregon (Mr. HATFIELD) be added as a cosponsor of the bill (S. 2315) to restore the golden eagle program to the Land and Water Conservation Act.

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

SENATE CONCURRENT RESOLUTION 31—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING CERTAIN PRINTING

Mr. McCLELLAN submitted the following concurrent resolution (S. Con. Res. 31); which was referred to the Committee on Rules and Administration.

S. CON. RES. 31

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Government Operations two thousand additional copies of Part 17 and any subsequent parts of the hearings on Riots, Civil and Criminal Disorders held by its Permanent Investigations Subcommittee during the Ninety-First Congress, first session.

SENATE CONCURRENT RESOLUTION 32—SUBMISSION OF A CONCURRENT RESOLUTION ON RAIL TRANSPORTATION

Mr. ALLOTT, on behalf of himself and other Senators, submitted a concurrent resolution (S. Con. Res. 32) on rail transportation, which was referred to the Committee on Commerce.

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

EXTENSION OF THE HANDICAPPED CHILDREN'S EARLY EDUCATION ASSISTANCE ACT OF 1 YEAR—AMENDMENT

AMENDMENT NO. 38

Mr. PROUTY. Mr. President, I submit for appropriate reference an amendment intended to be proposed by me, to House Resolution 514. This amendment will extend the Handicapped Children's Early Education Assistance Act for 1 year.

A little over a year ago I stood before this body to introduce a bill entitled, the "Handicapped Children's Early Education Assistance Act." I said at that time:

> There is no child who deserves a First chance, a helping hand, more than the child who enters this world with dim vision, with faint hearing, with difficulty in comprehending the nature of our world, or with any of the myriad disabilities which affect our handicapped children.

My distinguished colleagues and Members of the other body responded to my importunings and the measure was quickly considered, passed, and on September 30, 1968, signed into law.

The need for increased attention to children's handicapped conditions during the early childhood development period was never in doubt. What was lacking, however, was model preschool educational programs for handicapped children.

The Handicapped Children's Early Education Assistance Act—Public Law 90–538—provides such models. The need for demonstration programs is borne out by what the Bureau of Education of the Handicapped of the Office of Education labels as "unprecedented" interest in the act.

Following its enactment and the subsequent publicity concerning the provisions of the statute, guidelines were developed with the assistance of national experts assembled by the Bureau for late November of 1968.

On February 14 of this year, the Bureau prepared and distributed 1,800 copies of guidelines. These guidelines generated what the Bureau calls an "awesome" volume of mail, calls, and

visits. Between February and April there were over 2,000 mail and phone inquiries concerning the Public Law 90–538 programs. Over 100 people made personal visits to the Bureau of Education for the Handicapped Offices. The inquiries continue.

By the April 15 mailing deadline, the Bureau had received 204 applications requesting a total of $10,450,023.

A rigorous screening and review process was established and executed by the Bureau to evaluate proposals and make final awards. This process included the creation of an interdivisional Bureau of Education for the Handicapped Task Force and the reelection of 23 national consultants.

These consultants approved 56 programs for further consideration.

A national advisory group of 12 experts was assembled to further evaluate these 56 proposals and recommended the approval of three operational and 20 planning grants.

The Bureau of Education for the Handicapped is now negotiating the award of grants to approved sponsors. The Bureau estimates that of the fiscal year 1969 appropriations of $1 million program grants totalling $875,000—20 planning grants at $25,000 each and three operational grants at $100,000 each will be made with the remaining $125,000 used for evaluation and administration.

The Bureau estimates that in 1970 there will be 23 continuing grants at $100,000 each and 22 new planning grants at $25,000 each with evaluation costs of $90,000 and administrative costs of $60,000. This would bring the fiscal year 1970 total in at the budget request of $3 million.

Over the next 5 years the Bureau aims to build up the Nation's capability to serve approximately 22 percent of the handicapped youngsters in model preschool programs. The Public Law 90–538 programs are an essential component in providing guidance as to how the Bureau should proceed.

At present the Handicapped Children's Early Education Assistance Act provides for funding through fiscal year 1971.

Title V of H.R. 514 now before the Senate extends title VI of the Elementary and Secondary Education Act of 1965 and other acts relating to education of the handicapped for 2 years through fiscal year 1972.

Mr. President, the amendment I submit at this time would extend the Handicapped Children's Early Education Assistance Act through fiscal year 1972, so that if the provisions of H.R. 514 are adopted by this body, authorizations under Public Law 90–538 will be coterminus with other acts relating to the handicapped.

Codification of the Handicapped Children's Early Education Assistance Act into the framework of the Elementary and Secondary Education Act is, I believe, essential to achieve a total view of our education program for the handicapped. Cotermination of these programs will insure that our subsequent reviews do not exclude this key part of our overall response to the vital needs of the handicapped.

The VICE PRESIDENT. The amendment will be received, printed, and appropriately referred.

The amendment was referred to the Committee on Labor and Public Welfare.

ADJUSTMENT OF THE SALARIES OF THE VICE PRESIDENT AND CERTAIN OFFICERS OF THE CONGRESS—AMENDMENT

AMENDMENT NO. 39

Mr. WILLIAMS of Delaware (for himself and Mr. BYRD of Virginia) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 7206) to adjust the salaries of the Vice President of the United States and certain officers of the Congress, which was ordered to lie on the table and to be printed.

SECOND SUPPLEMENTAL APPROPRIATIONS ACT, 1969—AMENDMENT

AMENDMENT NO. 40

Mr. JAVITS (for himself and Mr. NELSON) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 11400) making supplemental appropriations for the fiscal year ending June 30, 1969, which was ordered to lie on the table and to be printed.

NOTICE OF HEARINGS ON NOMINATION

Mr. SPARKMAN. Mr. President, I wish to announce that the Committee on Banking and Currency will hold a hearing on Tuesday, June 17, 1969, on the nomination of James J. Needham, of New York, to be a member of the Securities and Exchange Commission.

The hearing will commence at 10 a.m. in room 5302, New Senate Office Building.

ANNOUNCEMENT OF HEARINGS ON NONJUDICIAL ACTIVITIES

Mr. ERVIN. Mr. President, over the course of the past few years, the Subcommittee on Separation of Powers has been studying the problem of nonjudicial activities by Supreme Court Justices and other Federal judges as part of its overall inquiry into the Supreme Court. In June 1968, the subcommittee conducted a series of hearings, in the form of roundtable seminar discussions, at which a number of distinguished professors of constitutional law, history, and government considered the modern role of the Supreme Court and the Federal judiciary in our tripartite system of government. Among the many issues discussed was that of nonjudicial activities.

When the subcommittee first began looking into the question of what outside activities Federal judges could properly perform without doing violence to their primary responsibilities, the problem appeared almost academic in nature. Now, as recent events have demonstrated, it is evident that this is a crucial question affecting the entire Federal bench and, in its implications, the entire Federal Government. Unfortunately, there has been much more heat than light on this subject—and it is a subject which is critical to the institutions of our constitutional system.

The time is now appropriate to begin orderly public discussion; accordingly, I wish to announce that the Subcommittee on Separation of Powers will conduct hearings on the complex and sensitive subject of nonjudicial activities of Federal judges, and especially Supreme Court Justices, on July 10, 11, 14, 15, and 16, 1969.

The subcommittee has invited a distinguished group of judges, active as well as retired, State as well as Federal. Other witnesses will include members of the academic community, representatives of bar associations, and persons in public and private life who have reason to be familiar with this problem.

The subcommittee will also consider in the hearings whether this is a subject upon which Congress properly can and should enact legislation. In this regard, two bills are now before the subcommittee—S. 1097, which proposes to bar all judges from performing official or governmental activity of a nonjudicial nature; and S. 2109, which would require Federal judges to disclose all outside activities. These bills are representative of two approaches that have been suggested, and will serve as focal points for this aspect of the inquiry. It is expected that the Judicial Conference of the United States, under the guidance of Chief Justice Warren, will soon announce a set of principles to guide judges in this area. This expected "code of ethics" will also be discussed at the hearings.

It is perhaps unnecessary to add that these hearings are in no way intended to rehash recent events nor will they be concerned with personalities. The important objective we seek is to focus and encourage meaningful public discussion. We hope thereby to help formulate principles which will guide both the public and the Federal bench in the future.

Persons desiring additional information regarding the hearings are requested to contact the office of the Subcommittee on Separation of Powers, room 1403, New Senate Office Building.

ANNOUNCEMENT OF HEARINGS ON VETERANS EDUCATION AND HEALTH CARE BILLS

Mr. CRANSTON. Mr. President, for the information of Senators, I wish to announce at this time that the Subcommittee on Veterans' Affairs, of which I am chairman, of the Labor and Public Welfare Committee, will hold hearings on June 24, 25, and 26 on four bills relating to veterans educational assistance. The bills to be considered are S. 338, introduced by the distinguished senior Senator from Texas, the chairman of the Labor and Public Welfare Committee, to amend section 1677 of title 38, United States Code, relating to flight training, and to amend section 1682 of such title to increase the rates of educational assistance allowances paid to veterans under such sections; S. 1998, also introduced by the distinguished chairman of the committee, to amend section 1682(d) of title 38, United States Code, so as to modify the requirements for the farm

cooperative program under such section; H.R. 6808, to amend section 1781 of title 38, United States Code, to eliminate the prohibition against receipt of certain Federal educational benefits, and for other purposes; and a bill introduced by Senator KENNEDY today, S. 2361, which I am cosponsoring, to amend chapter 34 of title 38, United States Code, in order to provide special educational services to veterans. I hope that at these hearings we will be able to make a beginning toward determining how we can best encourage veterans to take full advantage of their educational assistance entitlements and whether the pertinent legislation and its implementation and administration by the Veterans' Administration are sufficiently responsive to the needs of the returning Vietnam veterans, especially those from disadvantaged backgrounds. We owe an enormous obligation to these men who are risking their lives and limbs in Vietnam in the service of our country to insure them the most meaningful opportunities for full education and employment when they return to civilian life.

Mr. President, I also wish to announce for the information of Senators, that the subcommittee will hold hearings on six House-passed bills relating to the veterans health care program, H.R. 692, 693, 2768, 3130, 9334, and 9634, during the month of July on a day or days to be announced later.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Walter J. Link, of North Dakota, to be U.S. Marshal for the district of North Dakota for the term of 4 years, vice Anson J. Anderson.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, June 19, 1969, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

THE ADMINISTRATION OF THE MEDICARE AND MEDICAID PROGRAMS

Mr. WILLIAMS of Delaware. Mr. President, for the past several weeks the Senate Finance Committee has had its staff working on the study of the administration of both the medicare and the medicaid programs, and on May 14, 1969, I made a progress report of that study.

The Social Security Administration has likewise been conducting a survey, and today I shall place in the RECORD an outline of some of the abuses that have been discovered by the Department along with the corrective measures taken. The names and addresses of the individuals, companies, and so forth, are deleted because these particular cases either have been or are in the process of being referred to the Department of Justice.

Before discussing these specific cases I wish to thank the Adminstration for its cooperation in this study, and I join the Department in emphasizing that while this report points out specific evidence of abuse or fraud on the part of certain members of the medical profession and other services connected therewith, nevertheless it is not intended as a blanket indictment against any segment of the profession. Quite the contrary, we are receiving excellent cooperation from the medical profession and from many of those services connected therewith, and I congratulate the medical profession as a whole for the prompt steps which it is taking to discipline and even expel some of its membership who have been found to be a part of these abusive practices.

I shall now discuss a few of the cases which are summarized in the report being incorporated in the RECORD today. They are designated by numbers only since as stated earlier some of the cases are still pending in the courts.

One physician within a 4- or 5-month period had submitted hundreds of claims under medicare totaling $117,000. Because of the number of patients involved and the similarity in diagnosis and treatment the claims were questioned. The physician then resubmitted his claim, drastically reducing the services billed, with the result that his claims were reduced to approximately $16,000, but a later investigation disclosed that even the resubmitted claim was exorbitant. This case has been referred to the U.S. attorney for prosecution.

Another physician filed numerous claims totaling approximately $80,000 for house calls to patients, but upon examination such calls could not be verified as having been made. This case is pending in the courts.

In another instance an insurance company representative is charged with deliberately implying to elderly people that it had an official connection with Social Security when in reality it had no such connection. As a result numerous elderly persons were being defrauded. The license of this company has been revoked in one State, and other actions are pending.

These are but three examples from the report of 16 abuses involving members of the medical profession, ambulance operators, insurance companies, and so forth, which are being incorporated in the record here today.

A summary of these cases is being placed in the record for a dual purpose. First, it will serve as a warning to all those participating in the medicaid and medicare programs that this investigation is underway and that abuses will not be tolerated. Second, these cases will stand out as examples to officials of the State and Federal Governments as well as to other parties who are connected with the administration of the medicaid and medicare programs as the type of abuses that can be looked for.

I ask unanimous consent that a condensed summary of the 16 cases thus far developed be printed at this point in the RECORD.

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

SUMMARY OF CASES INVESTIGATED BY THE DIVISION OF ADMINISTRATIVE APPRAISAL AND PLANNING OFFICE OF ADMINISTRATION, SSA

COMPLETED CASES INVOLVING ESTABLISHED FRAUD OR MISREPRESENTATION

A.1. Physical (M.D.). Claims for hospital visits not made. Mississippi:

Investigation disclosed that the physician filed claims for 3,295 hospital visits, however, the hospital records, which were very carefully kept with respect to this physician because of prior problems, showed that only 511 visits were made. This false claim represented an overpayment in excess of $8,000.

The case was referred by SSA for prosecution. The physician was arraigned on May 27, 1969, in U.S. District Court for the Northern District of Mississippi. A plea of nolo contendere to one count of the criminal information was entered by the physician's attorney and additional counts were continued.

A.2. Physician (M.D.). Claims for services not performed. Indiana:

The physician submitted claims for medical services in amounts exceeding the actual charges; submitted "padded" assigned claims when, in fact, the patients had already made full payment for lesser amounts; and submitted claims on behalf of some patients in amounts greater than the fees actually paid to him. Almost without exception, the physician increased his charges with the advent of Medicare.

The U.S. Attorney has obtained an indictment on several counts.

A.3. Ambulance service. Claims for payment for non-covered services. California:

An organization providing ambulance services in 3 cities submitted claims for payment for ambulance services indicating that the services were covered by the program, i.e., stretcher type transportation ordered by a patient's physician. Claims for over $50,000 were paid. Investigation disclosed that in a large number of cases a physician had not ordered stretcher care or ambulance transportation. Further, the majority of the organization's vehicles were not ambulances but, rather, Volkswagen station wagons from which the seats had not even been removed. Patients interviewed indicated that they had ridden in a station wagon sitting upright in the seat next to the driver or just behind him. The firm did operate one or more vehicles actually equipped to hold stretchers but even here, in many cases, patients who were given stretcher care furnished statements to the effect that the driver required them to lie down and ride on the stretcher in the ambulance even though they had walked up to the ambulance under their own power, required no stretcher care, and actually expressed a preference to ride sitting up.

The SSA referred the case to the U.S. Attorney for prosecution who apparently plans to present it to a Federal grand jury.

A.4. Physician (M.D.) owner-operator of a hospital and associates. Claims for services not furnished; double claims for payments; false statements as to fees and costs. Florida:

Physician-operator of a hospital was accused of deliberately providing unnecessary and medically contraindicated surgical and hospital care; and not performing services billed for. The hospital's participation in the program was terminated for non-compliance with the conditions of participation. In addition, investigation uncovered false claims for services not performed, charging for physicians' services under both Parts A and B of the program to obtain double payment; falsely setting costs and charges. Approximately $350,000 is involved.

The Social Security Administration has referred the case to the U.S. Attorney for prosecution for fraud. (The physician's license to practice medicine has been revoked by the State in a non-related action.)

A.5. Physician (M.D.). Claims for payment for services not furnished. Texas:

The physician, within a 4 or 5 month period submitted hundreds of claims under Medicare totalling approximately $117,000. Because of the number of patients involved and the similarity in diagnosis and treatment, the claims were questioned. The physician then resubmitted the claims but drastically reduced the services billed for so that the claims were reduced to approximately $16,000. Investigation disclosed that even the resubmitted claims were exaggerated. Many patients who were interviewed indicated that the services were not furnished.

SSA referred the case to the U.S. Attorney for prosecution. The case is scheduled to go before the Federal grand jury.

A.6. Physician (M.D.). Claims for house calls not made. South Carolina:

The physician filed numerous claims for payment for house calls to patients. Complaints of some patients upon receipt of notice indicating that payment had been made to the physician led to a full-scale investigation. The results of the investigation showed that hundreds of house calls for which reimbursement was claimed, were not verified by the patients. Approximately $80,000 is involved.

The Social Security Administration referred the case to the U.S. Attorney for prosecution, who has indicated that the case will be presented to a Federal grand jury soon.

A.7. Insurance company representatives. Implying official connection with SSA. Georgia, South Carolina:

Agents of a health and life insurance company deliberately implied to elderly people that they had an official connection with the Social Security Administration but very carefully avoided saying so expressly. The elderly persons were pressured by agents of the company to purchase medical insurance under the guise that such insurance was a necessary part of Medicare coverage. Persons approached by agents were convinced that they were social security representatives, attempting to collect payments for the title XVIII supplemental hospital insurance benefit program.

After investigation, information was furnished to insurance commissioners in the two States. The firm's license had already been revoked in South Carolina and action is planned in Georgia.

A.8. Chiropractor. False claims. New York:

A licensed chiropractor who maintained a suite of offices manned by eight to ten unlicensed chiropractors solicited business by direct mail, telephone, newspaper, magazine, radio, and television advertising offering so-called free examinations and consultations implying that the free examination was a preventive health measure connected with the Medicare program. Patients who came in were advised that their condition was poor and they needed extensive medical treatment. At this point pressure would be applied to have the patient sign a written contract providing for a schedule of treatments to be performed. Failure to pay resulted in harassment by fake credit notices and notices of legal proceedings which were not valid. Most of the patients came from minority groups.

No separate prosecution resulted from the Social Security Administration investigation; however, the chiropractor was convicted of mail fraud charges brought by the Post Office Department.

COMPLETED CASES IN WHICH REFERRAL FOR PROSECUTION IS BEING CONSIDERED

B.1. Physician (M.D.). Claims for services not furnished. Pennsylvania:

Investigation disclosed that the doctor filed claims for services which were not rendered and for visits that were not made; e.g., in one case he claimed payment for office visits by a patient who was out-of-town at the time; in many other cases he claims payment for routine office visits on legal holidays when, in fact, he did not have office hours on such holidays except for emergency situations; and none of the cases involved was an emergency situation.

Report is in preparation for consideration for fraud prosecution.

B.2. Physicial (D.O.). Describing non-covered services as covered in order to obtain Medicare payment. Florida:

The physician, using a reconstruction operative method developed by his father in 1910, claims to have restored the hearing of more than 2,000 patients over 20 years using his father's method. He is known to appear on television in Miami, publicizing and advertising his treatment for the cure of deafness. The procedure of questionable effectiveness and not endorsed by the D.O. professional society, is not reimbursable under Medicare Investigation disclosed that after claims were denied because the finger surgery technique (which was the method employed) was not medically acceptable and would not be paid for under Mericare, the physician began preparing claims for payment showing "substitute type" medical services which are normally compensable.

Report is in preparation for consideration for fraud prosecution.

B.3. Physician (M.D.). Claims for payment for services not performed with kickback to "patient." Florida:

An informant (a title XVIII beneficiary) reported that the physician approached him and said he (the physician) would bill Medicare for services not performed and would subsequently kickback some of the money to the beneficiary. The informant said he knew of people in the neighborhood who had received money in this way as a result of billing for surgery and services never performed. The evidence obtained as a result of investigation shows that the doctor submitted numerous claims which were grossly irregular as to date, place and type of medical service allegedly provided by him. In addition to other irregularities, in the case of one patient the doctor claimed for 21 house calls/office visits during a period of time when the patient/beneficiary was in Greece.

Report is in preparation for consideration for fraud prosecution.

B.4. Podiatrist. Claims for payment for services not performed. Florida:

Because of a beneficiary complaint that a podiatrist had filed a claim for reimbursement for services in excess of those actually rendered. A questionnare was sent to 18 of his Medicare patients in an effort to determine if erroneous or fraudulent claims had been filed. Information received from the patients in answer to the questionnaire was in general agreement with the information contained on the billing forms submitted by the podiatrist; however, it was discovered that the podiatrist had, in fact supplied the beneficiaries' answers to the questions. Subsequent investigation revealed that the podiatrist had submitted claims for visits and services which were not verified by patients; and that he had billed Medicare beneficiaries in greater amounts than patients not under Medicare in an attempt to establish a higher "customary" fee for Medicare reimbursement purposes.

Report is in preparation for consideration for fraud prosecution.

B.5. Physician (M.D.). Claims for payment for services not furnished; false fee amounts. Florida:

Investigation initiated as a result of beneficiary complaints regarding a physician's charge structure as being excessive for the services actually rendered and that charges were made for services not performed. It revealed that in fact the physician had claimed reimbursement for medical treatment not provided. It also established that it was the physician's standard procedure to charge one fee when a patient paid him cash and a greater amount for the same treatment when the patient assigned payment of his Medicare claim to the physician.

Report is in preparation for consideration for fraud prosecution.

B.6. Podiatrist. Falsely identifying services as covered in order to obtain payment. Florida:

Investigation disclosed that a podiatrist had filed claims under Medicare for payment for non-covered services, e.g., nail cutting and callous cutting by describing such services to suggest that a covered service had been performed. Nail cutting was billed as "debridement by electric burring of fungus infected nails with antibiotic dressing" or "removal of ingrown portion of nail;" callous trimming was billed as "removal of hypertrophy tissue from dorsum of acutely inflammed lesion with accommodative dressing." The podiatrist also filed claims for payment for services when none at all were performed.

Report is in preparation for consideration for fraud prosecution.

B.7. Physician and associate. Claims for payment for services not furnished. California:

Investigation undertaken as a result of a beneficiary complaint disclosed that the physician and a part-time associate, who is a psychiatrist, billed for services not furnished. A number of patients are involved. The senior physician has previous difficulties because of irregular billing under the medi-cal program. In addition, there is a charge pending against him before the State Board of Medical Examiners at Sacramento. Both physicians, in the presence of their attorneys, denied that they were guilty of any wrongdoing regarding the Medicare program.

Report is in preparation for consideration for fraud prosecution.

B.8. Ambulance operator. Padding of claims. California:

California authorities obtained an indictment charging the owner-operator of this ambulance service with 22 counts of fraudulent billing under the medi-cal program. Investigation disclosed that fraudulent claims for Medicare beneficiaries were also involved. Many instances of bill padding by the owner-operator and/or his wife were found.

Report is in preparation for consideration for fraud prosecution.

FIFTEENTH ANNUAL REPORT ON THE TAX DELINQUENCIES AS OF JANUARY 1, 1969

Mr. WILLIAMS of Delaware. Mr. President, on April 18, 1969, I filed my 15th annual report on the inventory of tax delinquencies as of January 1, 1969. In that report, as appearing in the CONGRESSIONAL RECORD on pages 9538–9547, I called attention to the $326,787,000 which had been written off as uncollectible during the same year.

At that time I also asked the Commissioner of Internal Revenue for a list of all taxpayer accounts in excess of $25,000 which had been written off as uncollectible in 1968, and today I am incorporating in the RECORD Commissioner Thrower's reply.

As his letter indicates, this list does not include all of those writeoffs in excess of $25,000 since all the information was not immediately available. This report does show, however, that $169,283,184, or over one-half of the $326 million written off in 1968, involved but 444 taxpayers.

The following is a summary of the Department's report:

One hundred sixty-nine had $68,130,812 in individual income taxes written off in 1968—form 1040.

Seventy corporations had a total of $23,610,244 written off as uncollectible—form 1120.

Fifty-seven had a total of $6,565,304 written off, representing withholding and FICA taxes—form 941.

Twenty-two taxpayers had a total of $5,682,053 in excise taxes written off—form 720.

Excise taxes of $47,098,689 on marihuana were written off as uncollectible for 86 taxpayers—form EX–124.

One taxpayer in Austin, Tex., had $325,713 in excise taxes on oleo, butter, and cheese written off as an uncollectible item—form EX–125.

One taxpayer in Los Angeles owed $191,484 in excise taxes on wagering—form EX–135—which was written off as uncollectible.

Wagering taxes of $10,355,504—form 730—which had been assessed against 16 taxpayers were written off as uncollectible.

Narcotic taxes of $2,785,010 were assessed against 11 taxpayers—form 3–N—and were written off as uncollectible.

Excise taxes of $149,500 on narcotics assessed against one taxpayer in San Francisco—form EX–123—were written off.

Estate taxes assessed against four taxpayers totaling $1,059,480—form 706—were written off as uncollectible.

Two taxpayers owing alcohol and tobacco taxes totaling $158,963—form 154—had their obligations written off as uncollectible.

The sum of $102,456, labeled as income taxes withheld at the source—form 1042—were written off as uncollectible.

The sum of $61,315, labeled withholding and FICA—form 2749—were written off for one taxpayer.

The interest equalization taxes for two taxpayers in Manhattan, N.Y., totaling $3,006,657—form 3780—were written off as uncollectible.

I ask unanimous consent that Commissioner Thrower's letter along with the enclosed charts giving the names of the taxpayers and the regional offices in which these $169 million in taxes were written off as uncollectible in 1968, be printed in the RECORD.

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

(See exhibit 1.)

Mr. WILLIAMS of Delaware. Mr. President, significantly the same offices which were criticized in the earlier reports as being far below the national average in tax collections also appear in this report as having exceptionally large amounts of writeoffs.

The Department should give these offices its prompt attention to determine why their collection rate is so far below the national average.

EXHIBIT I

U.S. TREASURY DEPARTMENT,
INTERNAL REVENUE SERVICE,
Washington, D.C., May 6, 1969.

Hon. JOHN J. WILLIAMS,
U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: In response to your letter of April 2, 1969, there is attached a listing of the names of taxpayers who in 1968 had obligations to the government in excess of $25,000 written off as uncollectible, together with the type of tax involved in the write-off and the district office in which this action took place.

Because of practical limits on the Service's ability to report and make use of all the information conceivably available, the data reported includes no addresses, nor does it include every account over $25,000. The reason for the latter is that every district does not have the same cutoff point for reporting large taxpayer delinquent accounts. These levels of reporting vary from district to district and are set in light of the size of the district. Our purpose is simply to identify accounts included in the district total that are large enough to distort that district's total. For example, a large account could warp entirely one's appreciation of the total value of the accounts written off as uncollectible in a small district, whereas, an account in the same amount would not have this effect in a large district. Thus, in a small district we might provide that all accounts over $25,000 be reported, but in a large district we might set this amount at $75,000.

The enclosed list does represent all accounts over $25,000 reported to the National Office for the calendar year 1968, but as I have said, the actual total of all accounts over $25,000 would be larger.

While I have not been able to furnish all the data you requested, I have supplied all that is readily available. To obtain the information precisely as you requested would involve reviewing each individual account that was reported as uncollectible last year. The files for these accounts are located in our offices throughout the country and some, in instances of bankruptcy, dissolution of business, etc., may have been retired to the Federal Records Center. Because of our critical manpower situation, I could not justify diverting personnel to this task at the present time.

As you are no doubt aware, the write-off of accounts as uncollectible does not necessarily mean that the potential revenue is irrevocably lost to the government. The administrative files are retained in the district offices if the statue for collection has not expired. When subsequent information is developed that indicates the possibility of collecting such accounts, collection action is resumed. Even where there is no indication of the taxpayer's capability to resume periodic payments which would justify reactivating the account, the Service does frequently recover all or part of the amount written off from refunds that later come due or when an additional payment is secured after reinvestigation.

We appreciate your interest in this aspect of our activities, and the opportunity to comment on it. As I told you on the occasion of my visit with you in your office, I am very much interested in the problems we are incurring in collection and am reviewing these with members of my staff with the hope that, despite our severe personnel limitations which are contributing to an increase in our inventory of delinquent accounts, we can devise means of reducing our uncollectibles, particularly for the larger accounts. In many of these cases time is of the essence in collection and we must devise techniques for getting earlier information as to the deteriorating financial condition of a taxpayer and to respond promptly to it. I will be happy to keep you advised of our plans in this respect and at any time to have your suggestions.

With kind regards,

Sincerely yours,

RANDOLPH W. THROWER,
Commissioner.

ACCOUNTS OF $25,000 OR MORE WRITTEN OFF AS UNCOLLECTIBLE IN 1968

Taxpayer	Type of tax	Amount written off as uncollectible
NORTH ATLANTIC REGION		
Albany:		
Rose Aronowitz	Excise tax (720)	$82,515
Joseph E. Basle	do	2,512,693
Anthony Pelletier	Individual income tax (1040)	1,154,112
Charles W. Jenkins	do	85,441
Paperback Man., Inc	Withholding and FICA (941)	57,681
Goshen Farms, Inc	Individual income tax (1040)	114,745
Augusta: None over $25,000 written off as uncollectible in 1968.		
Boston:		
J. A. Bucchiere	do	269,201
Clifton Campbell	do	125,705
M. Eli and Louise Livingstone	do	4,137,824
Frank Iancono	do	729,443
A. and S. DeFranzo	do	518,730
Phillip and Marion Engle	do	187,235
Brooklyn:		
M. M. and B. Friedman	do	179,293
L. and A. Muscatella	do	169,101
Michael Giamonalvo	do	376,644
Joseph Aquilato	do	250,591
A. E. Feeney (deceased)	do	139,583
Edward and Rhoda Gilbert	do	1,780,841
Joseph Vito	do	125,540
Pride Meat & Poultry	Corporation income tax (1120)	124,153
NORTH ATLANTIC REGION—Con.		
Brooklyn—Continued		
John F. McKay, Jr	Withholding and FICA (941)	$109,981
Carney & Del Guidice Plastering Corp	do	128,100
Noramco, Inc	do	557,792
Nat Talesnick	Individual income tax (1040)	651,284
E. and R. Monderer	do	8,070,812
Harry Pickman	do	253,422
Philip Klein	do	178,538
Eagle Foundation, Inc	Withholding and FICA (941)	213,564
Ely and S. Batkin	Individual income tax (1040)	120,642
Irving and M. Koerner	do	217,631
Harold Marcus	Withholding and FICA (941)	172,859
Estate of M. Waldinger	Individual income tax (1040)	137,465
M. and S. Shapiro	do	130,941
J. and M. Levigno	Excise tax (720)	146,127
Artia Parliament, Inc	Corporation income tax (1120)	271,289
Frank and D. Kleinman	Individual income tax (1040)	813,737
Harold Roth	do	339,702
Buffalo: Nevil Enterprises, Inc	Corporation income tax (1120)	213,517
Burlington: None over $25,000 written off as uncollectible in 1968.		
Hartford:		
Argo Builders Inc	do	94,321
Diamond Electric Co	Withholding and FICA (941)	75,285
Tyrus and Joan Davis	Individual income tax (1040)	118,060

See footnote at end of table.

ACCOUNTS OF $25,000 OR MORE WRITTEN OFF AS UNCOLLECTIBLE IN 1968—Continued

Taxpayer	Type of tax	Amount written off as uncollectible
NORTH ATLANTIC REGION—Con.		
Hartford—Continued		
Charles H. Garabedian	Withholding and FICA (941)	$211,050
F. L. Iancono	do	272,662
Lo Pack	Corporation income tax (1120)	53,947
Manhattan:		
Vincent J. Guarino	Individual income tax (1040)	101,399
Robert W and Helene S. Rosenblatt	do	581,051
William Lipman	do	556,326
James Edward Cohen	Narcotics (3–N) [1]	139,451
Jessie N. Schneider	Withholding and FICA (941)	207,527
Larry Allan Kass	Narcotics (3–N) [1]	139,451
Irving Monsky	Individual income tax (1040)	124,250
Hotel Abby Holding Corp	Corporation income tax (1120)	1,100,246
Rovert W. and H. S. Rosenblatt	Individual income tax (1040)	443,257
Reva R. Sandblom	do	1,639,785
William Taub	do	312,387
Estate of L. B. and J. R. Moreton	Withholding and FICA (941)	114,185
Philip Schweig	Narcotics (3–N) [1]	402,000
Estate of Isidor Wolrich	Estate tax (706)	393,411
77–77 Corp	Interest equalization tax (3780)	621,365
Mactracy Corp	do	2,385,292
James E. Lofland	Individual income tax (1040)	426,537
Richard Brand	Narcotics (3–N) [1]	402,000
Mathew Korch	do [1]	402,000
J. S. Building Corp	Corporation income tax (1120)	595,587
Morgenstein Creations, Inc	Excise tax (720)	101,335
William L. Rich, Sr	Withholding and FICA (941)	228,151
Arthur J. Wender	do	104,683
U.S. Television Film Co., Inc	Corporation income tax (1120)	542,783
Leon Gottlieb	Individual income tax (1040)	155,826
Armando Ruffing Montalvo	Narcotics (3–N) [1]	128,505
Eagle Sportswear Corp	Corporation income tax (1120)	338,935
Charles M. Rosenthal	Individual income tax (1040)	219,917
Portsmouth: None over $25,000 written off as uncollectible in 1968.		
Providence:		
Robert J. Conley	do	265,959
Charles H. Garabedian	do	224,561
Baltimore:		
Hadden Glenn and Glenda Garvin	do	105,390
Peter J. Gianeris	Wagering tax (730)	563,221
Albert Miller	Individual income tax (1040)	627,137
Fred B. Black, Jr., and Nina R	do	122,213
Ernest S. Price	do	105,013
Brecka Contractors, Inc	Withholding and FICA (941)	77,380
Albert Miller	Individual income tax (1040)	528,775
Albert and Betty Miller, Inc	Corporation income tax (1120)	117,105
Interstate Appraisal Co	do	309,613
Pan Am Investment, Inc	do	251,655
Newark:		
Henry Majewski	Individual income tax (1040)	109,027
Joseph and Marie Bruno	do	124,611
U.S. Overseas Airlines	Corporation income tax (1120)	989,572
S. & R. Landscaping	Withholding and FICA (941)	126,593
Johanna Associates	Corporation income tax (1120)	344,656
Joseph Moriarty	Individual income tax (1040)	1,156,320
Earl B. Bradley	do	260,759
Vito Bruno Electric Corp	Corporation income tax (1120)	231,245
Philadelphia:		
Edward and Mae Ethergain	Individual income tax (1040)	163,613
Edward and Carolyn Lavner	do	131,355
Jack Rudley	do	106,753
Allcrest Auto Leasing, Inc	Corporation income tax (1120)	107,375
Michael Keilyk	Wagering tax (730)	893,302
Robert L. Dougherty, Sr	Corporation income tax (1120)	122,158
Robert L. and Mary F. Dougherty	Individual income tax (1040)	155,577
August J. and Lena Lippi	do	327,334
John C. Showalter	do	208,013
George Barrow	Withholding and FICA (941)	281,878
Preston (deceased) and A. E. Liversidge.	Individual income tax (1040)	106,849
Emil Kominsky	do	1,003,083
Ferdinand and Anna L. Tartaglia	do	357,507
Romualdo Ucciferri	Wagering tax (730)	853,075
Robert R. Ritter	Withholding and FICA (941)	218,763
Jack and Lorraine Secouler	Individual income tax (1040)	391,136
Estate of D. Edward McAllister	Estate tax (706)	108,618
Matt F. and Grace Whitaker	Individual income tax (1040)	1,687,018
George J. Daileda (deceased)	do	1,170,475
Pittsburgh:		
Universal Delta, Inc	Withholding and FICA (941)	97,264
Herbert J. (deceased) and Dorothy Lang.	Individual income tax (1040)	98,432
Joseph Mitchell Electric	Withholding and FICA (941)	58,164
Frank Haney	Individual income tax (1040)	57,581
Steel City Furnace Sales, Inc	Corporation income tax (1120)	362,482
American Home Furniture	Withholding and FICA (941)	57,666
Penfield Coal & Coke	Corporation income tax (1120)	73,301
Richmond:		
Atlantic Steel Placing Co., Inc	Withholding and FICA (941)	103,208
Russell L. Ashworth	Withholding and FICA (2749)	61,315
Wilmington: None over $25,000 written off as uncollectible in 1968.		
SOUTHEAST REGION		
Atlanta: Citywide Janitorial Service, Inc	Withholding and FICA (941)	385,462
Birmingham:		
H.E. and Annie Perry	Individual income tax (1040)	83,579
Elks Lounge Meeting Lodge	Excise tax (720)	213,030
VEL's Enterprises, Inc	Corporation income tax (1120)	56,344
Ashford Todd	Individual income tax (1040)	66,660
SOUTHEAST REGION—Continued		
Columbia:		
Carolina Management Co	Withholding and FICA (941)	$28,411
Edward J. and Lillian M. Athens	Individual income tax (1040)	153,834
Greensboro:		
R. V. and G. McLean	do	231,606
R. E. and C. W. Roberts	do	172,175
Estate of W. J. Reilly	Estate tax (706)	85,945
Jackson:		
J. D. Broadus	Alcohol and tobacco tax (154)	55,025
Peter Martino	Individual income tax (1040)	224,720
T. C. Cannette	Alcohol and tobacco tax (154)	103,938
Jacksonville:		
Scenic Hills Country Club, Inc	Corporation income tax (1120)	262,067
Max B. Cohen, Sr	do	440,151
West Coast Marketing Corp	do	169,202
Fred C. Chapman	Individual income tax (1040)	1,898,980
Paul K. Statmen	do	299,715
Merrill-Stevens Dry Dock & Repair	Corporation income tax (1120)	292,276
Concrete Service, Inc	Withholding and FICA (941)	172,499
James C. and Ruth L. Cross	Individual income tax (1040)	320,225
Howell and Ruth Kase	do	140,360
Ace Mover's Inc	Corporation income tax (1120)	108,179
Maurice B. and Alma Baskin	Individual income tax (1040)	219,403
Maurice B. Baskin	Corporation income tax (1120)	41,242
Alma A. Baskin	do	41,242
Donald K. and Wilma J. Baines	Individual income tax (1040)	79,938
Do	Excise tax (720)	95,690
Alfred Mones	do	190,453
Gibbs Corp	Corporation income tax (1120)	461,239
Do	Withholding and FICA (941)	191,891
Condee Construction Co	Corporation income tax (1120)	205,813
George Saba	Individual income tax (1040)	140,303
Adams Engine Co., Inc	Corporation income tax (1120)	157,724
Gulf States Industries, Inc	do	162,927
Myles H. Johns	Individual income tax (1040)	322,199
International Erectors, Inc	Corporation income tax (1120)	108,344
Bernard Bros., Inc	do	222,642
Lawrence Sunbrock	Individual income tax (1040)	103,733
Harburt, Inc	Corporation income tax (1120)	56,654
Harburt Skirt Corp	do	99,468
Berlin Griffin	Individual income tax (1040)	139,893
George S. Rasmussen	do	125,662
PGB, Inc	Corporation income tax (1120)	76,532
Do	Excise tax (720)	47,509
Harold E. Case	Individual income tax (1040)	193,851
M. M. and Agness Mason	do	197,107
Harold Turk	do	295,390
Progress Village, Inc	Corporation income tax (1120)	249,198
Fred C. Chapman	Excise tax (720)	981,704
Estate of Henry Levin	Individual income tax (1040)	485,302
Paul and Loraine Pilger	do	101,075
Edward P. Neafsey	do	155,073
Ira L. and Jean Morris	do	142,516
John F. O'Rourke	Excise tax (720)	159,944
Nashville:		
George E. Trent	Wagering tax (730)	50,178
William F. Matthews, Ray Spencer, M. and S. House.	do	34,778
Nathan Bellamy	Individual income tax (1040)	781,895
Dixie Haulers, Inc	Withholding and FICA (941)	64,661
Moran & Moran	do	257,291
William C. Graham, Condon and Grace Graham.	Wagering tax (730)	888,857
Grady Ross Pinkelton	Individual income tax (1040)	33,278
Lewis Funeral Home	Withholding and FICA (941)	40,349
James Brucker Chase, Sr	Individual income tax (1040)	125,051
William Woodson	do	38,428
John Henry Gant	Wagering tax (730)	26,822
William Woodson and J. H. Gant	do	161,942
A. J. and Lennie Florida	Individual income tax (1040)	140,246
G. H. and L. Florida	do	80,978
Ward Hudgins	do	43,206
Edward Highsmith	Withholding and FICA (941)	54,919
CENTRAL REGION		
Cincinnati:		
Karl W. Wilks, Jr. (deceased)	Individual income tax (1040)	427,197
Davidson Obenauer	do	268,159
Cleveland:		
Raymond P. Catching	Wagering tax (730)	133,859
Allied Products & Supply	Corporation income tax (1120)	111,836
Mary L. Ficken	Individual income tax (1040)	141,915
Detroit:		
Marie Moore	Narcotics (3–N) [1]	201,803
Percy and Alice Harris	Wagering tax (730)	343,410
Eugene E. Ayotte	Individual income tax (1040)	111,283
Braund Plywoods, Inc	Corporation income tax (1120)	183,705
Indianapolis:		
Pascal K. Smith	Excise tax (720)	75,892
Pascal and Ethel Smith	Individual income tax (1040)	53,644
Costa and Mary Jane Kostoff	do	199,076
Skiles and Ellen Test	do	534,130
Robert R. (Deceased) and Ruby Geeting.	do	336,235
Neffew Sam Cezzeny	Wagering tax (730)	414,427
Fred Mackey	do	1,721,159
M. E. Hilgey	Narcotics (3–N) [1]	89,500
P. W. Dickinson	do	89,500
Edw. E. and Pearl Hampton	Individual income tax (1040)	119,971
Eddie J. Marlen	Withholding and FICA (941)	87,398
Kokomo Times	do	104,751

See footnote at end of table.

ACCOUNTS OF $25,000 OR MORE WRITTEN OFF AS UNCOLLECTIBLE IN 1968—Continued

Taxpayer	Type of tax	Amount written off as uncollectible
CENTRAL REGION—Continued		
Louisville:		
John T. Catlett	Individual income tax (1040)	$272,017
Jefferson Stone Co	Corporation income tax (1120)	82,243
Parkersburg: None over $25,000 written off as uncollectible in 1968.		
MIDWEST REGION		
Aberdeen: None over $25,000 written off as uncollectible in 1968.		
Chicago:		
Paul E. Pickel	Individual income tax (1040)	625,018
Sumner Sollitt Co	Corporation income tax (1120)	1,181,592
McClintock Mercantile	do	334,509
Highway Insurance Co	do	252,560
Marshall Savings & Loan	do	5,089,082
Charles T. Greene	Individual income tax (1040)	304,341
Highway Insurance Co	Corporation income tax (1120)	354,024
Ernest J. McBride estate	Individual income tax (1040)	528,101
John and E. Danno	do	305,628
Martin and I. Goodman	do	107,504
Theodore Revyan	do	109,534
Laverna Speroni	do	118,166
Brust Tool Manufacturing Co	Corporation income tax (1120)	494,884
Dale Parker	Excise tax (720)	140,303
R. B. Smith	Individual income tax (1040)	883,203
Manuel Handwerker	do	230,063
Anton S. Koubek	Corporate income tax (1120)	105,193
Do	Individual income tax (1040)	120,752
Harry and B. Lev	do	1,206,505
Des Moines: GFE Industries, Inc	Corporation income tax (1120)	35,186
Fargo: None over $25,000 written off as uncollectible in 1968.		
Milwaukee:		
Samuel Coca	Excise tax on marihuana (EX–124)[1]	66,324
Santos Castro	do	66,324
Arthur Hardin	Individual income tax (1040)	226,810
A. J. Werner	Withholding and FICA (941)	98,549
H. and J. Cammitz	Individual income tax (1040)	44,701
Michael Preston	do	66,774
Ervin Bucher	do	69,585
Do	Withholding and FICA (941)	44,624
E. R. Flint & Co	do	34,746
Keefe Avenue Realty Corp	Corporation income tax (1120)	36,864
Lesperance Construction Co	Withholding and FICA (941)	39,791
Vincent Truel	Individual income tax (1040)	107,501
Omaha:		
S M S Truck Co., Inc	Withholding and FICA (941)	34,028
Vance L. Dorn	Excise tax (720)	123,171
Dorothy Blood	Individual income tax (1040)	52,298
St. Louis:		
Jack and Loretto Gibbs	do	51,713
Joseph and Teresa Campagna	do	413,628
C. S. Ragsdale	do	76,717
W. Schaeffer	Corporation income tax (1120)	83,763
Robert E. and Donna H. Cherry	Individual income tax (1040)	51,402
Reece Tatum (deceased)	do	127,093
St. Paul: None over $25,000 written off as uncollectable in 1968.		
Springfield:		
Thad Stevens	do	32,215
Robert Bilyeu	Withholding and FICA (941)	28,553
Mainline Coal Corp	do	62,684
Hill Brick Co., Inc	do	35,854
SOUTHWEST REGION		
Albuquerque:		
Clovis Bowling Club, Inc	Corporation income tax (1120)	52,689
Sandia Memory Gardens	do	38,345
Austin:		
Manuel Arellano-Modesto	Excise tax on oleo, butter, and cheese (EX–125).	325,713
Byron K. and Patricia Wolford	Individual income tax (1040)	229,048
Robert Lyle Walden, Jr	Narcotics (3–N)[1]	574,400
Business Aircraft Corp	Withholding and FICA (941)	117,450
B. R. and Eloise Sheffield	Individual income tax (1040)	107,190
Superior Machine Shop, Inc	Corporation income tax (1120)	110,747
Paul Sandblom	Individual income tax (1040)	2,918,309
Burlington Rock Island	Corporation income tax (1120)	239,176
Granville H. and Fay Bock	Individual income tax (1040)	161,886
Westheimer Dodge, Inc	Corporation income tax (1120)	203,600
R. H. Keyworth	Wagering tax (730)	2,514,684
R. H. Keyworth and Richard Cremer	do	1,458,230
S. L. and Marjorie Miller	Individual income tax (1040)	114,584
Cheyenne: Neil Goodrich	Withholding and FICA (941)	30,801
Dallas: Menlo Corp	Corporation income tax (1120)	1,801,116
Denver:		
James V. Stryker	Individual income tax (1040)	178,59
Leo C. and Joan L. Maley	do	80,508
Time Saver, Inc	Corporation income tax (1120)	74,919
Englewood Heating & Air Conditioning	Withholding and FICA (941)	45,702
Englewood Piping & Plumbing Co	do	40,042
Little Rock:		
Continental Co	Corporation income tax (1120)	28,308
Continental Investment Co	do	39,687
Continental Land Co	do	484,382
Continental Mortgage Co	do	564,642
Florida Real Estate Loan Co	do	311,921
SOUTHWEST REGION—Continued		
New Orleans:		
Louise W. Corcoran Banta	Individual income tax (1040)	$109,465
Leroy C. Smith	do	1,367,606
Wilmar Engineering & Sales Corp	Withholding and FICA (941)	120,449
Champagne & Rodgers Realty, Inc	Corporation income tax (1120)	67,054
Reine Construction Co	Withholding and FICA (941)	97,358
Moore Instrument Co	do	58,949
A v.n L. and T. Perrie	Narcotics (3–N)[1]	216,400
Oklahoma City:		
William O. Goodwin	Individual income tax (1040)	61,326
Lloyd Durensky	do	73,810
Willard Garland Bishop	do	52,390
Glen S. Henderson	Excise tax (720)	60,596
George White Oil Co	do	51,836
Russell and Jane P. Cobb	Individual income tax (1040)	216,248
Abel Maxime, also known as Max Genet, Jr.	do	64,254
Wichita: D. E. Brack, Sr., and Lydia	do	185,716
WESTERN REGION		
Anchorage: Russell Swank	Withholding and FICA (941)	64,865
Boise: Avery Trucking Co., Inc	do	31,607
Helena: None over $25,000 written off as uncollectible in 1968.		
Honolulu:		
John Tallman	do	30,026
Joseph Edward Spanski	Excise tax on marihuana (EX–124)[1]	30,345
Jack Mahakian	Withholding and FICA (941)	54,033
United Steel Co., Ltd	do	46,730
Royal Broadcasting Co	do	32,376
Bennett Builds, Ltd	do	25,844
Lawrence H. Jackson	do	54,629
Gene T. Magbee	Individual income tax (1040)	29,395
Los Angeles:		
Michael E. Carrion	Excise tax on marihuana (EX–124)[1]	811,201
Constantine Valkana	do[1]	811,201
Roy W. and Vida Stoval	Individual income tax (1040)	681,392
James Oran Watson	Excise tax on marihuana (EX–124)[1]	408,400
Paulina C. Guyman	do[1]	371,202
Wynn Bailey	do[1]	313,534
Bernard and Oma Elowitz	Individual income tax (1040)	254,526
Leonard Asher	do	132,836
King Electric Corp	Withholding and FICA (941)	125,562
Walter Waterman	Excise tax on marihuana (EX–124)[1]	105,900
William P. Keane	do[1]	105,421
James Robert Slatton, Jr	do[1]	408,400
Miguel E. Hernandez	do[1]	310,400
Jerry S. Lisner	do[1]	191,484
Dianne Louise Ray	Excise tax (720)	188,749
Gilbert Rance Dart	Excise tax on marihuana (EX–124)[1]	546,688
Howard Franklin Ross	do[1]	435,202
Hector Martinez Fernandez	do[1]	433,902
George Jacob Jung	do[1]	341,492
Anthony Vicent Jorgen	do[1]	194,102
Larose F. Nicholson	Individual income tax (1040)	124,892
Frank Luis Gherardi	Excise tax on marihuana (EX–124)[1]	108,801
Stanley A. Howard	do[1]	1,174,502
Bonnie L. Arevala	do[1]	771,035
Michael E. Mendoza	do[1]	768,503
William Cecil Corwin	do[1]	737,220
Armando A. Blanco	do[1]	433,902
Gabriel Gil	do[1]	345,702
John S. Beveridge	do[1]	313,602
Doug Eugene Martin	do[1]	232,801
Jerry Lu Martin	do[1]	232,801
Arnold Boyce Quinn	do[1]	123,503
Moses Rosedes Rodriquez	do[1]	3,163,203
Nick Matt Linder	do[1]	1,058,132
Edward John Herreres	do[1]	770,963
Joe A. Trujillo	do[1]	737,220
Wade Lee Soto	do[1]	306,802
Robert Maurice Gordon	do[1]	220,962
Hal Roach Studios	Withholding and FICA (941)	206,635
Robert Lee Corcoran	Excise tax on marihuana (EX–124)[1]	204,003
Phil Andrew Scott	do[1]	160,002
Albert Rico	do[1]	160,002
Anthony Sannicandro	do[1]	108,702
Alex Joe Villegas	do[1]	3,163,203
Spencer Chaney	do[1]	1,174,489
Ken Leroy Howard	do[1]	1,174,489
Howard Ed Jordan	do[1]	1,058,302
Roy Harland Emery	do[1]	306,802
Henry J. Marquez	do[1]	280,502
Ben Henry Luckosky	do[1]	187,202
Jack Vertilieb	do[1]	105,257
K. D. Ewing	do[1]	1,142,400
Dominic Devito	do[1]	1,035,204
Roger David Blatt	do[1]	737,220
Walter L. Richard	Estate tax (706)	741,506
Martin M. Greisiger	Excise tax on marihuana (EX–124)[1]	435,202
Alvin G. Levitt	Individual income tax (1040)	267,780
Dennis Joe Richardson	Excise tax on marihuana (Ex–124)[1]	160,903
Graham Eustice Thompson	do[1]	160,903
Allen E. and M. Siegal	Withholding and FICA (941)	141,346
M. A. Lopez	Excise tax on marihuana (EX–124)[1]	3,163,203
S. M. Rodriquez	do[1]	3,163,203
Patrick Yim	do[1]	1,034,765
Rudolph Yim	do[1]	1,035,204

See footnote at end of table.

ACCOUNTS OF $25,000 OR MORE WRITTEN OFF AS UNCOLLECTIBLE IN 1968—Continued

Taxpayer	Type of tax	Amount written off as uncollectible
WESTERN REGION—Continued		
Los Angeles—Continued		
Herbert R. Smith	Excise tax on marihuana (EX-124) [1]	$354,285
Juan Reyes Benitez	do [1]	315,203
Pedro Aquilar Galindo	do [1]	286,402
Ignacio A. Dominquez	do [1]	192,103
Armando Enrique Maceo	do [1]	192,102
Ronald Leroy Inman	do [1]	167,503
Albert D. Walker	do [1]	160,203
Hal Roach Studios	Corporation income tax (1120)	1,242,596
Florence Nationg	Excise tax on marihuana (EX-124) [1]	503,100
Robert E. Carroll	do [1]	326,403
John Carroll Espinoza	do [1]	326,403
Kenneth Leroy Howard	do [1]	283,069
Carl Donald Lobel	do [1]	193,502
John Edward Oelke	do [1]	103,600
Robert W. Karpowicz	do [1]	1,035,204
Guy and Omera Davis	Individual income tax (1040)	217,637
M. Frank and M. J. Ewing	do	216,963
T. A. and E. Y. Shaheen	do	152,288
Edward A. Palomino	Excise tax on marihuana (EX-124) [1]	838,603
Willie Davis, Jr	do [1]	283,205
Brooks Paul Miser	do [1]	208,204
Orlie Louis Duran	do [1]	205,254
Gary P. Hatswell	do [1]	158,801
Phillips M. Oschin	do [1]	158,801
Phoenix:		
William J. Dart	Individual income tax (1040)	181,143
A. Monroe Blakely	Corporation income tax (1120)	146,067
Michael Harold Kamrar	Excise tax on marihuana (EX-124) [1]	325,430
Cindy Lou Day	do [1]	325,430
Harvey H. Day	do [1]	325,430
Obie Gene Renfro	Excise tax (720)	40,868
Paul and Lucille Goff	Individual income tax (1040)	64,062
Ted D. Dudley	do	171,190
Albert J. Dawo	do	43,339
Diamond Valley, Inc	Corporation income tax (1120)	37,855
C. R. Ellsworth Estate	Individual income tax (1040)	58,439
Pinal County Land Co	Corporation income tax (1120)	139,102
Ed and Opal Ellsworth	Individual income tax (1040)	59,654
Portland: None over $25,000 written off as uncollectible in 1968.		
Reno:		
George Stoffey	Excise tax on marihuana (EX-124) [1]	$321,997
People's Investment	Corporation income tax (1120)	99,609
John Francis Quinn	Wagering tax (730)	133,293
John F. Quinn and Max Abramson	do	164,267
Nicholas E. Pappas	Excise tax on marihuana (EX-124) [1]	1,058,304
Keelon Corp	Corporation income tax (1120)	127,644
Joseph Agosto	Individual income tax (1040)	39,692
Salt Lake City: None over $25,000 written off as uncollectable in 1968.		
San Francisco:		
Linda Lillibridge	Excise tax on narcotics (EX-123) [1]	149,500
Michael David Craycraft	Excise tax (720)	103,000
Leonard and Mildred Hesterman	Individual income tax (1040)	1,596,904
Paul Franklin Reedy, Jr	Excise tax (720)	114,509
T. P. Loomis	do	103,500
Seattle:		
Woodburry Abbey, III	Excise tax on marihuana (EX-124) [1]	225,747
Mark L. Price	do [1]	448,000
Stuart C. Dingwell	do [1]	225,747
Daniel David Smith, also known as Sehi.	do [1]	82,200
Franklin Lee Hedgecock, Jr	do [1]	56,600
INTERNATIONAL OPERATIONS		
Puerto Rico: Pedro and Delia Santiago	Individual income tax	37,039
All other:		
Richard J. McCafferty	Excise tax (720)	64,125
Jose Carlos Mora-Garcia	do	84,504
Mary E. McCaffrey	Individual income tax (1040)	103,603
Galban Lobo Co., Ltd	Income tax withheld at the source (1042).	102,456
Clarence and Hazel W. Pistell	Individual income tax (1040)	4,046,590
Donald Daniels	do	852,217
Donald and Frances Daniels	do	75,050
William J. Pollack	do	126,062
J. E. and Willie Mac McKinzie	do	56,913
Frank and G. Keenan	do	442,061
Frank Keenan	do	128,842
Ingemar Johansson	do	598,869
Rutas Aereas Nacionales	do	59,794

[1] Refers to a narcotics tax (marihuana, heroin, etc.).

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,
Washington, D.C., May 10, 1969.

HON. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: I understand that you spoke with Mr. Shapiro, of the Committee staff, on Friday in regard to the tax treatment of narcotic drugs, marihuana, and wagering, and requested certain information in regard to them. It should be pointed out that all of the taxes imposed in these areas are excise taxes and are in the nature of regulatory taxes rather than for the purpose of raising revenue (total revenue from narcotics and marihuana in fiscal year 1967 was $1.3 million and in fiscal year 1968 was $1.6 million; from wagering taxes in fiscal year 1967 was $6.2 million and in fiscal year 1968 was $5.1 million—see attached excise revenue summary). The taxes imposed on narcotics and marihuana are regulatory in two means: first, they serve to regulate its use by limiting the production, importation, or transfer of the various articles; and second they serve to provide information to insure that the uses are lawful, such as for physicians and researchers. While the tax on wagering is in a separate area within the excise tax provisions (chapter 35) apart from the regulatory tax provisions (chapter 39), it serves basically the same regulatory purpose, although where such activities are lawful there is a revenue raising effect.

The following is a summary of the tax treatment in regard to narcotic drugs, marihuana, and wagering:

(1) Narcotic drugs (secs. 4701–4736).—Taxes are imposed upon the sale of narcotic drugs (sec. 4701) and opium manufacturing for smoking (sec. 4711). (The manufacture of opium for smoking is illegal and no tax is collected under section 4711.) Narcotics occupational taxes (occupational taxes are sometimes referred to as special taxes) are imposed upon importers, manufacturers, dealers, physicians, researchers, and others (sec. 4721). Each person subject to the narcotics occupational tax must, on or before July 1 of each year, register with the Commissioner of Internal Revenue (sec. 4722).

With certain exceptions, including use in professional practice, filling of prescriptions, and exportation (secs. 4705(c), 4724(b), and 4742(b)), it is unlawful for any person to sell, exchange, or give away any narcotic except in pursuance of a written order of the transferee on a blank form issued by the Secretary of the Treasury.

Section 7237 sets forth the penalties for the violation of the laws relating to narcotic drugs and to marihuana. The regulation of these areas through the tax laws supplement the laws of the Narcotic Drugs Import and Export Act, as amended (21 U.S.C. 174), as well as other provisions in Title 21 of the United States Code regarding the manufacture, importation, sale, or exportation of narcotic drugs and marihuana.

(2) Marihuana (secs. 4741–4762).—There are also two marihuana excise taxes: a tax upon transfers (sec. 4741) and an occupational tax on importers, manufacturers, dealers, physicians, researchers, and others (sec. 4751). All persons subject to the marihuana occupational tax must register with the official in charge of the Internal Revenue district in which his place of business is located (sec. 4753).

With the same exceptions as indicated for narcotic drugs, as well as for the transfers to government and State officials, and transfers of seeds to registered persons (sec. 4742(b)), it is unlawful for any person to transfer marihuana except under the same authority of the Secretary of the Treasury.

(3) Wagering (secs. 4401–4423).—A 10-percent tax is imposed upon the amount of: (1) all wagers placed with a person in the business of accepting wagers upon the outcome of a sports event or contest; (2) any such wager placed in a pool conducted for profit; and (3) any wager placed in a lottery conducted for profit (sec. 4421). This tax does not apply to: (1) any wager placed with, or in a wagering pool conducted by a parimutuel wagering enterprise licensed under State laws; (2) any wager placed in a coin-operated device or on any amount paid in lieu of inserting a coin, token, or similar object, to operating device described in section 4462(a)(2); and (3) State conducted sweepstakes, wagering pools, and lotteries in which the winners are determined by results of a horse race, if the wager is placed by State employees or agents (sec. 4402).

There is also a wagering occupational tax of $50 a year imposed on every person who is liable for the 10-percent excise tax imposed on wagers or who is engaged in receiving wagers for or on behalf of any person liable for the 10-percent excise tax (sec. 4411). This tax has figured in a number of court cases recently involving self-incrimination problems.

For your information, I have enclosed from the 1968 Annual Report of the Internal Revenue Service for the fiscal year 1968 the following statistical tables: (1) that part of Table 3 noting the source and amount of revenue from all excise taxes and the breakdown by categories, including the amount from narcotics, marihuana, and wagering taxes; (2) that part of Table 14 indicating the breakdown, by taxes imposed, of the revenue collected from narcotics and marihuana by regions (and States); and (3) that part of Table 1 indicating the revenue collected from the wagering taxes by regions (and States).

I trust that this information will be helpful in regard to your inquiry on these excise taxes.

Sincerely yours,

LAURENCE A. WOODWORTH.

Mr. WILLIAMS of Delaware subsequently, on August 6, said, Mr. President, on June 12, 1969, I placed in the RECORD a list of taxpayers whose accounts had been written off as uncollectible by the Internal Revenue Service during 1968.

Included in the list was a Mrs. Jane Cobb, of Tulsa, Okla., for a tax writeoff of $216,248. Under date of June 20, 1969, I received a letter from Mr. John S. Athens claiming that the Internal Revenue Service had made an error. I promptly forwarded a copy of Mr. Athens' letter to Commissioner Thrower, and under date of August 1, 1969, I received his reply confirming that the Service had incorrectly listed her name and extending to her an apology.

I ask unanimous consent that both Mr. Athens' letter of June 20 and the reply from Commissioner Randolph Thrower under date of August 1 be printed at this point in the RECORD, and in the printing of the permanent RECORD I ask unanimous consent that both of these insertions appear at the conclusion of my remarks.

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

CONNER, WINTERS, RANDOLPH & BALLAINE,
Tulsa, Okla., June 20, 1969.

Hon. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR WILLIAMS: On Friday, June 13, 1969, our local newspaper reported that a list of all uncollectible tax writeoffs in the nation compiled by the Internal Revenue Service had been placed in the Congressional Record by you on Thursday.

Those newspapers further reported that the list included the name of the late Russell Cobb of Tulsa and his former wife and our client, Mrs. Jane Cobb of Tulsa, for a tax writeoff of $216,243.00. Unfortunately, you and the Congressional Record were led into error by the compilation of the Internal Revenue Service.

It is true that the Internal Revenue Service asserted that Mrs. Cobb was vicariously liable for her ex-husband's taxes in the amount of $216,243.00 for the taxable years 1959, 1960, 1962 and 1963. But the fact of the matter is that Mrs. Cobb filed a petition in the Tax Court of the United States for review of the deficiency asserted, and on December 16, 1966, the Tax Court entered its decision in Docket No. 1594–66 that there was no income tax deficiency whatsoever due from Mrs. Cobb for the years 1959, 1960 and 1962. The Court further held that there was a deficiency of only $15,734.44 due from Mrs. Cobb for the year 1963. The latter amount with interest was voluntarily paid in full by Mrs. Cobb from her share of the estate of her late mother. All of the above is a matter of public record.

In view of the above, I am sure you will agree that the Internal Revenue Service was guilty of gross irresponsibility in characterizing what happened in Mrs. Cobb's case as a "writeoff" of "uncollectible taxes".

Mrs. Cobb is a working mother with small children who bears an excellent reputation in this community. You can imagine the anguish which the story which appeared in the newspapers has caused her. The newspapers here quickly printed a retraction of the story which came over the wire services when they were apprised of the facts. I know that you would not have the Congressional Record do less.

Accordingly, I ask that you cause the name of Mrs. Cobb to be expunged from the compilation appearing in the Congressional Record. Mrs. Cobb would be greatly relieved by word from you that the Record had been corrected.

Sincerely yours,

JOHN S. ATHENS.

INTERNAL REVENUE SERVICE,
Washington, D.C., August 1, 1969.

Hon. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: This is in response to your letter of June 24, 1969, with which you enclosed a copy of a letter you received from Mr. John A. Athens, Tulsa, Oklahoma, in behalf of his client, Mrs. Jane P. Cobb, also of Tulsa.

The name of Mrs. Jane P. Cobb was included in the list of individuals whose taxes were classified as uncollectable during 1968. This list was furnished you by the Service on May 6, 1969. The inclusion of Mrs. Cobb's name was an error on the part of the Internal Revenue Service for which we are sincerely sorry.

The District Director at Oklahoma City has told us that on January 5, 1966, jeopardy assessments of income tax deficiencies were entered against Russell and Jane P. Cobb, Jr., for the years 1959, 1960, 1962 and 1963. On March 24, 1966, Mrs. Cobb filed a petition for redetermination by the Tax Court of the United States. The Tax Court held that she was not liable for 1959, 1960, or 1962. On November 23, 1966, the assessment records were corrected to eliminate the name of Jane P. Cobb for those years.

The Tax Court decision did establish a deficiency in income tax due from Jane P. Cobb for the year 1963 in the amount of $15,734.44, but this amount was paid in full.

Following the correction of our assessment records on November 23, 1966, an amended Notice of Federal Tax Lien was filed, deleting the name of Jane P. Cobb from the original Lien which had been filed on January 18 of that year. Unfortunately, however, Mrs. Cobb's name was not removed from the delinquent accounts outstanding against Mr. Russell Cobb, Jr., and, when these were classified as uncollectable, her name continued to appear on the record.

We understand Mrs. Cobb's concern over the fact that the Service incorrectly listed her name, and we apologize both to her and to you for any embarrassment that this unfortunate incident may have caused.

With kind regards,

Sincerely,

RANDOLPH W. THROWER,
Commissioner.

ROCKEFELLER'S TRIP SHOULD BE DISCONTINUED

Mr. CHURCH. The much-balleyhooed reconnaissance mission by Governor Rockefeller to Latin America is half over. So far, the President's special emissary has had the door slammed in his face in Peru, the welcome mat pulled in by the Venezuelans, his visits to Ecuador and Colombia marred by student violence, and his visit to Bolivia reduced to a humiliating 3-hour conversation at the airport.

From the outset, it should have been foreseen that such a mission, consisting of so litle substance and so much fanfare, would be regarded by Latin Americans as a farce. It has aroused all the hostility, manifest and latent, toward the United States so deeply embedded south of our borders. The trip has served as nothing more than an open invitation for the flagrant repudiation given it by resentful Latin American governments. It should demonstrate, once and for all, the folly of conducting foreign policy by gimmickry.

Now that the trip is half over, President Nixon would be well advised to discreetly call off the remaining half. When it comes to fiascoes, it is better to accept half a loaf than insist on the whole.

I fully concur in the conclusion reached by Mr. Marquis Childs' writing recently in the Washington Post that the remaining trip "should be cancelled or at least postponed until the contagion of unrest subsides."

I ask unanimous consent that the full text of Mr. Childs' column entitled "Need for Latin Policy Change Shown by Reaction to Rocky," be published at this point in the RECORD.

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

NEED FOR LATIN POLICY CHANGE SHOWN BY REACTION TO ROCKY

The disaster of Gov. Nelson Rockefeller's Latin-American exploration is more than a personal tragedy although it certainly is that. For most of his career Rockefeller has had an active concern with the Americas to the south. Through his own and his family's fortune he has made investments of at least $10,000,000 in Venezuela intended to show the way to modernize the economy.

Venezuela told him to keep out for fear that hostile demonstrations would get out of hand and cause widespread damage. Rockefeller's personal safety could not be assured.

Despite official statements to the contrary, the informed private view here is that the two later trips should be cancelled or at least postponed until the contagion of unrest subsides. The first stop on the next journey is Brazil, where there is a better chance of a relatively peaceful reception.

But in Argentina the military dictatorship is trying to suppress a workers' revolt threatening to break out in new violence, A Rockefeller visit would be pouring gasoline on the smouldering fire. President Eduardo Frei of Chile, beset by attackers on the left demanding nationalization of American properties and critics on the right calling for an end to social reform, could hardly have welcomed the American visitor. The deep unrest in Uruguay is not a proper setting for the mission, of the unhappy Governor.

In the larger context what is so hard to understand is that all this could not have been forseen. Reports from American diplomatic missions throughout the Americas fill huge files telling the story of poverty, unrest and deep disillusion with the Colossus of the North. The Alliance for Progress has failed to make a dent in fundamental problems besetting the vast semideveloped lands south of the Rio Grande.

Prices of coffee and other commodities for earning dollars drop while the cost of manufactured goods continually rise. Up to 80 per cent of Alliance funds—a billion dollars a year—are spent in the United States for goods going into Latin American development.

Perhaps better than anyone else through his long relationship Rockefeller knows the cause and effect triggering the unrest. A staggering high birth rate is a root cause. With more than half the population in most Latin-American countries under 25 the educational system, starved and enfeebled, simply cannot cope. More and more of the young spill over into crime and one form or another of guerrilla warfare.

The oligarchies ruling in most Latin-American countries have dug in their heels against evolutionary change that might have tempered the wind of hostility and rebellion. All too often the hierarchy of the church has been old and also resistant to any change. Time is rapidly running out—the bell may already have tolled—for an orderly and reasonable transition to a more equitable society.

Rockefeller's mission was singularly inept in its concept and planning. He has had with him 23 advisers and a number of assistants and briefcase carriers. Together with the press, the party added up to nearly a hundred. As one tart and knowledgeable critic put it:

"Why he's had almost as many men with him as Pizarro had when he conquered Peru."

If the New York Governor had gone quietly and unostentatiously with possibly two or three assistants, he might have been accepted as a fact-finder. The publicity heralding his mission was in itself calculated to stir suspicion and resentment. Here was one more instance of the Yankee overlord coming down to report on the progress, or lack of it, of the natives.

The Rockefeller mission was in the first instance said to have been inspired by Galo Plaza, Secretary General of the Organization of American States. Plaza is an old friend of the Governor who seems to have been as unaware of what the visit would touch off as were American officials who bought the idea. While Rockefeller announced that the demonstrations were the work of a few dissidents, some from outside the hemisphere, Plaza said they reflect not a small inspired minority but the widely held feeling that a change must come in the relations between the United States and the Americas to the south.

During the first two trips Rockefeller seemed to think that lavish praise could compensate for hasty stops. Arriving in Guatemala for a three and a half-hour visit, he said he was happy to witness the triumph of democracy. In light of the terror of the Guatemalan right and left and a level of poverty and oppression so dismal that a group of Maryknoll priests and nuns went over to the side of the oppressed, his statement seemed a slight exaggeration.

One thing can be said for the Rockefeller *fracaso*, that useful Spanish word meaning snafu on a grand scale. There is an urgent need for far-reaching changes in American policy with a positive approach and not just tired old rhetoric.

WASHINGTON BACKS THE POOH BAHS IN LATIN AMERICA

Mr. CHURCH. Mr. President, U.S. policy toward Brazil is the subject of a penetrating analysis entitled "Washington Backs the Pooh Bahs" by Dom Bonafede in the Nation magazine of May 26.

Mr. Bonafede begins:

Quietly, almost without notice, the United States has once again become entangled in a Latin America dilemma resulting from its own meandering policies in inter-American affairs.

He concludes:

The problem facing the United States is how to divorce itself gracefully from continued identification with the Brazilian military government.

As means to this end, he suggests reduction in the aid program, reduction of the size of the U.S. Government establishment in Brazil, and recall of the U.S. military contingent.

These are all sensible suggestions, and I hope the Congress will help the administration implement them when we act on the foreign aid bill and in other ways.

I ask unanimous consent that the Bonafede article and an article from the Economist of May 17 entitled, "By the Right, Quick March," be printed in the RECORD. This article summarizes very succinctly the dictatorial nature of the present Government of Brazil.

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

[From the Economist, May 17, 1969]

BRAZIL: BY THE RIGHT, QUICK MARCH

Brazil's generals are still cleaning up. On April 29th 15 more federal and 59 state deputies were purged and 9 city mayors, several judges, two retired air force officers and two journalists were stripped of their political rights for ten years. This fifth list brings the total of political victims to nearly 300.

One of the journalists, Sr Antonio Callado, a novelist working for the *Jornal do Brasil*, was forbidden to work as a journalist or (till protests worked) to teach. Another decree forcibly retired 12 diplomats and 31 foreign ministry officials. In São Paulo several university professors and civil servants were removed from their jobs—among them two of Brazil's few nuclear physicists.

Most remarkable was the ensuing silence. The once lively newspapers are gagged by the threat of punitive action, like that in January which has practically bankrupted the *Correio da Manhã*. And people barely comment nowadays, apparently resigned to the monotonous "cleansing operation" which, they are told, has not finished yet.

An odd exception is the right-wing afternoon paper *O Globo*, bulwark of the revolution and traditionally an unrepentant defender of free enterprise. Deploring the intimidation used to force people to pay taxes, a front-page editorial asked if Brazil would be a prosperous and happy country on the day when a father who produces a packet of American cigarettes is denounced by his "patriotic" son to the fiscal police.

A few days later *O Globo* revealed in sensational headlines that the government of São Paulo, alarmed by the city's problems, last October applied to the World Bank for substantial loans to improve the water supply and other utilities said to be collapsing under the city's inordinately rapid growth. Outraged, Sr Delfim Neto, the finance minister, who comes from São Paulo, said that such exaggeration was subversive and should be punished. *O Globo* and *O Estado de São Paulo*, another conservative paper, are regular vehicles for the former planning minister, Sr Roberto Campos, whose perceptive commentaries today have a critical, almost opposition ring.

In such an atmosphere, in which the government, identified with the armed forces, is the sole repository of wisdom and power, the assurance, repeated last month by President Costa e Silva, that Congress will be reconvened when the political system has once again been reformed has inspired little enthusiasm. So far 94 members of the lower house have been purged.

The pro-revolution Alliance of National Renovation (Arena), severely eroded last December when some of its less prudent members supported the now exiled deputy Sr Marcio Moreira Alves in his ill-fated defiance of the regime, could yet become the nucleus of the largest national party. But though its demoralised leaders are prepared to go on being sheep, they are, for the moment, lost ones.

Dissident members of Arena and of the decaying official opposition, the Movimento Democratico Brasileiro, which is likely to be dissolved, might eventually join in the equivalent of the once powerful Social Democratic party. There was talk last month that the extinct Labour party might be revived, allegedly with the blessing of the minister of justice, attracting former MDB members.

But few people are weeping for the old parties, regarding them, as Sr Abreu Sodre, the voluble governor of Sao Paulo, put it, as "clubs of politicians without any ideological meaning." A recent opinion poll in Rio produced 53 per cent support for a two-party system, the idea introduced, with little success so far, by the late President Castello Blanco.

"Political reform," of course, embraces more than party reorganisation. Behind the scenes, with no apparent help from the parliamentarians, the junta is reported to be contemplating entirely new ground rules, whereby the "indirect" method of election would be extended to include governors and mayors. The "party list" system is under scrutiny and the idea of constituency voting has been brought up again.

Brazil's forlorn parliamentarians meanwhile anxiously watch every omen, such as the invitation to the chairmen of both houses to attend a reception for the visiting president of Uruguay. They hope it means the beginning of the end of their unsolicited holiday, which becomes more irksome as the months go by.

[From the Nation, May 26, 1969]

BLUNDER IN BRAZIL: WASHINGTON BACKS THE POOH BAHS

(By Dom Bonafede)

Quietly, almost without notice, the United States has once again become entangled in a Latin America dilemma resulting from its own meandering policies in inter-American affairs. In this instance, the diplomatic blunder concerns Brazil, the largest, richest and most potent of the Latin American countries, where the government of President Artur da Costa e Silva last December 13 made official the nation's military dictatorship. Costa e Silva signed the Fifth Institutional Act, a decree without judicial appeal, which declared a state of siege, closed Congress and imposed press censorship. This was accompanied by a police roundup which resulted in the imprisonment of some 200 oppositionists. In supplementary action, the President deprived the Brazilians of their last vestige of political and individual rights by purging the Supreme Court, recessing several state legislatures and suspending the political privileges of more than two score members of Congress, adding them to the estimated 600 political figures who earlier had been *cassadoed*.

The 66-year-old President with the putty face, dark glasses and foppish mustache had clearly been driven to invoking these repressive measures by a military clique that was enraged by a year-long series of anti-government demonstrations led by students, artists, priests and intellectuals.

Thus, within five years after the generals and colonels had usurped the governments, the tight military state envisioned by the hard liners became a fact. No one at the State Department is likely to issue a note of reminder on the subject, but the sad truth is that in 1964 the United States acted as counsel and banker to the armed forces when they deposed Joao Goulart, a constitutional President but an ineffectual administrator who, in the view of the duennas in uniform, was flirting dangerously with the international Left.

Normal political institutions were scrapped and upon the wreckage was built a militaristic government headed by Gen. Humberto Castelo Branco, a dour, primly proper career officer who looked on the military as the rightful repository of the country's welfare. Inevitably, the "reign of the generals" was established in the name of anti-communism, a hackneyed ploy of Latin American military czars.

The chief instigator and executor of U.S. policy on the occasion was Ambassador Lincoln Gordon, now president of Johns Hopkins University. In the early years of the euphemistically styled "revolution," Gordon served as a virtual viceroy to Castelo Branco. He had open access to the President and was consulted at every turn. Indeed, Castelo Branco and his economic adviser, Roberto Campos, made hardly a move without consulting the U.S. ambassador.

Gordon's defense of his role was implied in a letter he wrote to *The New York Times* in July 1967, chastising it for what he claimed was an unjust, intemperate and historically inaccurate editorial on the death of Castelo Branco, who was killed in a plane crash several months after leaving office. Gordon took issue with the *Times* for characterizing the late President as a "dictator" operating behind a "latticework of legality." He wrote:

History will long dispute the merits of the acts of commission and omission during the past three years in Brazil. Castelo Branco lacked both the experience and the temperament for genuine popular leadership, but he did know that the Brazilian body politic had never recovered from the dictatorship of Getulio Vargas and that some kind of basic political therapy, if not surgery, was indispensable.

It can be said with assurance that the prospects today for stable and genuine constitutional democracy in Brazil are far better than three years ago, or than they would have been if the hard liners had taken power.

By signing the Fifth Institutional Act, and assuming full dictatorial power, Costa e Silva, the successor to Castelo Branco, emptied Gordon's defense of any semblance of validity. To resurrect an archaic joke, the "surgery" performed by Castelo Branco was a success but the patient died. Inevitably, the "prospects" for a "genuine constitutional democracy in Brazil" went with it and the hard liners, despite the hopeful vision by Gordon, have taken over.

The demise of the last semblance of democracy in Brazil was a matter of disappointment, dismay and embarrassment to Washington, as in a large measure it was attributable to a major U.S. policy blunder which might well have as great an impact on inter-American affairs as the emergence of Castroism did at the opposite end of the ideological scale.

Because of its geographic proximity, Marxist principles and theatrical conception, Castro's Cuba evokes an emotional response in Americans. But in discussing Brazil one should keep in mind that it is larger than the continental United States, has a population of almost 90 million (compared to 8 million in Cuba), is the fifth biggest country in the world and possesses untapped natural resources beyond estimation.

Politically, it is the axis on which all of Latin America pivots. It is hardly coincidence that once the military became solidly ensconced in Brazil their inspired counterparts in Argentina, Peru and Panama took control in those countries.

At present, about three-fourths of Latin America's population is ruled by military pooh bahs, which is certainly no testament to the effectiveness of the Alliance for Progress, whose original goal under President Kennedy was increased social and political liberalism. Our good offices in Brazil in 1964 were justified on the ground that firm measures were needed to rescue the country from a drifting malaise, which Gordon contended could lead to a Communist take-over. (It is doubtful, however, that there were then 25,000 hard-core Communists in Brazil.) Furthermore, the military interdiction was billed as a brief unpleasantness before returning the nation to an undefined form of representative government. (It should be recalled that this occurred only a few months after Lyndon Johnson became President. The Panama flag riots had already created a trying Latin American crisis and the State Department's Office of Inter-American Affairs was uncertain as to its direction under the new President.)

Once committed, the United States was compelled to continue its role as underwriter of the Brazilian military. Consequently, Washington poured aid into Brazil amounting to a quarter billion dollars annually, greater than any other nonwar recipient except India. The U.S. mission in Brazil bloomed into one of the biggest overseas complexes in the world, encompassing two embassies (one in Rio de Janeiro and the other in Brasilia), and more than 900 American personnel, including 415 AID employees and 200 members of the military mission, twenty-six of whom were listed as "defense attachés." In addition, there were 635 Peace Corpsmen and 1,005 Brazilians on the U.S. payroll at nearly $12 million a year.

The AID setup, a colossus in itself, occupies the top twelve floors of a bank building in downtown Rio de Janeiro which, wryly enough, is called the "Beg Building" (a contraction of the initials of the Banco do Estado da Guanabara). AID also maintains twenty-eight field offices, a regional headquarters in Recife and numerous special project branches. At one point, it was involved in eighty-three different projects, at least thirty of which were characterized as nonessential in an embassy report to Washington.

Included under AID is a $750,000 public safety program, in which sixteen former U.S. police officers teach Brazilian cops modern police techniques. It is a question just how this fits in with U.S. aims to promote social-economic-political development. Former U.S. Ambassador John W. Tuthill asked in a moment of exasperation, "What has police training to do with national development?"

At the height of the student protests in the spring of 1968, Guanabara state police displayed an indiscriminate use of force against demonstrators and innocent bystanders that reflected little credit on the U.S. public safety program. In one disgraceful incident, mounted troops with flaying swords clamored up the steps of Candelaria Church in downtown Rio de Janeiro to disperse a peaceful throng of mourners honoring a student martyr. The answer to Tuthill's question is that police training has precious little to do with national development, but is of considerable help to a regime which relies on force and fear to perpetuate itself.

In another area, the U.S. Information Service staff in Brazil is larger than the total complement of some embassies; it lists about sixty Americans and 158 Brazilians. And although the Embassy and AID offices in Rio de Janeiro are separated by only a few blocks, each maintains a separate press and information office.

In citing numbers of personnel it should be stressed that it costs the U.S. taxpayer about $40,000 annually to maintain one American employee abroad. Then there are the fringe benefits. The Americans in Brasilia live rent free in a U.S.-owned apartment house (called "Gringolandia" by the locals), presumably as compensation for being assigned to the socially somnolent new capital. Employees stationed in Recife and Belém are allowed a 10 per cent "hardship post" differential, even though the former has more than a million population and the latter in excess of a half million.

In Rio de Janeiro, the U.S. employee has access to a large PX, where he can buy anything from television sets to frozen vegetables for less than he would pay back home. He also enjoys the privilege of a liquor pool conveniently located in the Embassy basement, which is given the bureaucratic misnomer of "Embassy special unit sales." All this is by way of pointing up the magnitude and gaudy opulence of the U.S. presence in Brazil. As one might reasonably ask, to what purpose?

The Brazilian military elite commands an authoritative regime out of touch with the needs and aspirations of Brazilian society, the exception being the wealthy industrialists whose objectives are compatible with those of the armed forces. A return to civilian government is not even dimly seen on the political horizon, certainly not in the elections scheduled for early 1971.

United States-Brazilian relations, despite our largess, or possibly because of it, have deteriorated to their lowest point in decades. The xenophobic climate in the country has inevitably produced a plethora of wild anti-Yankee stories: American Protestant missionaries offering voluntary birth control aid in the Brazilian interior are really Washington agents assigned to depopulate the Amazon region where the United States plans to deport troublemaking Negroes; a recommendation by the Hudson Institute that part of the Amazon Basin be flooded for development purposes is a covert form of "neo-colonialism"; the United States is depleting the country's natural resources by importing toads and frogs, and finally, according to one bizarre charge, heads of cadavers allegedly sent to U.S. medical schools are producing a "brain drain." Although absurd in the extreme, the widely circulated reports have had a corrosive effect on relations between the two countries.

The situation was further exacerbated by legitimate differences between the United States and Brazil over the dumping of soluble Brazilian coffee on the U.S. market, the nuclear nonproliferation treaty (Brazil had refused to sign it, maintaining that as a sovereign nation it has a right to establish an atomic weapons program, which, coincidentally, it is financially incapable of doing for at least ten years), and massive land purchases by American speculators (accused of trying to smuggle out "radioactive ore").

Another wedge was inserted when Ambassador Tuthill twice met privately with Carlos Lacerda, the feared oppositionist who has been instrumental in the overthrow of three Presidents. Costa e Silva claimed the Ambassador's "secret" sessions constituted an affront to the government. Lacerda had earlier attempted to create an opposition bloc called the *frente ampla* (broad front) with the support of former President Juscelino Kubitschek, but the organization, actually never more than amorphous, was outlawed by the government.

Tuthill denied (rather weakly, it must be admitted) that his meetings with Lacerda were secret and further contended that it is customary for an ambassador to speak with nationals of various political colorations. Be that as it may, Tuthill did not have an audience with Costa e Silva for the next six months.

Washington's motives these days are distrusted even when they are most selfless as, for example, the multi-million-dollar U.S. project to improve higher education in Brazil. Perhaps no other area in Brazilian society is in more need of reform. As characterized by *Jornal do Brasil*, the education system is "worm-eaten, obsolete and inept." Yet efforts by the United States to help correct the system have been rebuffed by students, professors and government officials with charges that the United States is seeking to "implant American thought on the minds of Brazilian youths."

In an apparent effort to mitigate its former dalliance with the Brazilian military, the State Department through its spokesmen in Washington and Rio de Janeiro insists on referring to the government as "military dominated" or "military oriented." This bit of semantic fakery is then repeated by U.S. correspondents. In a singular affectation of understatement, *The New York Times* in its

January 20 economic survey of the Americas referred to the broad-based, anti-government clamor against the Costa e Silva regime as "sniping." Other observers find it comforting to say the military government is "a dictatorship but not a tyranny," as though it were really possible to have one without the other.

No matter how one categorizes the Costa e Silva government, the fact remains that the United States has played too much of an operational and advisory role over too wide a sector of Brazilian affairs. This has produced an anti-American backlash even among the military which Washington propped up and helped put in office. Also the U.S. identification with the ruling military clique and the American penchant for material exhibitionism alienated the mass of Brazilians, the very people we are hoping to win over.

The problem facing the United States is how to divorce itself gracefully from continued identification with the Brazilian military government. The Nixon Administration can, of course, drastically slash the U.S. aid program, and suspend it altogether should the Costa e Silva regime go ahead with a proposal by the hard liners to purchase French Mirage fighter jets. As a palliative this has proved in effective in the past and is unlikely to be more useful in the future, yet it serves the vital function of announcing to the world our disaffection with repressive military dictatorships.

The point could further be emphasized by making good announced plans to diminish the U.S. mission and by recalling the outsized U.S. military contingent. The latter action would undoubtedly be opposed by the Pentagon which, as Arthur Schlesinger, Jr., once said, seems to have an "incestuous" relationship with Latin American military establishments. The Pentagon assuredly would base its opposition on the ground that Latin American military resources are necessary to the security of the South Atlantic, a highly dubious contention considering the size, training and obsolescence of those resources.

Above all, if it wants to give encouragement to the muffled voices of democracy in Latin America, the United States must make known its disenhancement with Brazil's dictatorial military regime. For Washington to wring its hands and express the wan hope that Brazil's military cabal will relax its repression—as the State Department did at the time of the December crackdown—is the height of folly. It merely compounds the original mistake of 1964.

THE FRAGILE GIANT

Mr. STEVENS. Mr. President, the development of the great petroleum discoveries of northern Alaska has been the source of much discussion in this Nation. Particularly, those who fear that the beauty and grandeur of my State will be despoiled have expressed their valid concern.

C. W. Snedden, publisher of the Fairbanks Daily News-Miner, the farthest north daily in our country, has written a series of editorials on this subject. Mr. Snedden has long been in the forefront of affairs of Alaska, and was one of the leaders of the battle for statehood.

In these editorials, Mr. Snedden calls for a "commonsense conservation" approach. Mr. Snedden refers to the North Slope as the "fragile giant" and urges the utilization of the land as long as it conforms with sound conservation, multiple use practices. This is the sentiment shared by most Alaskans, and should convince those outside Alaska that individuals such as "Bill" Snedden, who have successfully fought the long battles Alaska has had, will not allow Alaska to be destroyed in the name of development.

I ask unanimous consent that these editorials be printed in the RECORD at this point.

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

ALASKA AT CROSSROADS WHERE MONEY, CONSERVATION TANGLE

(EDITOR'S NOTE.—Alaska has been confronted with innumerable crises in our comparatively short history, but at no time since statehood have we been faced with a decision so clear cut, so vital to our future as we face in the arctic today. This great, silent northern sector, larger than many states, is about to be opened up. We, the people of Alaska, can go after the "easy buck," discard sound conservation practices, and let our children pay the consequences. Or we can move a little slower, utilize the land without violating it, and preserve for our children their heritage of clear air, clean water, vast spaces unrivaled in beauty—a land as God made it.

The News-Miner believes in the utilization of the land as long as it conforms with sound conservation, multiple-use practices. We oppose the exploitation of land or people. Because we believe this is the most important issue confronting us, we are starting today a series of editorials explaining the threat as we see it, and the steps we believe are necessary to preserve our heritage.)

Alaska has reached the crossroads where the immediate and full cooperation of state and federal governments with the oil industry is essential if all are to prosper, while at the same time preserving our priceless heritage of a gerat land undefiled by man.

The announcement by Atlantic Richfield Co., Humble Oil & Refining Co., and British Petroleum Corp. that they have decided on the route of the Trans-Alaska pipeline from Prudhoe Bay to Valdez accentuates the need for an important—even crucial—decision.

The problem which we strongly feel must be resolved promptly concerns an immediate agreement between government and the oil companies upon routing for a transportation corridor to carry the pipeline, a year-around highway and an extension of the Alaska Railroad.

There is no question but that all three will be built eventually. In the interest of conservation, it is essential that all three follow the same route, particularly north of the Brooks Range. It is there that nature has created a land of tundra that is as fragile as a China doll. It is this land we must maintain in its native state as far as it is possible to do so.

It is unthinkable that we should permit roads, trails, pipelines and railroads to wander helter-skelter across this vast but frail wilderness, which is one of the few undefiled areas left in the United States.

We do not propose, as do some conservationists, that millions of acres of land be locked up for viewing by a handful of persons in the distant future. We do subscribe, however, to the belief expressed by Secretary of the Interior Walter J. Hickel, who told the North Commission that its primary goal is "to explore and develop ways to open up America's vast Arctic for wise utilization." And at the same time, "we must constantly be alert to protect our natural environment so that we leave a world worth living in for the generations who follow us."

We expect that shortly the three oil companies will request permission to start construction of their sorely-needed pipeline. At that time we can determine whether they, knowing our determination to create a transporation corridor, have plotted a route generally in line with our plan.

We well understand their desire to move swiftly to get their oil moving to market. They have spent two billion dollars in exploration, drilling and other costs and have as yet received very little return from their huge expenditures. The companies are ready to spend another billion dollars to get the oil from the North Slope moving to market.

We, too, want the companies to start selling their oil so that our state will start receiving a substantial income in royalties.

But we should not move so fast that we ignore other problems. And there are many of them. Some will be discussed in subsequent editorials.

Right now it is essential that the two governments and the oil companies agree upon a route for a transportation corridor which can be efficiently utilized for transportation of goods, minerals and petroleum, while simultaneously, preserving the natural beauty of this Great Land.

NORTH SLOPE IS FRAGILE GIANT NEEDING UTMOST PROTECTION

Alaska's North Slope, an area larger than the State of California, may prove to be one of the world's greatest storehouses of petroleum and essential minerals. It is a giant, a fragile giant, and it will need the utmost protection from those who would exploit it.

Thus far, this huge arctic area has been virtually untouched except for the comparatively small area in and around Prudhoe Bay where the vast petroleum reserve was first discovered just a year ago.

We are in no way critical of the manner in which the several oil companies have proceeded to develop their find of black gold. Up to this time they have been occupied with exploration work and the drilling of a small number of wells. There has been little done in the way of exploring the vast areas in and around the Brooks Range for minerals, but this is certain to come.

Magnify the feverish activity we have witnessed so far by several hundred times and the problem becomes as clear as a newly polished mirror. The land, our Native people, the wildlife could take a beating from which they would never recover.

The foremost problem is transportation. In spite of its size, there is not one piece of railroad track laid from Fairbanks to the arctic. There is not one foot of highway connecting with the state's network of roads. There are a handful of airstrips, and last winter's temporary winter haul road or "Walter J. Hickel Highway." This is merely a beginning for what will be needed.

Secretary of Transportation John A. Volpe told the North Commission last month in Washington:

"States like Alaska that have not been ravaged thus far by man have a moral duty and a timely opportunity to preserve their natural environs for the benefit of all of us. Long-range transportation planning can help them do this. It would be a pity if in 30 to 40 years Alaska came to look like the Northeast Corridor (of the U.S.) where we have an uphill struggle to preserve the remnants of a decent life for our citizens and still give them the mobility they need in their personal and professional lives."

Volpe concluded with this sage advice:

"The so-called 'unplanned consequences' of modern transportation can make progress very expensive indeed. Alaska can do without such fringe benefits, and with your help she can avoid them."

Railroads are transportation, as are airplanes, ships, trucks, barges and oil pipelines. It is the surface transportation which will soon cut across the tender tundra north of the Brooks Range with which we are most concerned.

There is a plan. It is a plan for a transportation corridor, carefully plotted to cause the least damage to the northland. It was adopted last August by the North Commission in a meeting at the University of Alaska.

Under this plan, the Alaska Railroad would be extended north from the vicinity of Dunbar, with a spur moving over to Bornite. This same corridor could carry an all-weather road or highway for trucks and other vehicle traffic. It could and should be used in the North by the oil companies for their billion-dollar pipeline with which they plan to move oil from Prudhoe Bay to Valdez.

The routing of all forms of transportation along this single corridor would be the first step in protecting our awakening but fragile giant.

ALASKANS HAVE GOOD REASON TO BE PROTECTIVE OF LAND

If Alaskans appear to be overly protective of our Great Land, it is because we have good reason. If we appear to be unreasonably tough in our determination to develop Alaska for Alaskans, we do so because of sad experience in the past.

Not since the carpetbaggers invaded the South after the Civil War has any state been more exploited than Alaska. The Russians started it more than 150 years ago and trapped out fur-bearing animals almost into extinction. They left behind a few trading posts and little else.

Fishermen from the smaller states sailed their fishing boats into our waters, caught their fish, took their money and paid their help off in Seattle. Alaska's only benefit was seasonal employment and a handful of canneries which very seldom paid property or similar taxes and most of whose profits went into outside banks.

The gold seekers with their pans searched our streams for the yellow metal and sent the gold in ships to banks outside. They were followed by the dredges which floated across the country in their little man-made ponds, extracted the gold and left behind rivers of rock, a land defiled as only a dredge can do. Exploitation, not development, was their byword.

The pictures on this page tell, as words cannot do, what we inherited from the gold seekers.

We make no accusations against the oil companies now developing the North Slope. Their activities and their money have pumped new life into this state and particularly into Interior Alaska and we welcome them. They come to make money and we, too, want to prosper as they prosper, and we want to develop our country so that it will continue to prosper after they are gone.

We have good reason, based on past experience, to be concerned about the future of this virtually underdeveloped land of ours. It is for this reason that we want to know the plans of the oil companies for our state, and why we are apprehensive as they move ahead so fast toward the construction of an oil pipeline from Prudhoe Bay to Valdez.

Only this week, an executive of one of the major companies made it crystal clear that the oil companies are not interested in a railroad to the North Slope. Their primary interest is getting their newly-discovered oil to market and the best way for them to do it, in their opinion, is through a pipeline.

Our interest is in a pipeline, to—and a railroad and an all-weather highway to the Arctic Ocean. We want to see them running side by side in a single transportation corridor, engineered to cause the least possible disruption to the fragile arctic.

The history of this nation has proved that new lands were developed only as railroads were built. Russia, to, proved this by constructing the trans-Siberian Railroad many years ago, and opening up a vast new arctic area to development. Canada is proving it by extending tracks of steel into hitherto undeveloped northern areas. Our "small neighbor" has built more railroads in the past two years than the U.S. government has built—with its federally-owned Alaska Railroad—in 50 years.

We believe the oil companies should take another look at the possibility of utilizing an extension of the Alaska Railroad to the North. Some experts in transportation contend that a railroad and pipeline both could be built for far less money than the pipeline alone. Their reasoning appears to be sound.

We are determined to take the "selfish position" that Alaska should be developed for Alaskans. At the same time, we want and expect those who invest here to prosper with us. We believe the twin goals are compatible.

ONE WONDERS WHY SAVINGS OF HALF-BILLION UNINVITING

When the prospect of saving $500 million on a $1 billion project appears to stir little or no interest, one can only wonder why. And yet this appears to be the case as the oil companies move full speed ahead with their plans to build an oil pipeline across Alaska.

Some months ago, the oil companies announced plans to build an 800-mile, 48-inch pipeline to carry newly-discovered oil from Prudhoe Bay on the Arctic Coast to the Gulf of Alaska. Only recently, Valdez was designated the southern terminus.

Based on public announcements, the companies appear to have their plans well in hand. They know the cost, approximately $900 million; what they are going to do, when they are going to do it and have set the completion date of the line for early 1972.

Liaison between the oil companies and state government and/or between the companies and the federal government appears to be either non-existent or flimsy.

As far as we have been able to ascertain, the oil companies have made no application to either the State of Alaska or the federal government for approval of their proposed pipeline right of way over land, some of which is so fragile that every care must be taken not to mutilate it.

The assumption appears to be that whatever route is desired will be granted without question. The oil companies know that a billion dollars in a single project, one of the greatest in this country, speaks with a thundering voice. It usually gets what it wants.

At this point in the game, it would seem logical that the companies would be engrossed in discussions with the NORTH Commission which is charged with not only developing the vast wilderness to the north but of preserving it. The Commission, whose membership includes some of the best minds in the United States, has a program for transportation corridors, and information indicating that this program can save the oil companies the half-billion dollars which, at this point, does not appear to interest them.

The Commission wants a corridor over which the pipeline could run but which also could carry an extension of the Alaska Railroad to the North Slope as well as an all-weather highway. Understandably, the companies think only of oil, the way to produce it, and the fastest way to get it to market. The Commission is thinking of other developments besides oil, such as minerals, the development of the land, and the ecology of our land.

The Commission has sound reasons. It is entrusted with the task of making certain that necessary damage to the delicate ecology of the north country is held to a minimum. It is looking at the long-range picture, with transportation provided at the lowest cost possible.

It has expert advice from our nation's most knowledgeable, specialized consultants, including those with a thorough background in petroleum transportation, that constructing a railroad and the pipeline at the same time can be done at a cost of $500 million less than constructing the pipeline alone.

The Commission also has been advised that transportation of crude from the North Slope to tidewater by rail in quantities approaching 500,000 barrels per day is cheaper than by pipeline. Beyond that figure the pipeline would be cheaper. And yet only this week a high official of Humble Oil publicly rejected as "uneconomical" the use of the railroad in any way. We are curious as to how he arrived at the conclusion.

We realize the oil industry has years of experience in the transportation of crude oil on which to base decisions, and we, as laymen, hesitate to question this vast knowledge. The North Commission however, also has access to great knowledge.

Our Alaska is a country with problems different from any encountered elsewhere in this country. Humble has recognized that in consulting with ice experts at the university in connection with their plans to smash through the ice of the Northwest Passage to try and move oil from Prudhoe Bay by ship to eastern and European markets.

Consultation with knowledgeable Alaskans would seem to be in order in connection with the construction of the pipeline. As far as we know, this has been limited to discussions with private individuals and to the university's test at Nome of a small pipeline operating under arctic conditions.

There appears to be some validity in the information supplied the North Commission that by using existing transportation, cat trains, winter roads, planes, ships and barges in summer that the cost of the pipeline would not be $900 million but $1.2 billion. And as incredible as it seems, there is validity in the information.

FULL PARTNERSHIP IN GREAT OIL DISCOVERY IS ESSENTIAL

We have every reason to believe there are billions of dollars of black gold under the frozen tundra of the Alaska arctic, and a full partnership of Alaskans, the state and federal governments with the oil industry should share great benefits. Unfortunately, the partnership has yet to be consummated.

Where do we, the people of Alaska, the taxpayer, the working man, the clerk in the store and even the banker, stand today in this great venture?

We who are obligated to keep the public informed on matters of primary interest do not know. If the officials we elected to public office have been advised they have kept it secret. Officials of the great oil companies involved in the search for and recovery of this black gold must know, but they have been as silent as the proverbial sphinx.

Secrecy has been the byword of the oil industry under the excuse it has been necessary to protect their huge investment. Some secrecy has been essential. Some has not. But the continued silence on matters of extreme public concern is not conducive to a partnership arrangement.

We know these things: oil has been discovered on the bleak Arctic Coast and estimates fix the huge reservoir at billions of barrels. Three companies have announced they will build a billion dollar pipeline from Prudhoe Bay, center of the original discovery, to Valdez on the Gulf of Alaska. A $30 million project is under way to break through the ice barrier of the Northwest Passage to determine if it is possible to use ships to move part of the oil to eastern and European markets. A small refinery is to be built in the Fairbanks area.

We don't know the exact route of the pipeline. We don't know whether it is being planned to cooperate with the state in its desire for a transportation corridor which would carry a pipeline, an extension of the Alaska Railroad to the arctic, and an all-year highway to the northland.

We don't know what effect the pipeline construction will have on the delicate ecology of the tundra-covered north country.

We don't know what benefit, if any, we

will receive if ships of a size to tax the imagination take out the oil over the Arctic Ocean route other than the royalty we may receive from each barrel of oil which flows through the pipes into the ships. We don't know what interference, if any, this entire oil bonanza will have on our Natives, our land and our wildlife.

On the subject of financial benefits alone, we have a major interest in the cost of the pipeline. Expert consultants to the NORTH Commission have estimated the cost at $1.2 billion dollars. They contend, moreover, that if the Alaska Railroad were built to the north at the same time the oil companies constructed their pipeline that the total cost for the two would be $500 million less than just the cost of the pipeline if built alone.

Why should we care how the oil companies spend their money? Of course, we want the railroad extended and can see the possibility of it if the oil industry will work with us. We also want as few scars in the tender tundra as possible. We're not interested solely in oil, but in mining and the development of the entire North Country.

But we also have a direct financial interest. The royalty we will receive will be based on the wellhead price of the oil. The expected royalty is 12½ per cent of that price.

One of the determining factors in the wellhead price is the cost of transporting that oil to market. If the wellhead price is $3, less 25 cents per barrel for transportation, the state would receive 12½ per cent of $2.75 or 34.37 cents per barrel royalty. If the transportation cost is 50 cents per barrel, the state would receive 12½ per cent of $2.50 or 31.25 cents per barrel. Multiply that figure by one billion barrels and the loss is enormous.

Some authorities contend that if the pipeline and railroad are built at the same time, revenue to the oil companies and royalties to the state would be nearly three times greater than if the pipeline were built alone.

Whatever the state loses in royalties is, in effect, a subsidy for construction of the pipeline. So we do have a vital interest in it.

Once again we say, as we said in our first edtiorial of this series, Alaska has reached the crossroads where the immediate and full cooperation of state and federal governments with the oil industry is essential if all are to prosper, while at the same time preserving our priceless heritage of a great land undefiled by man.

Let us be partners—full partners.

THE INVESTMENT TAX CREDIT—ITS RELATION TO THE BALANCE OF PAYMENTS AND SMALL BUSINESS

Mr. SPARKMAN. Mr. President, the House of Representatives is currently considering important questions of tax policy. One of these, the investment tax credit, has been a matter of interest to me for some time.

On October 6, 1966, on behalf of myself and 17 other Senators, I proposed to the Finance Committee that small business be exempted from the suspension of the tax credit up to an investment of $25,000. A week later, I spoke in favor of this proposal on the Senate floor and was glad to see it reported from the Committee on Finance and passed by the Senate. A figure of $15,000 came over from the other body, and eventually the Senate-House conference arrived at a figure of $20,000, which was written into Public Law 89–800.

The administration is now proposing that the investment tax credit be abolished for all business, and I will want to comment further when this matter reaches the Senate. However, because of the importance conferred by the Constitution upon the deliberations of the House of Representatives in tax matters, I hope that the Members of the other body will not look unkindly upon the expression of some of my views at this time.

It is fortunate for the country, I believe, that several Members of Congress have spoken out for continuation of the tax credit for small business firms. Two members of the Ways and Means Committee have proposed retention to some extent: Representative ULLMAN at $15,000 of investment, and Representative FULTON at the $50,000 level. On May 20, the Senator from Nevada (Mr. BIBLE) and the Senator from New York (Mr. JAVITS), the chairman and ranking minority member of the Select Committee on Small Business, joined in a statement to the House Ways and Means Committee urging that the credit be retained up to the $25,000 level of investment with a cutoff at $1 million of income, so that the giant corporations would not be participating in a benefit earmarked for smaller firms.

CONGRESS SHOULD EXERCISE INDEPENDENT JUDGMENT

I feel that there is merit in each of these proposals and hope they will be seriously considered as Congress exercises its own independent judgment on these questions.

The case for continuing the tax credit for small business is borne out, it seems to me, by the arguments which persuaded both the House and Senate to enact this measure in 1962 and to sustain it at $20,000 for small business while suspending it for larger firms in 1966.

It may be helpful to touch upon some of these points. With considerable foresight, then Secretary of the Treasury Douglas Dillon told the Committee on Finance on April 2, 1962:

> American industry must compete in a world of diminishing trade barriers, in which the advantages . . . so long enjoyed here in the United States, are now being or are about to be realized by many of our foreign competitors. Our balance of payments position, as well as our standard of living in the long run, can be improved or even maintained only if we can increase our efficiency and productivity at a rate at least equal to that of other leading industrialized nations. . . . We cannot, therefore, afford to stand by and do nothing.
>
> Machinery and equipment expenditures—the type of business capital expenditure which is basic to the creation of new products and which also makes the most direct contribution to cost-cutting, productivity, and efficiency—constitute a smaller percentage of the gross national product in the United States than in any major industrial nation of the world.[1]

In its report on the bill, the House Ways and Means Committee recognized that the tax credit would merely bring the United States abreast of its competition. It stated:

> The major industrialized nations . . . provide not only liberal depreciation deductions, but also initial allowances or incentive allowances to encourage investment and growth. This is true, for example, in Belgium, Canada, France, West Germany, Italy, Japan, the Netherlands, Sweden and the United Kingdom.[2]

The Treasury testimony incident to this bill emphasized the fact that the modernization of depreciation guidelines, accomplished in 1962 by Revenue Procedure 62–21, would not be enough to equalize the conditions of international competition. This was so because most industrial countries already were far ahead of the United States in allowing rapid writeoffs for new equipment in addition to allowing investment tax credits and other investment allowances. Using an example which is well known in my own State of Alabama, Secretary Dillon concluded:

> Should our overall administrative revision of depreciation bring about reductions in guideline lives as large as those which were found appropriate for the textile industry, not more than a quarter of the current gap between depreciation practices here and abroad will be closed. Administrative modernization of depreciation (alone) simply cannot do the job. . . . The combination of both (this) and a special incentive such as the investment credit contained in the bill before you is required if U.S. business firms are to be placed on substantially equal footing with their foreign competitors.[3]

There was no doubt in 1962 that such a provision was needed as a permanent part of the U.S. tax structure since "the argument which the Treasury has made for the credit clearly revealed that such legislation must be a permanent part of our tax code if we are to meet foreign competition."[4]

U.S. TRADE BALANCE HAS DECLINED

On May 23 of this year, I placed before the Senate a review of the trade statistics of recent years, indicating that the balance in the U.S. trade account has declined steadily from $6.7 billion in 1964 to $1 billion in 1968, and a deficit for the first quarter of 1969 in the amount of $68.1 million. As we are aware, these figures, as conventionally reported in the Statistical Abstract, include several noncommercial, Government-assisted items. Taking the commercial surplus only for 1968 we find:

> The surplus on non-military merchandise trade declined $3.4 billion . . . to a mere $100 million (during the past year).[5]

So, Secretary Dillon knew what he was talking about.

In the Small Business Committee, we have for several years been pleading for tax equality for American exporters. The former chairman of the committee, Senator SMATHERS, and the Senator from Wisconsin (Mr. NELSON) have been active in this regard. In 1968, some atten-

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[1] "Revenue Act of 1962," Hearings before the Committee on Finance, U.S. Senate, Part 1, April 2, 1962, p. 79 *et seq.*

[2] Report of the Committee on Ways and Means on the Revenue Act of 1962, House Rept. 1447, March 16, 1962, p. 8.

[3] Hearings before the Committee on Finance, *loc. cit.*, p. 83. See also table comparing depreciation deductions for leading industrial countries, p. 82.

[4] Hearings, *loc. cit.*, p. 85.

[5] "U.S. Balance of Payments—Fourth Quarter and Year 1968," by Lederer and Parrish, *Survey of Current Business*, U.S. Department of Commerce, March 1969, pp. 24–25.

tion was devoted to this matter by the executive branch, as U.S. representatives went abroad to raise this issue with our trading partners.[6]

It is my understanding that when questioned about the impact of preserving a small business investment tax credit on the balance of payments, the present Secretary of the Treasury, Mr. David Kennedy, told the Ways and Means Committee that his Department was considering other measures to do this job which he did not describe and which might be brought before Congress at a future time.

I would respectfully suggest that we now have one of the best possible tax equalization devices already on the books. The Treasury testimony in 1961 and 1962 made it evident that a wide range of alternatives—including a 14-percent investment allowance, an initial 20-percent investment allowance, triple—declining balance depreciation and across-the-board percentage increases in depreciation allowances—had been carefully considered, both singly and in combination. On the basis of this thorough appraisal, Secretary Dillon was able to tell the Congress:

> We have chosen the credit primarily because *it increases the profitability of investment far more per dollar of revenue cost than any of the other alternatives.*[7] (Emphasis supplied.)

The credit has proved to be workable, is becoming increasingly familiar to our businessmen, and is of demonstrated effectiveness.

In my opinion, we ought to follow Secretary Dillon's advice, and allow the investment tax credit to continue to do its work in the future as it has in the past. I feel that Congress should have the wisdom not to switch this basic feature of tax law on and off every time the economy shows some sign of overheating. Of course, it is absolutely necessary to combat inflation. However, the small business share of the tax credit is very minor indeed. On the basis of the 1962–63 figures, we estimated the truly small business proportion of the credit at a little over 2 percent in 1965.[8]

We might be corrected on that, and I think it should be helpful to the Congress if the Treasury Department could calculate this figure more precisely and bring it up to date. There might be an indication in the amount of tax credit claimed during the period when the suspension was in effect, since smaller firms were excepted from the suspension.

SMALL BUSINESS NEEDS ARE GREATEST

It is my impression that better statistical evidence will confirm that there is a minimal inflationary danger from the use of the investment tax credit by independent manufacturers, small businesses, and family farmers who need its help the most.

If we are serious about wishing to preserve the free enterprise system in this country—that is, to protect the independence of existing business and to make it possible for new firms to enter an industry, to grow, and innovate new products and better services—we must back our words with acts in the tax field, among others.

In relating that the investment tax credit increases the profitability and reduces the risk associated with the investment in new equipment, Secretary Dillon stated, at page 83 of his 1962 testimony that:

> The increased cash flow will be particularly important for new and smaller firms, which do not have ready access to the capital markets and whose growth is often restrained by a lack of capital funds.

The figures developed by Senators BIBLE and JAVITS show that the average credit taken in 1965 in the manufacturing sector, which is the heart of our economy, is about $9,310. In line with the general trend of prices, it has probably risen since then.

Because of this, I would think that the investment tax credit should be preserved at about the $150,000 level of investment, which would amount to somewhat more than $10,000 in actual credit. According to the decisions of the companies themselves, this would afford a realistic level of support for firms attempting to compete with established multinational corporations based abroad—which will continue to enjoy investment credits from their government—and at home—which enjoy many other financial advantages.

It would be relatively easy, I believe, to provide safeguards against some of the objections which are being raised. There would actually be a revenue gain if my proposal were substituted for the existing law. Any "revenue loss" can be regulated with considerable precision by adjusting the level of investment permitted, so that a reasonable balance of costs and benefits is assured. In doing this, I assume the Treasury would not allow giant corporations to abuse this mechanism by claiming multiple credits on behalf of several dozen of their affiliates. I feel, also, that the tax credit would not be "wasted" by allowing it to all small businesses, including those in the wholesaling, retailing, and service fields. It is quite probable that the investments of these types of companies would continue at a level far below the average in the manufacturing sector, simply because the smaller scale inherent in these industries would not support the magnitude of investment which is needed in manufacturing.

It is my hope that this information will be helpful to all who are concerned with this matter. I will continue to do all I can to assist the U.S. balance of payments and the small business community as the investment tax credit is considered by the Congress.

THE TUFTS-DELTA MEDICAL CENTER

Mr. KENNEDY. Mr. President, for the past 3 years I have watched with great interest the progress of the Office of Economic Opportunity's neighborhood health centers. One particular project, the pilot Tufts-Delta Center in Mound Bayou, Miss., merits our special attention and praise.

The center, more than a year old, is operated by Boston's Tufts University Medical School. It is located in the 500-square-mile area of northern Bolivar County. The 14 communities in the area are characterized by a 75-percent unemployment rate, an average annual family income of $900, and an educational level of 4.3 years of schooling. Since coming to the delta, the center has treated nearly 5,000 of the 11,000 impoverished residents.

The Tufts-Delta project is truly comprehensive. Its director, Dr. Jack Geiger, formerly operated a medical center in urban Boston. Yet, he finds that rural problems call for solutions all their own. Dr. Geiger's team, after working with the residents, was able to establish what were their most urgent needs.

One of these is malnutrition, a condition which Dr. Geiger feels is the basis of most of the poor health in the area. He began to stock food in the center's pharmacy, and with an additional OEO grant, helped the residents start their own food cooperative. Dr. Geiger reports that in one spring and summer, the members of the cooperative have grown enough food to end hunger in all of northern Bolivar County.

Members of the team were also instrumental in organizing group sessions for the residents, so that they might have the opportunity to meet together and discuss solutions to common problems. The center's clinical psychologist found that these sessions are a great help in overcoming the constant depressions that poverty breeds.

In addition to these activities, work crews of the environmental improvement unit clean up ramshackle homes, dig wells, build sanitary privies, and have even organized water corporations. Aides from the center teach housekeeping and home maintenance.

The accomplishments of the Tufts-Delta Neighborhood Health Center in the Mississippi Delta are truly remarkable. This center serves as an excellent example of what comprehensive neighborhood health centers can do to raise the living standards of the poor.

A recent article from the Wall Street Journal called my attention to this particular OEO pilot project, and I would like to include it today in the RECORD, with the hope that its inclusion will bring greater attention to this excellent program. The article was written by Neil Maxwell and was published in the Wall Street Journal of January 14. I ask unanimous consent that it be printed in the RECORD.

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

MEDICAL TEAM COMBATS NEGROES' DISMAL HEALTH IN MISSISSIPPI DELTA—ILLNESS TRACED TO BAD DIETS, SANITATION AND HOUSING; FOOD COOPERATIVE FORMED

(By Neil Maxwell)

MOUND BAYOU, MISS.—About one day out of two, 11-year-old Diane Sims awakens with a sharp headache and vomits if she tries to

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[6] A summary of this activity is contained in the 19th Annual Report of the Senate Small Business Committee, now in manuscript form.

[7] Hearings, *loc. cit.*, p. 85.

[8] "Suspension of the Investment Tax Credit and Accelerated Depreciation," Hearings before the Committee on Finance, October 3, 5 and 6, 1966, at page 314, *et seq.*

eat. Poor health keeps her out of school more than half the time.

The mysterious ailment greatly troubles Diane's mother, but Mrs. Sims, a cotton picker, says. "You got to have six or eight dollars to go to a doctor." Mrs. Sims doesn't have the money. Nor does she have the $10 that a dentist would charge to extract two of her own aching teeth.

The Sims' plight is all too typical of this impoverished, predominantly Negro portion of the Mississippi Delta. But an experimental facility called the Tufts-Delta Health Center now is providing free medical diagnosis and treatment for the rural poor here—and working to cure the environmental conditions that produce bad health.

Operated by a team from Tufts University medical school of Boston, the center is functioning in the northern half of Bolivar County. Thus far, it has treated about 5,000 of the region's 11,000 residents, 80% of whom are Negroes. Mrs. Sims and Diane live just outside that region, but recently they were visited by a center physician in his spare time.

A PILOT PROJECT

The Tufts-Delta center clearly is making progress with the health problems of Bolivar County. But perhaps more important (since it may serve as the model for other centers in the rural South), it is amassing new and often surprising information on health conditions among the rural poor.

It has discovered, for instance, that the health of Negroes in the Delta is deteriorating while health standards around the nation—and among whites here—are rising. Between 1960 and 1964, the death rate for Negro infants in this region rose by 25%. The rate for white infants went down by 33%.

Health conditions here, says one physician at the center, "are worse than before because of the transition from the plantation economy." Plantation owners, he says, "used to have a stake in the health of their field hands, but they don't any more."

There is a Bolivar County health department, with several offices, but they are open only one day a week. Dr. Dominick Tumminello, county health officer, is said to feel that the center merely duplicates his efforts, but he won't comment. "I don't want to talk about that or anything else," Dr. Tumminello says.

NOT FOR, NOT AGAINST

"They don't do anything for us, and they don't do anything against us," says Dr. H. Jack Geiger, director of the center. Tufts-Delta, financed by a grant of $1.1 million annually from the U.S. Office of Economic Opportunity, has been in operation more than a year. Two months ago it moved into a new $900,000 building that squats incongruously in what was once a cotton field.

If Bolivar County's health problems require treatment of the environment as well as specific medical complaints, that is just what the Tufts-Delta people are equipped to do. They are practitioners of "community medicine," a new specialty that works to improve social conditions in addition to giving medical care. The center staff includes a nutritionist, a psychologist, a specialist in sanitation, a home economics counselor and various nonprofessional aides.

Dr. Geiger came to Mound Bayou after operating a medical center for the poor in Boston, but he finds that rural problems differ sharply from those of urban ghettos. "When we first came here, we thought we would be overwhelmed with kids," he says. "But we got whomped with older people with chronic illness who had been sitting out there unattended."

But children here have their special problems, too. "In the city, a child is almost always born in a hospital, so if he has an early problem, he gets early care," Dr. Geiger explains. "Here he just sickens and dies."

Recently an 18-year-old mother brought to the center her three-month-old son, a wizened infant who hadn't gained weight since birth. He was put on intravenous feeding and improved remarkably overnight. "Without treatment, he would have been dead in a week," says Dr. Aaron Shirley, the center's pediatrician.

RURAL AND URBAN

Dr. Geiger finds other contrasts with the cities. Children here don't get lead poisoning from eating paint flakes as do some city dwellers, he says, because most of the shacks here have never been painted. But gastrointestinal infections resulting from contaminated food and water are common.

The center staff encounters unsual customs, too. Occasionally a child is seen with a string tied around his waist. His parents explain that this is an African custom; the string supposedly insures that the child will grow up with a strong back. Many midwives charge $20 for delivering a girl baby—and $25 for a boy. "I guess they figure a boy is worth more because he can grow up and go into the service," says Leurene Banks, a mother of four boys and two girls.

The center has found that many residents spend what little money they have for medical care unwisely. On a recent visit to an impoverished mother of seven, for example, one of the center's workers discovered that the woman had bought expensive prescription sunglasses in addition to her regular glasses; the worker suggested that the woman could get along without the sunglasses. On the other hand, the woman said she didn't have enough money to buy pills for her high blood pressure. As it happened, the woman could have obtained the pills free at the center.

One of the center's earliest findings was that many ailments were caused by poor or inadequate diet. "We started stocking food in our pharmacy, on the grounds that the specific therapy for malnutrition is food," says Dr. Geiger.

Thelma Walker, head nurse, recalls a recent case: "A nurse paying a routine call on an elderly man with hypertension who has a severely retarded daughter found that there was absolutely no food in the house." The nurse filled out a requisition form for chickens, ground beef, potatoes, shortening, coffee, milk, corn meal and other staples—all supplied free by the center.

In fact, for many families, this is turning out to be their best-fed winter. With an additional OEO grant of $152,000, Tufts-Delta has started a food cooperative. In the field behind the office, long rows of collard greens, field peas and spinach have been harvested from the rich Delta soil. A total of 126 acres has been devoted to growing crops for the benefit of the 734 families in the co-op.

Volunteers worked a week each to plant, tend and harvest the crops. Each volunteer was paid $20 cash plus $30 credit at the co-op. The co-op now has 26 tons of food stored in a rented frozen food locker for cut-rate purchase by its members—or free distribution to those in dire need. The average income of co-op member families is about $200 a year.

FIXING THINGS UP

Another finding: Many medical problems are caused by living in drafty shacks with garbage-littered yards and filthy outhouses—or with no toilets at all. Crews were organized to clean up, and aides from the center have been teaching housekeeping and home maintenance.

One recent day a crew went to work at Maybelle Munroe's ramshackle home. One man jockeyed a tractor-drawn mower through a shoulder-high stand of weeds that choked the yard and made the path to the outhouse impassable. Four other men drove a pipe into the ground to make a new well. The new well replaced a shallower one that had gone dry. Mrs. Munroe and her four children had been getting water from a blocked drainage ditch across the road, after scraping the scum off the surface.

The previous day, Mrs. Julia Ray, the center's home economist, had visited. Along with Mrs. Munroe and a neighbor, she cleaned the house, threw out junk, washed clothes and bedding and patched a hole in the kitchen floor that had functioned as a toilet on occasion.

HIGH BLOOD

The center's physicians report that high blood pressure—called "high blood" by the area's residents—is common among Negroes here. Salt and pork, both of which aggravate the ailment, are a staple of local diets, and the center is trying to limit their use.

High blood pressure often is associated with coronary disease, but Dr. Geiger says, "We see relatively few coronaries. It will take a lot more looking to tell why." Dr. Curtis G. Hames of Claxton, Ga., who has studied heart disease among 7,000 residents of this region, has concluded that a regimen of strenuous work accounts for a low rate of such disease among field hands.

Dr. Geiger reports other impressions of his rural charges. "At Boston we saw a lot of behavior disorders," he says. "Here you don't see nearly as much." He reasons that rural families have greater stability than those in the urban ghettos.

Another unexpected discovery: "You see very little alcoholism here, and my initial impression is that there is less social disorganization and more stability because people have to stick together to meet survival needs."

But Florence Halpern, the center's clinical psychologist, points out a real problem. "There are an incredible number of depressions here," she says. But the causes of the depression usually are close to the surface.

"Here a middle-aged woman who is depressed knows she is depressed, and she knows why," says Mrs. Halpern. "It may be because she can't raise $5 for a new dress, because she can't pick cotton any more, or it might be a minor physical ailment that has gone untreated. Or because the house is empty, with the men and grown children moved north."

The center is trying to cope with the problem. "We are organizing group sessions for the women so they can sew or knit themselves a dress and get together with other women in the same boat," Mrs. Halpern says.

MILITARY BUDGET AND NATIONAL ECONOMIC PRIORITIES — TESTIMONY OF SENATOR GOLDWATER

Mr. GOLDWATER. Mr. President, on Tuesday of this week I had the privilege of testifying before the Joint Economic Subcommittee presided over by the Senator from Wisconsin (Mr. PROXMIRE) on the question of military budget and national economic priorities. Needless to say, I was received courteously and given every opportunity to present my ideas and suggestions. At this time I would like to express my appreciation to Senator PROXMIRE and his subcommittee for agreeing to accept three of my recommendataions:

First. That former Defense Secretary Robert McNamara be invited to appear as a subcommittee witness and testify about the procurement procedures which resulted in so much waste, inefficiency, and cost overruns during his regime at the Pentagon.

Second. To seek testimony from some experts on the Soviet Union with especial attention to its present military buildup and plans for the future.

Third. To explore the possibility of creating a Joint Committee on Economic Priorities which might combine the efforts of the Appropriations Committee, the Armed Services Committee, and the Joint Economic Committee on important questions of the order of our spending.

I ask unanimous consent to have printed in the RECORD my statement to the Joint Congressional Subcommittee on Economy in Government, June 10, 1969.

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

STATEMENT BY SENATOR BARRY GOLDWATER OF ARIZONA BEFORE THE JOINT CONGRESSIONAL SUBCOMMITTEE ON ECONOMY IN GOVERNMENT

Mr. Chairman and Members of the Subcommittee, I wish to thank you for inviting me here today to testify on this very important question of the military budget and national economic priorities. I believe, Mr. Chairman, that my career and my public statements over the years have qualified me to some extent to add my voice to any discussion which has to do with military expenditures in today's world.

Now, when I was first asked to testify at these hearings, I declined. My feeling was that the members of this subcommittee may already have made up their minds as to where the military budget should fit in any overall consideration of national spending priorities. In addition to that, I was concerned that the subcommittee's revelations on waste and inefficiency in defense procurement would become a controlling factor in any recommendations it might make on spending priorities.

This feeling, I must say, stemmed primarily from the news release which was attached to the Chairman's letter to me in which it was announced that there are clear signs that the Federal Government is spending too much money on military programs. This was a direct quote from that press release which went on to say that the hearings of this subcommittee on the C–5A cargo plane illustrated that the Pentagon was unable to effectively control the cost of its weapon system.

Mr. Chairman, I have no quarrel with the whole idea of coming to grips with waste and inefficiency and the expenditure of too much money in defense procurement. However, I do not believe that this should be a ruling factor in any decision on spending priorities.

As I say, this was my feeling. I must say that it hasn't been entirely dispelled. However, since declining the committee's first invitation to appear and testify, I have had several conversations with Chairman Proxmire which clarified certain points in my mind. In addition to that, President Nixon has subsequently clarified the administration's viewpoints on some of these questions.

Consequently, I am here today in the hope that I may be of some assistance in these deliberations.

At the outset, let me make it very clear that I did not come here today to debate military strategy or to criticize or evaluate American policy in Vietnam or other areas of the world. Nor did I come here to suggest any panaceas for the situations that confront us.

For example, I am not about to come up with any easy-sounding solution such as the nationalization of defense industries doing more than 75 per cent of their total business with the government. I have no desire, believe me, to extend the bureaucratic arm of this government, especially into the field of private enterprise. I ask you to consider how long it might take us to receive delivery on a new plane if Lockheed or North American Aviation or Boeing or any of the other defense contractors were being operated with that marvelous bureaucratic efficiency with which our Post Office is run.

In the Chairman's invitation for me to appear, he spoke of a dialogue on the important questions involved in the military budget and national economic priorities. I sincerely hope that such a dialogue will be possible, but I must, in truth, say that so far from what I have read in the papers, these hearings have seemed to be more of a sounding board for those who want to criticize various facets of our military establishment or our foreign policy than it has a serious dialogue on where the defense of this nation should stand in any list of priorities.

For example, every time that Secretary Laird tries to explain the necessity of a system like the ABM, the hue and cry immediately is raised that he is attempting to frighten the American people.

Mr. Chairman, in stating the problems that face this nation on a worldwide basis from a militant, aggressive Communist nation like Soviet Russia, I do not believe the Secretary is engaging in a deliberate effort to frighten the American people. If the truth is frightening, so help me that's the way it's going to have to be. Because the American people have had enough of secrecy and distortion from the Pentagon, wether they be called justifiable lying in the name of national security, such as we used to hear from gentlemen like Assistant Defense Secretary Arthur Sylvester or whether they are in the form of false information about low bids, efficiency performances, procurement practices, the American people have had enough from the Pentagon that sounds like cost-effectiveness and which was really waste and inefficiency.

I am convinced that the American people want the truth about their government and about the challenges which face us as a nation. If the truth is frightening, if it gives us cause for concern, I am convinced that the American people will be able to cope. I don't want anyone in this administration, particularly in the Defense Department, glossing over the true situation that confronts the American taxpayers and their collective security.

We are faced with a challenge, and let me say that it is not Secretary Laird nor President Nixon who is arranging the formidable military buildup in the Soviet Union. Nor do we know the facts of this buildup from their information alone. Many independent sources, including the British Institute for Strategic Studies have also laid out the cold, hard facts of a Soviet armaments buildup.

The plain fact is the Soviet Union is building up all facets of its military capacity. Its nuclear capabilities are being extended. Its navy is being enlarged. All of its conventional arms are on the increase. The SS–9 missile is on an increased production schedule. They are spending a growing portion of their national income on military hardware.

These items are not related as a scare tactic; they are reported because they are facts. And I believe this nation and this subcommittee have got to face these facts and the overall fact of a worldwide challenge to the United States in deciding about the disposition of military expenditures.

I do *not* mean by this that there should be any condoning of or acquiescing in waste and inefficiency and extravagance in the military establishment. I believe that we must do everything in our power to eliminate waste and inefficiency and extravagance in the Pentagon and in all other departments of this sprawling, hard-to-manage federal system.

And I should like to emphasize that President Nixon shares this view. In fact, in his speech at the U.S. Air Force Academy, he urged the graduates to be "in the vanguard of the movement" to eliminate waste and inefficiency and demand clear answers on procurement policy.

Your own subcommittee, in its previous report, has outlined this problem in great and admirable detail. The Defense Department over the past eight years has loaded the taxpayers of this country with billions of dollars that were unnecessarily spent. I want to congratulate this subcommittee on its work in bringing the full magnitude of this situation to public attention.

I do believe, however, that when this subcommittee and this Congress begin to investigate and report on billions of dollars of the taxpayers' money lost, they are, to some degree reporting on their own delinquency.

I think we have to remember that no one forced the Congress to approve these funds. These huge defense budgets over the past eight years were subject to Congressional inquiry. Nobody actually jammed them down our throats.

Now, Mr. Chairman, I have not been here for the last four years, but I have a pretty fair idea of what went on in the matter of defense expenditures prior to that time. And I want to say that it was no mystery to well informed and inquiring people that things were terribly wrong at the Pentagon and in its procurement procedures.

As a matter of fact, the TFX fighter bomber case alone was sufficient to point us in that direction. I say again, there was no mystery. Many stories were written about the investigative efforts of Senators McClellan, Jackson, Curtis, and Mundt directed at cutting away some of the confusion and some of the misinformation that was being used to cover up a very, very bad piece of procurement by the Pentagon.

Now this was a big case. It involved billions of dollars. And it was a case where a multi-billion dollar contract was awarded to the highest bidder for a plane over the advice of practically every expert in the military services affected.

As I say, there was no mystery about all this. Books were written on the subject. I have read a book called "The Pentagon" written by Washington correspondent Clark Mollenhoff in 1967 and another volume by the same author called "The Despoilers of Democracy." Both of these books told a frightening story of waste and inefficiency, extravagance and favoritism in the Department of Defense.

Now these were not generalities. Mr. Mollenhoff and reporters like him dealt with specific facts about the waste and inefficiency and squandering of the taxpayers' money in the Department of Defense. But I don't recall any great hue and cry being raised at that time. I don't recall any outpouring of criticism aimed at the so-called military-industrial complex. I don't recall any efforts to take a more than customary look at every facet of the defense budget. I don't recall either any strenuous attempt by any group in Congress to establish a system of priorities for this nation's critical needs.

Perhaps we failed in this respect because of the public relations ability of former Defense Secretary Robert McNamara.

As the *Washington Post*, in an article by Richard Harwood and Laurence Stern, observed on June 4.

"McNamara became a liberal hero despite the Bay of Pigs, the Dominican intervention and the war in Vietnam and despite the steadily rising costs of the military establishment (from $47 billion in 1961 to more than $80 billion today)."

I believe we must remember that it was McNamara, and not Laird, who presided over the Defense Department when all the waste and inefficiency and cost overruns were being piled up. He is the man I suspect who should have been called as a witness in your prior hearings on waste and inefficiency in defense procurement. And I believe he ought to be heard in these current hearings. The Congress certainly ought to know what the man who decided the destinies of this huge undertaking for so long a period of time has to

say about the mess that the incoming administration found when it took over the Pentagon.

So much for past history. Now I believe it is time for this committee to direct its attention to how best it can come to grips with the current problem.

Let me be very clear. I am interested in your deliberations and I am very desirous that some recommendation will come forth which will take into account not only the huge burden which our present defense needs place on the American taxpayers, but also will take into account the continued security of the American people and the continued welfare of the free world. I am as much concerned as you are over the high cost of defense. It worries me greatly, but at the same time I recognize that the kind of emphasis which currently is being placed on this problem could result in a dangerous lowering of our overall needed defense outlays.

I want you gentlemen to know that I firmly believe in a system of priorities for the spending of federal money. I have long advocated this and believe it should be as important a part of the process of spending in government as it is in the operation of a business or spending in our private lives. I believe such a system of priorities should not be confined to broad subjects such as welfare, housing, urban problems and military spending and decisions as to which should come first, second, third or fourth. I believe it must be extended into every detail of these structures. I have, for example, asked the various services to project their needs ahead on the basis of a continuing war in Vietnam and, secondly, on the hope that this war will be ended shortly. In either case, the services will need to consider how many bases might be needed to maintain and train a force necessary for our defense requirements.

If we could get some kind of a projection, I think it would bring about a more orderly system for construction and maintenance of military bases and would also give the communities affected an idea of what to expect. We need to ease the hardship that comes to the economy of communities when military establishments are closed down without advance warning.

In the case of the Navy, I have asked what a long-range program to put the Navy back into first class shape might look like in light of the Soviet naval buildup.

I have asked similar questions of the other services. For I believe that only through long-range, detailed planning can we avoid periods of frantic effort to catch up with the activities of our potential enemies. The cost of such effort is prohibitive and that is what we are experiencing today.

I should think that this committee would certainly have a role to fill in overseeing this kind of long-range planning and priority. However, I really believe that to have it performed properly there should be a joint effort involving the Joint Economic Committee, the Appropriations Committee and the Armed Services Committee. In fact, I think it might be advisable to establish an overall Priority Committee to work for an orderly system of federal spending.

I believe there is no excuse for waste and inefficiency in any area of government, whether it is in the procedures and practices which have grown up in the Pentagon over the past eight years or in the expenditures for antipoverty projects such as the Job Corps, or in expenditures for highways, schools and hospitals.

But the mere existence of waste and cost overruns and similar problems in military procurement must not be allowed to blind this country to the need for keeping its defenses strong. Nor should the inflated cost of military hardware become the overriding consideration in determining our level of defense expenditures.

Now on the question of inflated costs, it stands to reason that rising prices are not peculiar to defense projects alone. I say that this is an important factor which must be considered carefully.

We must recognize, for example, that testimony before the Armed Services Committee indicates that perhaps as much as $500 million of the growing cost of the C–5A cargo plane is attributable to inflation. But at the same time if the C–5A is considered essential to the defense of this nation, we must grit our teeth and accept the burden.

For if we permit rising costs to become the sole determining factor in deciding whether an essential program is to be developed, then we must automatically call into question such projects as the International Highway System, and programs for building new schools, new hospitals and additional housing. In this connection, the Department of Transportation reports that in less than eight years the cost of the Federal Interstate Highway System has increased by an estimated $15 billion and no extra miles are involved.

A study in Montgomery County, Maryland, shows that an elementary school which cost $347,772 in 1959 costs $666,200 to build in 1969. A high school in that same county which cost $2.3 million in 1959 is priced at $3.4 million today. The same skyrocketing price structure runs throughout all government as well as private costs. This is the price we are now paying for a period of uncontrolled public spending. And here, too, the Congress must assume its share of the blame.

But we still come back to the basic premise which led President Nixon to say that he has no choice in his defense decisions "but to come down on the side of security." In other words, regardless of inflation and other factors, the security of 200 million Americans is non-negotiable.

In all discussions of military expenditures in the context of the debate going on today, sooner or later it gets around to former President Eisenhower's warning against the possibility of unwarranted influence being acquired by the military-industrial complex.

Everytime I hear this claim, I am reminded that the General had other important points to make in that farewell address. Because I believe they cannot be heard too often let me quote them again for you here:

"We face a hostile ideology—global in scope, atheistic in character, ruthless in purpose and insidious in method. Unhappily the danger it poses promises to be of indefinite duration. To meet it successfully, there is call for, not so much the emotional and transitory sacrifices of crisis, but rather those which enable us to carry forward steadily, surely, and without complaint the burdens of a prolonged and complex struggle—with liberty the stake. Only thus shall we remain, despite every provocation, on our charted course toward permanent peace and human betterment . . .

"A vital element in keeping the peace is our military establishment. Our arms must be mighty, ready for instant action, so that no potential aggressor may be tempted to risk his own destruction."

Mr. Chairman, last Sunday, the *Washington Star* had an excellent editorial which asked the question: "How much defense spending is enough?"

This, I think, gets to the heart of the matter that engages us in the dialogue that we find ourselves in here today. And in this connection, I want to point out that Chairman John Stennis of the Senate Armed Services Committee this year took a very important step towards obtaining an intelligent and expert answer to this question. He assigned every member of this full committee to a subcommittee which is looking into some aspect of the military budget.

For example, I serve on the Tactical Air Subcommittee which is charged with the responsibility of determining the actual needs of tactical air in the Army, Navy, Marine Corps and Air Force. When the budget comes to the floor, the members of our subcommittee will be in a position to discuss with their colleagues all questions that might be brought up when new equipment is sought or new purchases of old equipment are asked for.

Even though the able Chairman of our full committee and the extremely able and competent former Chairman, Senator Richard Russell, have been able to explain past budgets on the floor in a highly competent manner, this year they will be backed up by in-depth study and long subcommittee hearings covering every point in the total budget.

When we consider that the military budget before Korea was $13 billion and before the Vietnam buildup was $50 billion and now has reached the level of $80 billion, I think it is high time that the Armed Services Committee, the Appropriations Committee and this subcommittee look into the costs more closely than ever before.

I also feel the same type of observation study is needed throughout the entire budget submitted by the President. We might expand the *Washington Star's* editorial question of "How much defense spending is enough?" and make it read "How much spending is enough?"

Very frankly, Mr. Chairman, I believe we have reached that point in our history where money to cover government spending is going to be extremely difficult to obtain. In my humble opinion, if the war in Vietnam came to a complete halt this afternoon, we would not be able to make extreme cuts in defense spending for approximately five to seven years, as we will be forced to replenish the diminished stock of our military hardware.

Of course, if we could be relieved of our responsibility to the countries with whom we have made mutual security agreements, and if we could look forward to immediate talks with the Soviets on arms reduction, this statement might not be true. I sincerely hope along with all of you and all of our colleagues and all of the American people that in the very near future we can sit down with the Russians and discuss the whole problem of armament buildup.

This would be highly desirable, but I believe it would be disastrous for us to proceed in a way which would disarm the United States while its potential enemies in the world continue to build up their armed forces.

I thank you for the opportunity of visiting with you today, and if the members have any questions, I will be very glad to answer them for you.

COMMENCEMENT ADDRESS BY FRANK BLAIR

Mrs. SMITH. Mr. President, it was my privilege to attend the commencement exercises of Nasson College, in Springvale, Maine, this past Sunday, June 8, 1969. The clear-eyed, clean-cut, and serious appearance of the graduating class gave me great courage in the future of our country—for the young people are the future of our country—and reaffirmed my faith in young people.

But it was a double, and rather a special, privilege to be present at these commencement exercises, for I heard one of the finest, soundest, and most inspiring addresses I have ever heard.

That inspiring address was given by the noted and distinguished national newsman, Frank Blair, of the NBC Today daily morning program. It was a courageous address. It was a commonsense address. He called a spade a spade—and in a fair, objective, and calm manner.

What he said needs to be repeated time and time again throughout our Nation and to all groups of our citizens. I hope that many colleges will have him as a commencement speaker.

Because of the importance and the clarity of his message, I ask unanimous consent that it be printed in the RECORD.

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

FRANK BLAIR, COMMENCEMENT ADDRESS, NASSON COLLEGE, JUNE 8, 1969

Sometime ago, I read a "letter to the editor" from a Pittsburgh man, named Sylvan Stein. The letter had been included in that special section of one of our leading weekly news magazines. This is what he wrote: "The American people are complacent, indifferent, irresponsible, incapable, ignorant, incompetent, without honor, minus integrity, unaware, unconscious, apathetic, without purpose, utterly devoid of worthwhile goals and *stupid!* These simpering idiots, only thinly disguised as human beings, are nothing more than robots. They have brainwashed themselves into believing that the so-called 'American Way of Life' represents a democracy. A democracy contains (among other things) people who have ideals, beliefs, convictions, values, goals, purposes, hopes, dreams, aspirations; and its people live their lives honestly, fearlessly, and courageously in pursuit of what they themselves hold to be worthwhile." This fellow goes further. He says: "The average American has no viewpoint. The average American has no firm convictions about anything. He is a conformist. He has utterly no sense of values. He has no worthwhile principles by which to live his life. He has no goals, no future. He merely vegetables and breeds. The so-called 'American Way of Life' fosters and nurtures the epitome of mediocrity. There are no leaders; only followers. No great men; only conformists. No idealists; only security seekers. Americans don't like to lose but then Americans don't like to participate. They are as sheep in the meadow, pitifully occupying themselves with the sweet taste of grass, being blithely oblivious to the sound of the axes being sharpened just over the next knoll, placidly ignoring the stench of blood from the sheep that have gone before them."

Those are pretty strong words.

I don't agree with *everything* that fellow wrote in his "letter to the editor" to that magazine. But I must admit things are happening throughout our land which greatly disturb me—things which I feel must also be of real concern to every citizen. On all sides there are signs that the moral strength of our nation is decreasing alarmingly. The principles upon which our country was founded are being eroded. We are substituting materialistic values for moral standards. What is right and what is wrong are being discarded and we are establishing codes of ethics that, if followed, can only render us impotent as a people and as a nation.

Yet, many of us *do* live in a kind of dream world and we go our ways waiting for someone else to do what is necessary to get America back on the right road again. Seemingly, we don't want to become involved or else we justify our lack of action by saying:

"Oh, let George do it;" or

"It can't happen here;" or

"Times are changing, you've got to expect things like that;" or

"It's the Government's problem—I'm not going to worry about it."

You hear statements like these every day . . . from the man next door, a student in a classroom or a person who works with you. We can perceive this kind of attitude in some of our politicians or from some of our pulpits, from some reporters and editors and some college professors . . . from just about every level of society.

If the tide is to be turned, each one of us must realize that—"It *can* happen here! It *is* happening here!" As a matter of fact, it happens right before our eyes . . . on television.

If we are to survive, we are going to have to make drastic changes in our present way of life. We will have to change our behavior patterns, change our thought processes and adjust our moral values.

And don't you know our enemies—those who would love to see America decline like ancient Rome—are well aware of these things. Where we are really failing, I think, is that we are not being true to ourselves. The other day I read somewhere: "For man is true to himself as a free being when he acts in accord with the laws of right reason." To be a civilized American without knowing the moral, legal, and political philosophy which specifies what American civilization and the world's freedom (as we understand it) *mean* is to attempt the impossible!

It appears to me that some confusion as to *what* we are and *where* we *are* stems from the many groups who set out to ordain their own political philosophies without thought or concern for our past traditions and enterprises. In the civil rights movement alone, for example, there are at least six separate and distinct groups with different motives and objectives, rambling philosophies and sometimes incoherency.

You see, in our country today, it is no longer possible to be right or left; conservative in point of view or liberal. It would appear it is necessary to be *extreme*. And I think it is the *extremists* who are faltering our society and way of life. And, believe me, some of these organizations espoused by many of our countrymen would go to any lengths to put over their points of view, their theories and philosophies. They are not on the right side of the road or the left, which would be permissible and acceptable in a *free society*. They are on the fringe. They are rolling along the shoulder of the road and the *ditch* bordering the American highway of life is only a few feet away.

Is it really necessary? Does one have to go to extremes to fulfill his obligation to himself, to this nation and its millions of people?

Where does the answer lie? What course do we take? Well! We must take time to develop in our *young* people a sense of personal responsibility. We must develop an understanding of the importance of maintaining high moral standards, of the need for constant devotion to religious principles and of the necessity for fostering a deep and abiding pride *in* and love *of* our country.

We are going to need a tremendous lot of devotion to country if we are to survive in this hostile world. Foreign, strange ideologies surround us. In China, a favorite slogan of the Reds is: "We must hate—we must kill our enemies!" It has spread to other places on our globe. First, there was Korea. Today, we are up to our necks in rice paddies and jungle swamps in Vietnam. And it is costing American lives and billions of dollars to fulfill that commitment.

Of course, Vietnam is only one problem our nation faces in our domestic and foreign relations. There's NATO sans France. There's divided Germany with Communism just over the wall. There's our relationship with our neighbor nations on this continent to the north and the south. Right here at home there has been civil strife and rioting in the streets. Indeed, it is possible that Communism's most successful yet subtle attack upon democracy lies in the way in which it compels citizens of a democratic republic to use undemocratic methods in order to defend their democracy against those who would destroy it.

In *our* democracy, the greatest possible amount of responsibility rests upon the shoulders of the individual. For in a healthy democracy the State should take nothing on its shoulders that the individual can do—because we should recognize the dignity of the individual above that of the State. The State is made to serve the individual, not vice versa. And the *answer* to Communism lies, in the last resort, with the individual and not the State. Legislation against Communism is, at best, little more than first aid.

Today, distance is no barrier; languages offer no excuse! The great deliberative bodies; the United Nations, for example, overcome the language differences. We understand each other's languages through interpreters. We fail to understand each other's ideas and hopes.

If we are to survive, I think training in formal thinking must be given a place of continuous primacy in our educational system—beside the seeking of beauty, and tolerant religious, moral, legal and political philosophy. *Then* America can keep her ideals in the forefront to win the confidence of free men everywhere and, at the same time, possess first-rate instruments for protecting and implementing these ideals.

Let us move on now to what I consider one of our most serious and difficult to solve domestic problems—"The Turbulent Teenager."

The other day I had lunch with a young lady who was graduated last June from one of the Seven Sisters Colleges—a woman's college with the highest scholastic standards and a reputation all through the civilized world. From this *prestigious* institution she had been graduated cum laude. She had won an impressive array of scholarships, a coveted honorary fellowship, and a number of prizes for scholastic and literary achievement. Upon graduation, she had stepped effortlessly into an exciting job with one of the great American news organizations. She was an attractive young woman—poised, personable, tastefully dressed, articulate, interested, and interesting.

And she was demoralized.

As our conversation progressed, as I got behind the polished veneer of her mind, it became painfully apparent that this deluxe product of a deluxe university was dispirited and, in a way, confused—that she was without a sense of direction and purpose, that she was groping for a sense of values and a set of standards—that, in a word, she was an incomplete human being.

Is this young woman typical of the best that our best American universities can produce? I hope *not*. But I rather suspect she may be. If *so*, the conclusion is inescapable: there must be something wrong, somewhere, in our country's educational environment—by which I mean not the *schools alone*, but also the *home*, the *church* and synagogue, the *clubs* and *youth groups*, the *news media* by which our people are kept informed of current events—the whole *complex* of influences that shape the minds and hearts of our young.

In the words of the old-time politician, let's take a look at the record:

Illicit sex among young people is now commonplace.

Pornography is accepted, even preferred, in the literature, the movies, the theatrical productions which we serve up for our youth.

Juvenile delinquency is on the rise.

On the campuses, the emphasis seems to be more and more on marks and degrees—and less and less on learning.

The use of drugs has reached what some psychiatrists describe as epidemic proportions. Recently, a sociologist who investigated the drug habit on three college campuses in the New York-New Jersey area concluded that—and I quote—"drugs have out-glamorized and out-challenged sex among today's students." Some of the students interviewed said they were now bored with sex.

Among our youth, there is more and more disrespect for parents, for teachers, for authority, for the very values that made our country great.

I suggest . . . indeed, I state . . . that in our society now there are the seeds of self-destruction.

It is naive to say, as many of us do, that to adult generations the younger generations have always seemed to be going to the dogs. It is cute to quote Socrates, who said that the youth of his day had bad manners, contempt for authority and disrespect for their elders. To those who somehow find solace . . . find reassurance in the fact that Socrates thought he saw two thousand years ago what we think we see today, I suggest we remember what happened to Greece.

We must fact the facts, ugly as they may be. *We have let our young people down. We* have failed them. *We* have not measured up to our responsibilities.

For it is self-evident that if they are prone to excesses, if they are Hedonists, if they are without sane guidelines, sensible codes, worthy standards, then the responsibility is *ours*. They are the product of an environment which *we* have created.

The other day, Eric Hoffer, that sage of the so-called working classes, the longshoreman who became a best-seller, said that if it weren't for the hippies' predilection to drugs, he would be a hippie himself, because the hippie movement is symptomatic of a magnificent rebellion against all that is wrong in our society.

What are the conditions that have bred the revolt of our youth? Let me try to define them as I see them.

First, there is indeed a generation gap. Over and over again, rebellious young people say they do not really know their parents, that the parents do not really know them, that father and mother have little time *for*, or little interest *in*, talking with them, in guiding them, sharing and developing their interests. In New York City, a teenage drug addict—the scion of an old and prosperous family—was asked what his parents thought of his addiction. His reply—and I quote: "They don't know about it. In fact, they don't know much about me at all. They're too busy to have time for me." Unquote. The selfishness, the preoccupation, the distinterest of the parent builds "a generation gap" (as the young somewhat haughtily call it) in too many homes.

It is true, of course, that the gap in understanding between the middle-aged and the young . . . is widened by their markedly differing backgrounds. I, like most of you, grew up during the depression . . . in the days when a dollar was a treasured thing which would put a chicken in the pot. And obviously the need to have a dollar . . . the importance of it . . . the need to work for it and even scheme for it . . . was driven home to me. *My* children grew up in an atmosphere of relative affluence, the affluence that is typical of our times. To my children, I'm afraid, a dollar is something that always seems to be there . . . or, at least, is fairly easy to acquire, for jobs are abundant, as they certainly were *not* in my own youth. It is small wonder that there is a different shading in my sense of values and the values of my children. My luncheon companion the other day, the young lady from the Seven Sisters College, told me she knew of no one in her class and no one among her young men friends who was eager to earn riches. Her question to me was: "Why should we suffer through all that's necessary to build a fortune, or even to build financial security?" She, clearly, had watched the struggle of her own father and found it not worth the candle.

Which brings me to my next point. There is a genuine, and perhaps thoroughly well-founded, disrespect among our intelligent youth for the way of life of their parents . . . indeed, for the parents themselves. In Westport, a teenage juvenile delinquent said he did not want to be like his Dad. His father, he said, was a commuter trapped in the rat race. Those are his words. As the boy saw it, the father had very little in his life—little but a job, a commuters' train, a round of cocktail parties, a pile of unpaid bills—a growing pile because he tried to live up to the Joneses. In summary, this boy had not been shown a way of life that he could consider worth striving for—let alone worth wanting. It seemed significant to me that this boy did not know what he wanted in life. but did know what he didn't want. Unhappily, he is typical of many boys and girls . . . many young men and women . . . in our prosperous communities. Can one really wonder why, at one high school in Westport, Connecticut, it is estimated that about 70 per cent of the pupils have experimented with drugs. Is it really perplexing that children from these affluent homes turn to sex, narcotics, and crime—crime for kicks?

Now, in exploring the conditions that breed the revolt of our youth, let me venture into a subject that is close to home—the calibre quality and quantity of our teachers. It has seemed to me, and I am sure you will agree, that the truly inspired teacher is a rarity . . . that perhaps only a small minority really knows how to catch a student's interest, whet his curiosity, lead him deeply into a subject, stimulate his desire to learn, to expand his personal interests, to help him develop as a well-rounded, well-disciplined human being. I know too many bright young people who say they are bored in school. A common complaint is that the teacher is dull. I know too many students who are repelled when an inept teacher tries to sugar-coat learning, to make learning a game—a technique which, I am sure, may be helpful at times, but which surely can be overdone to the detriment of the student and of society. It is obvious, I think, that young people need a goal, an objective, something to work toward . . . so that, in the end, they can feel the thrill of accomplishment, the thrill of achievement—the thrill which, incidentally, will motivate them to tackle the next problem, to scale the next mountain.

Our teachers in the secondary and grade schools argue that they have too many pupils. Perhaps they do. It is certainly true that there are too few teachers—170 thousand teaching posts vacant around the country as of this date. Our teachers argue, and I think rightly, that their salaries are low in relation to the importance of their work. They certainly *are*. All of these things are complicating factors . . . all are problems to be overcome.

Secondary and grade school teachers in the Soviet Union are by no means brilliantly paid. In that Communist bureaucracy, one can be sure that a teacher's problems, personal and professional, are enormous by any standards. Yet it is a fact that Russian teachers—at least those in Moscow—have been described by American reporters as eminently successful in motivating the young . . . in teaching them to want to learn, and then in helping them to learn.

I think it would be pointless for me to dwell at any length on each of the various factors that is so clearly contributing to the unrest among our youth. The effect of the pill on sexual morality is well known.

All of us know that there is unrest and fear among our youth because of confusion and uncertainty over our country's policy in Vietnam. And, like you, I personally have heard too many times from too many young people that the hydrogen bomb and its awesome potential have demoralized the younger generation, have led many of them to the philosophy of "eat, drink and be merry today, for tomorrow we die."

I believe anyone whom you encourage and help to think and re-think in today's crisis will find his thoughts leading him back to things that are basic in American life—freedom, sanctity of the home, thrift, work, each man and each woman making his small contribution to the whole by trying, by what we used to call "right living."

Let us make the point that other generations of Americans have had their crises, too—their bloody wars, their long-lasting and soul-searing depressions, their riots, and even their threats of imminent extinction—and yet America has indeed made remarkable progress, largely by adhering to principles which may seem old-fashioned.

To sum up, the resolution of today's crisis in American life must begin with each individual. The relationship which you and I have with members of our immediate families is the beginning of a chain reaction. Within our family groups, we must teach and learn understanding, reasonableness, justice, love, fidelity, patriotism, love of God—for then and only then will we achieve the love of our fellowman which, I believe, can and will, save the country and the world.

Edward Hale, a former chaplain of the United States Senate, sums it all up nicely for us in these words:

"I am only one, but I am *one*. I *can't* do everything, but I *can* do something. And what I can do, that I ought to do, and what I ought to do, by the grace of God, I shall do."

Thank you.

CARDINAL BERAN, HUMANIST

Mr. DODD. Mr. President, Josef Cardinal Beran, archbishop of Prague, died recently in Rome, and the obituaries that followed were warm and affectionate.

Thoughtful though these notices were, a little more needs to be noted about this indomitable personality, a courageous champion of human dignity and self-determination.

He has rallied his countrymen in the direst times of distress. His support among the Czechoslovak people was so widespread that the Communist regime exiled him. Quite a few leaders of that regime later treacherously supported the Soviet invasion.

In the dark days of appeasement, before World War II exploded, Cardinal Beran summoned students and patriots who had come to ask his counsel. Jack-booted Nazi troops were treading heavily on the cobbled boulevards of Prague.

The great cleric led the group to the street.

Cardinal Beran said:

There goes the anti-Christ.

For his refusal to knuckle under to Hitlerian authority, Cardinal Beran was sent to the notorious concentration camp at Dachau. At war's end, American troops released him, but not before he first made certain that fellow inmates of all creeds were assisted.

Alas, release for Cardinal Beran was shortlived. When the Communists triggered a coup d'etat in 1948, Cardinal Beran was the No. 1 target.

It was he who, again, led a group which had come to him for solace, to the street where Communist shock forces marched. He remarked mournfully:

Please remember. The anti-Christ has returned to our midst.

The Communist totalitarians, like the Nazis before them, hounded and harassed this good and humane man. He was in jails and under forms of humiliating house arrest for 15 years—banished, of course, from his archdiocese.

At age 75, ill and fragile, Cardinal Beran was permitted to leave for Rome to accept the cardinal's hat of office. He was never again permitted by the Communist regime to return to the homeland for whose rights and people he so valiantly fought and suffered.

Even at 80, his age when he died, Cardinal Beran's senses were keen, and his love for liberty as alive as when he was ordained a young priest.

Cardinal Beran deserves the remembrance of all free men, and our thanks.

HAWAII SUPPORT FOR ABM SHOWN IN POLL

Mr. FONG. Mr. President, one of the most important decisions facing the American people and Congress this year is whether to go ahead with the Safeguard anti-ballistic-missile system proposed by President Nixon.

In my annual public opinion questionnaire sent earlier this year to a cross-section of more than 60,000 families on all islands in Hawaii, I included several questions on the ABM.

Four thousand questionnaires—or about 7 percent—were filled out and returned to me. I am told this response is rated good for a mail questionnaire.

As several members of a family often joined in marking the questionnaire, many of the returned copies represented more than one opinion. Therefore, the total response substantially exceeded the 4,000 returned questionnaires.

My poll showed that a majority—55 percent—of the people in Hawaii who replied approve going ahead with the Safeguard ABM, 19 percent disapprove, and 26 percent listed themselves as "not sure."

These results are in line with two nationwide polls that have reported support by the American people for the ABM.

A national poll conducted by Sindlinger & Co., a Pennsylvania market research firm, showed 61.5 percent agreed with President Nixon's proposal, 14.7 percent disapproved, and 23.8 percent expressed no opinion.

A Louis Harris survey indicated 47 percent of the American people approve the ABM project, while 26 percent oppose the project, and 27 percent are undecided.

The main question on my questionnaire was:

A modified anti-ballistic missile system has been proposed to protect U.S. missile sites from destruction by enemy nuclear attack. After two ABM sites have been built, an annual review would determine whether more sites are needed. Should Congress authorize two sites (Montana and North Dakota) as proposed by the President?

The replies showed:

	Percent
Yes	54.6
No	18.8
Not sure	26.6

A related question asked whether "12 mainland sites plus two optional sites—Hawaii and Alaska" should be approved. The replies were 45.9 percent, "yes"; 27.5 percent, "no"; and 26.6 percent, "not sure."

A third question asked whether Congress should authorize "a full system of 12 mainland sites." The replies were 29.2 percent, "yes"; 32.6 percent, "no"; and 38.2 percent, "not sure."

When considered together, the responses to these three related questions indicates that—

First, there is overwhelming sentiment in Hawaii—of those who answered "yes" or "no"—in favor of building two initial ABM sites—54.6 percent "yes" versus 18.8 percent "no."

Second, there is also strong sentiment in Hawaii—of those who answered "yes" or "no"—in favor of building the full system of 12 mainland sites, plus one site each in Hawaii and Alaska—45.9 percent "yes" versus 27.5 percent "no."

Third, however, when Hawaii and Alaska were left out, more persons were opposed than in favor of building the 12 sites on the mainland—32.6 percent "no" versus 29.2 percent "yes."

There appears to be a strong feeling among Hawaii's people that they do not want the islands to be left without ABM defense protection from nuclear attack. This would appear to be the reason why 45.9 percent said "yes" to including Hawaii and Alaska if the full ABM system of 12 mainland sites is to be approved and why only 29.2 percent said "yes" when Hawaii and Alaska were excluded.

On a fourth question rounding out my survey, 30.7 percent replied they wanted no sites at all, but a larger number—37.4 percent—wanted some sites, and 31.9 percent were "not sure." Only two-thirds of those who answered the first three questions responded to this question.

Summing up, I believe my survey showed most of the people of Hawaii who answered "yes" or "no" want the ABM started on a pilot basis as proposed by President Nixon, since an annual review would determine whether more sites are needed after the first two have been built.

Compared with Harris nationwide survey, my survey shows there appears to be even more support in Hawaii for going ahead with the modified Nixon plan for a "thin" ABM defense system.

As reported by Louis Harris, the dominant feeling among the American people is that the Russians are already embarked on an ABM system of their own and it is better for the United States to be overprepared rather than to be caught short without proper defense.

SENATOR ROBERT F. KENNEDY—IN MEMORIAM

Mr. WILLIAMS of New Jersey. Mr. President, the death of Senator Robert F. Kennedy just 1 year ago gripped the entire world in the deepest sorrow. This grief is felt every day and most poignantly just 1 year after mankind's terrible loss.

Frank Lewin, a composer from Princeton, N.J., watching the funeral service for Robert Kennedy, was inspired to create a requiem mass in memory of our late colleague.

As pointed out by two articles, one in the Trenton Sunday Times Advertiser of May 25, the other in the Trenton Evening Times of May 28, this deeply moving tribute was written by a Jew, conducted by a Protestant, and performed in a Presbyterian chapel, in memory of a Catholic, reminds us of our spiritual oneness.

I ask unanimous consent that these two articles be reprinted in the RECORD so that Senators may have an opportunity to know of this beautiful tribute to our late colleague.

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

(By Annette Heuser)

The death of Robert Kennedy came as a blow to most of us, and it did to Frank Lewin, too. But it also helped him achieve an artistic creation which otherwise might never have seen the light of day, a requiem mass in his memory which will be heard for the first time this Tuesday—the first anniversary of the senator's death—in the Princeton University Chapel.

Lewin, a composer and a Princeton resident, was watching the funeral train of the late senator pass Princeton Junction last year.

"I'm not a sentimental man," he says, "But standing there with thousands of people did something to me. Later, I watched the funeral service on television. Here was a great man being buried, and I thought there was no unity in that service. I said to myself: "I can do better." So I began working on the mass—I finished it in March this year."

It is one of the first masses ever written which uses English as its text. A decree of Vatican II established the language of each country as the language of the liturgy. Masses until then were composed to be sung in Latin, "and the music just doesn't fit an English text," Lewin said. "The long vowels of Latin aren't there, and the original fusion of words and music is lost in translation."

The mass is a true ecumenical effort, Lewin explained. "I am Jewish, and it will be performed by pupils from the Princeton high school—they are of all faiths. We were worrying that the parents might object to the chorus singing a religious piece of music, but we haven't heard anything. The conductor is a Protestant, and the chapel is Presbyterian."

The girls in the choir rehearsed in the huge chapel the other day. Conductor Bill Trego drew from them and the organist a sound that is soaring and lofty, but not in the sense that ancient church music might be. It is a distinctly modern tone, yet heavy with dignity and emotion. Sylvia Jones, a soprano from Princeton will enrich it with her voice, and the male soloist is Leo Goeke, a tenor from New York City.

Lewin, who loves to talk about his music, works in a soundproof basement at his home on Magnolia Lane in Princeton. He composes mostly for films and TV shows, testing out the creative results on a stereo set and a number of electronic gadgets that a non-expert finds hard to describe.

The problem of making music and subject matter merge constantly comes up for Lewin, but he has overcome it, he feels, in various film scores he has composed.

A film he set to music had a scene in it in which a person went into shock. Lewin thought for a while and came up with a sequence in which a knife is scraping on strings.

"Later, a friend of mine mentioned it to me. He insisted that there was no music in the background during that scene. That was the greatest compliment I ever got," the composer said.

Composing for a choir was a new challenge, and one he would like to take up again in an opera. But before that, he will complete an outdoor musical drama for Washington's Crossing State Park, to be performed there a few years from now. Arthur Lithgow, director of Princeton's McCarter Theater, is collaborating.

Lewin has composed music for TV programs such as "The Defenders," "The Nurses," "The Doctors," and for an endless number of films.

A light trace of an accent is still in Lewin's voice. He came to this country from Germany when he was a boy, and was educated at the New York College of Music in Manhattan and the Yale University School of Music.

Lewin, a shyly charming man, surprises with the agility of his mind, yet it is probably the result of his constant immersion in music. He moves his body when he hums a few bars for the choir, telling how it should be done, and his large eyes are full of life and creative spark.

At 44, he has written the music for feature films, including "The Fugitive Kind," "Splendor in the Grass," and "The Power and the Glory." He also did the scores for a number of documentaries, including "A Year Towards Tomorrow," which won an Academy Award; "Paintings in the White House; A Close-Up;" "Spirit in the Tree," and "An Extra Measure" done for the March of Dimes.

And he has even done a musical score for a movie called "Color and Textures in Aluminum Finishes" for Alcoa.

For a record called "What's the Score," Lewin collected samples of his works. They range from pleasantly lilting Mexican-influenced melodies, to broad lyrical sweeps to snappy rock and roll.

Lewin also composed incidental music for productions by the University Players, the Princeton Community Players, Theater Intime, and the McCarter Theater production of "The Tempest." "Twelfth Night," "As You Like It," "Taming of the Shrew," "A Midsummer Night's Dream" are some of the other plays that he has done the score for.

But concert music, a very special kind of challenge for Lewin, is on his list of achievements, too. He has composed a cycle of songs on the poems by William Blake, a cycle of songs, "The Seasons," on the poems of Thomas Nash, and various other works.

The 70 voices of the Princeton High School Choir will be assisted by the choir of the Witherspoon Presbyterian Church when the requiem mass is first heard on Tuesday. To make the occasion truly ecumenical, a number of clergymen, of different faiths, will participate, including the Rev. Christopher Reilly, director of the Aquinas Institute which is sponsoring the event.

Music for the Catholic Church stands at a new beginning, Frank Lewin says in the program notes. Lewin's mass will draw together men of different faiths in a homage to a leader gone; it may be a better beginning than he knew a year ago when the train rolled past the railroad platform.

REQUIEM FOR R. F. K.: MEMORIAL MASS AND MUSICAL TRIBUTE DRAWS 2,000 TO PRINCETON CHAPEL

(By Donald P. Delany)

A deeply moving tribute to the late Senator Robert F. Kennedy took place last night in the Princeton University Chapel. Nearly 2,000 people filled the huge Gothic edifice to attend a requiem mass in memory of Senator Kennedy, the first anniversary of whose death will occur next week.

The music for the mass was written by Frank Lewin, a movie and TV music composer who lives in Princeton, and this was its first performance. The new mass was sung by the Princeton High School Choir under the direction of William R. Trego and soloists Sylvia Jones, soprano; Leo Goeke, tenor, and Robert Oliver, baritone.

The concelebrated mass was sponsored by the Aquinas Institute at Princeton University. The principal celebrant was the Rev. Christopher C. Reilly, Catholic chaplain at Princeton and a native of Trenton. Priests of the Aquinas Institute were concelebrants.

DUNGAN PREACHES

State Chancellor of Higher Education Ralph Dungan, an adviser to President Kennedy and an associate of his brother, was the preacher. Dean Ernest Gordon of the University Chapel gave an address of welcome to the congregation, which included members of all faiths and many dignitaries. Among them were Dr. Robert F. Goheen, president of Princeton University and Mrs. Goheen, and several members of the Senator Kennedy's staff.

Dungan read a telegram from Senator Edward M. Kennedy expressing deep regret at being unable to be present. The Massachusetts senator also extended his gratitude to the "wonderful people who have made possible this tribute," and especially singled out Lewin who he said "devoted his great talent to memorializing my brother in his music."

Lewin, who conceived the idea for the requiem while watching Senator Kennedy's funeral train pass through Princeton Junction, has captured perfectly the spirit of supplication which is the essence of the mass for the dead.

His requiem, which is one of the first ever written with English as its text, is neither operatic nor symphonic, as are so many of the great masses of the past.

SIMPLE, POWERFUL

It does not overwhelm the liturgy of the mass, but blends with it and enhances it. It is simple yet powerful, modern yet tonal.

It has in fact many passages of haunting beauty. Especially memorable are the Offertory Antiphon, with tenor solo ("Lord Jesus Christ, King of glory, deliver the souls of all the faithful departed from the pains of hell and the deep pit") and the exquisite "In Paradisum" near the close of the service ("May the angels take you into paradise: may the martyrs come to welcome you on your way.")

There is also a lovely Lord's Prayer, the music for which was included in the program last night for the congregation to sing.

HIGH SCHOOL SINGERS

The mass was sung with remarkable competence and sensitivity by the Princeton High Choir which apparently worked hard under Trego's direction in preparing it. The soloists were all outstanding, as was the performance of Nancianne Parrella at the organ.

Noteworthy too were the playing of a small student brass ensemble during the Sanctus and the Dies Irae, and the solo flute of Jayne Seigel during the In Paradisum.

The congregational responses were beautifully sung by a smaller vocal ensemble drawn from the Witherspoon Street Presbyterian Church, Stuart Country Day School of the Sacred Heart and seminarians at St. Joseph's College, under the direction of Leon J. Du Bois.

Dungan, in his brief discourse, took as his text the familiar passage from an Epistle of St. James, "Be doers of the word."

He said Senator Kennedy was a man of action, "ever on the move, unceasingly probing, rigorously questioning."

COMPASSION, CONVICTION

All who knew him, he declared, "recognized and admired the qualities of compassion, conviction, tenacity and intelligence which he demonstrated to such a remarkable degree."

Above all, he said, Senator Kennedy was a man of his time who had the compassion to understand and to feel deeply about the problems of his fellow man, whether in the high plains of South America or in the ghetto of Watts.

"He had the conviction that something could and should be done about the human condition and he had the intelligence, uninhibited by the fear of failure to devise the programs to meet those needs. But perhaps most importantly he had the tenacity and persistence so necessary to the attainment of difficult objectives. In short, he was a doer of the word."

Father Reilly, in the petitions offered before the Offertory of the mass, prayed that "Robert F. Kennedy's concern for the poor may prompt many to ask what they too can do for others."

A large number of Catholics in the congregation received communion during the mass.

RURAL AND URBAN AMERICA—A SEARCH FOR POLICY

Mr. METCALF. Mr. President, I have recently had the opportunity to read an address which was presented by the junior Senator from the State of Washington (Mr. JACKSON) before the 26th annual conference of the American Public Power Association which was recently held here in Washington, D.C. This speech, entitled "Rural and Urban America: A Search for a Policy," offers suggestions for Government action which would advance many of the most important goals of our society.

In short, the address outlines a means by which a number of existing Federal programs could be concentrated to encourage the growth of new population centers in rural America. The proposal includes a number of innovative concepts, for example:

Many existing Federal agencies and programs could be made more relevant to national needs if a part of their missions included the creation of new rural growth opportunities. Older agencies such as the Bureau of Reclamation or the Corps of Engineers which have unique planning, technical, and construction management capabilities could make very meaningful contributions if an important aspect of their mandate included providing an energy base, a water supply, and a recreation reservoir for new towns and for revitalized rural communities.

Small cities can be created on the public land and throughout the rural countryside and beyond the sphere of established metropolitan areas. Such cities, if properly designed, can provide the American people a wide choice of living style. They can provide varieties of jobs and business opportunities for our young people which are now only available in the city. They can ease the pressures of expansion while the older, larger cities find solutions to the unprecedented problems they already face.

Mr. President, I offer the full text of this address for the consideration of all Senators who are concerned about the Nation's social, urban, and rural problems. I ask unanimous consent that the text of the address be printed in the RECORD.

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

RURAL AND URBAN AMERICA: A SEARCH FOR A POLICY

(By Senator HENRY M. JACKSON, chairman, Senate Interior and Insular Affairs Committee, before the American Public Power Association, 26th annual conference, Washington, D.C., May 5, 1969)

One of the greatest resource challenges facing our nation today is providing for the tremendous demand for electric energy which is anticipated in the decades ahead. The American Public Power Association and the utilities you represent have important roles in planning to meet that challenge. Consequently, you appreciate better than most the complex problems of projecting future conditions and providing the means to meet future demands.

I am afraid, however, that not everyone associated with resource planning fully understands the great public responsibility involved in power development. Even our most universally agreed upon policies sometimes are violated for expedient or superficial reasons.

I believe a recent example of such a failure is the Administration's reductions in the Fiscal Year 1970 budget requests for resource development programs. President Johnson's budget request for these programs was very restrictive and well below the amounts recommended by the agencies. The additional recent reductions in some instances present serious risks.

The Bonneville Power Administration, for instance, is a Federal power marketing agency well known to many of you. It currently markets 50 per cent of the total energy and provides 80 per cent of the transmission for the entire Pacific Northwest region. Bonneville has played a leadership role in regional planning for a power system which is a model of cooperation among Federal agencies and non-Federal public and private utilities.

A recent press release of the Department of the Interior announced the Administration's decision to reduce Bonneville's FY 1970 budget by $8 million. It also explained with amazing candor some of the consequences to be expected as a result of the reduction. Regarding the delay in one transmission line, I quote the press release:

"This delay will create an extremely serious transmission and power supply condition in Northeastern Washington, Northern Idaho and Western Montana. Without this line, a fault on the Lower Monumental-Little Goose 500-kv line creates a system condition with resultant loss of generation and cascading outages of interconnected lines and systems."

I need spend no time telling this audience of the tremendous concern throughout the nation about insuring the reliability of power systems. Surely there can be no doubt of the Federal government's policy to prevent recurrences of massive blackouts such as that of 1965 in the Northeast.

I realize that the statement of the consequences of the budget reduction must have been inadvertently released. But the decision to proceed with the reduction despite the risks was surely deliberate.

I don't know which Administration official decided to take those risks. I don't know what kind of value judgments he based his decision upon. But I am afraid that innumerable decisions of this kind can be made each year and they will not usually be accompanied by a consumer protection warning label as this one was.

The nation's business has become far too complex to proceed on vague understandings of goals and policies. We are going to have to begin to spell out our intentions and our values, to debate them in a public forum, and to insist that they be respected in every government decision and action.

The process of forecasting, predicting, and anticipating future needs, conditions, and demands is not unique to your industry. It is a function which all organizations—governmental and private—must and do perform. How well this process is performed determines the shape of the future.

Today I want to discuss with you some alarming shortcomings which I see in our government's present system of planning for future needs. While these shortcomings should be of concern to everyone, I think they have special relevance for you, your organizations, and the public.

It is a commonplace that "the past is prologue." The past and the present is all that we know and can know. Tomorrow's plans are the product of today's experiences. In some instances we may introduce a little speculation into our projections; we may anticipate a technological breakthrough or a modified rate of growth. But, for the most part, we expect the future to be an extension of past trends—for better or for worse.

Sometimes the future situations which are indicated by known trends are clearly undesirable. But even where this is recognized, our projections nevertheless continue to be accepted. We plan for a future which appears inevitable and undertake actions to accommodate it.

Let me give you an example which is related to resource development and the evolving pattern of urban growth in the United States.

The Federal Water Resources Council, for the purposes of its First Annual Assessment of the nation's water resources had to formulate a number of assumptions. The Council assumed that new industry with attendant supporting services and related population growth will locate in or near existing metropolitan centers. As a result, it projected that in the future a few huge strip cities will include the major portion of the nation's population and economic activity.

Under present Federal policies, the Council had no real alternative to making this last assumption. Past trends indicate that this will happen. The Council's recommendations assume the inevitability of the prediction. As a result, the Council does not recommend that government action be taken to prevent this situation. Quite the contrary. The Council recommends that we work to provide the essential services to facilitate the trend towards megalopolis.

Innumerable other government agencies, utilities, and industries are planning on these same assumptions. Under present laws and policies, they have no choice but to prepare for what is anticipated. Their combined actions and those of industry will surely turn the projection into "self fulfilling prophecies."

But, government *does* have a choice. There is no reason that we have to perpetuate past mistakes; we can establish new policies and new goals. The America of the year 2000 does not of necessity have to consist of strip cities of urban desolation stretching for hundreds of miles.

It is generally agreed that many of our major cities are already becoming ungovernable. The problems they face are overwhelming. Two out of every three Americans already live in a metropolitan area. The suburbs are growing five times as fast as the central cities and twice as fast as the population of the country as a whole. The central cities are old, poorly designed for modern traffic and high populations, and marked by decades of expedient adjustments.

In financial terms the depressed areas of metropolitan centers are costly to society. A survey in one city showed that the areas of substandard housing which included 8% of the land area and only 20% of the population required 50% of the city's health services and 51% of its police protection.

In social terms the costs are far more significant.

The resident populations of the central cities are made up of the old and the poor. They require greater services, but they pay less taxes.

In the suburbs, the pace of growth is too rapid for adequate services. The trials and frustrations of commuting has become a normal part of American life. In suburban communities, schools are overcrowded. Sewers, water supplies, police and fire protection, roads and other services lag behind the needs. Taxes are soaring to meet future demands and repay past bond issues.

The financial pressures on suburban governments lead them to rezone for high density housing, industry, and commerce. As a result, city problems spread out and the attractions of suburban living are lost.

Indications are that by 1985 we must provide for 20 million more households in this country. This is one-third more than we have now.

If past trends continue, most of this growth will be in a few large metropolitan areas. This will increase the already urgent problems of government and the frustrations being experienced by urban residents. And yet, in spite of these grim projections, many Federal and non-Federal entities—including, I am sure, many public utilities—are planning to accommodate and perpetuate this picture of the future. Their efforts, if not given new direction and new goals, will no doubt help to bring this picture into being.

I don't mean to be critical of the efforts of the individual planning entities. Each of these organizations must carry out its commitment to provide for the future as it expects it to occur. None of them, at present, has either a mandate to plan for or a capability to shape the future as we might desire it to be.

I am, however, critical of government's failure to have a considered national policy on urban and rural growth. We are fast becoming a nation of pragmatists in the worst sense of the word. We accommodate; we compromise; we too readily accept the conditions and the forces we find around us. As a nation we seem to be losing our capacity to dream of a better America and a better world. The idealism, the picture of a better way of life which propelled the public power movement in its infancy needs to be rekindled.

The REA movement and the "preference clause" in Federal law represent successful efforts on behalf of legislators and the public to place a better life within the reach of all Americans. We need more of this idealism in our planning to meet future needs.

We need to redefine our national goals, policies, and priorities. And in light of that redefinition, we need to structure legislation which will permit these goals to be attained.

It is clear that our national goals and policies should *not* perpetuate crowding, poverty, social unrest, increasing crime and disorder, air and water pollution, and a loss of open spaces and recreational opportunity. Nevertheless, these conditions exist and are becoming increasingly critical.

Our economic expansion and the vast capacity of modern technology contributed to the severity of many of these problems. But modern technology and economic strength also presents us with tools to shape the future as we would like it to be. It is time—it is past time—that we got about the task of deciding how to use these tools; we must decide what we want this nation to look like in the year 2000. We have the capability to create the environment and the conditions which meet our desires.

As some of you may be aware, I have been working for legislation to establish a na-

tional policy for the environment and a Council of Environmental Advisors to insure its success. I think a national policy is necessary to give direction to the management and development of our great natural resources and our environment. I also think a national policy on urban and rural growth is necessary if we are to deal with the human and the social problems we face.

The large metropolitan areas of the nation were shaped, in part, by natural necessity. Convenient water routes for commerce, the best railroad and highway locations, coal deposits, water resources, and climate dictated the areas of population growth. New industries located where services and a labor force were available, and more people migrated there to find employment. A cycle began and it has not stopped.

Today we no longer need be dependent upon the accidents of nature. We can construct roads and airports where we want them to be. Many new industries require little in bulk raw materials. Communications bring the most remote location into instant contact with metropolitan centers.

I intend to introduce legislation in the near future which is designed to alleviate many of our critical urban problems by creating new opportunities for growth in rural America. This legislation will provide for a comprehensive and detailed feasibility study of the potential for creating totally new towns and for revitalizing and breathing new economic life into many of the existing communities in rural America.

As presently envisioned, the measure will establish a Task Force made up of Federal agencies which have programs that could be made relevant to the creation of new rural growth opportunities.

The Task Force would select sites based on compatibility with water resources, outdoor recreational opportunities, regional growth patterns and industrial and commercial opportunities. Because of the necessity for a secure employment base, prime consideration would probably be given to sites where multi-purpose water resource developments exist or can be built.

Many of the programs which can assist in shaping the future we desire are already established. Much of the expertise is available in existing agencies. What is lacking is a coordinating force and a policy to bring these conditions together and to give them direction. We already have programs in the Departments of Interior, HUD, Transportation, and others which offer assistance to communities. Advice, loans, and grants are available for planning, housing, and nearly all utilities.

But these programs cannot now be brought to bear without coordination and without direction. Many of them are presently hampered by restrictions or requirements in the authorizing legislation.

The bill will provide for the selection of several potential sites for new towns and revitalized community development in a variety of situations. It will call for a report to the President and the Congress evaluating the feasibility of new developments; suggesting the appropriate roles of the agencies, States, and industry; and stating what legislative action in the form of incentives and new authority will be required.

The States will be particularly important to the success of any effort to create new opportunities for growth in rural America. State government and, by delegation, local governments control the land. They have the powers to zone, tax, buy, and sell. At present, most State governments are not playing the role they should in shaping future development.

An effort will be needed to bring both the States and private industry into the planning effort; to encourage them to reorganize their institutions and update their policies; and to enlist their aid. The organizations you represent can be instrumental in this effort.

I am hopeful that the study I am proposing will focus the attention and competence of all of these parties on the opportunities which exist to create new means for accommodating population growth in America. When the study is available, I hope it will encourage the President and the Congress to initiate a vigorous program designed to allow every American the choice of living and raising a family in an area that is free of the social tensions, the congestion and the hopelessness that pervade many of our major cities.

Today many Americans do not have that choice. A recent Gallup Poll reported that 87% of the residents of our nation's major cities would rather live in rural areas or small cities if they had a choice. They do not have a choice. They must live where there is employment and where needed community services are available.

Many existing Federal agencies and programs could be made more relevant to national needs if a part of their missions included the creation of new rural growth opportunities. Older agencies such as the Bureau of Reclamation or the Corps of Engineers which have unique planning, technical, and construction management capabilities could make very meaningful contributions if an important aspect of their mandate included providing an energy base, a water supply, and a recreational reservoir for new towns and for revitalized rural communities.

The country faces a real crisis in the location of large fossil fuel and nuclear powerplants which will be needed in coming decades. The siting of these powerplants is a matter of controversy in many areas of the nation. We must take advantage of the opportunity to turn these problems to advantage. When a site is selected, the maximum benefit must be gained from its use.

A large powerplant could provide a significant economic base for a new town or an economically depressed community. Consider the possibilities of combining powerplant construction and a Federal water resource project with proper planning, appropriate transportation connections, and financial assistance for housing, community facilities and other needs. Consider the further potential of prearranged industrial development.

Small cities can be created on the public land and throughout the rural countryside and beyond the sphere of established metropolitan areas. Such cities, if properly designed, can provide the American people a wide choice of living style. They can provide varieties of jobs and business opportunities for our young people which are now only available in the city. They can ease the pressures of expansion while the older, larger cities find solutions to the unprecedented problems they already face.

We have the tools to create new cities. In the West, we have already done so. Phoenix, Arizona, and Grand Junction, Colorado, owe their existence to a great extent to the combined effect of Federal water resource projects and transportation routes. Many other communities have grown up around Federal hydroelectric, irrigation, and flood control projects. But, in most cases, that effect was not part of the project plan. Perhaps in the future it should be.

It has long been my view that our present conception of the Federal public works program has been too limited. Properly designed, these programs can be relevant to dealing with many of the critical problems of our urban areas. They can and they should be allowed to make the contribution they are capable of.

There have, of course, been attempts to create new towns before. The government has in a very limited way been involved in some of these efforts. Deliberate government-sponsored ventures have, however, been single-purpose and narrow in concept. They have been subservient to the accomplishment of other objectives, and they have met with no outstanding success.

More recent ventures have been private developments with a profit motive. Many of these have encountered land acquisition problems and difficulties in financing the needed community services years ahead of developing sources of revenue. A properly designed program of Federal and State assistance and involvement could help to overcome many of these problems.

I am not discouraged by past results. We have not had modern technology before. We have not had enlightened Federal-State-industry cooperation before. We have not had the concepts and the programs for community aid before. Above all, we have not, as a nation, recognized the urgency before.

I invite your participation and your assistance as this effort proceeds. I respect your experience with the problems of community growth. If you and others who are the planners and the builders of our society will join in the effort, we can make progress.

We can shape a better future for present and future generations.

TIME FOR ACTION ON RAIL SAFETY

Mr. HARTKE. Mr. President, the shipment of hazardous cargoes by rail in recent years has added a new and disastrous dimension to otherwise minor rail accidents. It is imperative that we move ahead to a comprehensive program of national rail safety standards.

On May 24, 1969, an editorial published in Chemical Week magazine put forth this view. It called for stringent safety standards, making clear that these standards ought to be national in application. The editorial concluded:

> Regulations that vary widely from state to state, would be costly, confusing, and inefficient.

The editorial was published just days after rail safety hearings were held in the Surface Transportation Subcommittee on May 20 and 21. Those hearings firmly documented the need for Federal legislation, and I am hopeful that we can move forward in this Congress with S. 1933, which would authorize the Department of Transportation to set national uniform safety standards.

I ask unanimous consent that the editorial be printed in the RECORD.

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

TIME FOR ACTION ON RAIL SAFETY

Two persons were killed in Laurel, Miss., in January when a train carrying propane gas was derailed. One month later in Crete, Neb., eight persons died when a freight train jumped the tracks and ruptured a tank car containing anhydrous ammonia.

Thus, the hazards of transporting chemicals have once again been brought home to the public and the lawmakers. And it appears that new regulations are in the offing.

Twenty states now have rules governing the safety and handling of anhydrous ammonia. Except for California, which has the most stringent regulations, the other states have adopted minimum standards that are fairly uniform. Nebraska does not have state regulations. But the Crete disaster has triggered hearings that may well prompt Nebraska to make rules as strict as those in California.

We are grieved at loss of life or injuries, and we deplore damage to property resulting from the unsafe transportation and han-

dling of hazardous chemical materials. Stringent safety standards are a must. But they should be based on reason, supported by fact, rather than on emotion. Regulations that vary widely from state to state would be costly, confusing and inefficient.

Far better, for industry and the public, would be a uniform federal safety code. Clearly, regulations are needed to better the railroads' safety record. The railroads, unlike airlines, grew up independent of federal control, and there are virtually no federal rail safety regulations.

Since '61 the number of derailments in the country has more than doubled, to 5,487 last year. Last year, 82 million tons of chemicals, including more than 600,000 tons of explosives, were shipped by train. And cargoes of toxic, flammable or explosive chemicals are increasing.

But uniform federal safety standards should not be limited to the railroads. Pipelines also must be included. Natural gas is now the principal product moving by pipeline. But one ammonia pipeline is already completed and a second will be finished soon. In time, it is likely that the nation will be criss-crossed with pipelines carrying ammonia and other volatile fluids.

Secretary of Transportation John A. Volpe has recently named a special task force to study railroad safety. It will be headed by Federal Railroad Administrator Reginald M. Whitman. And William Jennings, director of the Dept. of Transportation's Office of Hazardous Materials has asked the public to participate in the development of safety regulations for the pipelining of volatile materials (including anhydrous ammonia).

Information should be sent to him before June 23 at the Hazardous Materials Regulations Board, Dept. of Transportation, 400 Sixth St. SW, Washington, D.C. 20590.

The sooner Congress passes minimum transportation safety standards, the sooner the public interest will be served. And that includes industry's interest. It would be more efficient and less costly for the common carriers to build facilities according to a uniform set of standards than to have to make adjustments later.

SAFEGUARD SYSTEM FAVORED BY SCOTTSDALE, ARIZ., REPUBLICAN WOMEN'S CLUB

Mr. GOLDWATER. Mr. President, if the country depended upon the Washington Post and the New York Times, just to mention two radical left papers, one would be led to believe that the people are opposed to the Safeguard system. Fortunately, the great majority of Americans have probably never heard of these two papers, so they have the privilege of reading factual reporting and editorializing and are able to make up their minds in a clear way. The Scottsdale Republican Women's Club has passed a resolution on the ABM which reflects the feeling that I find expressed in my mail, which is running about 5 to 1 in favor of the ABM, and this mail comes from all over the United States. I ask unanimous consent that the resolution be printed in the RECORD.

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

SCOTTSDALE REPUBLICAN WOMEN'S CLUB RESOLUTION ON ABM

Whereas, on April 18, 1969 President Richard Nixon said: "I'm going to fight as hard as I can for the anti-ballistic missile system because I believe it is absolutely necessary to the security of the country," and

Whereas, Secretary of Defense Melvin Laird provided ample evidence for this decision, in his testimony before the Senate Armed Services Committee in March, 1969, to wit:

(1) the Soviets "are going for a first-strike capability";

(2) the Soviets now have more than 200 "accurate" missiles of 20 to 25 megatons (which are 20 to 25 times the size of 95% of United States missiles);

(3) the Soviets have caught up with and passed the United States in numbers of land-based nuclear missiles, and are continuing to deploy more at a rapid rate;

(4) in slightly more than two years, the Soviet nuclear missile force has increased more than threefold, while the size of the United States nuclear missile force has been frozen;

(5) the Soviets have "deployed" and "launched" orbital bombs (the FOBS), which could be equipped with nuclear warheads;

(6) at the present time, the United States has no installed anti-missile defense, but the Soviets have been deploying their anti-missile system for the last three years, and are currently spending $3.70 on defensive nuclear forces to every $1.00 spent by the United States;

(7) the Soviets are "going forward with the deployment" of Polaris-type nuclear submarines at the rate of seven per year and it is anticipated that they will be "comparable" to our Polaris fleet by 1971–74;

(8) our Polaris-Poseidon submarines will be vulnerable to a Soviet attack in about three years because of Soviet weapons advances;

Resolved, that the Scottsdale Republican Women's Club declare its full support of President Nixon's proposed Safeguard anti-ballistic missile system and urge the Congress and the Defense Department to proceed with the rapid deployment of ABM defenses to protect our nation from any Soviet or Red Chinese nuclear attack.

Passed June 5, 1969, Scottsdale, Arizona.

COAL MINE SAFETY

Mr. KENNEDY. Mr. President, during the first 4 months of 1969, 74 men have lost their lives in the Nation's coal mines. This represents a 17-percent increase in fatalities over the same 4 months of 1968, when 63 miners lost their lives. The frequency rate has increased for that period from .89 fatalities per million man-hours of work in 1968 to .96 in 1969.

Time and again over the last several months, the need for effective legislation to protect our coal miners has been documented beyond doubt.

The Subcommittee on Labor, under the chairmanship of the Senator from New Jersey (Mr. WILLIAMS), has recently concluded extensive hearings on coal mine health and safety legislation. I understand that it will soon begin executive consideration of the legislation, including S. 2284, which was introduced by Senator WILLIAMS after a review of the hearings and visits to coal mines.

Mr. President, I ask unanimous consent that a New York Times editorial on the Williams of New Jersey bill and the need for legislation be printed in the RECORD.

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

[From the New York Times, June 8, 1969]

MAKING THE MINES SAFE

If Congress intends to make a real contribution to cutting the scandalous death toll in the coal mines it will approve the substance of a mine health and safety bill introduced by Senator Harrison A. Williams Jr. of New Jersey.

While the Williams bill contains some technical flaws that could and should be corrected, the measure is basically an excellent example of legislative responsibility. It is the fruit of Senate hearings that gained urgency from the disaster in which 78 West Virginia miners were entombed last November. It adds strengthening provisions to the good bill that was put before Congress in the closing days of the Johnson Administration and improved by Nixon-backed revisions. The result is a measure that promises, for the first time, to give the men who dig the nation's coal the kind of protection they should have against black lung and fatal accidents.

It will be a disgrace if the efforts of the coal lobby frustrate this attempt to insure that the human cost is removed from the half-billion tons of coal consumed each year by American homes and industry.

HAWAII POLL REVEALS 65-PERCENT SUPPORT FOR NIXON ON FOREIGN AFFAIRS

Mr. FONG. Mr. President, President Nixon and his family honored the people of Hawaii by their visit last weekend to our mid-Pacific State during the President's mission to Midway in the cause of peace.

The President, Mrs. Nixon, their daughters Julie and Tricia, and their son-in-law David Eisenhower made a tremendous impact on the people with their warm and gracious manner. There is no question they won widespread aloha from Hawaii's citizens.

Even before the President's trip to Midway, there was considerable sentiment in my State that the President is doing a good job in foreign policy. My annual public opinion poll this year revealed that two out of three of those responding believe that President Nixon is doing a good job in foreign affairs and that he has also helped raise U.S. prestige around the world.

The poll was conducted by mail, going out to 60,000 families on all the islands, and had a 7-percent response. I am told that this is a good response for a mail questionnaire. The respondents gave strong support to President Nixon's performance, conforming with nationwide survey results. My poll showed 65.5 percent replying "yes"; 8.4 percent "no"; and 26.1 percent "not sure."

The Gallup poll of early May showed 64 percent expressing approval of the way President Nixon is handling his job; 14 percent said they disapproved; while 22 percent did not express an opinion.

On the question on my poll as to whether the President has helped raise U.S. prestige around the world, the response broke down to 65.3 percent "yes"; 11.8 percent "no"; and 22.9 percent "not sure." By contrast, my poll in 1968, taken during the previous administration, showed 77 percent believed U.S. prestige was falling around the globe; 12 percent disagreed; and 11 percent were "not sure."

Again, this year's findings on the prestige question correlate with an international report made in April, in which directors of 26 Gallup-affiliated organizations around the world reported that President Nixon appears to have won many new friends abroad.

My poll also included three questions on the war in Vietnam. The results on these were as follows:

First. "Do you think the United States and her allies are winning the war in Vietnam?" The replies: 26 percent "yes"; 42.9 percent "no"; 31.1 percent "not sure." The identical question last year brought these replies: 23 percent "yes"—that we are winning the war; 50 percent "no"; 27 percent "not sure."

Second. "Should the United States unilaterally pull out of Vietnam?" The replies: 31.4 percent "yes"; 53 percent "no"; 15.6 percent "not sure." Last year the response to this question was 26 percent "yes"; 53 percent "no"; 21 percent "not sure."

Third. "If North Vietnam continues to attack South Vietnamese cities and there is no progress in the peace talks, should the United States resume bombing of North Vietnam?" The replies: 74.8 percent "yes"; 13.8 percent "no"; 11.4 percent "not sure."

This question was not asked in last year's poll as the bombing halt took place in November, after the questionnaire was sent out. However, an indication of sentiment can be seen in the response to the following question last year: "Should the U.S. stop bombing North Vietnam to encourage peace talks even without assurance from North Vietnam leaders that they will not take advantage of a bombing halt?" 75 percent of the replies were "no"; only 19 percent said "yes"; and 6 percent were "not sure."

The other questions and replies on this year's poll were:

"Should Red China be admitted to the U.N.?"—23.8 percent "yes"; 54.5 percent "no"; 21.7 percent "not sure."

"Should the Republic of China (Taiwan), which now has a seat in the U.N., be ousted from the U.N. if Red China is admitted?"—5.7 percent "yes"; 86.1 percent "no"; 8.2 percent "not sure."

"In view of the border clashes between Russia and Red China, do you believe Russia will come to an early agreement on disarmament with the U.S.?"—14.8 percent "yes"; 51.4 percent "no"; 33.8 percent "not sure."

"Do you believe Russia's invasion of Czechoslovakia endangers peace in Europe?"—68.6 percent "yes"; 18.6 percent "no"; 12.8 percent "not sure."

WHAT LABOR EXPECTS FROM THE ECONOMY IN THE 1970's—SPEECH BY IRVING STERN

Mr. JAVITS. Mr. President, Mr. Irving Stern, director of organization of Local 342 of the Amalgamated Meat Cutters and Retail Food Store Employees Union of North America, recently spoke before the 22d annual conference of the Financial Analysts Federation on what labor expects from the economy in the coming decade. Mr. Stern's speech is most interesting as a forecast of what we can expect to be the concerns of the labor movement in the coming years and deserves wide public attention. I therefore ask unanimous consent that Mr. Stern's speech be printed in the RECORD.

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

WHAT LABOR EXPECTS FROM THE ECONOMY IN THE 1970'S

In order to understand what labor expects from the economy in the 1970's it is imperative to understand where labor is at and how it sees itself as we move out of the last few months of the 60's and head into a seventh decade of the Twentieth Century.

And, when we speak of labor, we mean blue collar and white collar workers, government employees and farm laborers, bus drivers and school teachers, organized and unorganized, all of the 76,000,000 people who work for a living in the year 1969, in the United States.

Every recent study of worker attitudes notes mounting frustration, and, very much like students and Blacks, an alienation, verging on revolt.

Told on all sides that he "never had it so good", the average worker never felt so insecure and estranged from the economic and political processes of our country.

In short, he feels he is behind the "eight-ball" and that society doesn't care about him and his family.

More than that, he violently resents the blame placed upon him for higher prices, because he fights, for increased wages. He resents being told that his need for security in old age pushes Social Security deductions up. That his need for better housing and more significant education, more modern hospitals, pushes taxes up.

Workers are being told they are now "middle-class", as measured by their income.

But what does this mean to the worker, aside from the statistical information.

The median income of families, according to the United States Department of Commerce, reached $8,000 for the first time in 1967.

But, according to the United States Department of Labor, a "modest but adequate" family income calls for $9,191 a year.

So while median family income has increased by about 3 to 4 percent per year on an average basis, it is still not adequate for their needs.

To measure this in another way: In 1959, 6 out of every 15 families were at or above the "moderate" income level. In 1966 however, there were only 5 out of 15 families at this level.

And while 44 percent of Americans have moved above the poverty level in the last ten years, the shocking fact is that there are still 26,146,000 living on an income of less than $3,300 a year, in this, the proclaimed, "most affluent society" in all history. This includes 10.3 percent of all whites and 35.4 percent of all non-whites in the country.

These statistics of 1967 do not take into account the bite which inflation and the tax bite have taken out of the average workers income the past year and a half.

During 1968 the weekly earnings of the average factory worker rose $8.47 during the year to $125.97—but practically all of this increase was consumed by higher prices and increased federal, state and local taxes, higher social security and higher interest rates for debts.

According to Bureau of Labor Statistics the average factory worker saw his real buying power go up only $1.03 a week in the past year with many suffering a loss in this area.

These bare-bone statistics manifest themselves in the reaction of a typical worker in the median category as reported recently by a magazine interviewer.

"I'm going out of my mind" an ironworker named Eddie Ash told the interviewer a short time ago.

"I average about $8,500 a year, pretty good money. I work my head off but I can't make it.

"I come home at the end of the week, I start paying the bills, I give my wife some money for food, *and there's nothing left.*

"Maybe, if I work overtime, I get $15 or $20 to spend on myself. But most of the time there's nothing.

"They take $65 a week out of my pay. I have to come up with $90 a month rent.

"But every time I turn around, one of the kids needs shoes or a dress or something for school.

"I can't make it."

In light of this is there any wonder at the growing bitterness of the average worker when he reads that the rich are evading their share of taxes through major loopholes for oil and mineral depletion allowances, tax free income from municipal bonds and capital gains. Or, as sometimes is the case, he mistakenly condemns the billions being spent to help sustain people living on Welfare.

Despite all the sociologists talk about the worker moving into the middle class, this financially pressed, debt ridden, insecure average working American sees himself financially only a notch above the lowest income strata.

In fact, 67% of all American families earn below the Department of Labor's "modest but adequate" family income.

This salient fact, among others, in part explains the substantial increase in the number of contracts which the organized workers are rejecting in current collective bargaining.

Increased education and improved communication, has taught workers that a 10% increase does not necessarily mean a meaningful improvement in real income—and resentment increases in direct proportion to their seeing wage gains destroyed by higher prices and higher taxes.

Against this background of frustration and resentment in the closing months of 1969, what can labor expect from the economy over the next ten years?

* * * * * * * * * *

Obviously the answer to this question will depend upon the economic, social and political developments of the next decade.

I wish to touch on some of the elements which I believe will influence the possibility of the fulfillment of labor's expectations, leaving to my colleagues to fill in the specifics.

The primary force shaping the future, of course, will be the economy.

It is anticipated that by the middle of the 1970's the economy of our country, which has been growing at an annual rate of four to four and one-half percent, will pass the trillion dollar a year mark.

This growth has been accompanied by fluctuating unemployment, recessions and inflationary spurts which have caused enormous waste, inefficiency, and hardship to millions.

Unemployment averaged 4.3 percent of the labor force from 1948 to 1957 and 5.3 percent from 1958 through 1967. Currently it stands at 3.5 percent, lower than it has been for a long time, but not as low as in many other industrialized countries.

During this period from 1948 to 1968, inflation, as measured by the Consumer Price Index, has risen about 39 percent. A figure which we all recognize must be further improved upon.

The achievement of economic stabilization which would bring a lower rate of unemployment, and a slower rate of inflation is one of the main problems confronting the economy. It would also have tremendous impact upon labor and its demands of the future.

Other factors which will determine the course of the economy and influence its future performance are rapidly improving technology and automation.

Obviously the manner in which these factors are applied to the labor force will shape labor's attitudes. If these developments are used for the benefit of all—industry and labor—there will be acceptance; to the de-

gree that they are used to displace workers, I anticipate firm resistance.

Another significant trend of importance is the rapid growth in the labor force occuring in the more stable employment sectors of white collar workers and the services, trade and government.

This is being accompanied by a narrowing of the differential between paying a man to produce and paying him on lay-off through higher unemployment compensation and supplementary unemployment benefit programs.

With the emergence of the trillion dollar and more economy during the 1970's it is predicted that workers and their families can expect about a 40 to 50 percent increase in median family income, from roughly about $8,000 to $11,000–$12,000.

The major problem confronting our nation will be how to lift up, economically, the more than 26,000,000 Americans which a Census Bureau study reported out last week, showed to be living in dismal poverty in 1967.

In a widely heralded "affluent society" it is of no small significance that 10.3% of all white families and, *note this, 35.4% of all non-white families have an income of $3,000 and less a year.*

Equally important to note is that 41.4 percent of all families had incomes of less than $5,000 annually.

Certainly labor will expect much better results from the economy in the 1970's.

If there is to be continued growth and so-called affluence for some segments of the American people, then labor has every right to expect the total elimination of unemployment and poverty.

Undoubtedly this attitude, will in a large measure influence the expectations and goals of labor in the next decade.

Another emerging trend is the correlation between education and higher incomes.

According to the Census Bureau study, families with a head 25 years of age or older who had only an elementary school education achieved a median income of $5,508 in 1967.

Those who had had some high school education obtained $8,406; some college education, $10,176; four years of college, $12,058 and five or more years of college, $13,588.

Since it is becoming clear that a major path to climbing the economic ladder is through increased educational opportunities, I suggest that a big demand will be a greater number of years of free education, both academic and technical, for workers and their children.

Labor will expect greater investment in all levels of education ranging up to college, and new methods of instruction and training.

Increased technology and automation will bring about demands for upgrading the level of education of older workers and retraining those who will be compelled to adjust to new methods of production.

The academicians are beginniing to predict the emergence of a "post-industrial" society. Just as agriculture provides most of the food and fiber required by our nation with the employment of a little more than five percent of the work force, so industry, it is said, will be able to supply most of our manufactured goods, raw materials and construction with a declining work force.

Production is increasing so rapidly, we are told, that our economy can produce all the needs of society with only a fraction of the present labor force.

This development, if valid, suggests a changing attitude of labor toward the traditional 40-hour work week in industry and indeed with regard to the whole Puritanical concept of work.

Leisure time in the form of increased vacations and sabbaticals will become a part of labors expectations from the economy.

With machine and computer replacing manual labor as a producer of goods, there will be a changing attitude toward work and leisure—*with both accepted as valid activities.*

Another major influence on the expectations of labor in the 1970's is the 15 million increase in the labor force with an anticipated 40 percent increase in the 20 to 35 year age group.

One out of every four new employees will have attended college.

It will contain more women and Negroes.

It will embrace a growing segment of professional and technical personnei capable of handling complex machinery and computerization of our manufacturing processes. (And for the first time in history they will outnumber skilled craftsmen.)

It will be a more fluid labor force which will identify with its professional skills and personal goals rather than the organization it serves.

This age group in main will not only be better educated and less conformist, but its expectations and goals will have been shaped by the propaganda of an affluent society.

There are no memories of depression and the tough forties among the new entries into the labor force. They have grown up with the belief that the economy can afford to provide a higher standard of living than enjoyed by their parents—and a standard which must be constantly improved year after year.

Still another factor is the increasing integration of non-whites into the labor force—at a rate of half again as fast as whites.

This combination of youths and Blacks will, in my opinion, shape the developing goals of labor in the coming period particularly as the helm of leadership passes from the now established and more moderate labor veterans of the struggles of the 30's and 40's to new leadership of the 1970's.

Increasingly, we can expect Black leadership in the organized sector of the labor movement, particularly, in industries with a low wage structure where Black members form a considerable section of the membership.

This will undoubtedly stimulate labor's still greater involvement in the struggle against poverty and for first-class citizenship for Blacks, Mexican-Americans and other minority groups.

It will increase efforts to organize migrants and other farm labor who are among the greatest victims of society's indifference to hunger and poverty in our midst.

Another trend which will shape labor's expectations is the development of coordinated bargaining by unions in different industries and jurisdictions. This will keep pace with the growth of conglomerates in our economy.

As unions pool their resources and power they will become more effective in their bargaining relationships with industry.

Differentials in wages and benefits between industries and between areas, particularly in the rapid industrializing South, will be narrowed if not ultimately eliminated.

Labor will seek double purpose pay raises in the 1970's.

In the first instance will be increases which are higher than the rise in living costs, so workers can increase their purchasing power.

The second purpose will be to enable labor to share in the increasing productivity (output per-man per-hour) and the wealth of our nation, which is making more goods and services available.

This is manifested by the growing pressure by workers for either shorter term contracts than the current three year norm, or the inclusion of cost of living escalator clauses, which rise as prices increase.

It takes another form, in the demand for reopening of negotiations in longer term contracts as prices rise.

Labor is beginning to spearhead public pressure upon government and other institutions to find solutions to the urban blight, air and water pollution, traffic congestion, use of nuclear power, educational inadequacies, tax inequities, consumer product standards, indeed the whole "quality of life" in our society.

Improved and instant communication has made our nation less regional in character. It has made labor view our economy and society as more national scope with all its attendant implications.

Labor expects government and, yes, business as well, to help solve the complex problems facing our nation. *It also expects to have a voice in developing these solutions.*

On the key question of unemployment and poverty there is a growing mood that if the private sector cannot provide jobs, then the government must provide work, as the "employer of last resort" for the hard-core unemployed.

Still another influence in shaping labor's expectations is the role of federal, state and municipal government as an employer. It is expected that public employment will continue to expand, as our society demands more and more services.

This area is the fastest growing sector of unionization as we enter the Seventies, and some of the wage and fringe benefit achievements obtained in collective bargaining are becoming patterns for the private sector of the economy. This is particularly true in the area of pension benefits which in the past has induced more security-minded workers to seek employment in Civil Service.

Indeed its role, not only as an employer but as an intervenor in collective bargaining in an effort to influence the outcome in the national interest, will cause increasing conflict in labor relations. To the degree that profits outpace workers gains, this intervention will be resented and fought.

We all recall the lesson of the aerospace workers who rejected former President Johnson's moves to force a settlement within the confines of the so-called wage-price guidelines which led to a major break through in the thrust for higher wages for all labor. *It suggests further that less government intervention, and not more, is called for in the 1970's.*

No doubt increasing costs of labor has an impact on government costs through its huge expenditures in the private sector. But if we are to reduce conflict in labor relations it is incumbent upon government to solve this problem by compelling industry to augment its efficiency, reduce waste of resources and manpower and finally to reduce its exorbitant profit margins in government projects—rather than force labor to bear the burden.

Finally, I believe that in the organized sector of labor, which often sets the pace and standards for the balance of the work force, there will develop a more sophisticated understanding of the collective bargaining process, particularly as younger and better trained negotiators begin to play a major role.

We are living in a constantly changing and complex society.

Aspirations frequently outrun performance, leading to frustration and more frequently, rejection of all forms of leadership.

Increased education and training has brought forth demands by workers for control in the decision-making process affecting their lives.

To the extent that this is taken into account during the transition of our economy and society in the 1970's, the change will take place peacefully.

I believe we are entering a decade of social revolution in the 1970's.

If the student and Black revolts are telling us something it is that the "have nots" are determined to enter the ranks of "haves."

The Blacks, Mexican-Americans and poor Whites are demanding an end to poverty which has strangled those who came before them and more significantly dooms future generations to more of the same.

The youth of our country have rejected society and its institutions for failing to practice what it preaches—namely, to provide a meaningful, fulfilling and peaceful existence for all people in our country and throughout the world.

Labor, as it enters the 1970's, expects the economic, political and social leaders of our nation to bring us into the next decade with giant strides toward the solution of all the problems confronting us at the end of 1969 and above all, prepared to solve the new problems of the 1980's.

OIL QUOTAS IMPAIR OUR NATION'S SECURITY

Mr. PROXMIRE. Mr. President, I expect to present to the Senate next week a detailed analysis of how the special tax treatment received by the oil industry is actually injuring our Nation's security rather than helping it. I also expect to discuss when we debate the resolution (S. Res. 85) expressing the sense of the Senate relative to commitments to foreign powers under what authority the State Department proceeded in signing the secret agreement with Canada limiting the importation of Canadian oil in apparent violation of the Presidential proclamation establishing the mandatory oil import program and the legislation authorizing him to do so.

I have just read an excellent article in Fortune magazine on this point.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the article entitled "Our Crazy, Costly Life With Oil Quotas," written by Allan T. Demaree, and published in Fortune magazine for June 1969.

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

(See exhibit 1.)

Mr. PROXMIRE. Allan T. Demaree, the author of the article, has poignantly pointed out the inconsistencies and inequities in the present oil import program which impair our Nation's security. I quote some of his conclusions:

The U.S. today finds itself saddled with an expensive, muddled, and unseemly system of import restrictions because it has ignored the dictates of rational economical policy making. The government has not determined how large a reserve of oil the U.S. would need in the event of a foreseeable emergency. Nor has it tried to adopt the least costly method of providing such a reserve. It has preferred to rely on senseless protectionism—a policy it must now abandon.

No doubt exists that the U.S. can provide for its emergency needs at less cost than under the current system. Since the government has never taken the trouble to weigh the alternatives, the methods—or combination of methods—that make the most sense are not yet clear . . . the most important consideration is that all courses be examined with an open mind.

The cost and the maladministration of the quota system have raised cries for its abolition. Much can be said for that direct solution. But it may be that some form of import restrictions, less onerous than those now in effect, has a place in a rational oil policy. If so, those restrictions must be adopted on the rational grounds that they enhance U.S. security at a tolerable cost—not because they prop up the domestic industry in its present inefficient form. The government must quit mixing defense considerations with protectionism, as it has done so dramatically, and shamefully, in its efforts to keep Canadian oil out. At the very least, the U.S. should permit the free movement of oil from Canada, a country with which we enjoy uniquely close relations. The government should also put pressure on the states to abandon those regulatory practices that stifle efficiency. The time has come to allow a fresh breath of competition to blow through the industry.

Mr. President, those are my thoughts exactly, I commend them to Senators who are troubled about the state of our Nation's security.

EXHIBIT 1

OUR CRAZY, COSTLY LIFE WITH OIL QUOTAS

(By Allan T. Demaree)

The quota system that chokes off the free flow of oil into the U.S. costs the nation billions and shelters gross inefficiencies in the domestic crude-oil producing industry. Imposed in the name of national security just a decade ago, it has become the object of mounting discontent. It has given government officials the power arbitrarily to parcel out enormous fortunes to individual companies. It has been administered with ever increasing ineptitude, bringing about the most heavy-handed bureaucratic meddling in the marketplace. And it has caused huge domestic industries, regions of the country, and even nations to pit themselves against one another in an unseemly battle for political favor in Washington. All in all, the quota on oil imports has proved to be one of the most ill-conceived and ill-executed Federal regulatory schemes since the abortive flight of the NRA's Blue Eagle.

Once above earnest scrutiny in Congress, the oil quota is now being subjected to searing criticism there. Democratic Senators William Proxmire of Wisconsin, Ted Kennedy of Massachusetts, Edmund Muskie of Maine, all from consumer states, have repeatedly lambasted it in recent months. "The system reeks and is ripe for change," Senator John Pastore, a Rhode Island Democrat, proclaimed on the Senate floor. "The industry should know that this is a time of consumer revolt." A small army of economists paraded before Senator Philip A. Hart's antitrust and monopoly subcommittee a few weeks ago denouncing current policies as expensive, wasteful, and administered on dubious principles. And on the other side of the Capitol, Chairman Wilbur Mills and his powerful Ways and Means Committee have been giving the oil industry added jitters by questioning the 27½ percent depletion allowance, a provision that, like the quota, has been supported on grounds of national security.

Not even the oil industry is satisfied with the way the quota system is run. Charging that the government has favored a few companies at the expense of most, the American Petroleum Institute urged President Nixon to undertake the first serious review of the quota system in seven years, a task Nixon has delegated to a Cabinet committee headed by Secretary of Labor George P. Shultz, former dean of the University of Chicago Business School. What the committee recommends after studying the turbulent history of oil quotas will undoubtedly prompt some changes. The decision to impose quotas was founded on an astonishing dearth of clear-headed analysis, and the system has since drifted through a series of compromises that have satisfied no one. This experience should make government officials chary of extending similar protection to the swelling number of industries that have beaten paths to Capitol Hill and the White House in recent years. These quota seekers range from the giant steel companies to the American Beekeeping Federation, which argues that without a protected market for honey, the U.S. will surely lose bees essential for pollinating crops, from alfalfa to garlic.

A $4 BILLION PRICE TAG

By erecting quota barriers, the government limits the amount of foreign oil that is brought into the U.S., currently to about 21 percent of domestic consumption. This has saved most of the U.S. market for domestic crude-oil producers, and has helped to maintain the wellhead price of U.S. crude at about $3 a barrel, more than twice the price of crude in the Middle East. Even after adding on shipping charges and import duties, Middle Eastern and Venezuelan crude has been landed on the east coast in recent years for $1.25 to $1.40 less per barrel than crude produced in Texas and Louisiana.

The cost to consumers of this restrictive import policy is impossible to determine exactly; but reasonable estimates put the price tag at about $4 billion a year—more than the combined budgets of the six New England states. The restrictions on foreign crude result in higher gasoline and heating-oil prices. They also increase costs to industries that use oil for fuel and raw materials. This fact has hardly escaped the notice of petrochemical producers, who constitute one of the largest manufacturing industries in the nation. They complain vociferously that they cannot continue selling in world markets while using raw materials that cost more than those available to their foreign competitors.

Moreover, the gap between domestic and world crude prices has been getting wider, increasing the cost of import restrictions. Only seven years ago the difference in price between domestic and foreign oil on the east coast was about $1 a barrel. But domestic crude-oil producers, walled off from competition by the quota barriers, have been jacking up their prices recently (15 cents a barrel since January). This has occurred even as the world price of oil has been declining because of robust competition and the development of huge tankers that have cut transportation costs in half during the past ten years. The decline in the delivered price of foreign oil was interrupted in 1967 by the Arab-Israeli war, but resumed last year.

Import quotas shore up the system of state regulation that has been keeping domestic crude prices high for years (see "U.S. Oil: A Giant Caught in Its Own Web," FORTUNE, April, 1965). The big producing states, Texas and Louisiana, which account for more than half the nation's output, hold production down to the amount the market will absorb at high prices. Simultaneously, this state system, called market-demand prorationing favors inefficient producers over efficient ones. The states allow hundreds of thousands of so-called "stripper wells" to produce freely, pumping out an average of 3.6 barrels a day, while they cut back the flow from efficient wells that could produce far more at lower costs. Henry Steele, an economist at the University of Houston, estimates that if market-demand prorationing had been abolished in 1965, production costs would have fallen 46 percent in Texas and 38 percent in Louisiana. The free flow of cheap foreign crude into the U.S. would, of course, undermine these state-run cartels. It would force inefficient producers out of the industry by lowering the price of crude.

"I GOT BY WITHOUT A SCANDAL"

The oil industry's stake in the quota system is prodigious. By fiat, the government divides, mainly among U.S. refiners, the foreign oil that is allowed to enter the country. The Interior Department's Oil Import Administration dispenses import allocations, or "tickets" as they are known in the industry; a ticket to import one forty-two-gallon barrel of crude oil into the east coast has a value of about $1.25, the approximate difference between domestic and world prices.

The value of the tickets being handed out right now comes to nearly $1 million a day. Some companies have received as much as $35 million in tickets in a single year. The tickets awarded Standard Oil Co. (New Jersey) since the beginning of controls are conservatively valued at $305 million; Gulf Oil, $290 million; Standard Oil of California, $265 million.

Needless to say, decisions on how the tickets are to be split up—who will be allowed a share, who won't, and in what proportion—bear heavily on the profits of individual companies. During the Kennedy-Johnson years, Stewart Udall, the then Secretary of the Interior, had much to do with the way these valuable licenses were passed around, and his decisions were subject to impassioned polemics. "A small decision meant a lot of money," he recalled recently. "It was a minor miracle that I got by without any major scandal."

While the benefits of tickets given to industrial giants like Jersey, Gulf, and Socal seem breathtakingly large, little refiners gain relatively more than big ones. The government has built a small-business subsidy into its allocation system. While Jersey was granted one barrel of foreign oil for every twenty barrels of domestic oil it processed last year, scores of small refiners in the country were given a barrel of foreign crude for every five of domestic. This subsidy has undoubtedly kept many a marginal refiner in business.

All refiners receive tickets whether or not they process foreign crude. Many inland refiners can't use imported crude because the transportation costs are prohibitive. So they trade their tickets to the great coastal refiners in return for domestic crude and, in effect, pocket the $1.25 differential. A robust trade in tickets has grown up. For many of the smaller inland refiners, ticket swapping may well be the most lucrative transaction of the year.

The oil industry and its regulators argue heatedly that this system is essential to the national security. Indeed, a forceful case can be made for the proposition that the U.S. must maintain a strong crude-oil producing industry lest it become overly dependent on foreign sources for the great bulk of its supply. Much of the world's crude is produced in unfriendly or unstable countries, such as the Middle Eastern states that embargoed supplies to the West for twelve weeks in 1967. If the U.S. were to become overly dependent on foreign sources, there would be no guarantee that sheiks, shahs, and South American politicos wouldn't try to wield their power over this vital strategic commodity to influence our foreign policy.

Domestic crude-oil producers seized upon this argument not in a moment of international crisis, but when they were hurting economically. By 1948 the development of low-cost sources in the Middle East and Venezuela had transformed the U.S. from a net exporter to a net importer of oil. Ten years later foreign crude had captured 18 percent of the U.S. market. Domestic producers were both injured and insulted when a few refiners landed Middle Eastern oil in Texas ports, and others had the temerity to ship Venezuelan crude past Louisiana's oil wells and up the Mississippi.

The surge of imports shoved U.S. crude out of its accustomed markets. The Texas Railroad Commission, which controls production in that state, shut regulated wells down to eight producing days a month in 1958. "The torrent of foreign oil," declared Commission Chairman Ernest O. Thompson, "robs Texas of her oil market," costing the state nearly $1 million a day. To the argument the the U.S. mustn't become dependent on foreign oil, domestic producers added a corollary: if producers are to have sufficient incentive to explore for future supplies in the U.S., they must be guaranteed a fair share of the American market at prices they consider adequate.

So persuasive were these arguments that President Eisenhower twice tried to curtail imports on a voluntary basis. When that failed, he acted on producers' pleas for mandatory quotas in 1959. As his aide Sherman Adams recalls in his memoirs, Eisenhower's action "was primarily an economic decision brought on by an economic emergency." It was executed by presidential proclamation on the basis of national security, the only grounds then available under international trade agreements for the unilateral imposition of quotas. To this day oil remains the only commodity in which the U.S. restricts imports for reasons of national security.

HOW MUCH IS TOO MUCH?

While something can be said for the national security argument, many questions about it have gone unanswered. What is "overdependence on foreign oil"—the current level of 21 percent, or 11 percent, or 31 percent? A quarter of all imported crude comes via underground pipeline from Canada. While tickets are not needed to import Canadian oil, the amount imported is limited by bilateral agreement and deducted from the total allowed under the quota. Is this crude less secure than that shipped to east-coast refineries from the Gulf of Mexico by tankers, which are vulnerable to submarine attack? Are we willing to build an antiballistic-missile system with the cooperation of our neighbor to the north, but unwilling to depend on it for oil?

Two-fifths of our crude imports come from Venezuela, which is as close to Philadelphia Harbor by tanker as Texas City, Texas. This leaves less than a fifth of our crude imports—and less than 3 percent of the total U.S. crude requirement—coming from the volatile Middle East. Would a cautious increase in this amount involve grave danger to the national security?

The very nature of modern war mocks a policy of oil isolationism. Nuclear attack would almost certainly destroy more American refining capacity than production, leaving the U.S. with more crude than it could process. In limited wars like Korea and Vietnam, on the other hand, the U.S. has relied to an increasing extent on foreign oil because the supply lines are shorter and the price is lower. More than three-quarters of the oil used in Vietnam last year came from foreign sources, much of it from the Mideast.

Other questions have barely been broached in government circles. Is subsidizing the domestic crude-oil industry—with all its state-supported inefficiencies—the cheapest way to meet our national security goals? If the U.S. were willing to pay the price—if, for example, crude went to $5 a barrel—many other domestic fuels would come on the market. A price high enough would prompt companies to synthesize liquid fuels from coal and produce oil from the vast shale deposits of Colorado, Utah, and Wyoming, where estimated reserves total two trillion barrels—enough for four hundred years at current rates of consumption.

In fact, many alternatives exist that may be cheaper than today's subsidies. The U.S. could diversify foreign sources to limit risk. Or stockpile oil in storage tanks or underground. Or pay companies to explore for oil on federal lands and hold these reserves for an emergency. While none of these alternatives wins huzzahs from the oil industry, all deserve more serious examination than they have received in the past. Otherwise, the U.S. will continue buying insurance at high premiums.

The need for probing the alternatives is dramatized by two comparisons. First, quotas are defended on the grounds that they encourage oil companies to explore in the U.S. Yet total industry expenditures for oil exploration and development in this country amount to less than $3.3 billion a year. This is well below the $4-billion cost of the quotas and the inefficiencies they protect. Moreover, the quota system is not the only subsidy to the industry rationalized on the basis that it encourages exploration. The depletion allowance and the right to expense intangible drilling costs are estimated to reduce the domestic industry's tax bill by more than $1 billion a year.

As one might expect, oil executives argue that an end to quotas would severely blunt their incentive to search for oil in the U.S., where production costs are higher than elsewhere in the world. Says Richard C. McCurdy, the president of Shell Oil, "We'd stop exploring. We'd slowly liquidate our U.S. production." Both Jersey Standard and Atlantic Richfield say they probably would not have looked for the titanic reserves on the North Slope of Alaska if they had anticipated selling that oil at $2 a barrel rather than $3.

Yet no one can say for sure whether incentive would really be dulled if import controls were relaxed and market-demand prorationing died a timely death. In fact, it can be argued that incentive might ultimately be strengthened because efficient producers could pump more oil at lesser unit costs. This would make low-cost, high-production reservoirs, such as those in the Gulf of Mexico and Alaska, more profitable to search out and develop. Large amounts of U.S. production probably could compete profitably with foreign oil today if only the incubus of regulation were lifted. Exactly how much is not known. Oil companies jealously guard information on their production costs, yet this information is essential if policy makers are to judge how much protection American oil needs. Amazingly, the government has never pressed the industry for this critical data.

The high costs of current policies are also pointed up by comparing them with the expense of storing oil for emergencies. A recent study by M. A. Adelman, an economist at M.I.T., shows that Europe could purchase and store 2.2 billion barrels of oil, a six-month supply, for a total annual expenditure of $770 million. Even if the costs in the U.S. turned out to be four times higher than Adelman's estimates for Europe, they would be far less than the price of current protectionist policies.

During the Suez crisis of 1967—the only time that foreign supplies have been disrupted since the imposition of quotas—U.S. domestic production was increased by more than 100 million barrels. The increase was not to meet U.S. emergency needs, but to supply Europe. This oil cost the U.S. over $300 a barrel when the expense of maintaining quotas for the past decade is figured in. If the U.S. is maintaining expensive, spare producing capacity to supply Europe, a fair question to ask is whether the Europeans, who buy cheap oil from the Mideast day in and day out, shouldn't pay for a bit of their own security.

A NIMBUS OF AUTHORITY

The original government report recommending import restrictions ignored many important questions. It was thrown together in eight weeks by a White House-appointed task force made up of an oilman, a coal executive, an investment banker, and a judge. Although the report revealed nothing more sensitive than its own lack of erudition, it was kept under security wraps for six years, acquiring a nimbus of authority with age like a Chinese grandfather. Three years later a Cabinet committee rejected out of hand alternative proposals for assuring a safe supply. For the government to contract out the search for reserves was dismissed in a sentence as both "contrary to the principles of free enterprise" and "costly," although no effort was made to assess the expense. The costs of the present system were not seriously considered until 1962, when a committee ap-

pointed by President Kennedy put the price at about $3.5 billion a year, and urged that controls be liberalized to permit "a modest increase" in imports. Kennedy ignored the recommendation, however, and instead tacked the quota lid down still tighter.

During the Kennedy years, federal oil policy was directed from the White House. When Lyndon Johnson took office, he sensed that oil decisions could prove embarrassing to a President from Texas. So he made a point of delegating authority to Interior Secretary Udall, although Udall allows that "in one or two instances people in the White House tried to get a heavy oar into oil matters." Nixon has snatched oil policy back to the presidential bosom. Last February, Michael L. Haider, chairman of Jersey Standard and of the American Petroleum Institute, met with presidential counselor Arthur Burns to urge the review of import controls that has since been undertaken.

The choice of a chairman for this sensitive, Cabinet-level study proved an *Alphonse et Gaston* affair. Robert Ellsworth, a key White house aide before being named Ambassador to NATO, advised Nixon to pick Burns; but Burns attached a covering note to Ellsworth's memo pleading that he was too busy. Nixon's choice of Shultz, a widely respected economist, came as a surprise. The President explained it by saying that the Labor Department had "no direct involvement in the issues to be weighed," so Shultz could remain detached. Until the study is completed this fall no major moves in oil policy are expected.

SQUABBLING OVER THE SPOILS

Founded on a questionable rationale and ensnarled in confusion about its goals, the oil quota system has proved unusually susceptible to the buffeting of pressure groups. Because the stakes are so high, great corporations, politically powerful regional interests, and major oil-exporting countries squabble fiercely over the benefits oil quotas bestow.

Venezuela, which earns 92 percent of its foreign exchange from oil exports, stands vigil lest the slightest change in U.S. policy decrease its markets. So concerned was former President Romulo Betancourt, in fact, that when John Kennedy installed a "hot line" to South American capitals in 1962, Betancourt was the first to call Washington, audibly agitated over rumors that Kennedy was going to reduce quotas. And when Secretary Udall allowed Phillips Petroleum to switch its purchase of about $40 million worth of oil from Venezuelan to other sources, Venezuelan officials marched on Washington in a fury. As a result, the White House and State Department pressured Udall into reserving his decision, after a dispute that left President Johnson and his Interior Secretary at swords' points in the waning days of their Administration.

Oil policy was also a sensitive issue when Canada's Prime Minister Pierre Elliott Trudeau paid his first visit to President Nixon last March. Canadian oil is officially exempt from import restrictions on grounds that it is exported overland into the northern tier states of the Midwest, and is therefore considered a safe source of supply. Still, the U.S. engages in the questionable practice of negotiating secret agreements with Ottawa to limit the amount of oil Canada may export to this country—not for security reasons but to make sure that Canadian production doesn't disrupt the cozy U.S. market. In the latest agreement, which was flushed out of secrecy in a recent lawsuit, a promise was wrung from Canada to "exert every effort" not to displace U.S. production, not to supply refiners who were "unduly expanding their market area," and not to send oil to Chicago before 1970. In other words, not to compete too hard. Much to the exasperation of U.S. producers, however, the Canadians have repeatedly exceeded the limits set by the agreements, and Trudeau is now seeking a still bigger share of the high-price market.

Perhaps the most ridiculous bargain ever struck in the name of national security is an agreement the U.S. negotiated in 1961 giving Mexico an "overland exemption" similar to Canada's. Since there is no pipeline between Mexico and the U.S. the state-owned oil company, Petroleos Mexicanos, ships 30,000 barrels of oil a day by tanker into Brownsville, Texas. From there the oil is pumped into tank trucks, driven over the Gateway Bridge into Mexico, and then U-turned back into the U.S.—all to qualify as a quota-exempt "overland" import. Branded "el loophole" by indignant Texas oilmen, this little charade has cost the companies importing the oil nearly $15 million in extra loading and transportation charges.

A SERIES OF "SPECIAL DEALS"

Whenever the government creates valuable assets, like import tickets, and awards them arbitrarily to a limited number of people with special interests, like refiners, contention is inevitable. Companies originally excluded from the club of ticket holders, including Du Pont, Union Carbide, Kodak, and other giants of the petrochemical industry, have successfully battled their way in over the shrill cries of refiners, who were forced to give up some of their own tickets to make room. At the same time, oil executives have finagled with the ingenuity of wily tax lawyers to win larger cuts of the pie. In 1965, Phillips Petroleum won the right to establish a $45-million petrochemical plant in Puerto Rico, process exclusively foreign oil, and then ship 24,800 barrels a day of gasoline "by-product" to the east coast, where it competes with fuels made from high-priced domestic crude. The right to ship this gasoline has been estimated to be worth about $11 million a year. Competitors were outraged because the amount of the shipments was deducted from the total amount of foreign oil they shared.

To many oil executives, this marked the beginning of a series of "special deals" in which Udall recommended, and President Johnson approved, the exclusive grant of profitmaking opportunities to a few select companies at the expense of others. Udall justified the Phillips deal not on national security grounds, but on the theory that a special import allocation was needed to induce job-creating investment in Puerto Rico, where unemployment was running at 11 percent. In return for the allocation and liberal tax concessions from the Puerto Rican Government, Phillips promised to reinvest $55 million in satellite plants, which would use the petrochemicals Phillips produced as feedstocks.

The grant to Phillips encouraged others to apply for similar arrangements. Typically, these deals have combined three factors: a company eager to import cheap oil, a geographical region that would benefit from the company's investment, and a crevice in the quota barrier. After Phillips, Udall awarded Sun Oil, Union Carbide, and Commonwealth Oil Refining valuable rights to process exclusively foreign oil in Puerto Rico and ship products to the mainland. By that time the Virgin Islands were crying for "parity with Puerto Rico." Hess Oil & Chemical won tickets to ship to the U.S. mainland gasoline and heating oil produced from foreign crude at its refinery on St. Croix. (Udall had difficulty justifying the special deal for Hess since employment in the Virgin Islands was so high that workers were being imported from the British West Indies.) The Sun, Commonwealth, and Hess shipments, which will total 54,500 barrels of oil products a day by 1972, are deducted from the amount of oil other companies may import. The effect is to slash the benefits of many for the sake of a few. (Carbide ships only petrochemical products to the mainland; these are exempt from quota restrictions and aren't deducted from other companies' allocations.)

THE BATTLE OF MACHIASPORT

Similar applications began pouring in from every company and region that could conjure up a rationale—Guam, Hawaii, Savannah, Georgia, and Machiasport, Maine. The application by Armand Hammer, the septuagenarian chairman of Occidental Petroleum, to process 300,000 barrels a day of Libyan and Venezuelan crude at Machiasport became a *cause célèbre* in the oil industry. It was overwhelmingly opposed by the major oil companies, which feared a further nibbling away of their tickets, and unanimously supported by New England politicians, who saw the promise of lower oil prices for their constituents. Battled to a stalemate in the closing days of the Johnson Administration, Occidental's plan now hangs in limbo.

The special deals underscore the government's awesome power to distribute exclusive franchises without detailed justification. While quota applications for others were approved, Udall brushed aside a request by Texaco to build a refinery in Puerto Rico, where it is the leading gasoline marketer. He offered no official explanation, allowing the company's application to perish without taking action on it. When Udall approved the Hess application in the Virgin Islands, he simultaneously turned down a request from Coastal States Gas Producing, saying only that his "firm and final" decision was to permit no other refineries on the islands in order "to protect and conserve the incomparable reefs and beaches."

Although it deals with fabulous sums of money, the Interior Department has adopted few of the procedural safeguards common to other regulatory agencies. It issues no formal opinions to explain its decisions. It has held fifteen hearings on various aspects of the program, but has never followed one of these with a report of findings. Unlike the award of oil leases or contracts, the special deals have never been opened up to competitive bidding by Interior, which has preferred to negotiate the terms privately. (It once proposed a plan to auction off quotas, which would have let the Treasury, rather than refiners, collect the price differential between foreign and domestic crude; the scheme was quietly scuttled when it met nearly universal opposition from the industry.)

Companies dissatisfied with their lot under the quota system may plead their cases to an Oil Import Appeals Board, on which sit three officials, one each from the departments of Interior, Commerce, and Defense. Under its rules, the board dispenses or adjusts allocations to companies that are "in special circumstances" or are suffering "exceptional hardship." These ill-defined criteria have led to some questionable awards.

Udall's own decisions have been highly unpredictable. In the case of Phillips, Hess, and others, Udall made decisions beneficial to the companies, then changed the oil-import regulations to validate his actions. These ex post facto turns in policy have made it difficult for oil companies to plan. An application by Mobil to import oil into Puerto Rico was rejected a few years before the Phillips application was approved, without the slightest indication then that any change in policy would later be considered. As Jersey Standard Chairman Haider puts it with soft-spoken confidence: "We're flexible. We can play the game any way you want—if somebody will just tell us what the rules are."

A PECULIAR WAY TO REGULATE

When vast sums are involved, such irregular procedures undermine the sense of fair play that is an essential attribute of any regulatory agency. Tongues clucked in the oil industry, and suspicion pervaded the capital, when well-connected Washington lawyers and influential politicians were associated

with one request for special privilege after another. Oscar Chapman, a prominent Democrat, Secretary of Interior under Truman, and now a Washington lawyer, was instrumental in putting togethter the Puerto Rican deal. First he drummed up oil-company interest in the project, then he approached Interior Department officials confidentially in 1962, and finally he represented Phillips as counsel when the company requested an import allocation two years later. Puerto Rico was represented by Arnold, Fortas & Porter, the firm co-founded by President Johnson's close confidant, Abe Fortas, who had been intimately connected with the island's affairs since World War II. David T. Willentz, a director of Hess Oil and Chairman Leon Hess's father-in-law, was a powerful figure in New Jersey Democratic politics. The Hess quota application was stoutly supported by such congressional oligarchs as Representative Michael Kirwan, an Ohio Democrat, who for years headed the House Interior appropriations subcommittee, with power over the Interior Department's purse, and Representative Wayne Aspinall, a Colorado Democrat, who chairs the House Interior Committee, which holds sway over the department's legislation.

Not even Udall's harshest critics in the oil industry accuse him of personal dishonesty, and most believe that he was earnestly trying to bend oil-import controls to serve his vision of the national good. The companies did "pay" for their special privileges in varying degree. Hess agreed to pay $2,700,000 a year (50 cents for each barrel of oil products it shipped to the States) to a conservation fund on the Virgin Islands. Sun agreed to pay about $1 million (or 10 cents a barrel) into a similar fund in Puerto Rico. And Occidental held out a promise to contribute more than $7 million a year to such a fund for New England. But to grant special privileges in return for charitable contributions seems a peculiar way to regulate.

With one mystifying amendment after another, the import regulations became so complex that Senator Proxmire charged it would take a "Ph.D. in chemistry and a Philadelphia lawyer to begin to comprehend them." When petrochemical producers were admitted into the ranks of ticket holders, the Oil Import Administration unwittingly worded the necessary amendments so that some refiners that also produced petrochemicals were allowed to "double dip" into the import pool. In an oilman's game of now-you-see-it, now-you-don't, these refiners claimed one set of tickets based on their refining operations, then picked up another batch based on their petrochemical operations—even though the same oil was used for both.

No sooner had this situation been corrected than Udall found himself bogged down in a $1,500,000 misunderstanding about what was and what wasn't a petrochemical. Standard Oil Co. (Indiana) was producing large quantities of aromatic chemicals for use in its unleaded gasoline, and these technically qualified as petrochemicals under Interior regulations. It came as a surprise to Udall, however, when the company claimed and received tickets worth more than $1,500,000, cutting heavily into the foreign oil he had intended to provide chemical companies as low-cost feedstock. Pronouncing himself "appalled" at this turn of events, and declaring himself "not very happy" with his staff (who had sent him a memo on the situation that had mysteriously been lost), Udall revoked the company's tickets without notice or hearing. Standard of Indiana was "shocked at the arbitrary action" and filed suit, the Justice Department refused to defend Udall, and the embarrassed Secretary was forced to return the tickets—and put his staff to work rewriting the regulations once again.

THEY WINCE AT COMPETITIVE BLOODLETTING

One outgrowth of the Standard of Indiana debacle was that Interior for the first time began auditing refiners' claims for tickets. One of the first audits concluded that Standard of Indiana claimed to have converted more oil to petrochemicals than it actually had, thereby earning extra tickets worth about $600,000. But the company is fighting Interior's efforts to recoup, arguing that it had really claimed too little, not too much. Subsequently, Interior spot-checked thirty-seven requests for new quotas, discovered "many discrepancies," and threw out six of the applications. The fact that audits had never previously been conducted can be laid in part to congressional parsimony. The Oil Import Administration has only five professional people. They were forced to make some of the spot checks over a holiday weekend.

As import controls became more and more confused, so did their objective. The Oil Import Appeals Board winces at the sight of free competitive bloodletting. It awarded tickets to two small refiners that had been shut down for years, hoping the handouts would help them pay off creditors and reopen their plants. Another company bought an abandoned refinery from Mobil in Wyoming and encountered unexpectedly high costs rehabilitating it. "Moved by the plight of this small company," as it said, the board doled out tickets to that refiner, too.

Several of Udall's actions involving Commonwealth Oil of Puerto Rico provide a graphic illustration of market meddling. In 1966, Commonwealth discovered a loophole in the regulations that allowed it to ship products from its refinery in Puerto Rico to the West Coast. Commonwealth won Udall's tacit approval and subsequently negotiated a forty-six-month contract to supply a cut-rate marketer in San Francisco with up to 10,000 barrels of gasoline daily. Major refiners in California screamed foul, charging that Commonwealth's gasoline had a competitive advantage and that the shipments had the effect of cutting back their own import allocations. They enlisted the aid of former Senator Thomas Kuchel, then the Republican whip, and other politicians to bring an end to the shipments. Yielding to political pressure, Udall reversed his position, closed the West Coast loophole, and gave Commonwealth permission to ship to the east coast instead. The move cut the San Francisco marketer off from supplies.

Another of Udall's actions was tantamount to pressuring a company to buy from a particular supplier as a condition for obtaining a federal grant—an especially pernicious kind of government pressure. Commonwealth Oil was seeking the right to increase shipments from its refinery to east coast markets, claiming that it should have parity with the new Phillips plant, which Interior had allowed to ship 24,800 barrels daily. Then Union Carbide applied for permission to expand its petrochemical facilities on the island. With this Udall saw a chance to provide Commonwealth with a market—without allowing the company to increase its shipments to the mainland, which would surely have raised fresh complaints from competitors there. So, as a condition of approving Carbide's request, Udall bargained Carbide into agreeing to purchase half its feedstocks in Puerto Rico from Commonwealth. Commonwealth subsequently dropped its demand to ship more products to the east coast. "We twisted a lot of arms," Udall concedes.

Udall's rejection of Texaco's request to build a refinery in Puerto Rico, which has never been officially explained, also relates to Commonwealth Oil. As the biggest gasoline marketer on the island, Texaco bought a substantial amount of its supplies from Commonwealth's refinery. If Texaco were allowed to build its own refinery, Udall knew that Commonwealth would have to search for new customers, and would surely seek the right to ship more gasoline to the east coast—once again rolling the industry. Udall's desire to avoid such upsetting complications was a central reason for allowing the Texaco application to die.

A FAR LESS COSTLY WAY

The U.S. today finds itself saddled with an expensive, muddled, and unseemly system of import restrictions because it has ignored the dictates of rational economical policy making. The government has not determined how large a reserve of oil the U.S. would need in the event of a foreseeable emergency. Nor has it tried to adopt the least costly method of providing such a reserve. It has preferred to rely on senseless protectionism—a policy it must now abandon.

No doubt exists that the U.S. can provide for its emergency needs at less cost than under the current system. Since the government has never taken the trouble to weigh the alternatives, the methods—or combination of methods—that make the most sense are not yet clear. The studies conducted by Adelman of M.I.T. surely indicate that the storage of oil for emergencies may prove a feasible course of action. But the most important consideration is that all courses be examined with an open mind.

The cost and the maladministration of the quota system have raised cries for its abolition. Much can be said for that direct solution. But it may be that some form of import restrictions, less onerous than those now in effect, has a place in a rational oil policy. If so, those restrictions must be adopted on the rational grounds that they enhance U.S. security at a tolerable cost—not because they prop up the domestic industry in its present inefficient form. The government must quit mixing defense considerations with protectionism, as it has done so dramatically, and shamefully, in its efforts to keep Canadian oil out. At the very least, the U.S. should permit the free movement of oil from Canada, a country with which we enjoy uniquely close relations. The government should also put pressure on the states to abandon those regulatory practices that stifle efficiency. The time has come to allow a fresh breath of competition to blow through the industry.

Mr. KENNEDY. Mr. President, I agree with the Senator from Wisconsin (Mr. PROXMIRE) that the article in Fortune is excellent, and I hope that Senators will have the opportunity to read it. There is, however, one inaccuracy in the article. Mr. Demaree states that President Kennedy "tacked the quota lid down still tighter." In fact, President Kennedy took an important first step in liberalizing the oil import program by beginning to decontrol residual fuel oil. His actions culminated in virtually complete decontrol in 1966.

This heavy fuel oil is used extensively in the Northeast, particularly for the heating of industrial facilities, schools, churches, and hospitals. It is also used in the generation of electricity. As a result of this decontrol, the price of residual fuel oil has dropped in New England from $2.20 a barrel to under $1.80 a barrel. In the meantime, the price of home heating oil in New England has risen since 1964 by almost $1 a barrel, largely as a result of import controls.

Now the oil import program is under long overdue scrutiny. Both Senator HART'S Subcommittee on Antitrust and Monopoly and President Nixon's Cabinet-level task force are now studying

the program in detail. However, even before these groups make their final recommendations, certain stopgap measures may be necessary. I would suggest that we give consideration to the immediate decontrol of home heating oil which is now in short supply in New England and continues to become increasingly expensive. If we are to have some relief for the coming winter, we must act now while supply contracts are being negotiated. At the very least, the Interior Department should act on the proposed regulations which would grant additional import allocations for home heating oil to independent deep-water terminal operators and marketers on the East Coast.

REMARKS BY FREDERICK BROWN HARRIS, D.D. FORMER CHAPLAIN, U.S. SENATE, AT A FREEDOMS FOUNDATION CEREMONY

Mr. ALLOTT. Mr. President, as a trustee of the Freedoms Foundation, Valley Forge, Pa., I was pleased to participate in a recent ceremony during which five great Americans were honored.

They included:

Hon. Albert W. Hawkes, former U.S. Senator from New Jersey, former president of the Chamber of Commerce of the United States and former president and chairman of Congoleum-Nairn, Inc.

Dr. Frederick Brown Harris, for 20 years chaplain of the U.S. Senate, the longest period any person held this post.

Adm. Arthur F. Radford, retired, one of the Navy's early aviators and former chairman of the Joint Chiefs of Staff.

Adm. Arleigh A. "31-knot" Burke, retired, whose destroyer units helped to sweep the Japanese fleet out of the South Pacific.

Gen. Bruce C. Clarke, retired, whose troops played an important part at St. Vith, Belgium, in delaying and blunting the German offensive during the Battle of the Bulge in World War II.

Dr. Harris, whom I have known and respected during my entire tenure in the Senate, addressed this Freedoms Foundation gathering and made what I consider to be some particularly cogent remarks. I know that Senators will wish to read his wise words, so I ask unanimous consent that the address, entitled "If You Can Keep It," by Dr Frederick Brown Harris, be printed at this point in the RECORD.

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

IF YOU CAN KEEP IT

(By Dr. Frederick Brown Harris)

My good friends, recently, when Mrs. Harris and I visited in California, we saw the marvelous replica of Independence Hall of Philadelphia which now has been erected exactly on that Pacific side of the continent. In that storied hall—after weary debates in the Congress day by day, Benjamin Franklin and the other Founding Fathers argued about policies and phrases. At last, the Declaration was unanimously passed—and the Liberty Bell was ready to ring out! As Franklin emerged from the Hall, a well-known Philadelphia lady stopped to ask him—"Dr. Franklin, have you given us a monarchy or a Republic?" He replied solemnly, "We have given you a Republic—*If* you can keep it!"

That "If" suggests the struggle that has waged from that day to this—to keep the Republic.

Freedoms Foundation declares that the Republic is not an accomplished thing to put in a patriotic jewel case to hand down as an heir-loom to generations following. It must be re-interpreted and re-won by every new generation.

George Washington in the agony at Valley Forge was saying—"A Republic—*if* you can keep it!"

General Eisenhower, as many of us counseled with him for many hours at that same Valley Forge—kept saying, "on this spot we rededicate ourselves to the dream that is our America. At Freedoms Foundation, we are trying to continue the spirit of George Washington, so that the meaning of Valley Forge as a vital example of the struggle for freedom, is made clear to everyone." Thus General Eisenhower was always reminding Americans—"We have a Republic, *if* we can keep it!"

Dr. Kenneth D. Wells, our President, long ago put the word "leisure" out of his vocabulary, as he repeats in his heart his favorite verse—

"Let me go on working
Still tackling plans unfinished, tasks undone
Clean to its end, swift may my race be run
Let me die working."

So tackling on, he goes to all the States of the Union, calling Americans to fight with tongue and pen and brush and deed for the Republic *we must keep.*

We honor today and all the days, Hon. Albert W. Hawkes. Often at his lovely home at Palm Desert, as in the evening time we have listened to the music he loves and often talked about the cause of Freedoms Foundation, again and again there with him, we have gazed at the exquisite model of the bronze statue of "Washington at Prayer" which was gratefully given him by patriots from all across the Nation—with an inscription beneath it—an inscription I have never heard him call attention to—But here it is

"A truly beloved American citizen—who knows more about freedom and equality than any other man of our generation." Senator Hawkes, in every word he utters or writes to his imperiled Nation, warns day by day—"We have a Republic—*if* we can keep it."

It was the danger of losing the Republic which led Chief Justice Hughes, shortly before his death, to exclaim: "The real question today is whether we have enough of the old spirit that gave us our institutions to save them from being overwhelmed." What a word for this day, when there are more enemies than ever before home and abroad determined to overwhelm and destroy the American Dream.

But in faith and hope, Freedoms Foundation is sounding the trumpet to return to the spirit of Valley Forge—

"That we may tell our Sons who see the Light High in the heavens—Their Heritage to take:
I saw the powers of Darkness put to flight
I saw the morning break"—

The greatest thing about our America is—
We have been given a Republic—with all its Glory for the Common Man
If we can keep it!
God help us to keep it.

Mr. ALLOTT. Mr. President, the reaction to this speech has been quite favorable. I ask unanimous consent that a letter to Dr. Harris from the President be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, May 26, 1969.

Dr. FREDERICK BROWN HARRIS,
Washington, D.C.

DEAR DR. HARRIS: It was with special pleasure that I noted your name among those recently honored by Freedoms Foundation of Valley Forge.

I know this is a particularly meaningful recognition for you and that it represents just a small measure of the satisfaction you know from serving our nation so devotedly in the Senate over the last 25 years.

Pat joins me in sending you our warmest personal wishes.

Sincerely,

RICHARD NIXON.

EQUALITY IN MEDICAL CARE

Mr. SAXBE. Mr. President, Andrew Tully, a syndicated columnist whose work appears in many of my State's newspapers, recently wrote an article on a bill, whose principal sponsor is the junior Senator from Illinois (Mr. PERCY). Because I believe Senators will be interested both in the bill and Mr. Tully's article, I ask unanimous consent that the article, published in the Mount Vernon, Ohio, News, be printed in the RECORD.

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

PERCY SEEKS EQUALITY IN MEDICAL CARE

(By Andrew Tully)

WASHINGTON.—Sen. Charles Percy, R-Ill., has put his finger on a disease of our affluent society, which is a lot more serious than the so-called "hunger" issue trumpeted by assorted politicians. It is the separate medical systems for the poor and the non-poor.

Percy is plumping for a legislative package that would provide federal funds for outpatient clinics in areas now inadequately served by physicians and hospitals. His proposal would cost money, of course, but there is validity to Percy's claim that it would give the taxpayers more for their health-care dollar.

Congress tackled the problem with the passage of Medicaid and Medicare, but as Percy notes, "There is growing evidence" that neither has succeeded in "increasing the availability of health care." In the case of Medicaid, some states have not implemented it with their own money, and others have had to cut back due to insufficient funds in an inflationary era. Under Medicare, too many of the services offered the aging ill are inadequate to the point of barbarism.

It is a fact that many physicians donate their services to the poor. But in general poor are "crowded into unpleasant, impersonal, inadequate facilities where they must sit for hours." In many cases, no one physician has responsibility for the total care of an individual patient. Thus, a patient may see a different physician each week, and if hospitalization is required, several more doctors may be pressed into the act. This is somewhat more harrowing than the experience of the paying patient who gripes because his family doctor keeps him waiting for an hour or so.

Percy also has reminded us that a poor person often may be refused treatment—not because he isn't sick, but because he has the wrong disease. For example, there are no federal or state funds available for the diagnosis of pneumonia, leukemia, emphysema and a long list of other ailments that often are as fatal as cancer.

As a nation, we spend $50 billion a year

for health care and yet, incredibly, a recent report of the National Advisory Commission on Health Manpower declared: "There is a crisis in American health care." The reason is simply that the poor receive a disproportionately low share of the health services.

Poor people receive much less medical attention than the affluent, although they actually need more. The black citizen probably is the chief victim of this imbalance. In 1962, the infant mortality rate for nonwhites was 90 per cent greater than for whites, and the proportion of mothers dying in childbirth is four times greater among the poor. Because they are deprived, the poor are the sickest segment of society.

It is a situation that makes a sick joke of the recent 7 per cent Social Security increase asked by President Nixon. (Not to be confused with the $42,500 salary recently awarded to members of Congress.) Some of our senior citizens draw as little as $45 a month from Social Security, which leaves them somewhat short of the wherewithal to buy the medical treatment afforded the rest of us.

Percy would amend the Hill-Burton Act, not only to establish outpatient clinics with federal funds, but to remove the present restrictions by leaving to the discretion of a state planning agency the type of project to be funded. He also would calculate state allotments on the basis of the number of medically indigent families rather than on the basis of the present formula involving average per-capita income and population. The Federal money would go where the sick are.

That's what aid to health care should be all about. As Percy noted, the nation now can do more for the sick person than ever before, but little has been done to make sure the ailing poor can "gain access to a physician." In this respect, the American poor are as badly off as their medieval ancestors—and with less excuse.

RUSSIA HAS NOT CHANGED HER WAYS

Mr. PASTORE. Mr. President, I should like to invite the attention of Congress to an important and timely article written by the Senator from Washington (Mr. JACKSON), which is published in the June 1969 issue of the Reader's Digest.

In introducing the Jackson article the editors of the Reader's Digest say:

As we move toward further serious negotiations with the Soviet Union, a distinguished member of the Senate warns that we must not allow ourselves to mask realities with soothing myths.

Senator Jackson has been United States Senator from Washington since 1953 and was for 12 years before that a member of the House of Representatives. Respected as a national leader in defense and foreign affairs, he is a member of the Armed Services Committee, the Joint Atomic Energy Committee and the Government Operations Committee. Known, too, for his vigorous support of progressive legislation, Senator Jackson is also chairman of the Interior and Insular Affairs Committee.

I ask unanimous consent that Senator JACKSON's article be printed in the RECORD, as follows:

RUSSIA HAS NOT CHANGED HER WAYS

(By Senator HENRY M. JACKSON)

We live in a restless and risky world where a fresh crisis arrives as regularly as the morning paper. Faced with complex problems, we understandably hope for prompt solutions; and it is not surprising that convenient but false myths work their way into some Americans' thinking.

This is particularly so in matters concerning the Soviet Union. If we are to come to grips, with the real dangers and the real problems, the cold water of reason has to be poured on some prevalent myths.

Myth No. 1: That the Soviet Union is ready to live in peace with its neighbors and to become a good citizen of the world community.

A Czech citizen might be permitted some doubts. Or a Romanian or a Yugoslav.

I do not know how to assess the Soviet Union except as an opportunistic, unpredictable, dangerous opponent, with rapidly expanding military capabilities. The truth speaks loudly.

The momentum of Moscow's drive to parity with us in its missile forces is especially disturbing. By the end of this year the Kremlin will have deployed as many land-based long-range intercontinental ballistic missiles (ICBMs) as we will have—or more—and with a substantially greater megatonnage. The Soviets have installed more than 200 of the very large SS–9 missiles, each capable of carrying one gigantic 20- to 25-megaton warhead (with 1000 times the yield of the Hiroshima bomb) or multiple smaller warheads; and they are building sites for more. They are producing Polaris-type nuclear submarines at the rate of seven per year, each with 16 ballistic missiles.

Remember that in past crises—the missiles in Cuba, the repeated harassments of Berlin, the backing of militant Arab forces in the Middle East, the costly economic and military support of North Vietnam—the strategic inferiority of Soviet power set definite limits on the risks that the Soviet rulers were willing to run. But once the Kremlin is confident of possessing equal or preponderant nuclear capability, we must assume that it will be tempted to pursue its imperial purposes more boldly, accept a far wider range of risks—especially in areas like Central Europe, where it has a local superiority of conventional forces.

Don't forget that Khrushchev was not removed from power for what he was trying to accomplish in Cuba and elsewhere. Rather he was criticized for *failing*—for having to back down.

The leopard does not change its spots. The brutal occupation of Czechoslovakia and the ominous Brezhnev doctrine which asserts the right of the Soviet Union to intervene unilaterally in all communist-run countries are vintage Russian imperialism. If some well-meaning Americans have not seen the point, Russia's neighbors have.

President Tito of Yugoslavia denounced the Brezhnev doctrine as an attempt "to justify even the open violation of the sovereignty of a socialist country and the adoption of military force as a means of preventing independent socialist development."

By its attack on Czechoslovakia in the name of communist orthodoxy, the Kremlin has pointedly emphasized its readiness to use military force for its political ends. Moreover, the invasion vividly demonstrated Soviet capability for rapid movement of large combat forces over long distances, and for doing this in stealth to achieve maximum surprise. No one can now doubt that the Soviet Union will use its power on other fronts, when it believes that the risks are acceptable.

Myth No. 2: That the Soviet rulers are becoming more liberal, moving steadily away from Stalinism.

The plain fact is that there are increasing signs within Russia of a move toward a domestic hard line.

There is nothing "liberal" in the Kremlin's current attacks on intellectuals, and on Jewish poets and authors. Scholars, writers and even some scientists are being subjected to vicious denunciation, censorship and, in many cases, imprisonment or confinement. There is evidence that more intellectuals are incarcerated in Soviet prisons than at any time since Stalin's terror. Furthermore, Stalin's image is being refurbished, and some of his admirers are being restored to positions of power in the military establishment.

The attitude in Moscow that prompted the Czechoslovak invasion does not indicate that the rulers are confident of the stability of their regime. On the contrary, it suggests a deep fear that the urge for freedom that has appeared in Eastern Europe might spread within the U.S.S.R. itself.

Soviet rulers cannot, I think, be sleeping easily. The unrest in Eastern Europe and the bloody clashes a continent's width away on the Sino-Soviet frontier do not make pleasant dreams for those struggling for power and influence within the Kremlin's onion towers. We cannot discount the danger that a harassed, nervous and temporarily ascendant faction may take perilous risks and make serious errors of judgment in its conduct of foreign affairs. Hence, there is everything to be said for steady strength on our part.

Myth No. 3: That the United States is always the first to develop new weapons, and is therefore responsible for the arms buildup.

The evidence decisively refutes this notion:

The Soviet Union acted first to develop ICBMs.

The Soviet Union has developed and tested a 60-megaton bomb; it is the only nation to possess a terror weapon of anything like that size.

The Soviet Union is the only nation to have built and installed ICBMs of the SS–9 size and to be testing multiple warheads on it.

The Soviet Union has developed and tested a Fractional Orbital Bombardment System (FOBS), a first-strike-oriented weapon; it is the only nation to have available such an orbital weapon.

The Soviet Union—in 1962—test-fired an anti-ballistic missile (ABM) against an incoming nuclear-armed missile; it is the only nation to have conducted such a test.

The Soviet Union acted first to deploy ABMs and is installing more than 60 ABM launchers, and is testing an improved model—whereas the United States has not yet deployed ABMs of any kind.

I do not cite these facts to make the claim that there is no interaction between Soviet and American military policies. Obviously there is. Obviously, too, the Soviet Union is eager to exploit promising technological advances to strengthen its position.

The present campaigners against President Nixon's Safeguard ABM program argue that it would "escalate the arms race." I have never heard one of these critics say that in deploying its ABM system some years ago the Soviets were "escalating the arms race." There is a clear double standard here, and I am confident that the American people, once they have the facts, will recognize it as a standard that is crudely biased against our own country.

It is worth noting that Premier Kosygin, at a press conference in London on February 9, 1967, explicitly rejected the proposition that deployment of a defensive missile system heats up the arms race or is "destabilizing." Said Kosygin, *"I think that a defense system which prevents attack is not a cause of the arms race but represents a factor preventing the death of people."*

Now, the fact is that possession of a relatively effective ABM system by *only* the Soviet side would be destabilizing. It could put in jeopardy the credibility of the overall ability of the United States to retaliate—which is the first essential of national security and individual liberty, and of the survival of our allies in freedom.

The Western deterrent—*i.e.*, strength to deter an attack—must be credible to the Soviet Union. But it wouldn't be if the Soviet rulers ever came to believe that a surprise first-strike nuclear attack on the United

States, coupled with their ABMs, would limit damage to the Soviet Union to a level acceptable to them (however they define that level).

The Western deterrent must also be reassuring to our allies and, above all, to the American President. If he ever came to believe that the Soviet Union had a first-strike capability and that the West no longer had a safeguarded second-strike capability, this belief could undermine his will to resist Soviet pressures in a period of crisis. In these circumstances, the Kremlin, not feeling deterred by our forces, would be emboldened to extend its influence. This would create the most dangerous sort of confrontation—a showdown between nuclear powers.

I commend President Nixon for his statesmanlike decision to proceed with the deployment of a limited ABM defense. The Safeguard system is designed to meet the threats without over-reacting. It would help protect essential elements of our retaliatory force. At the same time this strictly defensive protection should help persuade the Soviet Union to negotiate seriously with us on properly safeguarded arms limitations.

I am a Democrat, but I am proud that over the years I have supported my President, Democrat or Republican, in critical decisions, popular or unpopular, to provide for the security of our country and to improve the chances of maintaining peace.

Myth No. 4: That all it takes for success in negotiations with the Soviet Union is to sit down and talk with them.

This is, of course, wrong, and shows an utter lack of maturity about negotiating with the Kremlin.

Some Americans see international negotiation only as a way of *ending* conflict. They are blind to the fact that negotiation as practiced by Moscow is equally adapted to *continuing* and *waging* conflict.

The Soviet approach to foreign relations involves what the Soviet rulers call "the calculation of forces." If this calculation is favorable, they will seize their opportunities. If it is unfavorable, they may use negotiation as a tactical maneuver to gain the time in which to alter the balance of forces in their favor or to bring about a sense of calm and goodwill before launching an energetic offensive on a new front. However, if the Kremlin sees no advantageous alternative to a negotiated settlement in a given situation, it may accept a limited, expedient arrangement. This view of negotiation comes straight from the gospel according to Lenin and Stalin, and is shared by the present rulers of Russia.

As I see it, the United States and our allies should work for mutually acceptable arrangements with the Soviet Union where their interests and ours converge; but, simultaneously, we must maintain the strength and resolve to discourage and deter Soviet expansion. The only safe way to negotiate with the Russians is to keep our eyes open and to bargain from strong positions. It is on this basis that I favor negotiating with Moscow on the reciprocal limitation or reduction of offensive and defensive nuclear forces.

Obviously, our resources are limited—though not so limited as those of the adversary—and we must use them with discrimination and prudence, recognizing that we have urgent and vital tasks at home as well as abroad. The United States will not lag behind any nation in beating its swords into plowshares when the day comes that others will join us. Meanwhile, in these fateful and difficult times, Americans must be prepared to accept the responsibilities of a great power, lest international crises get out of hand and the chances of peace go glimmering.

Winston Churchill said the right words to us: "The price of greatness is responsibility."

LEON FRIEND: THE IMPACT OF A FINE ART TEACHER

Mr. JAVITS. Mr. President, on April 17, 1969, 150 alumni and students of Abraham Lincoln High School, in New York City, opened a show of their work at the Architectural League of New York in honor of an extraordinary high school teacher, Leon Friend. The news release of the Architectural League concerning that show is a genuine tribute to the impact of this fine and gifted teacher, I ask unanimous consent that the news release be printed in the RECORD.

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

MR. FRIEND: THE IMPACT OF ONE ART TEACHER

(Exhibition of the work of the alumni and and students of Abraham Lincoln High School, New York City, sponsored by the Architectural League of New York, April 17 to May 10)

On April 17th, one hundred and fifty alumni and present students of Lincoln High School will assemble to open a show of their work at the Architectural League in honor of an extraordinary high school teacher, Leon Friend. The exhibition covers an astonishing range—from commercial film to fine art, from the most successful professionals to the present students. In sheer volume it is a tribute to the creative energy unleashed and disciplined by one man, in quality it is a testament to the excellence of one teacher.

"At a time when the New York City School system is under severe attack, the story of Leon Friend stands out as a notable example of how the system can work," says Arthur Rosenblatt, an alumnus and a member of the Executive Committee of the Architectural League. From a public high school in Coney Island, from the classroom of one art teacher have emerged some of the leading artists, photographers, and art directors of our time. Among those represented at the Architectural League show are William Taubin (Art Director, Doyle Dane Bernbach) who made a bread famous with "You don't have to be Jewish to Love Levy's"; Tom Courtos, the graphic designer who turned Florida into an airline for National, and styled Zum Zum, Hungry Charley's and the Trattoria for Restaurant Associates; Milton Greene, Irving Penn, Jay Maisel—well known photographers; important TV commercial film makers, Gene Federico (Lord Geller Federico & Partners) who created "The Happy People" and "Showdown" for the American Cancer Society; Lester Feldman (Art Director, Doyle Dane Bernbach) who brought the eerie sophisticated cartoon to recent Uniroyal Tire commercials; Alex Steinweiss who revolutionized the Columbia Record cover designs twenty years ago; Seymour Chwast, founder (with Milton Glazer) of Push Pin Studios . . . Seldom has one teacher inspired so many.

During the 38 years he has taught at Lincoln High School, Mr. Friend has created an Art Department which rivals the reputation of specialized schools such as the High School of Art and Design, Music and Art. From the very outset he instilled in 14, 15, and 16 year old students the standards of professionalism. He exposed his students to art and graphic magazines from all over the world and, at his own expense he invited leading designers to come and speak: Will Burtin, Maholy Nagy, Paul Rand, Lester Beal, Jacques Lipchitz, Moses Sawyer, Bernard Rudolfsky.

In addition he sparked vigorous competition among his students; they competed in New York City sponsored poster campaigns, Cancer poster competition, National Magazine Scholarship Awards. This highly competitive professional atmosphere enables many students to win important scholarships, and make the transition from school to the commercial environment.

Both the former principal of Lincoln High School, Gabriel Mason, and the present principal, Abraham Lass, gave Mr. Friend that freedom which was necessary to permit a teacher to develop the extraordinary in his student rather than the barely necessary. They set aside a special space for an Art Squad Club, kept the building open beyond hours, sponsored an art collection.

The present show at the Architectural League is not only evidence of what can happen within the public school system, but also a unique tribute from a distinguished alumni to the man who inspired them.

THE PLEDGE OF ALLEGIANCE

Mr. CANNON. Mr. President, my good friend Al Freeman, of the Sands Hotel in Las Vegas, has called to my attention a moving interpretation of The Pledge of Allegiance that has been both recorded and presented on television by Red Skelton.

This stirring performance has elicited enthusiastic response from Americans throughout the country. As Flag Day 1969 approaches, at a time when cynics often scoff at patriotism, I believe Red Skelton's Pledge of Allegiance serves as an appropriate tribute to the values and principles symbolized by our flag. I therefore ask unanimous consent that the document be printed in the RECORD.

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

[From the Red Skelton Hour, Jan. 14, 1969]

THE PLEDGE OF ALLEGIANCE

(By Red Skelton)

I remember this one teacher. To me, he was the greatest teacher, a real sage of my time. He had such wisdom. We were all reciting the Pledge of Allegiance, and he walked over. Mr. Lasswell was his name . . . He said:

"I've been listening to you boys and girls recite the Pledge of Allegiance all semester and it seems as though it is becoming monotonous to you. If I may, may I recite it and try to explain to you the meaning of each word:

"I—me, an individual, a committee of one.

"Pledge—dedicate all of my worldly goods to give without self-pity.

"Allegiance—my love and my devotion.

"To the Flag—our standard, Old Glory, a symbol of freedom. Wherever she waves, there is respect because your loyalty has given her a dignity that shouts freedom is everybody's job.

"Of the United—that means that we have all come together.

"States—individual communities that have united into 48 great states. 48 individual communities with pride and dignity and purpose, all divided with imaginary boundaries, yet united to a common purpose, and that's love for country.

"Of America.

"And to the Republic—a state in which sovereign power is invested in representatives chosen by the people to govern. And government is the people and it's from the people to the leaders, not from the leaders to the people.

"For which it stands.

"One nation—meaning, so blessed by God.

"Indivisible—incapable of being divided.

"With liberty—which is freedom and the

right of power to live one's own life without threats or fear or some sort of retaliation.

"And justice—The principle or quality of dealing fairly with others.

"For all—which means it's as much your country as it is mine."

Since I was a small boy, two states have been added to our country and two words have been added to the Pledge of Allegiance—"under God."

Wouldn't it be a pity if someone said, "That's a prayer" and that would be eliminated from schools, too?

NATIONALIZATION OF DEFENSE CONTRACTORS

Mr. GOLDWATER. Mr. President, in his appearance before the subcommittee hearing testimony on defense spending, John Kenneth Galbraith suggested that Congress nationalize defense contractors that do more than 75 percent of their business with the Pentagon. I have heard and read some rather unusual things that this supposedly talented economist has written or said, but never did I think I would hear such an inane suggestion as the one he made the other day.

The Arizona Republic has very cogently expressed the feelings that went through my head when I heard this suggestion. I ask unanimous consent that the editorial published in that paper be printed in the RECORD.

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

REACTIONARY PROPOSAL

John Kenneth Galbraith suggests that Congress consider nationalizing defense contractors that do more than 75 per cent of their business with the Pentagon. This is one of those proposals that have all the virtues of simplicity—and all the drawbacks.

The U.S. experimented extensively with non-profit government arsenals between the two world wars. And even Newsweek, an outspoken critic of the military and its manufacturers, said that experiment produced "poor results."

"For 25 years the navy made torpedoes at Newport," the magazine said, quoting Dan Kimball, former navy secretary and former head of Aerojet-General, a rocket manufacturer. "But when World War II came, the torpedoes wouldn't run right, wouldn't hit any ships. We had to get American Can Co. in Chicago to make the ones that worked."

Airplanes made at a Philadelphia arsenal, added Kimball, "were nice airplanes, but they wouldn't fly. And try to lay off a few people when work goes down. You'll get the damnedest hullabaloo you ever saw."

Harvard economist Galbraith, as well as any one, should know how woeful "nationalization" has turned out wherever it has been tried, from the farms of Soviet Russia to the steel mills of Britain to the oil wells of Peru.

Galbraith is hardly a reactionary. Yet his nationalization proposal is reactionary in that it longs for a return to old, inefficient economic policies. It is even less sensible than suggesting that the post office be kept under the present quasi-nationalistic system, which has snarled the mail system in America, rather than be placed under an independent corporation, as Presidents Johnson and Nixon have proposed.

A CALL FOR THE PRESIDENT TO SPEAK OUT ABOUT OLDER AMERICANS

Mr. WILLIAMS of New Jersey. Mr. President, the Wall Street Journal of June 10 gave a prominent position to an article which began with these words:

The Nixon administration is embarking on a determined but politically difficult campaign to shift the Federal welfare focus from aiding the aged to caring for kids.

The same article referred to a "traditional priority for the aged" in terms of Federal expenditures.

And it quoted Robert Finch, Secretary of Health, Education, and Welfare, as saying:

I'd like to see a great chunk of resources put in at the lower end of the age spectrum and hold (spending) at the top end.

And what is that spending? The Wall Street Journal said that in the next fiscal year $1,750 per capita will be earmarked for the elderly, compared with only $190 for each young person.

Mr. President, the Wall Street Journal article is acutely disturbing for two vital reasons:

First. It does not satisfactorily explain that most of the so-called expenditure for the elderly is drawn from trust funds into which employers and employees have contributed over the years,

Second. Even more important, the article gives an apparently accurate account of a growing belief in the administration that somehow programs for the young can be established only at the expense of the elderly.

This is the second time that Secretary Finch has made remarks which have the effect of pitting youth against the aged and on April 9, he issued a statement discussing the "relative imbalance" in Federal benefits and services for the two age groups. He also spoke of the "high social and economic payoff" which results from Government investment in children. Apparently, however, the Secretary saw little or no "return" from Federal action on behalf of the elderly.

The Secretary's reasoning—and his arithmetic—were challenged by the National Council of Senior Citizens and other organizations concerned about the elderly. Perhaps the most effective individual rebuttal was submitted by Theodor Schuchat, retirement editor of the North American Newspaper Alliance, at hearings by the Senate Special Committee on Aging on April 29.

Mr. Schuchat's testimony—which pungently expresses his outrage at an "erroneous and divisive" policy position—is informative and authoritative. I ask unanimous consent that it be printed at this point in my remarks.

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

REMARKS OF THEODOR SCHUCHAT, RETIREMENT EDITOR, NORTH AMERICAN NEWSPAPER ALLIANCE, TO THE SPECIAL COMMITTEE ON AGING, U.S. SENATE, APRIL 29, 1969

The subject of these hearings is the growing gap between the social security benefit and a moderate standard of living for retired people and the growing gap between the income of older people and the income of younger people.

Secretary Finch, however, has perceived another gap. In a statement issued on April 9, he said:

"With regard to the need for greater emphasis on child development, we know that there are four times as many young people as aged in the U.S., yet:

Federal benefits and services of all kinds in 1970, including the social insurance programs, will average about $1,750 per aged person, and only about $190 per young person; and

The relative imbalance has been expanding with the increase over the last 10 years for the aged standing at nearly $22 billion, compared to $11.5 billion for the young."

In my opinion, Secretary Finch is as wrong as he can be in this statement, and I recommend that he stop and think before maintaining this erroneous and divisive policy position, if this is indeed what his statement represents.

In the first place, he seems to be using the wrong figure. In 1969, the Federal expenditure per older person was $1,690, and in 1970 it will be an estimated $1,785, according to the Administration on Aging, a unit of the Department he heads. I don't know where he got the figure of $1,750 for 1970.

Second, these figures lie as they stand in Secretary Finch's statement, without explanation or clarification of any kind. He does not explain, for instance, that 85 percent of the Federal expenditures for older people currently come from trust funds to which the elderly themselves contributed heavily during their working years. In contrast, only 25 percent of the Federal expenditures for children come from trust funds.

He has tried to tell the American people that the Federal Government is spending $10 for each older person and only $1 for each child. The ratio of ten-to-one that he apparently decries falls to a ratio of only two-to-one, however, if we exclude the trust fund expenditures and stick to expenditures from general revenues.

Now, let us examine the nature of these expenditures. Of the Federal expenditures for older people, 98 percent are represented by income maintenance payments (76 percent) and health care (22). So it turns out that the Federal expenditure per older American for everything except income and health care is less than $36.

In contrast, only 41 percent of the Federal expenditures for young people are represented by income maintenance (31 percent) and health care (10 percent). For children, the Federal expenditure for everything except income and health care is more than $99.

Next, let us consider why these data come out the way they do, with the Federal Government apparently expending much more for older people than for youngsters. The reason is obvious. The needs of most children for income and health care are met by their parents, and their needs for education are met to a very large extent by local and State governments.

However, the needs of old people for income and health care—to the extent that they cannot be met from their earnings or their savings or their relatives—are met to a very large extent by Federal programs, and remember that the recipients of this aid themselves contributed to the trust funds that provide 85 percent of it, as well as to the trust funds that provide a large part of the aid to children.

Just what message was Secretary Finch trying to convey when he issued this misleading fiscal comparison on April 9? Does he mean that the trust fund expenditures for older people are too high? Does he mean that the Federal Government should replace local and State government as the major source of education funds? How else would he redress the imbalance or close the gap that he thinks he has discovered?

Secretary Finch's statement of April 9 adds that: "We do not begrudge our expenditures on the aged; they are a group which needs special help. But the relative lack of emphasis on investment in children seems shortsighted in light of the high social and eco-

nomic payoffs which such investments can have in terms of helping to produce fully effective members of society."

Mr. Chairman, in more than two decades of close association with the Department of Health, Education, and Welfare and its predecessor agency, I have never heard a more divisive and inflammatory statement by the Cabinet officer who heads it.

Mr. Finch has a mandate from Congress to look to the health, education, and welfare of the American people as a whole, not solely those whom he or his computers consider to have the potential of being "fully effective members of society" or of yielding "high social and economic payoffs." He is expressing a philosophy of his office, an approach to his responsibilities, that I believe Congress and the American people would reject out of hand, after but a moment's reflection. That philosophy in Nazi Germany lead straight to the gas chambers which were, let us never forget, originally erected to solve the "problem" of the crippled and mentally retarded.

Secretary Finch has frequently described himself as "a political animal." Taking him at his word, I offer some advice I trust he will heed. It is this.

The Department of Health, Education, and Welfare was not created to atttain "high social and economic payoffs." Its programs were established by Congress on the basis of a profound moral obligation to help people, old and young, rich and poor, productive and improvident.

The improvement or expansion of one of its many programs has never been achieved at the expense of another. The Secretary can make quite a good case for Head Start without deprecating Social Security. If the American people want both, they can and will pay for both. We know we can never have too much health, education or economic security.

And so we expect our Secretary of Health, Education, and Welfare to champion all our needs. We expect him to demonstrate his humanitarian concern for all our people, not the chilling myopia of the cost accountant, who knows the price of everything and the value of nothing.

Mr. WILLIAMS of New Jersey. Mr. President, despite the alarm caused by Secretary Finch's statement in April, the youth versus old doctrine is still alive and perhaps flourishing at HEW. The Wall Street Journal article made it appear even more certain that efforts will be made in the near future to propose or establish "child development" programs—but only if the line is held, or cut back, for the elderly.

Certainly, the Nation must pay more attention to the crying needs of its young people. The two preceding administrations explored those needs and brought them to the attention of the Nation. The new President can now build upon the solid achievements inherited from his two immediate predecessors.

But why on earth should hope and a decent life for our youth be achieved only at the expense of the elderly?

That question was raised yesterday at the 22d annual conference on aging at the University of Michigan. Shocked by the implications of the Wall Street Journal article, the delegates passed a resolution addressed to President Nixon. I ask unanimous consent that the document be printed at this point in my remarks.

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

RESOLUTION PASSED AT THE 22D ANNUAL UNIVERSITY OF MICHIGAN CONFERENCE ON AGING, JUNE 11, 1969

Whereas newspaper accounts within recent weeks have described officials of the present Administration as subscribing to a policy of holding the line or even reducing the level of support for programs which serve Older Americans, and

Whereas such attitudes are usually expressed within a context of concern about the need for providing an increased Administration-wide emphasis on programs for youth, and

Whereas such sentiments are usually accompanied by misleading statements which convey the impression that far more in federal funds is committed per aged person, as opposed to per capita expenditures for young persons, and

Whereas such cost estimates disregard the fact that most federal expenditures for the elderly are actually derived from trust funds into which employee-employer payments have been made over a period of years (more than a third of a century in the case of Social Security), and

Whereas such statements are resulting in unfortunate and damaging "either-or" attitudes which assume that youth cannot be served unless the elderly are neglected in this, the richest nation in the world: Now, therefore, be it

Resolved, That conferees at the closing session of the 22nd Annual University of Michigan Conference on Aging—an assemblage to which national, state, and local organizations and agencies have sent representatives—do hereby call upon you, Mr. President, to express the philosophy and the commitment of the present Administration to the interests and problems of the more than 20 million Americans now age 65 or over and the many other millions soon to reach that age, and be it further

Resolved, That representatives at this conference shall seek from their organizations or agencies an expression of concern similar to that of this resolution, with special reference to a Wall Street Journal article of June 10, 1969, bearing this headline: "Nixon Aims to Switch Emphasis on Welfare From Aged to Children."

Mr. WILLIAMS of New Jersey. Mr. President, I believe the resolution was passed as much in sorrow as in anger. Many of the people at the annual conference at Michigan University have worked hard over a period of years or even decades to win modest and sometimes historical victories on behalf of older Americans. But they know that the elderly population of the United States—far from enjoying a high level of priority attention from their Federal Government—is actually losing in the struggle for economic security and personal enjoyment of life.

It has been my responsibility, as chairman of the Senate Special Committee on Aging, to take testimony this year on "the economics of aging," and our testimony clearly shows that we have a crisis in retirement income, not a surplus or a comfortable level.

Every person in this Nation, including those middle-aged and younger persons now trying to make both ends meet without much thought to their own retirement security, should give some thought to the following facts emerging from the Committee studies:

Four out of 10 older Americans are living in poverty or near poverty.

Americans living in retirement are suffering from an income gap in relation to younger people. And that gap is widening, not narrowing.

As more Americans live more years in retirement, the strains on their economic resources will become even more severe.

For widows and other women living alone in old age, the problem is especially grave.

Thus far, spokesmen for the present administration have had little to say about the facts given above. We have heard something about a proposed 7-percent increase in social security, but that is certainly an inadequate response. At the present rise in the cost-of-living index, that increase would be wiped out long before the first check could be mailed out.

I agree with the University of Michigan conferees who called upon President Nixon for a full expression of the philosophy and commitment of the present administration to the interests and problems of older Americans.

We hear spirited defenses of military expenditures from the present administration.

We hear expressions of concern about the fate of our space program from the highest levels.

But we have heard nothing constructive about older Americans. Is it not time that we did?

FAIR COMMENT FROM THE COMMANDER IN CHIEF

Mr. BENNETT. Mr. President, the attacks on the President's Colorado Springs speech are as overstated, overgeneralized, and overemotional as the attacks on the military to which the President's remarks were addressed.

One Senate critic complained that the President impugned the patriotism of those who undertake to criticize waste and inefficiency in defense spending.

On the contrary, the President said:

> I am not speaking about those responsible critics who reveal waste and inefficiency in our defense establishment, who demand clear answers on procurement policies, who want to make sure a new weapons system will truly add to our defense. On the contrary you should be in the vanguard of that movement. Nor do I speak of those with sharp eyes and sharp pencils who are examining our post-Viet Nam planning with other pressing national priorities in mind. I count myself as one of those.

Another Senator regretted the use of the phrase "new isolationists." But what is wrong with this phrase? It is a perfectly legitimate way to describe a view of the U.S. role in the world that many persons, including Members of Congress, hold. Indeed, C. L. Sulzberger, writing in the New York Times last week, described the dangers of the "new isolationism" in terms that were not at all inconsistent with the President's statements.

I wish further to explore the strange approach adopted by the liberal critics of the President. Several weeks ago the oft referred to "honeymoon" of the President ended. Since then several Members of this body have been highly critical of the President, some stating that he had no intention of ending the Vietnam war

and that his policies were no different than the Johnson administration's.

Many attacks have been leveled at the President and his administration regarding defense contracts and policies that were negotiated by past administrations.

Also during the past several weeks it has been open season on the President of the United States by those who have a political stake in attacking the President.

I would remind those attackers that it took the previous administration some 8 months to negotiate the size and shape of the Paris peace conference table, yet President Nixon is condemned for not having performed a peace miracle in 5 months.

I also find it inconsistent that when the President fights back as he should and must to defend his administration, his policies and certain vital institutions of this country, that they suddenly cry "foul." There seems to be a belief among them that they are free to criticize and attack, either responsibly or irresponsibly, but if the President fights back, then for some strange reason he has been "unfair" and has "impugned" their motives.

I would point out again that it was Richard M. Nixon whom the American public elected on November 5; and as President of the United States he has not only a right, but he has a duty to answer his critics. When he does so, I think his critics in all fairness should refrain from accusing the President of unsavory tactics when they themselves are engaged in the same discussion.

Now that the President has announced a sound plan for withdrawal of U.S. troops from South Vietnam, I hope that these critics will be able to restrain themselves from demanding untimely concessions on our part.

They should and must understand that there is a program for peace at work—and, for our country's sake, that program should not be undermined by shrill wails from Congress.

ENVIRONMENTAL QUALITY

Mr. TYDINGS. Mr. President, proposed legislation is being introduced today by the distinguished chairman of the Public Works Committee (Mr. RANDOLPH) and the distinguished chairman of the Subcommittee on Air and Water Pollution (Mr. MUSKIE) to create an Office of Environmental Quality in the Executive Office of the President. The much needed result, if such legislation is enacted, would be the inclusion of considerations of environmental quality in the decisionmaking processes of government.

The bill creates an agency with the authority to review and coordinate Federal projects and policies related to the environment and established a means for systematically advising the President on the State of the environment.

I support the bill and believe that, if enacted, it could have truly historic significance in the long effort to end the unnecessary abuse of our land, sea, and air resources.

The proposed legislation is similar to a bill—S. 1818—which I introduced on April 15. I am delighted to learn that the Public Works Committee plans hearings on both the Randolph-Muskie bill and my bill, as well as a third bill, similar in content, introduced by the distinguished junior Senator from Wisconsin (Mr. NELSON).

The selection of the best mechanism for limiting the adverse impact of our expanding technology and population on our environment is not an easy task. The hearings planned by the committee can do much to advance a solution. They can clarify the issues involved, explore possible alternative methods of action, and offer a forum for those concerned with this important issue.

Upon their conclusion, legislation that represents the most desirable solution can be brought forward.

A number of scientists from around the country have indicated to me their belief that legislation similar to that introduced today is urgently required. While they refer specifically to S. 1818, the letters from the scientists mention concepts that are found in both bills and indicate the support which this type of measure has in much of the scientific and academic world.

Mr. President, I ask unanimous consent that the letters be printed in the RECORD.

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

HARVARD UNIVERSITY,
BIOLOGICAL LABORATORIES,
Cambridge, Mass., May 5, 1969.

Senator JOSEPH D. TYDINGS,
Washington, D.C.

DEAR SIR: As a member of the Board of Advisors of the Ad Hoc Committee on the Environment I write to express my enthusiastic endorsement of your Bill S. 1818. If successful this could be an epoch-making piece of legislation. I feel that a powerful agency of the kind you envision in the Office of Environmental Quality is greatly needed to initiate and coordinate the major decisions affecting environment. The major problems of conservation and resource allocation in this nation do need to be pleaded before a disinterested panel of distinguished experts with the power to make decisions and rank-order federal projects.

I wish you every success.

Sincerely yours,

E. O. WILSON,
Professor of Zoology.

STANFORD UNIVERSITY,
Stanford, Calif., May 5, 1969.

Senator JOSEPH D. TYDINGS,
Washington, D.C.

DEAR SENATOR TYDINGS: I have just had the opportunity to examine the text of your bill S. 1818, the "Environmental Quality Act of 1969." It is, in my opinion, one of the most significant pieces of legislation ever to be submitted to the United States Senate.

As you know, my colleagues and I have grown increasingly apprehensive at the rapid rate of deterioration of the environment of our planet. It is now conceivable, for instance, that patterns of chlorinated hydrocarbon usage already have taken a decade or more off the life expectancy of every American child born since 1945. There is, indeed, some concern that deterioration of ecological systems already may have passed a threshold which will inevitably lead to a drastic reduction of the capacity of the Earth to support life. The "downside risks" already are immense, and further hesitation in moving toward comprehensive environmental planning can only enhance the probability of eco-catastrophes beyond the imagining of most laymen.

I hope that you will pass on to your colleagues our feeling of the urgency of this problem. They must understand that the problem of maintaining the environment is as critical as the problem of maintaining the peace (and that, indeed, the two are not unrelated). Your bill should provide a great step toward awareness and action on the environmental front. *The importance of its passage cannot be overestimated.*

Perhaps you could pass on to other Senators the following quote from "Pollution Box Score: California, Top of the Ninth Inning" (*California's Health*, March 1969):

"GAME SUMMARY

"Man, perennially weak at defense and strategy but a threat at the plate, has been hitting Nature hard. It must be remembered, however, that nature bats last."

Sincerely,

PAUL R. EHRLICH,
Professor of Biology.

BATTELLE MEMORIAL INSTITUTE,
Columbus, Ohio, May 14, 1969.

Hon. JOSEPH D. TYDINGS,
Washington, D.C.

DEAR SENATOR TYDINGS: In response to your communication to us as members of the Board of Advisors, Ad Hoc Committee on the Environment, we believe it is axiomatic that environmental considerations should be incorporated in the decision-making processes of government. Your bill (S. 1818) for the establishment of an Office of Environmental Quality does much to clarify the Federal Government's responsibility regarding the maintenance of a quality environment. We hope the Congress will recognize the essential need for an OEQ and that your bill wil be passed without undue delay.

The problems that must be solved in order to establish a workable policy for the maintenance of a quality environment are both numerous and complex. Too often, these problems are approached one at a time, and the result of this fragmentation is that the Government's efforts appear to be disorganized and ineffective; the policies and activities of the various Government agencies involved are often in conflict; and many problems are simply deferred, not solved. If the OEQ can bring order and coordination to the numerous governmental activities related to environmental quality, real progress can be made toward an overall solution. Without such measures, we can look forward to a great deal of wasted efforts and very little in the way of a lasting solution to the important problems.

Sincerely yours,

WILLIAM E. MARTIN,
Senior Ecologist.
R. S. DAVIDSON,
Director, Bioenvironmental Services Program.

AMERICAN GEOGRAPHICAL SOCIETY,
New York, N.Y., May 5, 1968.

Hon. JOSEPH D. TYDINGS,
Washington, D.C.

DEAR SENATOR TYDINGS: Thank you for sending me the bill concerning the Council of Environmental Advisors. This sounds to me like an excellent idea and I think I can safely promise you my own support as well as that of the organization I represent.

Very sincerely yours,

SERGE A. KORFF,
President.

CALIFORNIA INSTITUTE OF TECHNOLOGY,
Pasadena, Calif., May 6, 1969.

Senator JOSEPH D. TYDINGS,
Washington, D.C.

DEAR SENATOR TYDINGS: I have had an opportunity to review in detail your proposed Bill S. 1818 "On the Introduction of a Bill to Create an Office of Environmental Quality." I think this is an excellent idea, and insofar as this office can be created on

a parallel and equal standing with the Bureau of the Budget, it can do much good. If it is not so created, it can waste a lot of time for a lot of environmental scientists. It must have some open avenue for its decisions to affect legislation and executive action. With this one reservation and qualification, I am totally behind your proposed bill. It is excellent. With best wishes for the success of S. 1818,

Sincerely,

JAMES BONNER,
Professor of Biology.

INSTITUTE OF ECOLOGY,
UNIVERSITY OF GEORGIA,
Athens, Ga., May 21, 1969.

Hon. JOSEPH D. TYDINGS,
Washington, D.C.

MY DEAR SENATOR TYDINGS: I am enthusiastic about your bill (S. 1818) that would create an office for environmental quality with power to influence decisions at the executive level and to delay large federal projects which too often are not in the interest of the whole environment but mostly for the benefit of vested bureaus! I can also speak for the some 50 ecologists here at the University of Georgia who comprise our "environmental science faculty" (the Institute of Ecology together with the Institute of Natural Resources). We all feel that most bills so far proposed are too weak; yours seems to approach what is needed.

There was an interesting report in the latest issue of "BioScience" (the official journal of the American Institute of Biological Sciences) entitled "Policies of the Environment: too many cooks?", which points out that such a variety of bills have been proposed that there is grave danger that nothing will actually get done. We hope that you could get together with Senators Jackson, Nelson, Muskie and others who have proposed bills and come up with one strong bill that could have widespread support. Otherwise, we fear that Congress will remain as badly "fragmented" and impotent in environmental matters as is our government as a whole! I have written our Georgia representatives in hopes that they will study and support your bill.

We do have one question or perhaps a suggestion about your bill. We think that membership in the all important "top-level council of advisors" should be spelled out and that this council should specifically include some persons outside the governemnt as well as heads of key agencies that are responsible for various aspects of resources and environment.

I enclose several items of my own writings that perhaps express our feeling of urgency in these matters.

A copy of this letter together with the enclosures are being sent to Mr. Frank Potter for the records of the Ad Hoc Committee of the Environmental Clearinghouse.

Yours sincerely,

EUGENE P. ODUM,
Director.

THE CATHOLIC UNIVERSITY OF AMERICA,
Washington, D.C., May 11, 1969.

Senator JOSEPH D. TYDINGS,
Washington, D.C.

DEAR MR. TYDINGS: I read with great satisfaction the Congressional Record vol. 115, No. 59 containing the introduction of your bill on environment. The creation of a powerful office of environmental quality is an urgent requirement indeed. Congratulation on the clear and convincing wording of the bill.

As a scientist I am constantly concerned with the future. It seems to me that two other problems will soon become important, problems which are strongly related to environment:

(1) Preservation of natural resources such as water, minerals, lumber, fuels. As if there existed an infinite supply, people waste the resources to the extent that future generations will blame us for being irresponsible.

(2) In certain regions of the U.S., particularly along the east and west coasts, population density increases at a pace that soon all attempts of conservation will be futile.

Education and legislation will have to deal with these two problems to avoid a significant deterioration of the country.

Please accept my deep appreciation for your continued effort in the best interest of the U.S.

Sincerely yours,

EDWARD BATSCHELET, PH. D.,
Professor of Biometry.

UNIVERSITY OF CALIFORNIA, BERKELEY,
Berkeley, Calif., May 13, 1969.

Senator JOSEPH D. TYDINGS,
Washington, D.C.

DEAR SENATOR TYDINGS: This is in reply to your recent letter concerning proposed establishment of an Office of Environmental Quality in the Office of the President. Your proposed bill is certainly an improvement over any of the preceding proposals. My only remaining question is whether even now your bill has enough teeth in it so that advice on highly controversial matters will indeed receive adequate attention in the face of the enormous pressures generated, particularly by the military and by the Atomic Energy Commission. In any event I certainly wish to encourage you in your efforts to bring an appreciation of environmental quality into the ponderous machinery of government.

Sincerely,

A. STARKER LEOPOLD,
Professor.

YALE UNIVERSITY,
New Haven, Conn., May 13, 1969.

Sen. JOSEPH D. TYDINGS,
Washington, D.C.

DEAR SENATOR TYDINGS: Thank you for your letter and the copy of your bill S. 1818. This is an extremely important and necessary piece of legislation, and I sincerely hope it receives prompt action.

In your introduction of this bill before the Senate, you documented the widespread nature of our environmental problems, but I hope that the Senate is also aware of their urgency and the need to act as quickly as possible. As you pointed out, our population and our technology are growing and creating new problems every year, but their rates of growth are alarming and are, virtually, uncontrolled.

A disappointment I find in this and other proposed environmental legislation is a lack of emphasis on the core problem, human population growth. While I fully support this bill and its intentions, I must continue to point out, as I have in other correspondence on the subject of environment, that the primary factor in environment quality, or deterioration, is population growth. Until we at least face this fact and begin to work toward a national policy of population control, bills such as this will inevitably be too little, too late.

The major emphasis of S. 1818 is on review and control of environmental decisions. The establishment of a national policy on environment and criteria for environmental quality are included in Sec. 5, but I do not feel that these functions of an Office of Environmental Quality are given sufficient emphasis, nor do I feel that either the executive or legislative branches have considered the potential impact of a clearly stated, national policy on population and environment. This is our most urgent need, and I hope it will be given the priority it deserves.

Sincerely,

RICHARD S. MILLER,
Professor of Wildlife Ecology.

UNIVERSITY OF CALIFORNIA, DAVIS,
Davis, Calif., May 6, 1969.

Senator JOSEPH TYDINGS,
Washington, D.C.

DEAR SENATOR TYDINGS: I have studied your S–1818 on the introduction of a bill to create an Office of Environmental Quality. This bill in my opinion is exemplary in every respect, both with respect to the general intent and the details of the plan.

It has occurred to me that in discussion about this bill there may be some question as to what purpose could be served by an Office of Environmental Quality and a counsel of advisors to the office which could not now be served by an existing agency. In order to help you deal with such comments as effectively as possible, I am enclosing a reprint of an article which indicates that excessive or extensive use of pesticides in home gardens is associated with increased probability of certain diseases including hypertension, carcinoma and leukemia. Since the effects of DDT gradually accumulates in the body, it is reasonable to expect that the increasing concentration of DDT in the environment leads to increased illnesses in all people and as the article will suggest, therefore increased probability of death for everyone. The point is that no existing federal agency has assumed aggressive leadership of a move by the Federal Government to ban use of DDT on a national basis. Clearly, this leads to the conclusion that there is an increasingly important role to be played by some agency of the United States Government, which role is apparently not being filled at present. This line of argument, it seems to me, leads inexorably to the conclusion that there is a truly desperate national need for passage of a bill for precisely the type indicated by your S–1818.

In about a week, we will be sending along another document, the first report of a group here on a mathematical model of the human ecosystem under a grant from the Ford Foundation to show all the hidden social costs of constantly increasing population density.

Very truly yours,

KENNETH E. F. WATT,
Professor of Zoology.

UNIVERSITY OF MONTANA,
Missoula, Mont., May 15, 1969.

Hon. JOSEPH D. TYDINGS,
Washington, D.C.

DEAR SENATOR TYDINGS: I have reviewed with considerable interest your proposed bill to create an Office of Environmental Quality and I want to express my strong support for it. I am impressed with the thoroughness with which you approached the problem.

I believe that such a body as the Office of Environmental Quality is necessary, and I feel that patterning it after the Office of Economic Advisors is a sound approach. In my estimation, the selection of people for the Council is critical. The provision for Senate confirmation is essential. It might not be possible in the bill itself, but somewhere the qualifications, both professional and technical, of the Director and staff should be specified.

I have one question in the back of my mind about the effectiveness of the bill. It will exert control over Federal programs and legislation, which is fine, but it doesn't and perhaps cannot exert control over actions of industry, local communities, and private individuals who are often the primary polluters of the environment. Perhaps these can be reached through legislation. This is not a weakness of the bill, as I see it, since control of Government programs is highly important and can set a pattern which can hopefully exert pressure on the private sector.

The program will have to be administered with discretion since, to some extent, virtually any type of construction or action by

an agency could be interpreted as having some adverse effect on environmental quality. Too strict an interpretation could stop all action and lead to violent reaction.

We also have to recognize that ecology itself does not provide a firm body of knowledge for all situations. Ecology is a developing science, and it must be recognized that each situation requires its own analysis and that broad precepts will not be universally applicable.

I congratulate you on the bill and hope that it will soon become enacted.

Sincerely,

ARNOLD W. BOLLE,
Dean.

YALE UNIVERSITY,
New Haven, Conn., May 8, 1969.

Senator JOSEPH D. TYDINGS,
Washington, D.C.

DEAR SENATOR TYDINGS: The following comments are offered in response to your recent letter to the members of the board of advisors of the Ad Hoc Committee on the Environment.

First, I strongly support your bill, S. 1818. Such a step is clearly required to lead us out of our present environmental chaos. This chaos is, I believe, inevitable unless such a coordinating body is established with the function of representing the physiological—and aesthetic—needs of man.

There is, however, one point of confusion—perhaps my own—between the wording of the bill itself and what you stated in your letter and further implied in your comments as reported in the *Congressional Record* of April 15, 1969 (Vol. 115, No. 59). Your letter states that the bill would *require* the clearing of all legislation and programs by the OEQ. In the *Congressional Record* you state that the OEQ would function to review and clear all legislative proposals. Yet, in the bill itself—Sec. 6. (a)—there is no machinery provided to require the submission of legislation and proposals to the OEQ. Instead it would seem that the Director would have the responsibility of first locating and then obtaining access to proposed projects of various types. To be maximally effective, there should be a provision requiring both (1) submission and (2) clearing of all legislation, construction, programs, policies, and activities involving federal funds. There should also be a provision to prevent the release of federal funds before such clearance has been obtained (or until expiration of the staying period). If these necessary provisions are contained in the bill, I would be pleased to receive a note identifying their location. If not, would you consider their addition?

It is obvious that a meaningful OEQ would require a large staff to be both expeditious and effective. It is also possible that such a broad area of concern might lead to abuse of power. I am sure that both of these points have been considered and comend you for realizing that the issue is important enough to justify the acceptance of these liabilities.

Sincerely,

CHARLES E. KING,
Assistant Professor of Biology.

VIRGINIA POLYTECHNIC INSTITUTE,
Blacksburg, Va., May 6, 1969.

Senator JOSEPH D. TYDINGS,
Washington, D.C.

DEAR SENATOR TYDINGS: I was greatly interested in your bill S. 1818 to create an Office of Environmental Quality which you sent me as a member of the Board of Advisors ad hoc Committee on the Environment. Your diagnosis of the general problem was superb, and the goals toward which you would direct us are excellent. I hope my colleagues in the field of ecology will have an opportunity to express an opinion on this bill to their local congressmen and senators because it is one of the best expressions of the overall ecological problem that I have seen in a legislative document.

I have a few suggestions which may not be appropriate at this particular stage, but which may be worthwhile for future consideration.

1. Since there is so much variation regionally in environmental quality and in the problems related to environmental quality, might it not be a good idea to establish regional offices somewhat similar to those in the Army Corps of Engineers to be under the overall direction of a central office, but to have a great deal of independence of operation and the opportunity to acquire expertness in a particular region.

2. In view of the numbers and strength of the forces tending to erode environmental quality I feel that more muscle will be needed to stop the process, and really substantial amounts (perhaps even a conservation czar) will be needed to reverse the process and restore some of the now degraded portions of the environment. I realize that this may not be very palatable to the majority of the members of congress nor to the general public. However, as the population increases and the demands on the non-expendable environment increase, our freedom of action will decrease. There seems to be little question that as the population and industrial base grow we will have to make more efficient use of our natural resources, increasing the efficiency of use means operating under controlled conditions, and this inevitably means restrictions on the freedom of operation of individuals and industries. If we assume that the population will indeed follow the projected estimates, and the industrial base will do likewise, there may be no alternative but to have a "conservation czar." I fully agree with your reluctance to set up a position which would be able to determine which industries can locate in which areas, which can expand and which can not, how much treatment a municipality must provide for its sewage, and how much water an industry, municipality or agricultural area may use. On the other hand, with an expanding population and finite natural resources, I can see no less objectionable alternative at this time.

3. If I understand the implications of 1818, you intend that we should maintain quality control of the environment in much the same way that an industry maintains quality control within a plant. This would include continually collecting information about the biological, chemical and physical characteristics of the region, feeding them back into some central area so that one can determine at all times whether or not quality control is being maintained. In this event, one would go to the systems approach toward environmental quality maintenance which would consist of (a) systems analysis—which would determine the operating characteristics of a system and give information on current qualities of what are deemed to be important characteristics. (b) systems simulation—some part of the agency which would be able to simulate an ecosystem or at least the important characteristics of one, so that one could estimate the consequences of alternative courses of action. This is a feature badly needed today in environmental planning. (c) systems optimization—that is, the selection of the alternative course of action which would provide the optimal beneficial uses of an ecosystem or portion of the environment.

One of the chief objections I have to the way environmental decisions are currently made is that the entire spectrum of alternatives open is never really fully explored. Usually, someone makes a proposal; for example, to install a dam, and then immediately the entire region becomes polarized either for or against the dam to such an extent that no reasonable consideration is possible of other possibly more beneficial alternatives. We desperately need an office or agency capable of exploring a series of alternatives simultaneously and with reasonable objectivity so that the options open to the public can be brought before this polarization on a single alternative occurs.

I might add that the capability to carry out the systems approach has been developed quite markedly by the U.S. Army Corps of Engineers, Waterways Experiment Station. However, their primary interest is water quantity and they do not now have the capability to include water quality, particularly those aspects related to ecological quality. Last fall, I prepared, together with Dr. Phillip S. Humphrey, a report entitled "A Water Resources Ecology Capability for the Waterways Experiment Station and the U.S. Army Corps of Engineers" for the Waterways Experiment Station. The basis of this report was to use the already existing capability of the Corps for systems analysis to understand complex ecological situations. Development of a systems capability would be a time-consuming process for a new agency, but with relatively little effort and cooperation, the capability of the Corps of Engineers for systems analysis could be applied to complex environmental problems.

4. I have serious doubts about the ability of this country to manage the environment effectively with the very low number of well-trained people in this particular area. One of the problems in producing personnel skilled in environmental management is that the training in our universities and colleges is primarily discipline-oriented rather than problem-oriented. Interdisciplinary courses which consider for example, the problem of water management from both the viewpoint of a sanitary engineer and an ecologist, are quite rare yet these views must be meshed effectively if we are to have effective environmental quality control and management. Some provision should be made for encouraging academic institutions to develop such courses and programs. Since the organization of most academic institutions is based on discipline-oriented departments, establishment of such programs which will be interdepartmental and interdisciplinary and which would tend to break down existing department structure may be difficult to start. I am more optimistic about the opportunities for this type of program, however, since I have been at V.P.I. where the faculty has initiated an interdisciplinary program which is still feeble, but nevertheless shows promise.

I appreciate the opportunity to comment on your bill S–1818 because it represents a strong step in the right direction, and because I think we probably will be better off if we first move to halt the rate of environmental degradation, and then turn to restoring damaged parts of the environment. Environmental problems are sufficiently complex to baffle people who have been working full time in the field for many years, so it is very heartening to see a real understanding of the basic problems in the Congressional Record.

Sincerely yours,

JOHN CAIRNS, Jr.,
Professor of Zoology.

THE UNIVERSITY OF GEORGIA,
Athens, Ga., May 14, 1969.

Hon. JOSEPH D. TYDINGS,
Washington, D.C.

DEAR SIR: Your bill to create an "Office of Environmental Quality" is a bold step forward which, if passed, will enable the nation to prevent many tragedies. One immediately pertinent example of its prospective use would be the delaying of the dumping of World War II chemical warfare gases into the Atlantic for six months while the problem could be looked at more closely by experts. I am whole-heartedly in favor of the establishment of such an office but would urge you to make two changes which would

enhance its effectiveness: (1) In section 3(a) you should specify that the Director and Deputy Director should possess earned doctorates in some environmental science. Such an office can be no better than the people in it and the Director and his assistant must be well qualified, well trained in environmental sciences to be able to spot potentially dangerous activity.

A change is needed also in Section 4(c) where it is specified that the council will serve without pay. This sort of using of our brains cannot continue. Most of the persons used on such a council will have worked years on advanced degrees to make $10,000 per year (less than a plumber). You should specify that they will be paid at a daily rate commensurate with their yearly salary in addition to travel and per diem.

My colleagues, Drs. Golley and Odum, join in our support of your bill which covers the many weaknesses in earlier bills and urge you to push its passage. It may well save our country from events more insidious than Pearl Harbor.

Sincerely,

JOE A. EDMISTEN,
Assistant Professor.

HOW TO STOP PROBLEM DRINKING

Mr. JAVITS. Mr. President, I invite the attention of the Senate to a book that deals with one of the most widespread problems facing Americans of all economic levels, of all ways of life, from all sections of the Nation—the problem of drinking. The book, entitled "How to Stop Problem Drinking," written by Vincent F. Sullivan, offers a 21-day plan which can be an inspiration to the estimated 5 million men and women who are either alcoholics or in danger of becoming alcoholics.

In a letter to Mr. Sullivan, who is a former editor of the New York Daily News, I wrote:

There are clear limits as to what can be done at the governmental level. Your book attacks the problem from the personal side, an area where much can be—and needs to be—done. It is apparent that only through the combined efforts of public officials, private industry and concerned citizens such as yourself can we launch an effective attack against what medical authorities call "our fourth most serious health problem."

I also invite attention to an editorial published in the April 20 issue of the Daily News which discusses the importance of this book. In view of the obvious value of giving the widest possible dissemination to methods of combating alcoholism, I ask unanimous consent that the editorial be printed in the RECORD.

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

HELP FOR PROBLEM DRINKERS

In the United States at this time, there are an estimated 5,000,000 men and women who are complete alcoholics or well on the way toward becoming alcoholics.

Much is printed about this problem, and a good deal is said and/or enacted over radio and television. It is a real problem.

Everybody knows of the tragic things excessive use of liquor can do to the user and his or her family. Not so well known is the fact that it costs the nation an estimated $4 billion a year in absenteeism from work, under-par production by over-oiled workers, etc., etc.

We feel that a book published a few days ago has pretty much made it unnecessary for anybody ever to write anything more about alcoholism—provided this volume gets a big circulation.

The book is "How to Stop Problem Drinking," by Vincent F. Sullivan, with an introduction by the Hon. James A. Farley; Frederick Fell, Inc., New York, and George J. McLeod, Ltd., Toronto; 228 pages, $5.95.

Mr. Sullivan has put in about seven years researching and writing this book and interviewing some 7,600 persons.

"How to Stop Problem Drinking" is addressed primarily to super-drinkers' families and employers.

It blueprints innumerable ways to help a problem drinker get control of himself—mainly with the aid of Alcoholics Anonymous, one of the greatest organizations, we believe, ever put together.

If Mr. Sullivan has missed any bets in the field of helping alcoholics to sober up, stay sober, and become useful citizens again, we don't know what those bets might be.

Mr. Sullivan was a longtime valued News executive, now retired. We hated to see him leave.

In "How to Stop Problem Drinking," we think, he has performed a signal service; and we wish the book a tremendous and prolonged sale. It deserves it.

PESTICIDE INVESTIGATION PLANNED IN CALIFORNIA

Mr. NELSON. Mr. President, this morning's Washington Post reports that a major investigation has been scheduled in California on the adverse effects of persistent pesticides.

Assemblyman George Milias, chairman of the Committee on Natural Resources and Conservation, has expressed concern that the American bald eagle and the California brown pelican are being threatened by extinction because of contamination by pesticides.

Considerable evidence indicates that pesticides have caused harm to the eagle eggs, and some nests have been discovered with only empty membranes. Now, the California brown pelican in the Santa Barbara Channel is laying eggs with a high percentage of deformities in the shells.

California is just one of many States whose legislatures are considering measures to ban the use of DDT. Michigan and Arizona have already acted to prohibit its use.

I ask unanimous consent that the Washington Post article be printed in the RECORD.

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

PESTICIDE INQUIRY SET IN CALIFORNIA

SACRAMENTO, CALIF.—A California legislator with large cattle and crop land holdings announced this week that he will begin a major investigation of pesticides.

Assemblyman George Milias, chairman of the Committee on Natural Resources and Conservation, said he was "alarmed" by what was happening to the California environment.

He said he had heard reports that the American bald eagle may be wiped out and that the California brown pelican also is endangered because they eat food contaminated by pesticides.

A bill to prohibit DDT has been blocked, meanwhile, in the California Senate after running into opposition from the California Farm Bureau Federation, representing some of the Nation's largest growers.

State Sen. John A. Nejedly said he would propose new wording which he said would "lessen opposition without substantially weakening it."

His new wording would allow limited use of DDT and other "hard" pesticides (those which have long-lasting effects and do not break down easily) so long as a farmer proves to the State Agriculture Department there is no other effective way to keep his crops healthy. But there would be a phaseout program.

In discussing the proposed legislative investigation, Milias, a former State Republican Chairman, cited some case studies.

As far as the bald eagle was concerned, he said, he understood that it was in danger of becoming infertile because it feeds on rats and squirrels, which come in contact with insecticides.

The California brown pelican also is in jeopardy, Milias said. The birds have been eating coastal fish contaminated by pesticides, and now biologists are finding that the eggs being laid in nesting grounds in the Santa Barbara Channel have a high percentage of deformities in the shells.

MANNED ORBITING LABORATORY

Mr. CANNON. Mr. President, one hears a great deal these days about the necessity of the ABM system because of possible Soviet intransigence, but little has been said about the Air Force's manned orbiting laboratory, better known as the MOL program.

Perhaps this silence was indicative of a false security on the part of the public in view of the administration's advocacy of their ABM protective role in pushing their preemptive first-strike concept.

It now becomes patently clear that it is not security they are worried about. In fact it is difficult to tell where their concern lies. To illustrate, let me quote from and Air Force release sent to my office:

The Secretary of the Air Force has requested that I inform you that the Department of Defense has terminated the Air Force Manned Orbiting Laboratory (MOL) Program.

In arriving at this decision, a number of factors were considered. First, it was determined that the most essential DoD space missions could be accomplished with lower cost unmanned spacecraft. Second, the potential worth of possible future applications of the experimental equipment being developed for MOL, plus the information expected from the flights on man's utility in space for military purposes, while worthwhile, did not equate in immediate value to other DoD programs.

As everyone knows, our space program has been a civilian endeavor internationally oriented away from the military so that peaceful pursuit of space exploration could be furthered. The one going military program which had an opportunity to use the lessons learned in space for defense purposes was the manned orbiting laboratory.

We have spent millions in learning how to go to the moon to make us preeminent in this new technology, and I agree to this endeavor. But to remove now the opportunity to develop the knowledge gained is beyond comprehension.

It is difficult to understand the logic of the Department of Defense. In one breath they claim we are in the greatest mortal battle for survival—a danger beyond any confrontation in our entire history as a Nation—and at the same

time they terminate the most advanced surveillance system yet conceived.

To date, the Air Force has spent $1.3 billion on MOL, an impressive figure by any standard. To now scuttle this high investment for political expediency is unfair to the taxpayer and raises new questions concerning our national security. I, for one, believe a much deeper explanation is required.

PRIZE-WINNING ESSAY BY GORDON W. PLATT, JR.

Mr. JAVITS. Mr. President, using public service time, the Mutual Broadcasting System, whose president is R. R. Pauley, had all of its affiliated stations ask listeners to submit essays on their views of the Nation's major political problem, how they would solve it as President and what they can contribute to its solution as individuals.

After thousands of essays were reviewed by a distinguished panel of judges which included Dr. Richard Baker, acting dean of Columbia University's Graduate School of Journalism; Ambassador Leonard T. Marks, chairman of the U.S. delegation to Intelsat, and Dr. Kenneth Wells, president of the Freedoms Foundation, I am proud to announce that the work of a 19-year-old New Yorker was selected as the prize-winning entry. He was awarded a $100 savings bond. The essay makes painfully and graphically clear the ravages of hunger that afflict our cities. In view of the urgent need for the Nation to give greater priority to the problems of the poor, I ask unanimous consent to have this essay by Gordon W. Platt, Jr., of Syracuse, a student at Syracuse University, and the Mutual Broadcasting Corp. news release, printed in the RECORD.

There being no objection, the essay and news release were ordered to be printed in the RECORD, as follows:

STOP

(By Gordon W. Platt, Jr., Syracuse University, age 19)

Stop the smell of puke in a filthy toilet which never gets flushed for lack of running water. Stop the baby from crying in its makeshift crib. Stop my parents from fighting and breaking what little furniture we do have. Stop the crowding of four grown boys into one four by eight foot room to sleep with the bedbugs which suck their blood. Stop my mother from stealing the money I try to save. Stop my father from drinking himself to death. Stop the tin cans and beer bottles from piling up in my back yard. Stop the cold nights which freeze the water in the glass by my bed.

Then you have stopped my major problem. Is poverty your major problem? It should be. We should all regard it as our major problem. "A decent provision for the poor is the true test of civilization."[1]

As president I would attempt to civilize this country. I would establish free colleges and trade-schools for all qualified students and establish a guaranteed minimum income for every man and woman. I would put a heavy tax on the rich. Sure a man should have the right to rise above his peers through his own hard work, but he should not be allowed to hoard money which is doing himself no good.

The people cry out when violence erupts in the streets and yet the government offers the poor only 80 cents apiece more each year.[2]

I am doing the only thing I can do now. I am working my way through college. It's a tough struggle, but when I emerge as a journalist, I'm going to be a muckraker and expose the inequities of our system.

THE MUTUAL BROADCASTING SYSTEM ANNOUNCES RESULTS OF THE STOP CONTEST

Twenty-five of the over 3,500 submissions to Mutual's Solutions To Our Problems contest were selected as winning essays and ranked by Dr. Richard Baker, Acting Dean of Columbia University's School of Journalism, Ambassador Leonard T. Marks, Chairman of the U.S. Delegation to INTELSAT and Freedoms Foundation President, Dr. Kenneth Wells. These letters were judged on the basis of originality, clarity of expression and feasibility. The names of winning contestants, to be awarded a total of $7,700 in Savings Bonds, were announced locally over Mutual stations.

Mutual's President, Robert R. Pauley, in making the announcement, said that "public response confirms my belief that the people want to communicate their throughts. Radio was able to penetrate areas in 45 states and within a period of a little over one month, to reap 3,500 responses!"

The essays of 300 words or less were to indicate what the listener considers our biggest political problem, what he as President would do about it and what he can do about it personally here and now.

Some people wrote of their concern for the needy, interest in government reform, desire for certain constitutional changes and several saw the President as the solution in terms of his own actions, his choice of advisors and his communication with the people. A wide range of topics was covered including increased and decreased taxation, highway safety, education and air pollution. Concern, interest and a desire for involvement permeated the essays.

THE RECORD ON VIETNAM

Mr. MONDALE. Mr. President, recently I had an opportunity to read a statement by Mr. Robert Watkins, of Minnesota, who has been working with the members of the New Hope Democratic-Farmer-Labor Party on the question of our Vietnam involvement.

Mr. Watkins' paper addresses itself to the story of our increasing commitment to that unfortunate war, which continues despite a supposedly flexible approach by the administration and periodic rumblings of breakthroughs and settlements. It is all too clear that the military pressure which has not brought peace is still expected to do that.

Mr. President, I would like to see the Senate take a comprehensive look at our military and economic involvement in Vietnam over the past 15 years in anticipation of the votes we will be expected to cast in the next few months in support of those involvements.

I believe Mr. Watkins' paper makes it clear that this has been a long-term commitment and that evaluation of its effects is warranted. This paper strongly suggests that great difficulties lie ahead in reaching a satisfactory solution of the war in Vietnam.

Mr. President, I ask unanimous consent that the paper by Mr. Robert Watkins, entitled "Richard M. Nixon and Vietnam," be printed in the RECORD.

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

RICHARD M. NIXON AND VIETNAM

(By Robert W. Watkins)

PART I—THE WAR MUST BE ENDED

August 1, 1968—Former Vice President Richard M. Nixon delivered a statement to the Republican Platform Committee, outlining his views on the Vietnam War:

"We must seek a negotiated settlement. The swift overwhelming blow that would have been decisive two or three years ago is no longer possible today.

"The war must be ended. It must be ended honorably, consistent with America's aims and with the long-term requirements of peace in Asia. Until it is ended—and in order to hasten a negotiated end—it must be waged more effectively. But rather than further escalation on the military front, what it requires now is a dramatic escalation of our efforts on the economic, political, diplomatic and psychological fronts."

August 8—Mr. Nixon became the Republican candidate for President at the convention in Miami Beach, Florida.[1]

August 10—Mr. Nixon met with President Johnson, declared afterward that the bombing should not be halted without some sign of action from North Vietnam.[2]

October 7—Mr. Nixon was briefed by Secretary of State Dean Rusk, then addressed the United Press International Editors' Conference in Washington, D.C., announcing "substantial improvement" in the Vietnam war. He said there was hope for breaks in the Paris peace talks before the November 5 election.[3]

October 10—President Nguyen Van Thieu denied that an attempt had been made to overthrow his government Tuesday but a government spokesman had told newsmen: "You can say a government spokesman confirmed that there was an attempted coup; that it failed." Another government informant said, "There have been arrests." The U.S. Embassy confirmed an alert but offered no comment.[4]

October 25—Mr. Nixon released a statement from his New York headquarters in which he said a bombing halt might be accompanied by a cease-fire.

"In the last 36 hours," the statement said, "I have been advised of a flurry of meetings in the White House and elsewhere on Vietnam. I am told that top officials in the Administration have been driving very hard for an agreement on a bombing halt, accompanied possibly by a ceasefire in the immediate future. I since learned these reports are true. I am also told that this spurt of activity is a cynical, last-minute attempt by President Johnson to salvage the candidacy of Mr. Humphrey. This I do not believe."

October 27—In a radio speech, Mr. Nixon said the imposition of a coalition government in South Vietnam "would be an only thinly disguised surrender," though he would not "rule out inclusion of members of the National Liberation Front in South Vietnam's political processes if they agreed to abide by the results of elections."[5]

Mr. Nixon was asked on the CBS–TV panel, Face the Nation, to comment on President Johnson's charge that he made "ugly and unfair statements about the Administration's peace efforts:

"I would respond to it by pointing out that the President reads the newspapers, as I do, and there has been a great deal of discussion . . . that there were insiders on the White House staff who were attempting to work out some sort of settlement and that the President was going to be used for that

[1] Samuel Johnson.

[2] Carl T. Rowan, "Congress Gives Poor 80 Cents," *Syracuse Herald-Journal*, Oct. 11, 1968, p. 14, col. 6.

Footnotes at end of article.

purpose. It would seem to me that I was being quite responsible in nailing that and making it clear that I did not share the views of those that thought the President would use these negotiations politically . . ." [6]

October 31—President Johnson ordered an end to "all air, naval, and artillery bombardment of North Vietnam," effective at 8 a.m., Nov. 1 (Washington time). The President explained:

"I have reached this decision on the basis of developments in the Paris talks . . . in the belief that this action can lead to progress toward a peaceful settlement of the Vietnamese war."

Mr. Johnson said the Paris talks, which had appeared to be deadlocked, had moved into a new and "a very much hopeful phase" a few weeks ago when private meetings were begun with North Vietnamese negotiators.

"As we move ahead," he continued, "I conducted a series of very intensive discussions with our allies, and with the senior military and diplomatic officers of the U.S. government, on the prospects for peace. The President also briefed our Congressional leaders and all of the Presidential candidates.

"Last Sunday evening, and throughout Monday, we began to get confirmation of the essential understanding that we had been seeking with the North Vietnamese on the critical issues between us for some time."

He said the Joint Chiefs of Staff and General Creighton Abrams—commander of the forces in South Vietnam—had "firmly asserted" that this action should be taken now, that it would not result in any increase in American casualties.

The President then announced that representatives of the government of South Vietnam would be free to participate in the next (Nov. 6) regular session of the Paris talks, and that Hanoi had informed the U.S. that representatives of the National Liberation Front will also be present.

He added: "What we now expect—what we have a right to expect—are prompt, productive, serious, and intensive negotiations in an atmosphere that is conductive to progress. We have reached the stage where productive talks can begin. We have made clear to the other side that such talks cannot continue if they take military advantage of them. We cannot have productive talks in an atmosphere where the cities are being shelled and where the demilitarized zone is being abused. . . .

"The world should know that the American people bitterly remember the long, agonizing Korean negotiations of 1951 through 1953—and that our people will just not accept deliberate delay and prolonged procrastination again." [7]

October 31—Mr. Nixon, at Madison Square Garden, New York City, said he "trusted" that the decisoin to stop the bombing would bring some progress. "I will say that as a Presidential candidate, and my Vice Presidential candidate joins me in this, that neither he nor I will say anything that might destroy the chance to have peace." [8]

November 1—South Vietnam President Nguyen Van Thieu said his government would not participate in the four-way negotiations; participation by the NLF was unacceptable because it implied recognition and would confer on the Viet Cong a legitimacy which he feared they might later invoke as the basis for a coalition government.[9]

November 2—Mr. Nixon commenting on President Thieu's reaction, told an El Paso, Texas audience, "In view of the early report we've had this morning, the prospects of peace are not as bright as we would have hoped even a few days ago.[10]

November 3—Mr. Nixon, on NBC's Meet the Press, again said he supported the President on Vietnam. He said he would visit Saigon or Paris, if elected, "to get the negotiations off dead center." An aide, implying that he spoke with Mr. Nixon's consent, had been quoted as saying that Saigon's refusal to participate in the talks was an indication that the bombing halt "was hastily contrived." Mr. Nixon denied this.[11]

November 5—The nation elected Mr. Nixon. Despite a comfortable electoral margin over Mr. Humphrey (302 to 191), he polled only 43.40% of the popular vote. Mr. Humphrey had 42.70%.[12]

November 11—President-elect Nixon met with President Johnson, conferred with Secretary of Defense Clark Clifford and the Joint Chiefs of Staff.

"With regard to the briefings," he said, "they were completely candid and most helpful. The point that I think should be made that distinguishes this transition period from others is this: the nation at this time in its foregn policy has several matters—Vietnam of course at the top of the list—which cannot await decision and cannot afford a gap of two months in which no action occurs."[13]

November 23—South Vietnam refused to join the expanded peace talks in Paris but Premier Tran Van Huong said he approved of talks between his government and the NLF.[14]

December 8—Vice President Nguyen Cao Ky arrived in Paris with the 80-member negotiating team. He said there would be no "surrender or sellout" and that his only reason for coming to the talks was to demand that the Communists halt their aggression.[15]

December 10—Secretary Clifford called a news conference and said there was "an opportunity to agree with Hanoi upon the mutual withdrawal of troops" within the next 40 days. Reports from Paris the same day said little progress was made in working out procedural arrangements for the expanded talks.[16]

December 22—Vice President Ky returned to Saigon; he said he approved of talks between South Vietnam and the NLF and would discuss a change in policy with President Thieu.[17]

January 20, 1969—Inaugural ceremonies for Nixon. He promised to seek for America the honored title of peacemaker.

January 23—Formal sessions were resumed in Paris; all sides agreed to procedural arrangements, including the shape of the conference table.

Mr. Nixon had pledged during the campaign to end the war in Vietnam with "new leadership," with a "new team" not committed to the policies of the past. Among his earliest appointments:

Henry Cabot Lodge, to succeed W. Averell Harriman as chief negotiator at Paris.

Ellsworth Bunker, retained as ambassador to South Vietnam. Rep. Melvin A. Laird (R-Wis.), secretary of defense.

William P. Rogers, attorney general in the Eisenhower years.

Mr. Laird's previous Vietnam positions: increased military pressure; blockade of North Vietnam; "hot pursuit" of enemy forces to sanctuaries in Laos and Cambodia: opposition to troop withdrawal, negotiations, and an "imposed" coalition regime.[18]

The appointment of Mr. Lodge, who served two terms as ambassador to Saigon, drew this comment from the New York Times' C. L. Sulzberger in Paris:

"History is likely to regard the naming of Henry Cabot Lodge to head the Vietnam negotiating team of the United States as President Nixon's first major diplomatic decision. His choice of Cabinet members and White House advisers implied no specific policy commitment; the designation of Lodge does.

"Impressions based upon past activities of an official can sometimes be misleading. Nevertheless, it is difficult to imagine Lodge taking as active a line in the effort to end the war by virtually any means as his predecessor, W. Averell Harriman."

Sulzberger said Lodge, as ambassador to Saigon, was especially close to Air Marshal Ky.

"Now that Lodge is coming here, perhaps Ky's fortunes may rise. Certainly the retention of Ellsworth Bunker as American ambassador in Saigon indicates Nixon's incoming policy is likely to harden. Despite misgivings, Mr. Johnson recently sought to give Harriman and his righthand man, Cyrus Vance, as free a rein as possible in seeking a swift settlement.

"This involved debates between U.S. diplomats in Paris and Saigon. Differences of opinion have been frequent between the Harriman mission and Bunker. The arrival of Lodge must undoubtedly be linked to the decision to keep Bunker and to toughen the U.S. negotiating position . . . peripheral diplomacy may become more difficult . . . Thus, in concluding an initial analysis of the nominations, one can see that Nixon has arrived at certain fundamental conclusions concerning U.S. obligations and policy in Southeast Asia—even before moving to the White House." [19]

PART II—SOUTHEAST ASIA: BEFORE NIXON

If Mr. Nixon had arrived at "certain fundamental conclusions" concerning U.S. policy in Southeast Asia before moving to the White House—as C. L. Sulzberger suggests—when did he reach these conclusions? What are they?

The campaign rhetoric of 1968 left certain impressions but few directional insights. Therefore, an examination of the origins of U.S. involvement is in order; not only for answers to these questions but in the larger interest of understanding the complexities of Vietnam.

American aid to the French in their war against the Vietminh forces was begun after the fall of Nationalist China and the outbreak of hostilities in Korea. But the French were defeated, and after their withdrawal the United States found itself there, alone, and with a new set of military commitments.

One who warned against the nature of such an involvement in 1951, before the new commitments were made, was Rep. John F. Kennedy (D-Mass.); he had stopped in Saigon for talks with Ambassador Donald Heath and Gen. Jean Marie de Lattre de Tassigny, commander-in-chief of the French forces. Upon his return in November, he reported:

"In Indochina we have allied ourselves to the desperate effort of a French regime to hang on to the remnants of empire. There is no broad, general support the native Vietnam government among the people of that area. To check the southern drive of Communism makes sense, but not only through force of arms.

"The task is rather to build strong non-Communist sentiments within these areas and rely on that as a spearhead of defense rather than upon the legions of Gen. de Tassigny. To do this apart from, and in definance of, innately nationalistic aims spells foredoomed failure." [20]

It is essential for a clear understanding of the American presence in Vietnam to look at the policy decisions since 1945; the first significant step was the rapid rate of American demobilization after the fall of Germany.

The combat effectiveness of most U.S. units had declined by 50 to 75% two months after Japan's surrender. In Europe, the Army was reduced from 3,500,000 men to 400,000 within a period of ten months while Russia massed overwhelming forces in Germany; violated the provisions of the Yalta agreement calling for elections in Eastern Europe; and began applying strong pressures against Iran, Turkey and Greece.[21]

President Truman began a reversal of U.S. policy in 1947 when Britain, on Feb. 21, noti-

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fied the governments of the United States, Greece, and Turkey that it could no longer meet its commitments in the Mediterranean.[22]

There was another consideration: in February 1946, George F. Kennan, charge d'affaires in Moscow, had cabled an eight-thousand word analysis of Soviet foreign policy . . . "a patient, confident, expansionist diplomacy" that was, on the one hand ". . . more sensitive to contrary force, more ready to yield on the individual sectors of the diplomatic front when that force is felt to be too strong . . . yet, not easily defeated or discouraged by a single victory on the part of its opponents." [23]

With Mr. Kennan's analysis as a backdrop for the British dilemma, Cabinet consultations then formulated a policy of containment.[24]

March 12, 1947—President Truman went before a joint session of Congress to deliver the statement that became the Truman Doctrine: "I believe it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressure." [25]

Did Mr. Truman mean to commit the United States to a worldwide anti-Communist crusade? His action was a request to Congress for $400 million in aid to Greece and Turkey, and to authorize American civilian and military missions to advise and train Greek and Turkish military forces.[26]

The policy was recognized in a National Security Council paper, NSC–20, in late 1947; in June 1948, the defense of Europe through NATO was made possible by adoption of the Vandenberg Resolution which empowered U.S. participation.[27]

It was soon clear that the Truman Administration had not adopted a policy of nuclear deterrence: it lacked the means to deliver an effective atomic attack on Russian targets: atomic stockpiles were low; it lacked sufficient B–29 bases in strategic locations.

In addition, Soviet troop strength in Europe was a countervailing force, holding the continent as hostage; and Soviet air power now was capable of hitting U.S. bases.[28]

Inadequacies in American military strategy came to light during a Navy-Air Force dispute. The issue—whether the new super carrier (flush-deck) or the new intercontinental B–56 would get favored treatment by the planners. There was, in late 1949, a heightened sense of urgency. The Chinese Communists had defeated the Nationalist forces, and the Soviet Union had achieved nuclear status.[29]

Jan. 30, 1950—President Truman signed a directive initiating the hydrogen bomb project. He also directed the Secretaries of State and Defense to begin an overall review and assessment of national security policies.

The result was a policy document, NSC–68, comparing U.S.-Soviet strengths and weaknesses, and predicting a Soviet nuclear delivery capability which would offset U.S. deterrence within four or five years. Its conclusions: the U.S. must begin a vigorous rearmament program, stressing conventional military capabilities.[30]

A ceiling of $13 billion was imposed on the military budget for fiscal 1951. Rearmament was seen as only a remote possibility.

June 25—North Korea sent troops across the 38th parallel; expenditures were increased to $22 billion as the administration sought to implement NSC–68.[31]

Unilateral involvement on the Asian mainland was avoided in 1949 when the Joint Chiefs advised that only a large-scale American intervention could save Chiang. "The American people," Mr. Truman told his aides, "would never stand for such an undertaking." [32]

But in Korea, a Soviet boycott enabled the U.S. to win United Nations support and assistance from 17 nations.

Critics of Truman's China policy weren't willing to support U.S. combat operations against Mao in 1948 and 1949; Congress approved only marginal increments in aid in the China Aid Act of 1948. Rep. Walter Judd (R-Minn.) declared: "not for one moment has anyone contemplated sending a single combat soldier in . . . so it is important to make clear when we speak of military aid . . . it is supplies, training, and advice, nothing further." [33]

Gen. George C. Marshall, called upon to defend the administration's China policy against Republican criticism, told a Pentagon audience: ". . . at that time, my facilities for giving them hell was one and one-third divisions over the entire United States . . . that's quite a proposition when you deal with somebody with over 260 and you have one and one-third." [34]

Secretary of State Dean Acheson had defined a U.S. commitment in Asia in January 1950—from an arc along the western Pacific littoral, from the Aleutians to Japan and down to the Philippines. It omitted Korea, which gave rise to more criticism after the invasion. This line was first drawn, however, by Gen. Douglas MacArthur in March 1949.[35]

Two views were dominant in the administration. One was cited by Gen. Omar Bradley in testimony before Senate committees during the controversy between the President and Gen. MacArthur: "To extend the fighting to the mainland of Asia would involve us in the wrong war, at the wrong place, at the wrong time and with the wrong enemy."

The other was expressed by Mr. Truman in one of his last messages to Gen. MacArthur: "In reaching a final decision about Korea, I shall have to give constant thought to the main threat from the Soviet Union and the need for a rapid expansion of our armed forces to meet this great danger." [36]

PART III—A NEW LOOK POLICY: RICHARD M. NIXON, VICE PRESIDENT

The Republican Platform of 1952 charged the Truman Administration with "appeasement of Communism at home and abroad . . . shielding traitors . . . depriving Americans of precious liberties . . . fostering class strife." It promised to get rid of Communism and corruption, emphasized "air power and massive retaliation."

Mr. Nixon, a Senator for two years, was nominated as Gen. Dwight D. Eisenhower's running mate.

Historian Stefan Lorant touches on Mr. Nixon's rise to prominence in his book on the American Presidency—The Glorious Burden. Mr. Nixon is described as a friend of Sen. Joseph McCarthy—"a reckless demagogue"—and as "one of the most active members" of the House Un-American Activities Committee after his election to Congress in 1946. His campaign was waged against "the Communist conspiracy." He also is credited as the one who, with help from Whittaker Chambers, a Time magazine editor and ex-Communist, linked Alger Hiss to the Red conspiracy.

President Truman, Secretary Acheson, and Adlai E. Stevenson, the Democratic nominee for President, were characterized by Mr. Nixon as supporters and defenders of the Communist conspiracy; McCarthy said Stevenson associated with "subversives" and gave "aid to the Communist cause."

Historian Arthur Schlesinger, Jr., agreed several years later that Mr. Nixon's tactics of "identifying political opponents with treason to the Republic" belonged in the dead past, but he was troubled because Mr. Nixon "has never indicated any real understanding of the enormity of his offense." [37]

When Democrats revealed the existence of a secret "extra expense" fund of $18,235 contributed for Mr. Nixon by 75 wealthy Californians, he responded: "I was warned that if I continued to attack the Communists and crooks in this government that they would continue to smear me, and, believe me, you can expect that they will continue to do so. They started it yesterday." [38]

The New York Herald Tribune demanded Mr. Nixon's immediate withdrawal. While Gen. Eisenhower reserved judgment, a nationally televised speech gave the country an accounting of Mr. Nixon's finances, his daughters, and his wife, who wore not mink but "a respectable Republican coat of cloth." At the end of his speech, Mr. Nixon mentioned another gift—his pet dog, Checkers. "The kids, all the kids love the dog . . . and regardless of what they say about it, we are going to keep it."

His place on the ticket was saved. The candidates returned to the campaign.

Gov. Stevenson, Mr. Nixon said, is "soft on Communism." Gen. Eisenhower, speaking in Milwaukee in early October, said that he and Sen. McCarthy shared the similar purpose "of ridding this government of the incompetents, the dishonest and above all the subversive and the disloyal." In his prepared text was a defense of Gen. Marshall whom Sen. McCarthy had called a traitor—"I know him to be dedicated with singular selflessness and the profoundest patriotism"—but this passage was omitted from his speech.[39]

In an address to the American Legion convention in New York, Gen. Eisenhower proposed that the U.S. help the Communist-controlled nations of Eastern Europe to throw off the yoke of Russian tyranny—"The American conscience can never know peace again until these people are restored again to being master of their own fate." It came to have more meaning during the Eisenhower Presidency when uprisings occurred in East Germany, in Poland, and in Hungary without an American response.[40]

During the last days of the campaign, Gen. Eisenhower said he would go to Korea to get the stalemated peace talks moving at Panmunjom if the country elected him. On Nov. 2, the country gave the Eisenhower-Nixon ticket 442 electoral votes to 89 for Stevenson-Sparkman.

Gen. Eisenhower visited Korea and upon his return in December met with members of his new Cabinet aboard the USS *Helena*. He made clear his opposition to the defense programs then under way (NSC–68) and asked for alternatives to prevent a "garrison state." [41]

Secretary of State-designate John Foster Dulles advocated a posture based primarily on "massive strategic striking power" to deter instead of trying to contain the Soviet Union, Admiral Radford favored a "mobile strategic reserve" based in or near the U.S., with indigenous forces becoming the first line of local defense. He argued that U.S. military power was overextended, especially in Asia.

A report prepared during the transition, NSC–141, and signed by Secretaries Acheson and Lovett and Mutual Security Administrator Harriman sustained NSC–68, calling for a balanced military establishment with substantial limited-war forces in view of the Soviet Union's long-range nuclear capability. It would add $7 billion to the defense budget.

President Eisenhower noted that Soviet leaders, ". . . by their military threat . . . had coldly calculated to force upon America and the free world an unbearable security burden leading to economic disaster." [42]

In April 1953, the NATO Council agreed to Secretary Dulles' suggestions for a slowdown in the European buildup. Meanwhile, task forces led by Walter Bedell Smith and Robert Cutler explored alternative grand strategies: (1) the present policy of containment, (2) global deterrence by nuclear threat, and (3) liberation of Communist-held areas.

The new administration wanted to cut the defense budget by $4 billion in fiscal 1954 and by $6 billion more in 1955. Its first policy paper, NSC–162, put more reliance on stra-

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tegic air power for deterrence but continued the balanced forces view of NSC–68 and NSC–141. Substantial cuts weren't being made and the paper was rejected.[43]

Admiral Radford said large reductions would not be possible unless the administration decided on the kind of war it planned to wage. He thought savings could be accomplished if the planners had permission to use nuclear weapons when necessary.

Thus in October 1953 a new formal policy document, NSC–162/2, was signed by the President; its objective, to deter Soviet aggression by massive strategic retaliatory capabilities; it approved the use of nuclear weapons; and it relied on indigenous allied forces to counter local aggression.

The New Look strategy, built on these concepts, was submitted by the Joint Chiefs of Staff in December. Tactical atomic warfare techniques would allow the administration to achieve a 25% reduction in military manpower; the defense budget, now up to $50 billion, could be lowered to $35 billion by 1957. American ground forces in forward areas of Europe and Asia would be reduced.[44]

American aid to the French in Indochina had amounted to more than a billion dollars at the end of 1953. John F. Kennedy, now a Senator, moved to amend the Mutual Security Act—the authorization for military assistance—to require that U.S. aid "be administered in such a way as to encourage . . . the freedom and independence desired by the people of the Associated States (South Vietnam, Laos, and Cambodia), including the intensification of the military training of the Vietnamese." He said the war would "never be successful unless large numbers of the people of Vietnam were won over from their sullen neutrality and open hostility" and assured complete independence. The amendment was defeated.[45]

January 12, 1954—Secretary Dulles spoke to the Council on Foreign Relations: "We need allies and collective security. Our purpose is to make these relations more effective, less costly. This can be done by placing more reliance on deterrent power, and less dependence on local defensive power."

The New Look policy of nuclear deterrence was put to its first test in Southeast Asia as the administration gave "explicit warning" to China that material aid to Ho Chi Minh's Communist insurgents must stop. It did not, and the French soon found themselves encircled at Dienbienphu.

French officials appealed for a U.S. air strike to relieve the pressure, and Secretary Dulles called for "united action" by the Western powers.

Vice President Nixon suggested that if the French withdrew, U.S. troops might be needed to "avoid further Communist expansion in Asia and particularly in Indochina."[46]

February 10—President Eisenhower said at a press conference that "no one could be more bitterly opposed to ever getting the U.S. involved in a hot war in that region than I am." But it was during the same period that the President defined the "domino theory" as applied to Southeast Asia: "If one is knocked over, the entire row will topple."[47]

Admiral Radford supported American air intervention; Gen. Ridgway was opposed. An Army investigating team, sent to Indochina to review the situation reported that intervention would require a troop commitment on the scale of the Korean war. The President rejected unilateral intervention.

April 6—Sen. Kennedy argued in the Senate: "The time has come for the American people to be told the blunt truth about Indochina . . . Despite any wishful thinking to the contrary, it should be apparent that the popularity and prevalence of Ho Chi Minh and his following throughout Indochina would cause either partition or a coalition government to result in eventual domination by the Communists . . . Secretary Dulles' statement indicates . . . that we will fight if necessary to keep Southeast Asia out of their hands . . . and that we hope to win the support of the free countries of Asia for united action against Communism in Indochina, in spite of the fact that such nations have pursued since the war's inception a policy of cold neutrality. Certainly I, for one, favor a policy of a united action . . . realizing full well that it may eventually require some commitment of our manpower. But to pour money, material, and men into the jungles of Indochina without at least a remote prospect of victory would be dangerously futile and self-destructive."[48]

May 7—Dienbienphu fell to the insurgents; the French agreed to a cease-fire and a division of Vietnam. Under the terms of the Geneva Accords, the Vietminh surrendered much of the territory it held. An election under international supervision would reunite the country under one government in July 1956.[49]

Secretary Dulles extended the Far East defense perimeter to Southeast Asia and began to build a collective security pact. India, Burma, Indonesia, and Ceylon refused, but Pakistan, Thailand, and the Philippines accepted; with Australia and New Zealand agreeing, the Southeast Asia Treaty Organization was formed. Its protection was extended by special protocol to South Vietnam, Laos, and Cambodia at their "invitation or consent."

The agreements provided a new formal commitment of American military support. SEATO members, "in accordance with constitutional processes," were pledged to meet armed aggression, "direct or indirect."[50]

No measures were taken to increase military power in the region, but Secretary Dulles was confident that SEATO would make a "substantial contribution to preserve free government in Southeast Asia and to prevent Communism from rushing into the Pacific area where it would seriously threaten the defense of the U.S."[51]

Stalin's death on March 5 had an impact; President Eisenhower, sensing an opportunity for peace initiatives, presented—over Secretary Dulles' objections—an appeal for disarmament and international control of atomic energy in an address to the American Society of Newspaper Editors on April 16; in Korea, the peace talks brought an exchange of sick and injured prisoners.[52]

July 28—Truce in Korea. The 38th parallel still separated North from South.

Also in July, Ngo Dinh Diem—both anti-French and anti-Communist—from his exile in New Jersey was installed as Premier of South Vietnam. Economist Stanley K. Sheinbaum, who was campus coordinator of the Michigan State University "Vietnam Project," admits the university's role in helping Diem to consolidate his power.

An MSU "inspection team" arrived in Saigon in September, but the governmental involvement did not take place until May 1955.[53]

June 1, 1956—Sen. Kennedy, speaking in Washington to the Conference of the American Friends of Vietnam, acknowledged: "Events proved me wrong in one respect. Vietnam was partitioned, the price of years of Western folly. But my fear that Ho Chi Minh and his Communists would ultimately come to dominate all Indochina has not yet come to pass." Nevertheless, he said Vietnam had been neglected, that "our neglect is the result of one of the most serious weaknesses that has hampered the long-range effectiveness of American foreign policy . . . that is the overemphasis upon our role as volunteer fire department of the world." For Vietnam to remain free of Communist control, he felt, would require a revolution—a political, economic, and social revolution far superior to anything the Communists can offer—"far more peaceful, far more democratic, and far more locally controlled."[54]

Before the 1956 elections, President Eisenhower suggested that Mr. Nixon serve "in some other capacity" in his second term. A "Dump Nixon" move led by Harold Stassen, the President's special assistant on disarmament, did not succeed.[55]

The President entrusted Mr. Nixon to refute Democratic charges "on a higher level than in the past." Mr. Nixon promised not to make "personal attacks on the integrity of our opponents," but added: "You don't win campaigns with a diet of dishwater and milk toast."[56]

PART IV—PRESIDENT KENNEDY'S VIETNAM

The U.S. commitment of 1954, reaffirmed in 1957, pledged to help resist any "aggression or subversion threatening the political independence of the Republic of Vietnam. He began his reunification struggle with assassinations in 1957, advanced to the training of insurgents in the South in 1958; to an announced plan of "liberation" in 1959; and to formation of the National Liberation Front of South Vietnam in 1960. Elections, as provided by the Geneva Accords, had not been held in 1956.

Biographer Theodore C. Sorensen, a White House adviser in 1961, writes that the Kennedy Administration's basic objective in Vietnam was "essentially the same as in Laos and the rest of Southeast Asia," that the President sought "neither a cold war pawn nor a hot war battleground."

He had to deal first with an impending Communist victory in Laos and a decision on the invasion of Cuba. Mr. Nixon saw President Kennedy on April 20, and urged both an invasion of Cuba and American air intervention in Laos. Four days later, the Russians agreed to a cease-fire in Laos.[58]

Military proposals for Vietnam, in President Kennedy's view, were based on assumptions and predictions that could not be verified—"on help from Laos and Cambodia to halt infiltration from the North, on agreement by Diem to reorganization in his army and government, on more popular support for Diem in the countryside, and on sealing off Communist supply routes."

He agreed that a major counterinsurgency effort was needed, but that South Vietnam could supply the numbers and would have to supply the "courage and will to fight, for no outsider could supply that."[59]

December 15, 1961—After a major review by Gen. Maxwell Taylor and other advisers, the U.S. commitment was continued in an exchange of letters between Presidents Kennedy and Diem. President Kennedy restated his belief that it remained "their war to win, not ours," and in a separate message to Diem—prompted by the Taylor report—said South Vietnam's military effort would have to be fully mobilized, reorganized, and given the initiative; that specific tax, land, education, and other social and political reforms would have to be instituted; that without such cooperation, American support would be useless.[60]

During 1962, several American reporters—Malcolm Browne of the Associated Press, Cornelius Sheehan of United Press International, David Halberstam of the New York Times, Charles Mohr of Time, and Francois Sully of Newsweek—rebelled against censorship and harassment. They considered Diem's strategic hamlet program a fake and a failure, and reported seeing peasants being herded from stockades at bayonet point to engage in forced labor. Diem's reports to the contrary were not believed, and when Gen. Paul Harkins and Ambassador Frederick Nolting insisted they were true, Halberstam wrote: "In trying to protect Diem from criticism, the Ambassador became Diem's agent. But we reporters didn't have to become the adjuncts of a tyranny."[61]

By the Spring of 1963, President Kennedy had decided to replace Nolting in Saigon. It

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has been said that he preferred Edmund Gullion, but Secretary of State Dean Rusk chose Henry Cabot Lodge. Lodge, however, could not leave for Saigon until August.

Before Nolting left Saigon in mid-August, Diem promised no more attacks on the Buddhists. Six days later, his troops again assaulted pagodas, arresting hundreds of bonzes. USIA Chief John Mecklin called it "ruthless, comprehensive suppression." Madame Nhu's father, the ambassador to Washington, resigned in protest against his government's actions.

September 3—President Kennedy discussed Vietnam in a television interview: "I don't think the war can be won unless the people support the effort . . . the repressions against the Buddhists, we felt, were very unwise. It is my hope that they will take steps to try to bring back popular support . . . if it doesn't make those changes, I would think that the chances of winning it would not be very good."

Ambassador Lodge cabled Washington, asking for a suspension of all American aid not related to the battlefront; the administration agreed. Madame Nhu then toured the U.S. denouncing President Kennedy's Vietnam policies.

October 31—Diem asked Lodge what he would have to do. Lodge told him to send Nhu out of the country and institute some reforms; Diem said he needed time to think about it.

November 1—Lodge called on Diem in the morning. That afternoon the generals staged a coup; Diem and Nhu were murdered. Diem had refused asylum in the American Embassy.[62]

Sorensen sums up the Kennedy Administration's response to Vietnam as one which raised the commitment but kept it limited—"he neither permitted the war's escalation into a general war nor bargained away Vietnam's security at the conference table, despite being pressed along both lines by those impatient to win or withdraw."

The size of the military assistance mission was increased from roughly 2,000 at the end of 1960 to 15,500 at the end of 1963. Air and helicopter teams were sent, along with 600 Special Forces men to train South Vietnamese soldiers in counterinsurgency warfare—this had not been done before—but American combat units were not committed.

President Kennedy's last public statement on Vietnam was made in a CBS interview:

"In the final analysis it's their war. We can help them, we can give them equipment, we can send our men out there as advisers, but they have to win it—the people of Vietnam—against the Communists."

PART V—PRESIDENT JOHNSON'S VIETNAM

America's Vietnam policies and strategies were reviewed again after the 1965 elections. A new open-ended commitment emerged in 1965.

Feb. 7—A reprisal raid by U.S. fighter-bombers was ordered north of the 17th parallel as a response to Viet Cong mortar attacks on U.S. installations at Pleiku airstrip. Under-Secretary of State George Ball said the U.S. "could not fail to respond without giving a misleading signal (to Hanoi)." [63]

Feb. 28—The State Department issued a White Paper entitled "Aggression from the North: The Record of North Vietnam's Campaign to Conquer South Vietnam," documenting an increase in the North's supply of key advisory personnel and weapons during 1964.[64]

April 7—President Johnson explained "why we are there." He referred to the "deepening shadow of Communist China," and alluded to the contest in Vietnam as part of a wider pattern of aggressive purposes. "We will not withdraw, either openly or under the cloak of meaningless agreement." [65]

In April, 1,500 sorties were flown against North Vietnamese targets and 15,000 additional American troops were sent to Vietnam.[66]

Then from May 12 to May 18 the attacks were halted. When they were renewed, Secretary Rusk told the Foreign Service Institute that "Hanoi is not even prepared for discussions unless it is accepted in advance that there will be a Communist-dominated government in Saigon." But in November the State Department admitted that it had received a negotiating offer from Hanoi, via the French government, just a few hours after the six day bombing pause had ended.[67]

June 11—The government of South Vietnam fell to Air Vice Marshal Nguyen Cao Ky amid increasing anti-government agitation by Buddhists and others. Ky's military junta announced that neutralism would be punishable by death.

July 28—President Johnson announced a 75% increase in U.S. troop strength in Vietnam. "We did not choose to be the guardians at the gate," he said, "but there is no one else." [68]

A halt in the bombing, this one to last 37 days, began in late December 1965. Hanoi issued its 4 points for peace, the U.S. responded with 14. Hanoi's insistence on a U.S. withdrawal and recognition of the NLF as a pre-condition for talks was rejected. Secretary Rusk observed: "If the Viet Cong come to the conference table as full partners, they will . . . in a sense . . . have been victorious in the vary aims that South Vietnam and the United States are pledged to prevent." [69]

Jan. 28, 1966—Air attacks over North Vietnam were resumed.[70]

January 29—Richard M. Nixon addressed the Women's National Republican Club, noting that "some Democratic critics have gone so far as to advocate direct negotiations with the Viet Cong; this would inevitably lead to a coalition government . . . undermine the confidence of Asian nations and encourage the aggressors to try the same thing again some place else where the stakes would be higher and the risks greater." He added: "Some of the ships carrying supplies to North Vietnam are from nations which receive foreign aid from the United States. The unconscionable traffic should stop." [71]

Sen. Fulbright opened televised hearings before the Senate Foreign Relations Committee in February. Among the witnesses: Gen. James Gavin, who feared the "escalation in Southeast Asia will begin to hurt our world strategic position." Diplomat George Kennan, who said Vietnam policy "seems to me to be a grievous misplacement of emphasis in our foreign policies as a whole." Even if the Viet Cong controlled all of South Vietnam, while regrettable and morally unwarranted, Mr. Kennan said, "it would not present dangers great enough to justify our direct intervention." [72]

February 8—The Declaration of Honolulu, issued by Presidents Johnson and Thieu after the conference in Honolulu, emphasized socioeconomic development, and South Vietnam pledged itself to "a true social revolution." [73]

By 1967 the administration's chief critics were members of the President's own party. Though still a small group, it included Sens. Eugene McCarthy, Robert F. Kennedy, George McGovern, Frank Church, and Fulbright. Sen. Everett M. Dirksen (R-Ill.), the minority leader supported the President's policies. Other Republicans—Reps. Laird and Clark McGregor, for example, had called for stronger military measures.

One who was not in the government—Mr. Nixon—offered advice occasionally but did not take issue with the President's policy of escalation. In October 1967, he elaborated on his views of Southeast Asia and Vietnam for the quarterly journal, Foreign Affairs:

"From Japan to India," wrote Mr. Nixon, "Asian leaders know why we are in Vietnam and, privately if not publicly, they urge us to see it through to a satisfactory conclusion . . . One of the legacies of Vietnam almost certainly will be a deep reluctance on the part of the U.S. to become involved once again in a similar intervention on a similar basis . . . This makes it vitally in their own interest that the nations in the path of China's ambitions move quickly to establish an indigenous Asian framework for their own future security.

"I am not arguing that the day is past when the U.S. would respond militarily to Communist threats in the less stable parts of the world, or that a unilateral response . . . is out of the question. But other nations must recognize that the role of the U.S. as world policeman is likely to be limited in the future.

It is essential to minimize the number of occasions on which the great powers have to decide whether or not to commit their forces. These choices cannot be eliminated but they can be reduced by the development of regional defense pacts . . . to put it another way, the regional pact becomes a buffer separating the distant great power from the immediate threat. Only if the buffer proves insufficient does the great power become involved.

Winning acceptance of such a concept and creating an "official awareness of military needs" among neutral Asian nations will not be easy, Mr. Nixon concedes. But he would hope that "even India might finally be persuaded to give its support."

He also analyzed China: "Dealing with Red China is something like trying to cope with the more explosive ghetto elements in our own country. In each case a potentially destructive force has to be curbed; in each case an outlaw element has to be brought within the law." Those self-exiled from society must not stay exiled forever, he wrote, but the reality of China does not mean—"as many would simplistically have it"—rushing to grant recognition to Peking. Thus, "our aim is to persuade China that it *must* change."

Mrs. Indira Gandhi, in an interview with the Washington Post's Selig S. Harrison, in February 1969, was asked if American intervention in Vietnam had helped India in its long-term security problems with China: "It hasn't made any difference at all in strengthening our position with respect to China. As for Vietnam, had there not been a war, both of them (North and South) would have been in a stronger position to resist China if China ever did wish to menace them. North Vietnam has shown independence of China in not consulting them about the Paris talks . . . None of these countries can be strengthened under present circumstances. It's so much based on the troops and that cannot be solid or lasting . . . Your recognition of China as a world power might be helpful in creating a new environment in Asia.[74]

March 31—With 540,000 troops committed to South Vietnam, President Johnson announced a cutback in the U.S. bombing of the North. He said he would not seek re-election.

In May, Hanoi agreed to send a negotiating team to Paris.

Part VI—President Nixon's Vietnam: The First 90½ Days

One of President Nixon's first moves was a revision of the National Security Council, making it a repository for all foreign policy matters reviewed by a new system of sub-Cabinet interagency committees. Adviser Henry Kissinger, the White House said, is not "chief formulator of policy" but will make sure that the proper range of choices is available to the President; as ranking Cabinet officer, Secretary of State Rogers is the "principal foreign policy adviser." [75]

Footnotes at end of article.

Feb. 15—The U.S. command reported from Saigon the B52s, "in the heaviest bombing of 1969," dropped 2.5 million pounds of bombs on positions of some 40,000 Communist troops threatening Saigon, the "greatest such raiding" since Dec. 12 and 13.

Military spokesmen said 105 of the B52s are making more than 1,800 sorties a month from Guam, Okinawa and Thailand, striking at enemy troop concentrations and carrying out a constant nighttime pounding of Communist supply trails. Columnist Joseph Alsop wrote: "If Gen. Abrams' confidence in the B52s is again justified in the day now ahead, his main effort can continue as at present, but with new confidence and increased power." [76]

February 19—Felix Belair, Jr., a Washington correspondent for the New York Times, reported that "capitalist elements" in South Vietnam constitute a primary source of financial support for the Viet Cong. His source: a report from the Stanford Research Institute to the House Government Operations Subcommittee on Foreign Operations and Government Information.

The report said that about 90% of the funds needed to support Viet Cong activities "are derived from sources within the Republic of Vietnam," and roughly two-thirds of Viet Cong cash income is from sources other than the peasants.

Another finding; the failures of successive governments since 1956 to distribute expropriated and former French lands to landless and land-poor farmers not only had advanced the Communist revolution but had also "provided conditions ideal for concealing the Viet Cong."

The study was financed by the Agency for International Development which had contemplated a $100 million land-reform package—with the U.S. paying half—to provide each of 320,000 farm families a grant of 5.5 acres of rice land. Although the Saigon government is still the biggest landowner, the Stanford report said, redistribution now is all but impossible; the Viet Cong hold much of the lands and much of it has gone back to jungle.[77]

February 23—New enemy offensive began with the shelling of 35 towns and allied military installations. Mr. Nixon was enroute to Europe for conferences in Britain, France, Belgium, West Germany, and Rome; he said the attacks might call for some kind of response.

March 4—After his return from Europe, the President was asked about the latest enemy offensive: His answer: if the attacks continue the government will make "some response that is appropriate." He also said the Communist offensive may have violated the "agreement" which influenced the bombing halt last Nov. 1, but that preliminary investigation had shown the attacks were directed primarily at military targets.[78]

March 7—South Vietnam's chief negotiator Pham Dang Lam broke off the scheduled negotiating session at Paris because of "the indiscriminate terrorist attacks." Vice President Ky left for Saigon earlier in the day, saying that he had no reason to return to Paris "as long as the enemy persists in its present activity." [79]

March 11—Secretary Laird, preparing to leave Saigon after talks with American and Vietnamese officials, said he did not consider it an escalation of the war "for U.S. military commanders to conduct operations in Laos to protect the safety of American soldiers." Marines had occupied positions in Laos for a week.[80]

March 14—President Nixon said the U.S. had "no other choice but to try to blunt the offensive," bringing this editorial response from the Washington Post: "The President might have enlarged the citizens' understanding of the realities of the war if he had admitted that the Americans have been on the offensive for the past six months . . . while the other side withdrew troops after the bombing halt Oct. 31, battalion-sized attacks from our side rose from 727 in November to 956 in December to 1,077 in January." [81]

March 17—Sen. McGovern criticized the President for blaming the Communists for the renewed fighting. "Are the Viet Cong responsible for our blind determination to follow failure down the road to disaster—until today, when we talk once more of enemy offensives, appropriate responses, new escalations, as though the terrible losses of four years had taught us nothing?" He asked that half the U.S. troops be withdrawn and the other half pulled back in defensive positions around major installations and cities.[82]

March 17—Sen. Edward M. Kennedy (D-Mass.) said Mr. Nixon has told Congressional leaders that he has "a peace plan" for the war and that it is now in effect, but that no details were given. The Senator added: "I am hopeful we are going to see some results. We ought to give him the opportunity for the plan to be tested."

March 19—Report from Saigon: "About 10,000 U.S. troops launched a drive through battle-scarred stands of rubber trees 40 miles from here in an attempt to shatter enemy preparations for an expected thrust against Saigon." The White House indicated that this operation is the "appropriate response" promised by President Nixon.[84]

March 20—Secretary Laird, appearing before the Senate Armed Services Committee, said American commanders in Vietnam think all U.S. troops must remain there until all North Vietnamese troops withdraw. He also said: "I do not think there is a possibility for any troop withdrawals in any significant numbers today." [85]

March 30—Sen. Mansfield, who earlier had accused the Nixon Administration of falling into the "act-react" cycle fomented by President Johnson, was a guest on NBC's Meet the Press. Asked if the U.S. had made any significant progress toward peace, he replied: "No, not of any significance. The only significant factor that I am aware of is the statement made by President Thieu the other day that he would be willing to meet with the NLF." Did he believe the U.S. bears a share of responsibility for the present escalation? "Oh, yes, because it is my understanding that once the bombing of the North stopped completely—that is, below the 20th parallel—that instructions were given to Gen. Abrams to keep the pressure on." [86]

April 1—William F. Buckley, Washington Star Syndicate: "It has been a while since we heard from Mr. Nixon his views on the justification of the American effort in Vietnam. In the past he has stoutly maintained that we are there necessarily; that the alternatives to fighting there are infinitely worse by any calculation. Does Mr. Nixon still believe that? . . . It can be contended that nothing has changed since Mr. Nixon last analyzed that war, and that, therefore, there is no reason to suppose that his analysis of it a year ago is different from his analysis of it now. But wars require continual reaffirmation . . ." [87]

April 4—Secretary Laird said that secret talks aimed at settling the Vietnam war have shown "some sign of progress." [88]

April 6—Max Frankel of the New York Times reported: "The Nixon Administration has set in motion an essentially secret program of diplomatic and military measures designed to extricate the United States from Vietnam. Officials here confirm the adoption of a new approach to the war but refuse to discuss its details. They predict, however, that their approach will become evident by the end of 1969, presumably through a decline in the rate of American casualties and the recall of some American troops . . . It is still not clear here how much progress has been made in recent days to arrange secret talks, both between Washington and Hanoi and between Saigon and the NLF . . . It is not clear either whether the announced 10% cut back in B52 bombing raids in South Vietnam had a clear diplomatic purpose . . . Secretary Laird represented the cutback as an economy measure. Some officials have encouraged speculation that it was a signal to Hanoi, but others say the cutback was only a budget measure that was mistakenly announced at an awkward moment." [89]

April 8—The Viet Cong rejected Saigon's proposal for "national reconciliation" at the Paris talks, claiming it contained "nothing essentially different from that which the U.S. has said and repeated for a long time." [90]

April 8—Secretary Rogers voiced hope for mutual U.S.-North Vietnamese withdrawals this year but ruled out a one-sided American pullout now. He also announced a planned visit in May to Vietnam, Thailand and Iran.[91]

April 10—Report from Saigon: "With ground warfare in a lull, U.S. B52 Stratofortresses took over the burden of attack Wednesday, concentrating their blows on suspected enemy bases near Cambodia." [92]

April 12—Report from Tokyo: Broadcast by Radio Hanoi listed the Viet Cong's three basic principles for peace in Vietnam—an end to U.S. "aggression, complete and unconditional withdrawal of troops, an end forever of Saigon's role of "betraying the nation." [93]

April 13—The war continued. New B52 raids hit enemy positions 15 miles west of Saigon, also attacked base camps and other targets in Tay Ninh Province as the enemy suddenly increased shellings on allied bases and population centers. American warships in the South China Sea knocked out 106 Communist hideouts along the coast.[94]

April 15—The government of South Vietnam arrested newspaper publisher Nguyen Lau on charges of aiding the Communists. A front-page editorial the day before had denounced the government for abuse of civil liberties.[95]

One of the influential voices in the Nixon Administration offered a preview of the likely approaches from Washington before the new decision makers took over. This view, from Dr. Kissinger, which appeared in the January 1969 issue of Foreign Affairs, suggests as American objectives: (1) a staged withdrawal of external forces, and (2) maximum incentive for the contending forces in South Vietnam to work out a political agreement . . . but the withdrawal should be over a "sufficiently long period so that a genuine indigenous political process has a chance to become established."

If Dr. Kissinger's views prevail at the White House, Saigon will not face strong pressures to agree to a coalition government, although it might be expected to hasten its own military involvement. Also of interest, however, is Dr. Kissinger's rationale for opposing a coalition government—and the inference that someone may have to accept defeat or go on fighting:

"The notion that a coalition government represents a compromise hardly does justice to Vietnamese conditions. Even the non-Communist groups have demonstrated the difficulty Vietnamese have in compromising differences. It is beyond imagination that parties that have been murdering and betraying each other for twenty-five years could work together as a team giving joint instructions to the entire country."

IN SUMMATION: THE CAUSE OF VIETNAM—THE COURSE OF THE NIXON ADMINISTRATION

Three distinct views shaped U.S. policy in Southeast Asia during the Eisenhower, Kennedy, and Johnson administrations. For Secretary Dulles, Vietnam was a global balance of power test. For President Kennedy, it was "their war," with assistance conditioned on certain expectations, among which were the development of South Vietnam's own forces, needed land reforms, and a respect

Footnotes at end of article.

for civil liberties. For President Johnson, it remained a conflict for Asians only during 1964, then reverted to an open-ended commitment with the world balance of power again at stake.

An evaluation of the significant evidence extracted from more than twenty-three years of American policy making offers a clear understanding of the causes of the Vietnam war as well as the attitudes of those persons most involved in the critical decisions. Something more than decisions is implied in the term "causes." Prevailing conditions and actions by others outside this country should be taken into account.

The urgency in reviewing Richard M. Nixon's relationship to the war is self-evident. As President, he now casts the deciding vote on policy.

The causes

1. Extending the balance of power struggle to Asia at a time the United States had begun to respond to its major security threat—the Soviet Union—by rearming and building an adequate defense for Europe. Korea drew attention away from Russia and toward China; the fall of Nationalist China was partly responsible for this. In terms of the global balance of power, it was Russia, not China, which represented the most serious threat to the security of the United States.

2. Shifting the perimeter of Far East defenses to Indochina and seeking military alliances with Asian nations which had demonstrated their intent to maintain a position of neutrality. Only one nation in the region immediately affected agreed to accept U.S. military protection under the terms of the SEATO agreements. That was Thailand.

3. SEATO itself. Unlike NATO, its members provided little or nothing resembling a force posture. Any threat of aggression, "direct or indirect," put U.S. military power—manpower as well as materiel—at the disposal of the Treaty member requesting such assistance. South Vietnam, not a signatory and scheduled for reunification with the North in internationally supervised elections, nevertheless was awarded SEATO's protection. (Note: the Philippines, one of the SEATO members, recently withdrew its 1,500 troops from South Vietnam and indicated it would send doctors and nurses instead.)

4. The policy of "instant massive nuclear retaliation." The credibility of this policy can be seen in each instance it was tested. It was found lacking in each test and therefore was not a credible policy; strong balanced forces were lacking; and at every stage the nuclear threat was offset by a Soviet retaliatory capability. The nuclear policy failed to deter (1) China's aid to Ho Chi Minh in 1954, despite "explicit warnings," (2) Russia's move to crush the Hungarian uprising in 1956, a revolt which may or may not have been encouraged by the administration's "liberation" policy, and (3) it did not deter Ho Chi Minh from pursuing his policy of "liberation" for South Vietnam in 1957, 1958, 1959, and 1960; neither, it should be apparent, did SEATO.

5. These policies were advocated by John Foster Dulles, accepted by the administration, and put into effect by Mr. Dulles.

6. Richard M. Nixon supported the Dulles policies when they were formulated and supports them now. He still insists that neutral nations must develop an "official awareness of military needs" and enter into new regional pacts to have their security guaranteed by U.S. military power. He would still intervene unilaterally to a Communist threat, although he concedes that conditions might force him to be more selective. His commitment to Dullesian concepts was articulated by Sen. Barry Goldwater in the Aug. 4, 1960 edition of Human Events:

"It is not without reason our great Secretary of State, the deceased John Foster Dulles, looked upon Dick Nixon as his great friend and supporter. Dulles was the only Secretary of State we have had since World War II who thoroughly understood the overriding issue in the world and who labored vigorously and ably to roll back the tide of encroaching communism . . . In all these exhausting efforts, Dick Nixon gave Foster Dulles aid and encouragement."

7. President Nixon and his principal advisers strongly indicate that they are prepared to continue the U.S. involvement in Vietnam for as long as the present Saigon government wishes, though perhaps with fewer troops. Tentative target dates mentioned for complete withdrawal are "at the end of 1970" or possibly 1971. A token withdrawal, however, could occur even without an agreement.

8. The government(s) of South Vietnam has been unwilling to comply with conditions outlined for a continuation of U.S. military assistance as mutually agreed upon in December 1961, and reaffirmed in the Declaration of Honolulu. It still represses civil liberties; it has excluded from its councils not only Communists but people representing a majority of the inhabitants (Note: a candidate representing the militant Buddhists was not permitted to run in the Sept. 3, 1967 Presidential election, and trade unionists were barred from the Senatorial races); it has consistently refused to undertake the land reforms so often promised and which now, apparently, are all but impossible; and it willfully stymied the peace negotiations in Paris during the two months that Mr. Nixon said should see no letdown.

Moreover, South Vietnam does not demonstrate even now that it wants a settlement of the war. President Thieu has suggested 1971 as possibly the earliest the Viet Cong might be permitted a voice in the affairs of the national government.

Conclusions

The commitment to war in Southeast Asia was made by Mr. Dulles and supported by Mr. Nixon, who has said, periodically, that the involvement was correct. It was made despite warnings that such a commitment might mean a unilateral action by the United States, and with full understanding from military planners that intervention in Indochina would require a troop commitment "on the scale of Korea."

Despite its commitment to send troops and its threat to use nuclear weapons if necessary to halt aggression, the government of which Mr. Dulles and Mr. Nixon were a part refused to do either when Ho Chi Minh opened his campaign of "liberation" in South Vietnam.

President Kennedy, had he not been murdered, might have had to make good on the 1954 and 1957 promises which told the world that this country would use whatever force was required to prevent a Communist takeover in Southeast Asia. But the evidence shows that he concentrated on political, economic, and social gains in South Vietnam while increasing the level of the commitment of military assistance. At the same time, he pressed for greater initiative in Saigon. As he frequently stated, success would depend primarily on Saigon and Saigon has not met its share of responsibility. Whether the course he followed could have ended the war is a question not likely to be answered.

It remained for President Johnson to pay the price quoted by the military planners in 1954 as the cost of intervention. Thus, he committed a half million troops to the intervention begun and left unfinished by Mr. Dulles and Mr. Nixon.

Now it has come full circle. The intervention that Mr. Nixon helped to promote is still in need of settlement.

In his statement to the Republican Platform Committee in August 1968, he said the "swift, overwhelming blow that would have been decisive" was no longer possible.

Is it unfair to ask:

When would it have been decisive to strike such a blow?

In 1954?

In 1957?

In 1959?

In 1960?

(NOTE.—The report relied heavily on research data recorded by Seyom Brown, a RAND Corp. policy research specialist, whose studies of specific policy decisions were conducted at the Washington Center of Foreign Policy Research, Johns Hopkins University. Corroboration is supplied by additional research reported by David W. Tarr of the University of Wisconsin, as well as in other sources cited below. The author, however, depended upon his own record of more recent events.)

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[58] Arthur Schlesinger, A Thousand Days, pp. 336–337; Richard M. Nixon, Cuba, Castro, and John F. Kennedy, Readers Digest, November 1964.
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NEED FOR NATION TO REORDER PRIORITIES

Mr. JAVITS. Mr. President, in an address to the Economic Club of Detroit on May 21, I discussed the need for the Nation to reorder its priorities "away from the building of limitless military power—without any sacrifice of national security—and toward the restoration of domestic tranquility."

I made this speech at the very time that the conscience of Congress has been aroused to the spectre of millions of Americans who, in this Nation of dizzying affluence, are unable to get enough to eat, a life-sustaining job, a decent place to live, or an adequate education.

At the same time, Congress seems on the verge of acknowledging that the precious resources of this Nation have been misspent—that too much has gone into defense against outside threats and too little into defense of domestic institutions and the American way of life as we have always known it.

I particularly stressed the great leadership role that the administration must play in reordering our priorities if indeed the Nation is to take action in curing its domestic ills before it is too late. Since I spoke in Detroit, the President has given his own position on priorities—a position that differs in many respects from my own and from the views held by a substantial number of Senators. I feel that my remarks in Detroit will contribute to this most important dialog, and I ask unanimous consent that they be printed in the RECORD.

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

NATIONAL PRIORITIES: THE NEW ADMINISTRATION FIRST 100 DAYS—AND BEYOND

(By Senator JACOB K. JAVITS)

The First Hundred Days syndrome, so popular among political commentators, can be traced back to the drama with which Franklin Delano Roosevelt began his New Deal to meet the Depression crisis of 1933. It is true that all this is pretty well dated. Therefore, does the application of a First Hundred Days evaluation have any relevance to the Nixon Administration?

I feel that it does in that tendencies indicated in the first hundred days may be legitimately cited to indicate trends, to point out the perils of given attitudes, to recommend alternatives and to suggest timing. In this way, the Administration and the nation can be aided. For, every American wants the nation—and, therefore, the President—to succeed. How true this is for us Republicans who have been in the wilderness for so long!

For, I submit that we are facing a crisis in 1969 of another order, but a crisis no less awesome in its potential than the 1930's were in their actuality.

Instead of breadlines, we have hidden hunger in our urban ghettos and rural wastes.

Instead of mortgage foreclosures and bank failures, we have soaring interest rates and rampant inflation.

Instead of discontented intellectuals experimenting with Soviet communism, we have disenchanted college students toying with Maoist Stalinism on the campuses.

Instead of the gathering storm of Nazi Germany and Japan, we have the wasteful, frustrating, futile war in Vietnam and the unending intransigence of the radical Arab states in the Middle East.

Instead of a nation crying out for federal action to save it from financial bankruptcy, largely created by private action, we have a nation yearning for greater private and local authority to deal with problems that increasingly are assigned to the federal bureaucracy.

Instead of a nation all of whose people are reeling from the body blow of depression, we have a nation immersed in its own affluence while the needs of an explosive "Other America" are met inadequately or not at all and while, at the same time, we feed more and more of indispensable resources into the arms race.

Our nation is facing a crisis of purpose which will determine its destiny for the rest of this century—a crisis which demands an immediate and highly visible response. The response that is needed, at the very least, is the establishment of goals and the means to implement them which will bring this nation to grips with the crisis of the cities and the closely related hopelessness of its rural poor. What is needed is the reordering of our national priorities away from the building of "limitless" military power—without any sacrifice of national security—and toward the restoration of "domestic tranquility."

Moreover, the response that is not needed is the flurry of hastily prepared and often ill-conceived programs that characterized the New Deal. But, neither is it the painful and time-consuming reluctance to face issues and crises in time.

President Nixon, in his first 100 days, and the weeks beyond, has proven himself an able craftsman in government, imposing new order on the bureaucracy and restraints on a dangerous inflation. He has been cool, businesslike and a model of restraint and decorum. The tone of the new Administration is a pleasant change to many Americans. But, so far it is more a change in tone than substance—the substance still lies ahead—and it is changes in substance that I wish to discuss.

For, up to this point, with one exception, the Nixon Administration has not yet moved on the nation's problems of poverty and alienation with the resources and speed so vitally needed. The one substantive exception has been on the problem of hunger—an exception which I hope will clearly mark the route the President will follow, and which could be noted with great profit by some of the President's advisors.

In a dramatic and humanitarian gesture, the President announced two weeks ago—apparently overruling even some of his own advisors—that he planned to wage an aggressive campaign against hunger, a campaign that would cost an additional $1 billion annually. This was a thrilling moment in my political career as I am the ranking minority member of the pertinent Committee. It pointed up how an issue illuminated in the public forum that sears the conscience of the nation can be translated into immediate, meaningful political action. By declaring that there was hunger—substantial in nature—in our land of plenty, the President was acknowledging what he conceded to be an embarrassing fact, a fact that had been brought to light by two years of Congressional investigations, in which I played a role, and by the disclosures of crusading citizens groups and of an aroused and responsible press.

There is some doubt that the additional $1-billion per year the President plans to spend will be adequate to expand and improve the Federal food stamp and food distribution programs sufficiently so that every family, no matter how modest its means, will be guaranteed a diet that meets the minimum Federal nutritional standards. But one thing is no longer in doubt: if the President has the will, then I feel we have a right to expect that he will find the means to finance the new forward-looking programs that are required to help our poor. And I might add that the President has given every indication that these funds can be found even within his pared-down budget for fiscal 1970 without diverting the nation from the anti-inflationary course he has charted.

Viewing inflation as the nation's number one problem at home, President Nixon has slashed $4-billion from President Johnson's fiscal 1970 budget to provide a surplus of nearly $6-billion, the largest since 1951. But in preparing his budget, as with his decision to deploy the ABM, the President has shown that his military advisors continue to carry

great weight with him. Only $1.1-billion was cut from fiscal 1970 military spending—about half of which may have to be restored by Congress if ammunition runs low in Vietnam—but $2.9-billion was slashed from current domestic spending. It is the restoration of this $2.9-billion, plus perhaps another $2-billion—a total of $5-billion more for domestic spending—which is at issue.

In his domestic message to Congress, the President indicated that once inflation had been brought under control through short-term budget cuts, "we must be prepared to increase substantially our dollar investment in America's future as soon as resources become available."

I submit that the resources are now available, even with the present need for Federal austerity to offset the legacy of inflation left by the folly of President Johnson's "guns and butter" policy. Those resources—of say $5-billion—can be found today in the "guns" portion of the national budget because I am convinced that much fat can be trimmed from the nearly $80-billion defense budget at no real danger to our nation's security. And those deferrable or unneeded military dollars are sorely needed on the domestic side of the ledger to offer better housing, schools, health care, transportation, job training and a decent diet to the millions of our nation's poor. Indeed, there is every indication that the President himself already sees this and plans to dip into the Defense budget to find the extra funds he needs for the enlarged food assistance program he has announced in the coming year.

Yet, desirable as it is, the President's program to feed the hungry is but a jetty against an ocean of poverty and racial tension that is pounding against the underpinnings of our society. The President and other Republicans, including myself, can speak properly of the unkept promises, of the massive spending programs and the muddled bureaucracy that have come to characterize the New Deal and Great Society approaches to eliminating poverty. We Republicans can make new promises that the solutions lie in tax incentives to the business community, in revenue-sharing to promote local initiative and in new programs that stress voluntarism by the private sector and self-help and participatory democracy by the poor. But it is quite another thing again to come up with the programs and the substantial funds that will be required to make even these enlightened concepts work.

The first step in the difficult transitional process of moving away from the present inequitable and degrading welfare system—and the Administration shows signs of moving in this direction—is for the Federal government to adopt minimum standards of welfare throughout the nation and to pay a share of the resulting higher payments in states that cannot afford them. Such reform would go a long way toward ending the exodus of the poor from rural areas where welfare payments are shockingly low to the cities where assistance to the poor is generally maintained at more enlightened levels.

The new Administration must be bold enough—and generous enough—to overcome the vicious and degrading stereotypes of poverty. It must, for example, require that assistance programs be available to all impoverished families including those that have a man in the house. No longer should able-bodied men be encouraged or compelled to abandon their families so that their wives and children can qualify for welfare assistance. No longer should families be disqualified from receiving assistance if the man or the woman of the house is able to find work and yet is unable to maintain the family at a subsistence level. I do not preclude the possibility of a system that moves toward a guaranteed family income, either through a reverse income tax or income maintenance by family allowances—but always with incentives to work, to educate oneself, to lift oneself out of the degradation and hopelessness of poverty.

But in the meanwhile, where are the funds needed to implement the present programs? The poor are told that they are to participate in their own flight from poverty. But the funds sought by this and the previous Administration for local initiative through OEO's community action programs came to less than what was requested to cover operating expenses of the Coast Guard.

Ghetto residents are told that they will be helped to establish themselves in small businesses. But blacks, who comprise 10 per cent of the population, still own less than one per cent of the businesses. Loans from the Economic Opportunity Loan Program, which were promised to aspiring ghetto businessmen at the rate of 10,000 a year by the Johnson Administration, totaled only 1,700 last year. Not only must the Administration take bold steps to give life to this program, it should reverse any tendency within the Small Business Administration toward cutting back on its prior commitment of bolstering minority entrepreneurship through technical and financial assistance.

Lower income youths are told that they are entitled to the same educational opportunities as those who can afford the spiraling costs of a college education. And yet, the Administration's budget proposals include a cutback of about a quarter from the amount appropriated last year under the National Defense Education Act's student loan program, and eliminate altogether federal grant programs for the construction of college buildings and the stocking of elementary and secondary school libraries.

Disadvantaged youngsters are told that they will be trained to take their rightful place in the job market. Will their needs be better satisfied by the Administration's plan to shut down 59 of the 113 Job Corps Centers and to ask for more than 85,000 federally subsidized jobs in private industry for the hard-core unemployed? And will the funds for adequate summer employment for youth in our major cities be provided?

Time bombs of frustration, despair and anger among our urban poor continue to tick away. What a tragedy it would be if more explosions came this summer because we failed to heed in time demands for action by the tenants of those slums that *someday* are to be renovated or replaced; by the students in the schools that *someday* are to receive suburban-quality facilities and instruction; by the disadvantaged sick who *someday* are to get first-class treatment and hospital care; by the malnourished who *someday* are to feel the full bellies promised by the President's food program; by the hard-core unemployed who *someday* will receive the vocational training and the equal opportunities now promised by federal law?

Inflation is the nation's most *immediate* pressing problem. But while the Administration must act to curb inflation, it can ill-afford to downgrade attention to our urgent social problems. The action to reduce federal spending should have cut deeper into military spending—especially into the outlays for overseas bases and for research and development—and should have left the funds available for domestic programs substantially intact or enhanced by transferred military funds. There is still time to revise these priorities.

Measured in terms of dealing with the immediate economic problems facing the country, particularly inflation, the Nixon Administration's policies certainly have been more realistic than those which prevailed during the last years of the Johnson Administration. But, measured in terms of facing up to the fundamental problems of articulating new approaches to deal with our troubled cities, our tax structure, our foreign economic policies—to cite a few examples—the Nixon Administration still has been more cautious than we can afford. Its intentions have certainly been commendable, but today intentions alone are not sufficient to calm the nation or to put it on the road toward a more just society.

In the field of tax reform the Administration's proposals are but a beginning toward eliminating the basic inequities in the Federal tax code. Yet, the Treasury Department is well aware of what are the basic inequities and there is broad popular support for fundamental reforms. There are two basic avenues to bringing about meaningful tax reform. The first is a minimum income tax for large income recipients to cover income that is presently excluded. The alternative is a reduction or elimination of certain tax loopholes which now permit certain types of income to be excluded at an annual cost of $9-billion a year to other taxpayers who have to make up the difference by paying higher taxes. A minimum income tax would be more meaningful—and certainly more than an interim measure toward tax reform—if it were combined with the closing of such tax loopholes as the reduction of the depletion allowance for oil and gas from 27½ per cent to 20 per cent and the reduction of intangible drilling and development cost deductions to 50% of such costs over a five year period as I have already proposed. The combined effect of such a minimum income tax and the closing of these two tax loopholes alone would result in more than $1-billion in additional tax revenues as well as in greater equity in the tax system.

Another pressing area is tax relief for middle income taxpayers—those in the $5,000 to $15,000 a year category. The dissatisfaction of House Ways and Means Chairman Wilbur Mills with the limited scope of the Administration's tax reform package is further important evidence that basic reforms can obtain Congressional approval, and I urge the Administration to propose such additional reforms.

In the field of foreign economic policy, the new Administration was immediately faced with the following problems: the President was without trade negotiating authority since July, 1967; the foreign aid program was at its lowest levels in 20 years; U.S. private investment and lending abroad was subject to extensive restraints; the international monetary system was being severely tried by repeated attacks on the mark, the franc and the pound sterling.

There are not yet new policies to speak of on any of these fronts. A new and distinguished American has been appointed to fill the post of the President's Special Representative for Trade Negotiations and the President, to his great credit, reaffirmed that this office would remain in the White House. The President has not yet sent his trade policy proposals to Congress.

Following the sharp curtailment of the foreign aid program in 1968, Congress passed an amendment I proposed which calls for a reappraisal by the President of the entire foreign aid program, including the need for a federally chartered corporation to encourage private investment in developing countries. Without basic reforms, such as the corporation which I have been advocating for many years, Congress is still unlikely to support an adequate foreign aid program. It is therefore essential that the President come forward with at least some reforms in 1969 and lay the groundwork for further reforms next year.

I have no doubt that the current European currency crisis can be overcome through ad hoc measures based on existing international financial cooperation. Yet the crisis demonstrates once again that the international monetary system established 20 years ago is essentially obsolete and needs broad reform. The best means to achieve this purpose is in reforming the Bretton Woods Agreement which brought into existence the Interna-

tional Monetary Fund. The health and stability of the international monetary system is vital to world peace, security and progress.

Those as concerned as I about reordering national priorities would be more reassured if it were clear that we are pointed in the direction of early disengagement from the Vietnam conflict and deescalation of the arms race so that we can devote major attention to relieving the nation's domestic ills. This concern has contributed to much of the opposition to the deployment of the Safeguard ABM system.

It is my firm belief that the rich and varied tapestry of American society as we have always known it may not survive the excessive cost of another major escalation in the arms race. Indeed, at the risk of sounding like an Old Testament prophet, I believe that the diversion of resources necessitated by the $8-billion deployment of Safeguard—combined with continuation of the Vietnam war and no progress on further disarmament—could touch off such a maelstrom of protest from our disadvantaged citizens and disenchanted youth as to jeopardize the life of our free institutions. For as we have seen in the current chaos on our campuses, irresponsible action provokes repressive reaction. And if the winds of dissent blow even harder across our land, we could become Fortress America governable only as a police state more concern with division from within than the threat from without.

In another period of our history, the President of the United States declared that "a third of our people are ill-housed, ill-clothed and ill-fed." This was clearly a national tragedy. Today, the 28,000,000 Americans who fall into this category comprise a much smaller percentage, but no less of a national tragedy. The very fact that a nation with a $900-billion-a-year economy cannot provide a share of the American dream to each of its citizens is a tragedy. But the greater tragedy lies in the fact that the poverty amidst plenty of today breeds deeper frustrations and hotter anger than did the widespread poverty of 30 to 40 years ago. And the resulting threat of a polarized society in which white is pitted against black, in which privilege is pitted against poverty, in which youthful idealism is pitted against middle-aged status quo—all this suddenly becomes an awful, violent reality despite America's 200 years of striving to provide the opportunities and fruits of a free society to all.

It is at the threshold to such a potentially tragic future that we now stand. But, the spectre of inexcusable poverty and domestic unrest provides the President with an opportunity as well as a challenge. It is an opportunity of politics as well as of history. By moving boldly in the direction of uplifting the poor into the mainstream of American society, by seeking to reconcile the alienated, by achieving a new synthesis of the public interest and sound business practices in his domestic programs, by ending the war in Vietnam, by progressing further in disarmament—President Nixon, who was elected by a minority of the people, may yet transform the Republican Party to the Party of the majority.

I have always believed that the Republican Party could be the vehicle for truly progressive action in our society. I have always believed that the private sector has the capacity to operate in the public interest to solve such vital problems as urban decay, rural poverty and unemployment. It is now for President Nixon to bring this lesson home to the majority of the American people by utilizing traditional confidence of the business community in the Republican Party wherever possible and by bringing the full effect of government power, funding and partnership to bear on the problems that do not lend themselves to solution by the private sector alone.

But over-reliance on non-governmental approaches to dealing with our nation's domestic ills could produce a new generation of unkept promises not at all dissimilar to those that have been the legacy of the Roosevelt and Johnson years. The difference is that such a set of broken promises could provide the match to ignite the flames of violent social upheaval that, with some tragic exceptions, has thus far been generally contained.

The sense of crisis that pervades our nation today is a crisis of inaction, not of impotence. It is a crisis of not doing, rather than a crisis of not knowing what to do. And therein lies our hope for the future—the immediate future—so far as President Nixon is concerned. The great hope in the Nixon Administration is that it will lead the nation to taking action in time. Its greatest tragedy would be if history reveals that our nation could have prevailed over the social ills that now afflict it, except that we failed to act in time.

SENATOR YARBOROUGH ADDRESSES MARINE ENGINEER GRADUATES

Mr. NELSON. Mr. President, recently the chairman of the Committee on Labor and Public Welfare, the senior Senator from Texas (Mr. YARBOROUGH), addressed the fifth graduating class of the Marine Engineers Beneficial Association Training School at Baltimore. In his remarks Chairman YARBOROUGH paid tribute to this unique institution that is training high school graduates from all over the country to become marine engineers in the American-flag merchant marine. He also praised the foresightedness of the training school's founder, Jesse M. Calhoon, MEBA president and one of the most progressive leaders in marine labor, who early saw a growing shortage of marine engineers and was moved to start this training school.

I ask unanimous consent that the text of Senator YARBOROUGH's speech be printed in the RECORD.

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

REMARKS OF HON. RALPH YARBOROUGH, CHAIRMAN, SENATE LABOR AND PUBLIC WELFARE COMMITTEE, BEFORE THE GRADUATING CLASS, CALHOON MEBA TRAINING SCHOOL, BALTIMORE, MD., MAY 15, 1969

Distinguished guests and cadet engineers of the 5th graduating class of the Calhoon Marine Engineers Training School:

It is a special pleasure for me to be with you today, special because it not only gives me the chance to visit with you fine young men embarking on an exciting career, but also has allowed me the opportunity to view this unique and altogether splendid institution—the Calhoon Training School.

I am impressed! The quality and scope of your training equipment, the obvious high level of instruction, the intensity and depth of your training program and your excellent quarters here have convinced me that this school is capable of producing marine engineers who can rank with the products of our best maritime institutions—with, of course, the possible exception of the Texas Maritime Academy at Galveston.

I understand that the driving force, the dynamo behind the creation of this school is your union's President, Jesse Calhoon, whom I know as one of the ablest leaders in the field of maritime labor. I am, of course, well acquainted with NMEBA's branch leaders in Galveston, Houston, Port Arthur and Corpus Christi, and might I say that they have always been among my strongest supporters in the labor movement. You are, in my judgment, becoming members of one of the finest labor organizations in the country. Your salary and working conditions and superb vacation program rank with the best achieved by any union in this country. Your pension and welfare plan is the equal of any in maritime unionism. In short, your historic organization—organized during the War Between the States—has lived up to its great heritage of being first in maritime unionism.

Jesse Calhoon was first, too, when he recognized early in the Vietnam conflict that a severe shortage of marine engineers was in the offing. He saw that the regular schools such as the U.S. Maritime Academy at King's Point, New York would not be able to turn out the engineers needed because of the additional personnel demands created by Vietnam. The school from which you graduate today is the result of Jesse Calhoon's vision. I congratulate him and the shipping companies who teamed up with the Marine Engineers to make it possible. I also congratulate them for making this school democratically open to any qualified high school graduate anywhere in the United States.

We need more schools of this kind in the country—institutions which can offer specialized training in particular fields such as marine engineering for those who are unable for one reason or another to attend college. Particularly is this true in the merchant marine field where we have lagged far behind other maritime nations in the training and development of oncoming new personnel to man the American-flag ships that ply the world trade lanes. For example, the Russians today are training almost 25 times as many marine officers as we are—a sobering statistic.

Yet is is only one thing to field the qualified personnel to man American-flag merchant ships. Of equal importance is our need for a replacement fleet of fast, modern ships to compete with other maritime nations of the world.

You know better than I that we do not have these ships today. Only about 10 new commercial craft of competitive nature are turned out by our shipyards each year, and our aging World War II vintage ships are becoming commercially obsolete much faster than that. To compete, and to keep pace with other nations, we need a massive shipbuilding program that will strain the capacities of our shipyards from Massachusetts and Maryland to Texas and California We must add to the qualitative technological improvements in shipbuilding techniques, sheer quantities of new ships.

We can see in the Vietnam experience why we need to maintain a modern merchant marine. Some 95 per cent of the supplies to our forces there are carried by water. Most of this is transported in ships built during World War II—old Victory ships brought out of the mothball reserve fleet and called into action. We have brought up 500 of these ships, and by next year most of them will be virtually obsolete—far beyond their prime and at the stage where they should be scrapped.

We are extracting everything we can get from these old tubs and their life will surely end with the Vietnam war. Our reserve fleet is being used up with no replacements in sight. Should a future emergency of the nature of Vietnam occur, we would not have the necessary sea-going capacity to meet it.

I cannot claim to have any solid answers to this problem, but I do know that something has to be done. From the founding of our republic on it has been an article of faith that a healthy, viable merchant marine is a cornerstone of our security and prosperity. Therefore, I believe that the top officers of our government, as well as those of industry and labor, must immediately begin talking to the point of whether we are

going to have a viable merchant marine. Industry must contribute new construction concepts and funds of their own. The Administration and the Congress must use their best creative talents cooperatively to provide a climate that will stimulate both industry and labor to get us out of the maritime backwash we are now in.

I think we can do it—if we can muster the will that it will take to meet the challenge. After all, it has been proven time after time that there is little that Americans cannot do if they set their minds to it.

The time has come for all of us to set our minds to the task of building a strong American merchant marine.

Thank you very much.

MAGELLAN AWARD OF MERIT TO JUAN T. TRIPPE—A RECORD OF ACCOMPLISHMENTS

Mr. GOODELL. Mr. President, I invite the attention of Senators to yet another achievement of a man who has become a legend in his own time, my good friend and constituent, Juan T. Trippe, founder and honorary chairman of the board of directors of Pan American World Airways.

This latest achievement took place at the Union League Club in New York where Juan Trippe was presented the 1969 Magellan Award of Merit by the Circumnavigators Club.

The Magellan Award of Merit, the highest honor paid by the Circumnavigators Club, is given each year to the club member who has contributed significantly to world development and improved international good will. Previous winners include Francis Cardinal Spellman, Herbert Hoover, General Douglas MacArthur, and Dr. William Walsh of Project Hope.

The Circumnavigators Club was founded in 1902 and is comprised of men who have circled the globe and are of high standing in their professions and communities. It currently has members in 20 countries.

In addition to the above award, Juan Trippe holds 26 decorations from 19 foreign nations, more than any other private American citizen. He has received the Medal of Merit from the President of the United States, the highest award that can be bestowed on a civilian.

He has received all major aviation awards, including the Wright Brothers Memorial Trophy, the Collier Trophy, and the Harmon Trophy.

Numbered among his awards are many honorary degrees from universities, including Yale, his alma mater.

For his contributions in the fields of business, trade, education, and social service, he has received 29 other awards, including the Capt. Robert Dollar Award of the National Foreign Trade Council.

He has served as an alumnus and life trustee at Yale, as well as on the board of visitors of the Harvard Business School and the Johns Hopkins University. He is a trustee of the University of Liberia, of the Institute of International Education, and of the Eisenhower Exchange Fellowships.

For many years he has served on the board of the Business Council and the National Safety Council.

Juan Trippe is the acknowledged pioneer of over-ocean flying as well as the dean of airline executives both at home and abroad. Under his guidance Pan American has progressed from last to first place in the airways of the world.

It is this last accomplishment for which Juan Trippe is best known and which will remain as a lasting tribute to his dedication, perseverence, and ingenuity.

In 1927, when Pan Am first took to the air, it had 115 employees, five airplanes, $300,000 in assets and a 90-mile route between Key West and Havana.

Today the corporation has over 44,000 employees, 143 jets—as of June 1, 1968—assets of over $1 billion and a route system of 80,000 miles which links the United States with some 85 lands on six continents.

Mr. Trippe's dedication to aviation dates back to his student days at Yale, which he left to serve as a naval aviator in World War I. After his return to the university, he founded the Yale Flying Club. Upon graduation he began an air charter service on Long Island and was one of the founders of Colonial Airlines, which operated between New York and Boston.

It was with this background that Mr. Trippe organized Pan American World Airways in March, 1927, and America's first international air carrier was born.

Pan Am shortly began to expand its routes southward, pushing across the Caribbean to South America. The step-by-step development of an airways network through Latin America was underway.

Meanwhile, Mr. Trippe was laying plans for commercial operations on a greater scale—conquest of the oceans. In 1931, in the interests of Pan Am, Charles A. Lindbergh and Mrs. Lindbergh made their famed survey flight over the Great Circle route to the Orient. Mr. Trippe encouraged Vilhjalmur Stefansson, on the other side of the world, to explore and investigate the meteorological problems of the Arctic. Two years later the Lindberghs surveyed the Great Circle route across the North Atlantic.

Many technical problems involved in long-range, over-ocean flights were solved. Aircraft with the necessary load capacity and long-range capabilities were built to Pan Am specifications. Island bases across the Pacific were constructed, manned and navigational facilities provided.

On November 22, 1935, Pan Am's Martin M130 flying boat, the China Clipper, rose from San Francisco Bay, and proceeded to Hawaii. From there it continued on an island-hopping route to the Philippines.

Again on May 20, 1939, Mr. Trippe guided Pan Am to another first when the Boeing B–134 flying boat, the Yankee Clipper, took off from Port Washington, Long Island, for Horta, Lisbon, and Marseilles, starting transatlantic air service.

On June 17, 1947, another long-range plan reached fruition when Pan Am began the first scheduled around-the-world service.

In 1955 Mr. Trippe again made history by ordering 45 American-built jets. This launched the jet age under the American flag and resulted in orders for hundreds of American aircraft by the world's airlines. Three years later Pan Am inaugurated the first jet service with American aircraft.

Similarly, in June 1963, Mr. Trippe was the first to order a supersonic transport. In 1966 he was the first to order the 747 Superjet, signing a $600 million order—the largest in the history of commercial aviation.

Pan Am's forward-equipment including subsonic and supersonic transports today totals $1.5 billion. Mr. Trippe, as in 1927, can still be found in the forefront planning for Pan Am as it prepares for the 747 and the supersonic age, for the doubling of passenger traffic and the tripling of cargo traffic by the mid-1970's.

Mr. President, in closing I would like to congratulate Mr. Trippe on his award, praise him for a job well done and cite both him and Pan American as outstanding examples of what can be achieved under our American system of free enterprise.

RISING TEXTILE IMPORTS

Mr. HOLLINGS. Mr. President, the Charleston, S.C., Evening Post of Tuesday, May 27, 1969, contains an editorial pertaining to Asian import quotas. The editorial points the significance to South Carolina alone of rising textile imports—142,700 textile jobs. South Carolina's economy is at stake in what the administration does to limit texile imports.

I ask unanimous consent that the editorial be printed in the RECORD.

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

[From the Charleston Evening Post, May 27, 1969]

ASIAN IMPORT QUOTAS

(By Arthur M. Wilcox)

President Richard M. Nixon seems to be preparing to live up to Candidate Nixon's pledge last summer to put effective controls on imported woolens and man-made fibers as well as cotton.

The Department of Commerce reportedly is drafting an import control agreement for presentation to the President within two weeks. Secretary Maurice Stans has told foreign textile exporters they will have 90 days to begin negotiating restrictions, otherwise the United States will set its own import quotas.

Though they may be directed at hard-nosed Asian competitors in this instance, import quotas have unpleasant implications for other countries with whom it is in the interest of the U.S. to maintain unfettered trade relations. In the past, we have noted the advantages of giving Latin-American countries, for example, access to North American markets in order to make money they need to maintain their own economic stability. To poor countries to the South, the U.S. often represents the only place they can do business at a profit.

For U.S. consumers, too, there is bad news in import quotas. They are an artificial means of keeping prices high.

Still clinging to the ideal of free, fair trade with deserving neighbors both for our own benefit and theirs, we admit the folly of extending license to foreigners to wreck our factories. Until Asian textile exporters can

devise some means of exercising reasonable self-restraint, U.S. defenses against being swamped by their products are in order.

Last year textile imports increased by nearly one-third. They give no indication of slackening. Under that kind of pressure American textiles could be driven from the domestic market.

At stake in this state alone are more than 142,700 textile jobs—well over half the total industrial payroll—to say nothing of the millions of dollars in revenues derived from our sales tax, corporate and individual income taxes in textile-producing areas.

It is no exaggeration to say that South Carolina's economic future for years to come hinges on the outcome of the Nixon administration's efforts to limit textile imports. Hopefully, reason will prevail and voluntary restrictions will result. If not, the President is justified in honoring the pledge he made last summer.

REPORTS OF THE COMMITTEE ON LABOR LAW OF THE FEDERAL BAR COUNCIL

Mr. JAVITS. Mr. President, the Committee on Labor Law of the Federal Bar Council has recently issued three reports on important labor-management subjects. The reports cover the topics of sweetheart contracts, the problem of defamation and freedom of expression in labor campaigns and labor relations in nonprofit hospitals. The latter report is particularly timely in view of the dispute now in progress in Charleston, S.C. I ask unanimous consent that these three reports be printed in the RECORD.

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

[From the Federal Bar Council, Committee on Labor Law]

SWEETHEART CONTRACTS

Agreements between an employer and a union official which result in fewer benefits for the employees than would be obtained by normal collective bargaining, in exchange for which private benefits flow to the union official,[1] are a serious threat to legitimate collective bargaining. Estimates vary but it is clear that sweetheart arrangements are widespread in many areas, are seriously harmful to employees and the legitimate union movement, and help racketeers to obtain a foothold in industry to the detriment of the legitimate businessman.[2]

Some sweetheart arrangements take the form of "paper locals" which are not real unions and have no employee participation but which sign contracts with employers in order to keep legitimate unions out. In other cases, officials or cliques in otherwise legitimate unions may make "sweetheart" arrangements for their private benefit.

Such arrangements are enforced against workers who don't want to go along in a variety of ways.

Physical violence can be used. The employee can be fired with the consent of the "union". The "contract bar" rule can be used to prevent a legitimate union from obtaining an election because the sweetheart union has a contract with the employer. The contract bar rule, adopted by the National Labor Relations Board and state labor relations boards as an administrative policy, precludes representation elections if a collective bargaining agreement between the employer and a union is in effect, with some exceptions.[3]

A state court injunction against picketing by a legitimate union can be obtained on the ground that there is already a recognized union with a contract.[4]

Footnotes at end of article.

The chief legal provision applicable to sweetheart contracts is the prohibition on employer payments to employee representatives contained in Title 29, United States Code, section 186. This section, which was enacted as section 302 of the Labor Management Relations Act of 1947,[5] makes it a crime punishable by a $10,000 fine or one year's imprisonment for a union official to take or agree to take or an employer to give or agree to give anything of value except in specified ways (such as valid check-off, welfare fund or pension plan).

Because this section was enacted as part of the Taft-Hartley Act, some have regarded it as inimical to labor. This provision however, can help to eliminate fraud and collusion and strengthen honest unions and honest business as a result. It is thus no more anti-labor than the securities fraud statutes are anti-business. Illustrations of instances in which cases under the statute have disclosed that employees have lost full benefits as a result of sweetheart contracts make this clear.[6]

The important question is what can be done to attack the sweetheart evil more effectively. It is obvious that the section by itself does not reach the root of the evil.

To begin with, the statute is grossly inadequate in its penalty provisions. The section may have been drafted as a misdemeanor because it applies to any of the prohibited types of payments whether or not there is proof of wrongful intent. Perhaps for second offenses or giving or accepting payments in exchange for depriving employees of any benefit, a greater punishment could be provided. This would be in keeping with a public recommendation of the Honorable Edmund L. Palmieri, United States District Judge in the Southern District of New York, for a similar increase in the maximum permissible penalties for bribery of bank officials in violation of Title 18, United States Code, section 215.[7]

Under the present provision, even an official who is convicted of deliberately taking money to sell out the employees he represents can go right back to his former job. This could be changed by making the violation of section 186 a crime disqualifying the defendant for office under the provisions precluding persons convicted of certain crimes from holding union office.[8] Under present law, a person convicted of robbery, extortion, embezzlement and various other listed crimes cannot serve as a union officer. But accepting employer payments illegally is not a listed crime. Another possibility would be to give the court power as part of any sentence under 186 to disqualify a person convicted under the section from holding such a position for a specified period of time.

The maximum penalties provided by law are only meaningful if the courts impose realistic sentences. Here, recognition of the seriousness of sweetheart arrangements is indispensable. The approach of the courts to sentencing in so-called "white collar" crimes is beginning to change because of recognition that law will only be respected if it is enforced as to persons who have abused a position of responsibility in society. The Committee on Criminal Law of the Federal Bar Council has suggested the following factors as particularly relevant in sentencing:

"(1) The extent to which the defendant has abused a position of responsibility entrusted to him . . .

"(2) The extent to which he sets an example for others because of his position, and

"(3) The large-scale influence which his conduct may have on others because of a pivotal relationship which he has . . . assumed and as a result of which his actions may have wide ramifications." [9]

Another area of concern must be state court injunctions against legitimate unions based on sweetheart contracts. Under federal law, an unfair labor practice injunction against an outside union cannot be obtained unless the inside union has been recognized in accordance with the National Labor Relations Act.[10] Similarly, the state court injunctions should not be permitted unless there has been something to indicate that the inside union, in fact, represents a majority of employees. This would prevent sweetheart unions from being set up chiefly to keep out legitimate unions.

Consideration should also be given to the impact of the contract bar rule which in general precludes representation elections during the life of an existing contract.

If no representation elections have recently been held, the contract bar should be disregarded in our view if (a) the employee benefits provided by the contract are egregiously below industry standards, or (b) it was negotiated by a union which did not represent a majority of the employees (even if the six month period for bringing unfair labor practice charges has elapsed), or (c) the contract is not being administered, or (d) the contract was the fruit of illegal employer payments.

The sweetheart problem also has some bearing on the question of certification of bargaining agents based on authorization cards without elections. Authorization cards can speed certification where a union actually has a majority of the workers behind it, but racketeers can also get cards signed by coercion where they would lose in a supervised secret ballot election.

At present, one of the strong arguments for wider use of authorization cards is the delay in conducting elections. If election procedures could be stepped up, there might be less reason to rely on cards with the attendant dangers.

Another way of attacking sweetheart arrangements is greater enforcement of minimum labor standards so that racketeers can offer less benefit to employers through "paper locals." [11] This could also include stepped-up efforts to advise employees concerning their rights under our national labor laws.

A concerted attack on the sweetheart evil is an important aspect of a total effort to strengthen law enforcement,[12] because it strikes at one of the major leverages racketeers have in our society.

Attacking the sweetheart evil is also important in expanding the benefits of our industrial society to all, because it is usually the most disadvantaged who are the victims of sweetheart arrangements.

An effective attack on sweetheart contracts is important to the trade union movement because of the unfair competition of racketeers with legitimate unions and because all of labor is often wrongfully blamed for the improper activities of those who engage in such arrangements.

More effective elimination of the sweetheart evil will also clear the way for expansion of legitimate labor-management cooperation for the benefit of all parties.

An attack on the sweetheart evil is also of broader importance in building an industrial society based on justice which can set an example for all.

The recommendations made above would assist in such an attack.

Respectfully submitted.

FEDERAL BAR COUNCIL, COMMITTEE ON LABOR LAW: RICHARD A. GIVENS, *Chairman;* Albert X. Bader, Harold Baer, Jr., Mark K. Benenson, Ira Blue, Evelyn S. Brand, Harold I. Cammer, John Canoni, Nathan Cohen, Samuel J. Cohen*, Jack Davis, Max Doner, Bernard D. Gold, Morris P. Glushien, Herbert Halberg, Robert Isaacs, William J. Isaacson, Isadore Katz, Ralph P. Katz, Hon. Jerome Lefkowitz, Lawrence G. Marshall, Max J. Miller, Benjamin B. Naumoff, Hon. Frederick Pope, Jr., Robert Rabin, Sidney O. Raphael, Leonard Rovins, Irving Rozen,

Sherwin Shapiro, Jacob Sheinkman, Robert Silagi, I. Philip Sipser, Prof. Michael I. Sovern, Evan J. Spelfogel,[13] Philip J. Zichello and Max Zimny.

FOOTNOTES

[1] *E.g.*, United States v. Ricciardi, 357 F. 2d 91 (2d Cir.) *cert. denied*, 385 U.S. 814 (1966); United States v. Gard, 344 F. 2d 120 (2d Cir. 1965). Compare generally United States v. Ryan, 350 U.S. 299 (1956).

[2] See 59 Colum. L. Rev. 810, 813 (1959); Comment, 69 Yale L.J. 1393, 1405–06 (1960); N.Y. Times, Feb. 16, 1959, P.L. col. 8.

[3] See Naumoff, "An Analysis of the Contract Bar Doctrine," 7 Labor L.J. 197 (1956); Cf. Pacific Coast Ass'n of Pulp & Paper Mfgs., 121 NLRB No. 134 (1958).

[4] See J. Radley Metzger Co. v. Fay, 4 App. Div. 2d 436, 166 N.Y.S. 2d 87 (1st Dept. 1957); Jarvis Surgical Co. v. Davis, 15 Misc. 2d 1035, 186 N.Y.S. 2d 357 (Sup. Ct. 1958), 59 Colum. L. Rev. 810 (1959).

[5] 61 Stat. 157 (1947) as amended by 73 Stat. 537 (1959), 29 U.S.C. § 186 (1964).

[6] *E.g.*, United States v. Ricciardi, 357 F. 2d 91 (2d Cir.), *cert. denied*, 385 U.S. 814 (1966).

[7] Mintz, "Felony Charge Urged in Bank Briberies," The Washington Post, June 22, 1968.

[8] 73 Stat. 536 (1959), 29 U.S.C. § 504 (1964).

[9] 3 Criminal L. Bull. No. 10, p. 682, 684 (Dec. 1967).

[10] 73 Stat. 544 (1959), 29 U.S.C. § 158(b)(7) (1964).

[11] The payments in United States v. Gard, 344 F. 2d 120 (2d Cir. 1965) were found as a result of a successful Fair Labor Standards Act prosecution of the employer. Brief for the United States, p. 11.

[12] Cf. New York State Bar Association, Bulletin of the Committee on Federal Legislation, Part I (January 1969), CONGRESSIONAL RECORD, February 25, 1969, p. 4410.

[13] Dissenting in part. See separate views.

SEPARATE VIEWS

(By Samuel J. Cohen)

In my opinion increasing the penalties presently provided by federal statute for various kinds of misconduct would be futile. That kind of approach has been repudiated by history. It doesn't work. It antagonizes labor, victimizes a few unfortunates, and cures nothing. I am strongly opposed to that kind of recommendation.

I would favor a federal statute which would mandate the filing and public accessibility of all collective bargaining agreements. Such a statute should provide that failure to file would result in the alleged contract being a nullity, not merely for contract bar purposes, but in all other respects which would restrict the freedom of the employees to disown the alleged "contract." Such public exposure would, in my opinion, have a thoroughly cleansing effect. It would undoubtedly displease sweetheart employers just as much as it would displease sweetheart unions. I would therefore recommend it.

Mr. Spelfogel does not believe that whether the level of benefits provided by a collective bargaining contract is egregiously below those in the industry should be a factor in determining whether a contract bar to a representation should apply. Such a standard could not be workably administered and would produce undue uncertainty in collective bargaining relationships.

[From the Federal Bar Council, Committee on Labor Law]

RECOMMENDATIONS CONCERNING PROBLEMS OF DEFAMATION AND FREEDOM OF EXPRESSION IN LABOR RELATIONS

In our labor relations as in other contexts where conflicting interests clash, the law must seek to meet many needs at the same time. It must protect participants and bystanders from unjust injury in the fray and at the same time avoid becoming the instrument of oppression by any party. It must also provide channels for constructive debate which may lead to syntheses more constructive for both sides than the initial position of either.[1]

In the case of defamation the importance of each of these needs is great. Blackening of reputation through falsehoods as a deliberate strategy is particularly insidious to a democratic society. Freedom of expression and healthy debate are equally indispensable and may be throttled by threats of libel and slander suits should they become weapons in industrial conflict.

One relevant question is to seek to delineate those instances in which the recipients of allegedly defamatory matter are better qualified to pass upon its truth or falsity and relevancy or irrelevancy than the outside tribunals of the regular legal system, and those in which, on the other hand, such intervention is necessary. Similarly it is important to ascertain what remedies are most appropriate in differing circumstances; suit for damages is not necessarily either the safest or the most effective in all instances.

For the reasons which follow we recommend that consideration be given to federal legislation which would accomplish the following objectives:

1. The truth or falsity of statements made to *employees* and *not* to the general public, *dealing with conditions of employment* or the treatment of employees, and made in the course of organizational campaigns, collective bargaining or contract administration, by employees or representatives of union or management, should be judged primarily by the employees themselves rather than less informed outsiders. Accordingly, in these narrow circumstances, suits for *damages* for defamation should be precluded.

2. In cases of statements made to the general public or dealing with the personal character of an individual as distinct from conditions of employment or treatment of employees, suits for defamation should remain available, subject, however, to the limitations in the course of evolution in Supreme Court decisions under the First Amendment to the Federal Constitution as made applicable to the States through the Fourteenth.

BACKGROUND—THE IMPACT OF FEDERAL LAW IN DEFAMATION CASES

The impact of federal law in defamation cases has its source in two constitutional provisions: the First Amendment which, applicable to the states through the Fourteenth,[2] protects freedom of speech, press, assembly and petition, and the Commerce Clause, under which federal laws deal with many kinds of publication affecting commerce which may also be claimed to be defamatory in particular instances.

The most dramatic impact arose from the 1964 decision of the Supreme Court in *New York Times* v. *Sullivan*[3] in which a libel judgment for a public official based upon alleged defamation contained in an advertisement was reversed. Subsequently, however, the Court upheld a libel suit by a manager against a union and others based upon a leaflet distributed in an organizing campaign which stated:

"The men in Saginaw were deprived of their right to vote in three N.L.R.B. elections. . . . [They] were robbed of pay increases. The . . . managers were lying to us . . . Somebody may go to Jail!"[4]

The Court also sent back for further proceedings without ordering dismissal a suit by a former ski resort commissioner who claimed to have been defamed by a newspaper column stating that resort receipts had climbed and asking rhetortically "What happened to all the money last year—and every other year?"[5]

The impact of federal law upon the status of utterances which might be claimed to be defamatory has been expanding by virtue of decisions under the First Amendment, and also decisions in the context of organizational and election campaigns under the National Labor Relations Act, proxy contests for corporate control regulated under the Securities Acts and radio and television broadcasting under license by the Federal Communications Commission.

The diverse views expressed as to what utterances should be regulated and how, suggests that rapid change in this field may continue.

THE INTEREST VINDICATED BY DEFAMATION SUITS

The purposes served by suits for defamation are of great importance to society. Among them are compensation to the injured for unjust harm to reputation and prevention of similar harm in the future by causing those who would publish careless or malicious slurs to exercise caution.

In addition, a defamation suit may provide a forum in which the truth or falsity of a charge may be tested. This may assist in rehabilitating the reputation of the victim of defamation, especially if there has been little or no coverage of any reply to the initial charges.

Immunity from suits for damages for defamation has been considered necessary in several circumstances, including where the person making the charges is acting in the course of official duties,[6] speaks in Congress,[7] or speaks in the course of other judicial or legislative proceedings. Under present procedures, however, a person against whom such charges are made frequently has no way to establish his innocence even if he is in possession of proof of it. There is no forum to hear him. And if he is not a public figure, he may have no news-making power comparable to that of his accuser. Little coverage may be given to his denials. In other circumstances, such as political campaigns, where suit is generally impracticable aside from constitutional or other obstacles, a person defamed may suffer a similar disadvantage. The mere fact that charges are made, even if totally false, may be enough to convince many that "there must be something in it because where is so much smoke there is bound to be some fire." This careless and erroneous assumption has been avidly utilized by totalitarian and other extremist movements of many varieties[8] taking advantage of character assassination as a major weapon.

The widening of constitutional and other privileges against defamation suits, accordingly, leaves society increasingly open to severe abuses unless other offsetting measures are also taken.

DANGERS INVOLVED IN PERMITTING DEFAMATION SUITS

In evaluating the dangers and risks in permitting defamation suits we must take into account the possibility that the triers of fact will reach the wrong conclusion.[9] This may occur for any number of reasons, including the unavailability of evidence, the effect of judicial rules of admissibility, the unequal resources of the parties in conducting investigations,[10] and employing counsel and the presence or absence of community pressure, subtle or overt,[11] in the case.

Suit may also be instituted as a means of economic or political warfare or vengeance rather than to redress genuine harm caused by actual falsehoods.[12]

Further, in vehement public debate the speaker may be stating only what he believes to be the truth, and yet may later turn out to have been in error or someone judging the situation later may simply interpret the facts differently. To require the speaker to

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Footnotes at end of article.

express himself at his peril in such cases might well prevent many legitimate grievances from finding expression.

In the *New York Times* case the Court stated eloquently and succinctly:

". . . we consider this case against the background of a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks . . .

"Authoritative interpretation of the First Amendment guarantees have consistently refused to recognize an exception for any test of truth—whether administered by judges, juries, or administrative officials—and especially one that puts the burden of proving truth on the speaker . . . As Madison said, 'Some degree of abuse is inseparable from the proper use of every thing; and in no instance is this more true than in that of the press.' . . . That erroneous statement is inevitable in free debate, and that it must be protected if the freedoms of expression are to have the 'breathing space' that they 'need . . . to survive' [must be] recognized . . ." [13]

The *Times* case involved statements about a public official. It involved, however, as well the broader "profound national commitment . . . that debate on public *issues* should be uninhibited . . . and wide-open . . ." (emphasis added).

Under the National Labor Relations Act and the Labor Management Reporting and Disclosure Act of 1959,[14] collective bargaining and the affairs of bargaining agents are made "public issues" to a significant extent by the mandatory duty of collective bargaining placed on the parties and the public regulations laid down for selection of representatives. This does not make those involved in bargaining on either side of the table "public officials." [15] But it makes the conduct of organizational campaigns and collective bargaining "public issues" in an important sense. Furthermore, collective bargaining has been considered to have some aspects in common with public government itself, at least for certain purposes.[16] For example, "The parties are bound together in an involuntary continuing relationship which cannot be severed by either deciding not to do business with the other" [17] short of the employer going out of business entirely.[18] These considerations are relevant in determining what types of litigation are in the interest of the constructive evolution of labor relations under our national labor laws.[19]

It is traditional that "robust" debate in labor disputes has included use of language which the Supreme Court has indicated is "commonplace" there but which "might well be deemed actionable *per se* in some state jurisdictions." [20] To permit suits in such cases would in our opinion be harmful to the constructive evolution of collective bargaining. The language of disputants is not readily modified on a large scale, and the attempt to clean it up by libel or slander suits is not worth the price of exacerbating bargaining relationships through lawsuits brought to that end.

We also recognize that community passions are sometimes aroused to the boiling point in favor of one side or the other in the course of bitter labor disputes and that this magnifies the inherent difficulties of impartial fact finding and the accurate reconstruction of past events. Here the danger of error in ascertaining the facts and judging their significance in context is particularly great. This is especially true where the issues involved in defamation suits necessarily entail moral judgments by the triers of the facts.

In the case of a suit against an individual employee, there is also the aspect of what may become "cruel and unusual punishment" [21] within the context of industrial government.

While few employers and unions resort at present to libel suits or slander suits, we are concerned that the impact of those suits which are brought may harm labor relations on a broader scale as well, creating an atmosphere adverse to constructive cooperation by the parties as well as unjust in particular cases.

DISCUSSION OF RECOMMENDATIONS

For these reasons, we have concluded that suits for damages for defamation should not be allowed in the narrow class of cases where the alleged utterance was only made to employees and dealt solely with working conditions or treatment of employees and occurred in the course of an organizational campaign, collective bargaining negotiation, or matter of contract administration.

We recognize, however, that some means of protecting the legitimate claims of the unjustly defamed are necessary in this class of cases as well as in others. While we believe that the employees themselves are in a better position to evaluate the statements made in this narrow class of cases than a jury, there may be need for the opportunity of the party attacked to reply and to obtain some impartial review of the charges against him if he chose to avail himself of it.[22] In labor disputes the means of making the right of reply effective are more easily devised than in the case of statements to the general public because of the limited audience involved. For example, if an employee, management representative, employer, or union representative claims to have been subjected to false charges, he might be given the right to answer them in the same manner in which they were made, if that is practicable, or, by having a written reply distributed to all employees who were likely to have become aware of the original charge.

In the case of statements to the general public or extending beyond discussion of working conditions or treatment of employees, we would permit present libel and slander laws to apply as limited, of course, by the continuing evolution of the Supreme Court's construction of the First Amendment.

Legislative consideration of these matters may be desirable. However, it is within the power of the courts to deal with some of these problems under existing legislation. For example, the Supreme Court has indicated that limitations comparable to those imposed on suits for defamation of public officials in the *New York Times* case may be applied to defamation suits in labor disputes within the ambit of the National Labor Relations Act ". . . if experience shows that a more complete curtailment, even a total one [of state libel remedies] should be necessary" to prevent impairment of our national labor policy." [23] Similarly, the Court might appropriately hold that authority for filing grievances as to alleged defamation, like a no-strike provision,[24] is implicit in grievance and arbitration clauses in collective bargaining agreements unless they specify otherwise.

Respectfully submitted.

FEDERAL BAR COUNCIL, COMMITTEE ON LABOR LAW: RICHARD A. GIVENS, *Chairman;* JOHN D. CANONI, *Secretary;* Albert X. Bader, Harold Baer, Jr., Mark K. Benenson, Ira Blue, Everlyn S. Brand, Harold I. Cammer, Nathan Cohen, Samuel J. Cohen, Jack Davis, Max Doner, Bernard Gold, Morris P. Glushien, Herbert Halberg, Robert Isaacs, William J. Isaacson, Isadore Katz, Ralph P. Katz, Hon. Jerome Lefkowitz, Lawrence G. Marshall, Max J. Miller, Benjamin B. Naumoff, Hon. Frederick Pope, Jr., Robert Rabin, Sidney O. Raphael, Leonard Rovins, Irving Rozen, Sherwin Shapiro, Jacob Sheinkman, Robert Silagi, I. Philip Sipser, Prof. Michael I. Sovern, Evan J. Spelfogel, Philip J. Zichello, and Max Zimny.

FOOTNOTES

[1] "Deliberative Processes of the Committee on Labor and Social Security Legislation," 21 Record of N.Y.C.B.A. 482 (Oct. 1966).

[2] E.g., New York Times v. Sullivan, 376 U.S. 254 (1964).

[3] Id.

[4] Linn v. United Plant Guard Workers, 383 U.S. 53, 56 (1966).

[5] Rosenblatt v. Baer, 383 U.S. 75, 78 (1966).

[6] Barr v. Matteo, 360 U.S. 564 (1959).

[7] ". . . [F]or any Speech or Debate in either House [Senators and Representatives] shall not be questioned in any other Place." U.S. Const., Art. I § 6; cf. United States v. Johnson, 383 U.S. 169 (1965).

[8] See Reisman, "Democracy and Defamation: Fair Game and Fair Comment," 42 Colum. L. Rev. 1085 (1942).

[9] See England v. Louisiana State Board of Medical Ex'rs, 375 U.S. 411, 417 (1964); Speiser v. Randall, 355 U.S. 513, 525 (1958); Cahn, "Fact-Skepticism: An Unexpected Chapter," 38 N.Y.U. L. Rev. 1025 (1963).

[10] Cf. the facts involved in Brady v. Maryland, 373 U.S. 83 (1963).

[11] Compare Sheppard v. Maxwell, 384 U.S. 333 (1966) with Moore v. Dempsey, 261 U.S. 86 (1923) (Holmes, J.).

[12] This would seem particularly likely in the case of suits brought against individual employees for damages. Cf. "Responsibility of Individual Employees for Breaches of No-Strike Clauses," 14 Industrial & Labor Relations Rev. 595 (1961); Comment, 59 Colum. L. Rev. 177 (1959).

[13] 376 U.S. at 270–72 (1964).

[14] 73 Stat. 522 (1959), 29 U.S.C. § 411 et seq. (1964).

[15] Cf. Wellington, "The Constitution, The Labor Union, and 'Governmental Action,'" 70 Yale L.J. 345 (1961).

[16] See Steel v. Louisville & Nashville R. Co., 323 U.S. 192 (1944) Hanslowe, "On the Need for a Political Science of Collective Bargaining," in Symposium on Labor Relations Law 59 (Slovenko ed. 1962); Blumrosen, "The Worker and Three Phases of Unionism," 61 Mich. L. Rev. 1435 (1963); Commons, Legal Foundations of Capitalism 312 (1924); cf. Lewis v. Benedict Coal Co., 361 U.S. 459 (1960).

[17] "Report Concerning (1) The Role of Judge and Arbitrator in Labor Arbitration and (2) Injunctions Against Strikes in Breach of Contract," 4 Reports of Committees of N.Y.C.B.A. Concerned With Federal Legislation 16, 20 (1965) also in 20 Record of N.Y.C.B.A. 37, 40 (1965).

[18] NLRB v. Darlington Mfg. Co., 380 U.S. 263 (1965).

[19] Textile Workers v. Lincoln Mills, 353 U.S. 488 (1957); Friendly, "In Praise of Erie—and of the New Federal Common Law," 39 N.Y.U. L Rev. 383 (1964), also in 19 Record of N.Y.C.B.A. 64 (1964).

[20] 383 U.S. at 58.

[21] See Note 12 supra.

[22] Reisman, "Democracy and Defamation: Fair Game and Fair Comment," 42 Colum. L. Rev. 1085 (1942); Donnelly, "The Right to Reply: An Alternative to an Action for Libel," 34 Virginia L. Rev. 867 (1948); Bok, "The Regulation of Campaign Tactics in Representation Elections under the National Labor Relations Act," 78 Harv. L. Rev. 38, 91 (1964); Note, 78 Harv. L. Rev. 1191, 1207 (1965).

[23] Linn v. United Plant Guard Workers, 383 U.S. 53, 67 (1966).

[24] Local 174, Teamsters Union v. Lucas Flour Co., 369 U.S. 95 (1962).

[From the Federal Bar Council, Committee on Labor Law]

LABOR RELATIONS AND NONPROFIT HOSPITALS

Congress is presently considering a bill (H.R. 637) introduced by Congressman William F. Ryan (D-N.Y.) that would remove the present statutory exemption (N.L.R.A. Sec. 2(2), 29 U.S.C. Sec. 152(2)) for employers

operating nonprofit hospitals. The committee strongly supports extending to employees of nonprofit hospitals the rights guaranteed by the Taft-Hartley Act. However, H.R. 637, as presently drafted, might also nullify state statutory or judicial law prohibiting strikes by such employees and substituting alternative means of resolving disputes such as final and binding arbitration. In our view this is a fundamental defect that requires rejection of the proposed bill as drafted. If H.R. 637 were amended to permit the continued operation of these state laws, we would endorse it without reservation.

There are over 7,000 hospitals in the United States employing over 2,000,000 employees. More than half are non-profit, one-quarter are operated by state, county or municipal governments, approximately one-fifth are profit-oriented (proprietary) and the remainder are operated by the federal government or by federal agencies such as the Veterans' Administration. Public hospitals are expressly exempted by Section 2(2) of the N.L.R.A., and H.R. 637 would not change this situation. Proprietary hospitals are covered by the N.L.R.A., although it was not until recently that the N.L.R.B. chose to exercise its jurisdiction over such institutions.[1]

Congress first excluded nonprofit hospitals from the statutory definition of an "employer" in 1947 (N.L.R.A. Sec. 2(2)). The principal effect of H.R. 637 would be to overturn this determination. There is at present some question whether the operations of nonprofit hospitals "affect commerce" within the meaning of the N.L.R.A.[2] and also, even if they do, whether the N.L.R.B. might choose not to exercise its statutory jurisdiction in this area.[3] However, we must assume that the enactment of H.R. 637 would itself provide statutory jurisdiction and, in turn, that Congress would clearly indicate that it intended the N.L.R.B. to exercise the jurisdiction thus bestowed.

Nonprofit hospitals are not totally unregulated at the present time. Both before and after the 1947 amendment several states passed laws governing hospital labor relations. Sixteen states presently have such laws; ten apply to nonprofit hospitals,[4] six do not.[5]

We have no hesitancy in endorsing the general principle that employees of nonprofit hospitals should have the right to organize and bargain collectively through representatives of their own choosing. The hospital employee should be entitled to such rights as is any other way earner. *Accord:* Kochery & Strauss, *The Nonprofit Hospital and the Union,* 9 Buffalo L. Rev. 255, 282 (1959).

The chief deficiency of H.R. 637 is that no effort is made to address the special problems inherent in promoting the orderly settlement of disputes concerning nonprofit hospitals. It is generally accepted, even by many ardent champions of equal treatment of hospital and other employees, that there should be restrictions on the right of hospital employees to strike and that the operation of a hospital does involve a public interest of such urgency that the right to strike should yield to the greater importance of uninterrupted and efficient treatment for the sick and infirm. Of the ten states that have passed legislation expressly granting hospital employees the right to organize and bargain collectively, six also expressly prohibit strikes by such employees usually in exchange for provisions for compulsory arbitration of labor disputes.[6]

If enacted in its present form, H.R. 637, by bringing the doctrine of federal pre-emption to bear, would effectively nullify all present and future state statutory or judicial laws governing labor relations in nonprofit hospitals.[7] We believe that state laws prohibiting strikes by employees of nonprofit hospitals should be permitted where the states substitute alternative means of resolving labor-management disputes such as final and binding arbitration. Such laws are appropriate and justifiable legislative and judicial responses that should be preserved, not destroyed. In our view, H.R. 637 should be amended to provide expressly that the states shall not be deprived of the power to enact or adopt laws of the type described.

Respectfully submitted.

FEDERAL BAR COUNCIL, COMMITTEE ON LABOR LAW: RICHARD A. GIVENS, Chairman; JOHN D. CANONI, Secretary; Harold Baer, Jr., Albert X. Bader, Esq., Mark K. Benenson, Noel Berman, Ira Blue, Evelyn S. Brand, Harold I. Cammer, Nathan Cohen, Samuel J. Cohen, Jack Davis, Max M. Doner, Bernard D. Gold, Morris P. Glushien, Herbert Halberg, Robert Isaacs, William J. Isaacson, Isadore Katz, Ralph P. Katz, Hon. Jerome Lefkowitz, Lawrence G. Marshall, Max J. Miller, Benjamin B. Naumoff, Hon. Frederick Pope, Jr., Sidney O. Raphael, Leonard Rovins, Irving Rozen, Sherwin Shapiro, Jack Sheinkman, Robert Silagi, I. Philip Sipser, Esq., Prof. Michael I. Sovern, Evan J. Spelfogel, Philip J. Zichello, and Max Zimny.

MAY 9, 1969.

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[1] In November 1967, the N.L.R.B. announced it would exercise jurisdiction if the proprietary hospital received at least $250,000 in gross revenue per annum. *Butt Medical Properties,* 168 NLRB No. 52 (1967). Previously, the Board had consistently held that it would not effectuate the policies of the Act for it to exercise jurisdiction over proprietary hospitals. See *Flatbush Gen'l Hospital,* 126 NLRB 144 (1960).

[2] A leading case held, prior to the 1947 amendment, that nonprofit hospitals did "affect commerce." *Central Dispensary and Emergency Hospital* v. *N.L.R.B.,* 145 F 2d 852 (D.C. Cir. 1944), *cert. denied,* 324 U.S. 847 (1945). However, this ruling was questioned during the debate on the 1947 amendment to Section 2(2). The House report stated (1. Legis. Hist. of the L.M.R.A. 303) that hospitals "are not engaged in 'commerce' and certainly not in interstate commerce." (See also *id.,* Vol. 2 at 1464–65).

[3] The N.L.R.B. has consistently ruled that it will exercise jurisdiction over nonprofit organizations only in exceptional circumstances and in connection with purely commercial ventures. See, *e.g., Trustees of Columbia University,* 97 NLRB 424 (1951); *Lutheran Church,* 109 NLRB 859 (1954) and *YMCA of Portland, Oregon,* 146 NLRB 20 (1964).

[4] These are Connecticut, Hawaii, Kansas, Massachusetts, Michigan, Minnesota, Montana, New York, Oregon and Wisconsin. Some of these laws apply only to certain hospital employees (e.g. nurses).

[5] These are Colorado, North Dakota, Pennsylvania, Rhode Island, Utah and Vermont. The general laws or constitutions of some states may grant nonprofit hospital employees certain rights. Compare *Johnson* v. *Christ Hospital,* 45 N.J. 108, 211 A. 2d 376 (1965) with *Peters* v. *Community Hospital,* 70 LRRM 3239 (Ill. App. Ct. 1969).

[6] Connecticut, Massachusetts, Michigan, Minnesota, New York and Oregon. Michigan and Oregon do not provide for compulsory arbitration. The situation in Hawaii and Kansas is unclear.

[7] See *Amalgamated Ass'n., Division 998* v. *W.E.R.B.,* 340 U.S. 383 (1951) (N.L.R.A. preempts Wisconsin's Public Utility Law and its no-strike and compulsory arbitration provisions); *Cf. Division 1287 Amalgamated Association* v. *Missouri,* 374 U.S. 74 (1963) and *General Electric Co.* v. *Callahan,* 294 F. 2d 60 (1st Cir. 1961), *petition for certiorari dismissed per stipulation,* 369 U.S. 832 (1962).

NATIONAL HEALTH CORPS PROPOSED TO EASE HEALTH CARE CRISIS

Mr. NELSON. Mr. President, today, the Subcommittee on Health is beginning the consideration of the Hospital and Medical Facilities Construction and Modernization Amendments of 1969.

At this time, it is very appropriate to review what many consider to be a health care crisis facing the United States.

Since World War II, we have undertaken substantial efforts to improve the health of the country. Tremendous gains have been made in the biomedical sciences, in large part the result of substantial expenditures for health research. There can be no doubt that the "state of the art" has vastly improved.

But while we have done much to advance our knowledge of diseases and life processes, our capacity to bring even the most fundamental health services to the people is beginning to break down. While we are succeeding in the laboratory, we are failing in the community.

Despite dramatic medical advances and the investment of billions of Federal dollars, we are on the brink of a national health crisis with thousands of families in the ghettos and residents in poverty stricken rural areas unable to receive adequate health and medical care.

The indicators of a growing health care crisis are everywhere. Long delays must be tolerated before an individual has an opportunity to see a physician, even for the most routine health care. Hospitals are becoming obsolete, overcrowded and inadequately staffed. Substantial segments of the populaton have substandard medical and health care.

What has happened, of course, is that the Nation's health care system no longer can respond effectively to the rapid changes in American society which are occurring in every area. In the past, health care was provided by solo general practitioners in their own offices. Hospitals were often places of last resort, where maintenance needs were often as great as medical requirements. But medical knowledge has rapidly changed part of this picture. Medical practice has become highly specialized, as the state of the art improves. Hospitals, rather than medical offices, have become the center for diagnosis and treatment. Still, however, science and technology cannot fully account for the presence of a crisis.

The health care system has not escaped the social and demographic changes which have affected other segments of American society. Twenty years ago, our cities still had substantial portions of middle- and upper-class Americans. Health care was provided through a combination of outpatient services, rendered by physicians located in the cities, and by hospitals in the areas in which these people lived.

The flight from the urban centers has taken its toll on the health care system, just as it has altered the education, economic, and other systems which had traditionally existed in these areas. The available amount of outpatient services which "primary" physicians could pro-

vide naturally began to diminish, placing greater and greater workloads on the doctors who have remained in these areas. At the same time, great influxes of new people—generally black, generally poor—occurred in the urban centers. The morbidity rates among these populations were greater than those who had left, and their ability to purchase the medical care they needed was much less.

The physicians who remained, if they would remain at all, were confronted with more patients, longer hours, lessening control of their medical practice, and a diminishing economic base. Many more practitioners moved to more favorable areas, reducing even more the availability of medical services.

Without physicians to provide health services, the resident populations had only one other place to turn—the general hospitals located in the neighborhoods. Built at the turn of the century, many of these institutions lacked outpatient facilities and the manpower to handle the rising influx of patients. Emergency rooms became clogged with noncritical cases, large backlogs of people waited to get into beds, so that some sort of treatment could be provided. Patients who could not pay doctors were no more able to pay hospitals, and the economic health of these aging institutions began to come into doubt.

Now in many urban centers throughout the Nation, hospitals themselves are beginning to move out of the central city, taking along with them the last vestiges of comprehensive health care. Funds have not been adequate to provide capital needed to renovate or rebuild the old buildings occupied in the core city. As a result, costs to patients have risen sharply to meet rising labor expenses and to meet emergency capital improvements. The effect, in many places, has been to price out of existence the health care that many people need.

Other factors are helping to contribute to the health care crisis which extend the impact of the problem well beyond the inner sections of our large metropolitan areas. Increasing specialization, for example, is having a pronounced effect on the availability of health care. While the total number of physicians relative to the population has remained relatively constant in recent years, the number of physicians readily accessible to the population is growing smaller.

The National Advisory Commission on Health Manpower observed that while the physician population is growing somewhat faster than the population, "this slight relative increase in the supply of physicians cannot outweigh the forces acting to decrease access to them." Our health manpower policy to date has simply called for increasing the supply side of the health care equation—train more people. I feel, however, that we have sadly overlooked the real problem which is one of the distribution of personnel and facilities, rather than their numbers.

Every hospital seems bent upon obtaining the most elaborate and extensive equipment without regard to the needs and abilities of other institutions. In New York City, for example, there are 15 open heart surgery programs, seven of which do 83 percent of all the heart surgery, while the remaining eight do 17 percent. The director of the Montefiore Hospital and Medical Center, Dr. Martin Cherkasky observed:

> When you do one case a month it not only cost a lot but you do it badly. The City of New York does not need 15 programs. It only needs seven. No effort on the part of those who pay has been directed to making sure that these unnecessary draining programs of money and space and personnel are avoided.

In one large eastern city, hospitals were individually planning to add more than $450 million in capital projects over a 9-year period, until a local group found that there was no shortage of hospital beds in the city, even though 44 percent of the existing facilities were unsafe or unsatisfactory for patient use. With the costs of constructing one hospital bed at about $35,000 and annual maintenance costs running around $10,000 per bed, it is absurd for this Nation to permit the continuation of a fragmented and uncoordinated system of health care.

Heart-pump machines cost about $15,000 apiece; surgical sterilizers reach $17,000; and cobalt radiation units as much as $82,000. It is not surprising then that health-care costs are skyrocketing, when every element in the health-care system believes such equipment is needed, even though similar equipment may go underutilized elsewhere in the community. Duplicated equipment means duplicated personnel needs, and hence appears a "shortage of skilled personnel."

Social change, changes in medical knowledge, fragmentary allocation of resources, and failure to apply modern technology all contribute to what is fast becoming a national crisis of major proportions. We do not really have a "health-care system" in this country. Instead, we are faced with an unorganized, uncoordinated, and unplanned collection of elements, each of which provides less than comprehensive service.

Our country's health resources have been badly allocated. Personnel and highly specialized equipment have been clustered in shiny new medical centers, isolated from the critical needs of citizens in the inner city and small towns.

The maldistribution of medical manpower could be substantially corrected within the framework of a National Health Corps, involving local volunteers, paraprofessionals, and professionals.

Our young doctors, nurses, and other medical personnel should be given the opportunity to share in the satisfaction of public service through participation in a National Health Corps. Their counterparts in the education and legal professions have already displayed their social consciousness by flocking to work in the National Teacher Corps and neighborhood legal services programs.

Through a corps program, young medical and health professionals could be enlisted to serve in community clinics in cities and remote rural areas.

Local community residents, trained by medical personnel in local hospitals, could be mobilized as health workers to inform their neighbors about improved family health practices, preventive medicine, and the accessibility of health care, while others could prepare for new career positions in the health field.

I am in the process of drafting legislation to facilitate the establishment of a National Health Corps and will appreciate receiving the comments of my colleagues and other interested parties in this regard.

I believe that we have the resources we need to provide the quantity and quality of health care Americans deserve, but there must be a national commitment to bring about major changes in the organization and use of these resources to reach this goal.

Our public policy toward the health-care system is often contradictory and confusing and all but prohibits any real change in direction. We have programs which deal with every level of government, some directly with providers of care, others with educational institutions, and even some with people directly. There are conflicting interests within and outside the health-care system regarding controls, allocation of resources, planning, and administration. It seems to me that the time has come to assert the national interest and to subordinate such conflicts to the well-being of all Americans.

AIR TRAFFIC CONTROL

Mr. PEARSON. Mr. President, in the coming week the Committee on Commerce will begin to consider airport/airways legislation—a matter which the President has marked with priority in his domestic program. In theory these considerations might be divided into airport problems and airways problems, but in reality our concern will be with the interrelated problems facing our national air transportation system.

Today, I wish to focus my attention and the attention of this body to the air traffic control aspect of this total problem, for it is here that we face a most serious need.

There are many proposals before Congress directed toward solving the air traffic control problem. Some say that provision for more air traffic controllers and the establishment of a new personnel system is the answer. Others suggest there is need for more study. Mr. President, I feel that the magnitude of this problem requires that we look to the ATC needs of the next decade and take the action necessary to program and meet these needs.

What are these needs? What are the problems of current air traffic control operations and what directions should we be moving in?

The current volume of air traffic and operation is far greater in many en route and terminal areas than the present system can now handle effectively. Projections for the future indicate that these deficiencies will become increasingly worse unless we move to construct a system which can meet the traffic demands today as well as tomorrow.

The dramatic growth of the aviation industry, the increasing public demands for a modern air transportation system, and the advances in aeronautics tech-

nology require that new concepts of ATC be validated and put into operation at a rapid pace. The ATC system is so intertwined with every aspect of our national air transportation system that to delay the implementation of new approaches to air traffic control is to cause a progressive deterioration in this overall system.

The basic design of our current ATC system has its foundation in the mid-thirties, well over 30 years ago. With an ATC technology spawned in the 1930's, we have made major improvements and safety standards have been maintained, but the advances have been slow.

We first began studying the possibilities of automation in the early 1950's but here nearly two decades later no major steps have been taken to automate the system. There are elements of our ATC system that can be described as semi-automatic, but a stretch of the imagination is required to characterize them as automatic.

Our planning outlines in the early 1960's envisioned a number of measures to automate the system. But the expansion of air traffic beyond every expectation and the inadequacies and delays of our automation program leave us with demanding needs as we enter the 1970's. Our automation and ATC programs are 5 years behind in some respects. The pressures of the present have been too pressing.

Also, we have spent much of our automative efforts on the en route elements of ATC while the terminal problems magnify in size, and possible solutions lag further behind. Since the airport terminal area has become the focal point of the congestion crisis, our ATC R. & D. programs must be directed toward this aspect of the problem.

We have technology existing today which has not been exploited through development for possible ATC application. ATC technology currently applied is not the most modern and in fact is years behind the times. There exists a wide gap between that which is available and that which is in operation. We must begin to bridge the gaps between technological knowledge and applications of that knowledge; between research results and systems development. This need requires that our ATC effort emphasize the development phase of R. & D. activity. Funding of those activities which evaluate and test new ATC concepts must be increased.

This is not to say that current ATC development activities are misdirected but simply to indicate there is a need to speed up this effort. Our expanding knowledge of avionics and automation must be applied to ATC.

Further, we must place greater emphasis on cooperation and coordination between public and private spheres of activity. Only through the proper meshing of the efficiency of our market economy and the guidance of public agencies can the full benefits be attained.

In what direction should these efforts move? Certainly, we must initially seek to lighten the controller's load. The manual controller must still keep track of aircraft progress, speed, altitude, navigation fix estimates, and actual time over fix. The clerical tasks which are a major portion of the controllers' work are also the most time consuming, and we should move to alleviate this load. I know that progress is being made in this direction but I feel we must speed up this effort.

But more than relieving these clerical operations there are other more significant advances which I feel must be made. A fundamental redesign of our air traffic system is necessary if our air transportation system is to yield the dividends it has in the past.

If we show our willingness to expend the resources, we can move toward a system where the controller, rather than being required to "control" air traffic, can monitor the system and assist the user in avoiding conflict situations. This type of system requires more user control of aircraft and may require more airborne data links with ground control. To create such we must provide the research funds to articulate these concepts and the development resources to test their validity. Given the leadtime necessary for such research and development, we must begin now.

One example of the promising developments in air traffic control is that of area navigation which will be placed into operation by the end of this year in high density areas across the Nation. This development will result in more direct course navigation, allow more efficient use of airspace, cut down on pilot-controller communications, and permit more use of airports with minimal navaids. It will move in the direction of placing navigation back into the cockpit.

Area navigation is also illustrative of the serious lag in our development of new ATC concepts. This concept has been on the drawing boards for over 10 years, but there was little initiative and motivation to put it into operation. Only under the pressure of costly delays and high density congestion were significant moves made to implement this system. Our planning and programing for the future must be more perceptive.

I do not mean in urging quick movement toward new ATC concepts that we can turn the old system off one minute and the new system on the next. The process is an evolutionary one and must be. The facts of personnel, international agreements, safety and resource limitations, require a stable evolutionary transition.

We must also gain a better understanding of the human factors of both pilot and controller and how they affect system operation. Adequate information and educational material regarding the implementation of new system concepts must be made available in order that its utility can be easily seen. Agreement within the diverse segments of the aviation community is essential to effective implementation of new ATC concepts.

With the developments of new system concepts we must assure that all elements of the aviation community can participate in this airway system. The application of arbitrary restrictions on any segment of aviation cannot be condoned. The performance characteristics of widely divergent aircraft must be accommodated to the maximum possible extent. The system must allow all to participate in and enjoy the benefits of air transportation.

There is near unanimous agreement that in certain areas demands in air traffic exceed system capacity. And further that the development of an adequate system has lagged far behind requirements of the day. What are the reasons underlying this current deterioration? I think this answer lies in two interrelated areas: First, divided responsibility for air traffic control; and second, a budget environment of limited resources.

The responsibility for ATC research and development activities in the executive as well as in the Congress is divided among various public decision points. Particularly within the Federal bureaucracy our transportation, air traffic control, space and military agencies all directly or indirectly have some authority related to air traffic control. Because of the particular goals of each of these agencies, air traffic control does not receive the necessary attention. For too long a period of time, new developments in ATC have depended upon technological spinoffs from programs which have only peripheral relationships to air traffic needs and operations.

Along a similar vein, we simply cannot answer the crucial questions: Who is responsible for air traffic control development? Where is the leadership and who is in charge? I do not say I know who should be responsible. But I think it is time that the policy question as to where the responsibility should be placed is decided. Once that decision is made, the responsible agent should declare that the present ATC system will not meet the demands of the coming decade and outline the program and the system which will satisfy our air traffic needs.

There are those who suggest that the responsibility for ATC, its operations, its research and development activities, should be charged to a public corporation to be established by the Congress. At this point, I am not persuaded by this advice, but I do think the ATC program, particularly those research and development activities must be given more central direction and authority.

The main reason behind our failings in air traffic control has been the environment of limited resources in which the responsible Federal agencies have had to work. In the face of increasing air transportation demands, the quality of and the quantity resulting from the Federal funding processes have been sorely inadequate. Our resources have simply not matched the demands of the system.

The requests by the Federal Aviation Administration, for instance, have been consistently underfunded. In the area of facilities and equipment funding from fiscal years 1966 through 1970 the Bureau of the Budget requested from Congress on the average less than 50 percent of what FAA determined to be required. Recent information presented to the Congress shows that although the FAA sought over $110 million for terminal airway facilities in 1970 the Bureau of the Budget could not clear 1 cent in this

category. For fiscal 1969 the FAA sought almost $130 million for terminal facilities and the Bureau of the Budget cleared less than $5 million. Realizing airways needs, Congress has in some instances funded over and above administration cuts—an action which is highly irregular in the Congress and in itself demonstrates the concern for adequate airways funding.

Because of the continuous lack of funding the FAA has had to concentrate on its present operational problems. The pressures of current activities have hindered the agency from looking to the future and attempting to analyze air traffic control's future requirements. It is partially for this reason that the FAA's efforts in R. & D. have been less than vigorous although cuts have consistently been made in FAA requests.

In terms of Federal budget priorities, we can no longer justify the absence of required facilities and equipment for our airways when our technology and our economy allows us to place a man on the moon. In the private sector, the resources which have been invested in aircraft technology have in no way been matched by expenditures in ATC technology. In the public sphere, the Federal Government in fiscal year 1968 expended over 5 billion research and development dollars in nondefense aerospace programs. The direct allocation in ATC research and development was less than 1 percent that amount in the same year. If we are to confront this problem we must readjust these priorities and do it now.

Not only has the FAA fought and lost many fights in the "battle of the budget," but also the realities of the congressional appropriations process has not served to the best interests of the national airways system. A graph of Federal funding for airways facilities and equipment over the past two decades looks like a jagged mountain range. Each peak in this range is in most cases the result of a tragic and dramatic air accident. To base important airways development decisions on the incidence of such accidents is heresy. It is a sad commentary on our Federal planning and programing processes. A continuous, consistent resource for national airways development must be provided by the Congress this year if we are to end this heresy. Current rationale funding can only lead to a magnification of the problem and cannot provide a solution. Our allocation of ATC resources must be matched with air traffic demands.

I have stated above that if we are not willing to provide the resources necessary to confront this crisis situation, the consequences of inaction will soon be upon us. In the terminal area of ATC we are now experiencing these consequences—these restraints upon our air transportation system. The traveling public has been delayed; segments of the aviation community are being subjected to restriction; and the development of our air transportation system is being hindered. The terminal situation is now a crisis of congestion and a crisis of confidence. If we do not act it will evolve into a crisis of safety.

If we cannot increase our efforts in ATC R. & D. activities, we must accept the safety margin that will be cut precisely thin. But this course of inaction is unacceptable, and we must accord our ATC system and its future development the priority status it deserves.

We must invest the resources—the resources necessary to provide the research and development, facilities and personnel—in our airways system. If we are willing to make this investment into the development of new ATC concepts, we can move toward solving the near crisis condition of our air traffic system. If we do not act now, the real and harmful result will be the placing of restraints upon the individual, and his mobility, upon the aviation industry, and its future development, and upon our national air transportation system. The vitality of our national economy in the coming decades requires that we move now to create and organize a modern and efficient national airways system.

NO TIME FOR PROTESTS

Mr. DOLE. Mr. President, the courage and determination of our fellow men who were born with, or later incurred, physical handicaps puts those of us more fortunate to shame.

What is taking place at Emporia State Teachers College in my State of Kansas emphasizes my point. Here more than 100 students having various serious physical handicaps are busily engaged in acquiring a college education with assistance of many sympathetic fellow students more fortunate, a Federal grant, and most important, a fierce determination to make a mark in life for themselves.

The heartwarming story of these accomplishments is narrated in a feature article published in the June 8, 1969, issue of the Kansas City Star, and written by Mr. Ray Morgan, the Star's able Kansas correspondent. I ask unanimous consent that it be printed in the RECORD.

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

WHEELCHAIR STUDENTS APPRECIATE CHANCE FOR COLLEGE EDUCATION

(By Ray Morgan)

EMPORIA, KANS.—In a day when students are taking over campus buildings and engaging in mass protests to demand new concepts and facilities, it is refreshing to find a group of bright students wholeheartedly endorsing a simple concept: An opportunity to go to school.

For the student who has never been in a wheelchair, who has not had to walk with braces or crutches nor grope in blindness, the simple fact of going to college may not be regarded as a kind of miracle.

But to Edward Chalk, Jr., an Overland Park youth who has been paralyzed from the waist down since a 1964 diving accident, the opportunity is almost life itself, an indication that a handicap is not the final clanging of the gate against a useful life.

"What they have done here at Emporia State (Kansas State Teachers college), is to show us that we can still go to college," Chalk, now a junior in psychology and sociology, said from his wheelchair. "It is giving us the chance to be on our own, to show we can make it on our own."

The attitude of Chalk is reflected in the attitudes of more than 100 students, not all from Kansas, who are attending college here as a result of the school noting that simple steps would make it possible for these youths to attend class.

As the rain poured down outside, Dr. John Webb, dean of student affairs, gave credit for the fact that Kansas State Teachers college here has gained a national reputation for its assists to handicapped students to a former president, Dr. John E. King.

"We embarked on the program in the early 1950s simply because Dr. King saw a great humanitarian need which might be met with a little effort," Dr. Webb said.

"It seemed to him that many of these handicapped youths were bright enough to go to college if somebody showed an interest."

Today the program here is so successful that the college has been forced to begin screening applications from handicapped students from all parts of the United States who have heard about the program and want to begin attending classes here.

The concept that Dr. King, who is now a member of the faculty of Southern Illinois university, espoused is relatively simple. It consisted of launching a program to use existing funds to provide ramps, elevators and other facilities to allow wheel chairs to move freely.

Although the steps sound somewhat prosaic, it is the human element which provides the chorus of accomplishment. One standing on the tree-shaded campus and watching the laughing youths zipping about in their wheelchairs feels a tug at the heart.

Besides the happiness of the handicapped youths, the effort has produced interesting side effects for others. Dr. R. William Wygle, dean of administrative affairs at the college, is convinced the presence of the handicapped students produces a mellowing influence.

"When they see these wheelchair students making their way through the snow and slush and see them getting their hands wet and cold from steering the wheelchairs, the other students are more apt to think what they thought was a problem really wasn't such a problem after all," Dr. Wygle said.

There is another tangible effect for the nearly 7,000 students without handicaps from the more than 100 handicapped who have come here: The students have come to realize that students with braces and in wheelchairs are not something to hold in awe, but to be accepted as fellow human beings.

Dr. Wygle sees in this a greater possibility that the students without handicaps who achieve success in various business and professional fields will be more apt, as a result of this contact here, to hire handicapped persons for available jobs.

Closest to the problems of the handicapped corps at the moment is a man with understanding, Charles Rastatter, who is serving as co-ordinaor of the rehabilitation program. He is the quiet background influence standing by to untie any knotty problems.

"It is a revelation how well these kids do when they get here on the campus," Rastatter said. "They know they want to make it. Nobody can help but be amazed at how really well they are able to shift for themselves."

The interest in the handicapped students has prompted the Social and Rehabilitation administration of the federal government to establish $60,000 in annual grants here for students who want to obtain a master of arts degree in rehabilitation counseling.

But the light in the program is the happiness of the students themselves. Just as Chalk, they are enthusiastic about the future and are looking forward to finishing their college educations.

Miss Susie Lane, a daughter of Mr. and Mrs. Robert Lane, 6914 West Sixty-sixth terrace, Overland Park, has been blind since birth. A sophomore in business administration she said—"It's great. We make it on our own."

Miss Sharon McCammon, daughter of Mr. and Mrs. J. W. McCammon, Lathrop, Mo.,

confined to a wheel chair with cerebral palsy, is a sophomore in business administration.

"I can get around anywhere on the campus and I love it," she said.

Wendell Lewis, son of Mr. and Mrs. B. J. Lewis, Topeka, a sophomore in education who wants to be a teacher in secondary education, in a wheel chair from muscular dystrophy:

"You learn how much you can really do on your own."

GHETTO FRAUD

Mr. GOODELL. Mr. President, the poor man of the urban ghetto is ruled and defeated by a legal system which he neither understands nor trusts. He is overwhelmed by the hostile maze of legalities he faces as consumer, welfare recipient, parent, tenant, and job seeker. The outstanding work done by hundreds of legal aid societies and by the neighborhood legal services program of the Office of Economic Opportunity as advocates of the poor deserves the attention and praise of us all.

In the face of the existence of widespread consumer fraud in the ghetto, a fact which bears special relevance to past acts of violence and riot in the inner cities of our Nation, the Consumer Advisory Council of the New York City Department of Consumer Affairs and the Consumer Fraud Bureau of the New York State Attorney General's office have performed a singular service in attempting to put the poor on equal footing with their adversaries in the subeconomy of the ghetto.

In this connection, I invite the attention of Members of Congress to a two-part series of articles entitled "Ghetto Fraud on the Installment Plan," written by Craig Karpel, and published in the New York Magazine of May 28 and June June 2, 1969. Mr. Karpel demonstrates in his articles a keen understanding of the unscrupulous business practices of some ghetto merchants and communicates the helpless, bitter frustration of their victims. The articles are important and timely reading. I ask unanimous consent that they be printed in the RECORD.

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

GHETTO FRAUD ON THE INSTALLMENT PLAN—PART I

(By Craig Karpel)

Warren, a grown man who lives with his mother, walked into the Harlem Consumer Education Council's basement office a few months ago. Director Florence Rice gave him a leaky ball-point pen and he wrote:

"Bought TV from door to door salesman—Philco 19" lot of trouble with T.V. back cracked notify company to come have fix. Company claimed misplace T.V. sent repossed T.V. 1949 had to stick in hanger to get receptions—two weeks after that broke down. Called to fix that removed T.V. still pay bill by garnishment—left job on account of garnishment which effect my marital relation as the garnishee took away from our expenditures food clothing and rent. Which for which my wife was forced to except welfare and I left to establish myself again T.V. paid $500 never received T.V."

Louis-Ferdinand Céline coined the conceit that life was nothing but death on the installment plan. For poor people in New York City, this comes close to being literally true.

Six years ago sociologist David Caplovitz of Columbia's Bureau of Applied Social Research published a book called *The Poor Pay More*. The book is a landmark in the literature of consumer problems, right out there with *The Jungle* and *Unsafe At Any Speed*. As a result, Caplovitz has become witness-in-residence at a host of committees and subcommittees where he talks about the lack of "scope" which keeps poor people from leaving their neighborhoods in search of better prices and terms, about the "deviant sub-economy" which springs up like weeds through the cracks in the cement of tenement courtyards, where nothing flourishes that isn't rank.

The Great White Way of the deviant subeconomy is the L-shaped strip of 54 furniture and appliance stores running from 116th Street and Third Avenue to 125th Street and Lexington. The strip is the home of literal *shlock*. Not figurative *shlock*, as in "that agency has nothing but *shlock* accounts." Literal *shlock:* doll furniture, one good long cut below "borax." "Borax" is junk, but it's better-quality junk. Birch? maple? dowels? glue? frabric? veneers? Forget it—*shlock* is made of gumwood and flakeboard, knocked together with a few screws, upholstered in plastic "brocade" and varnished like a cheap coffin. The prices, however, are strictly W. & J. Sloane, *Shlock* stores do not talk about percentages of markup, like 50 per cent markup or 75 per cent markup—they talk about how many "numbers" they jack the price up over wholesale, and a "number" is 100 per cent. All *shlock* is marked up at least one number, and on a credit sales the markup can be three or four numbers.

So why buy *shlock?* Because the *shlock* emporia will give terms: "Easy credit." "Easy credit" means that as long as you are working and have wages that can be attached in the likely event that you miss one payment, you're okay. "Easy credit" means that if, as Shyleur Barrack, head of the Harlem civil branch of the Legal Aid Society once did, you go into a store and give a reference who says you now have two garnishees against your salary, the salesman will come back from the phone smiling and try to hustle you into $1,114.80 worth of furniture and appliances. "Easy credit" means that there is a store on 125th Street called Future Furniture that has to have a sign in its window: "WE ACCEPT CASH."

But all the places on the strip offer "easy credit," and a store can't generate much traffic by telling poor people it's going to take them to the cleaners, so it runs an ad in the *Daily News* in which two credit managers (black and white, take your pick) offer: "Economy Apartment, $198. Sleeper, matching chair, 2 walnut finish step-tables plus decor, lamps, walnut finish bachelor chest, matching mirror, full size bed, with 1 pc. Firestone comb. mattress, 16 pcs. dishware, 16 pcs. cutlery, 8 towels, 11 pc. salad set, 29 table access."

But once they've spent the money to get you into the store, they can't let you out with only a miserable $198 worth of *shlock*. That is only the bait end of bait-and-switch advertising. By the time the customer leaves, he should have put his Juan Hancock on the dotted line for at least $1,000. To cause this takes more than just an old-fashioned bait-and-switch. It requires nothing less than that balletic extravaganza of salesmanship know to the trade as the "turnover" or "tossover," code name "T.O." The salesman starts by showing the customer a pile of junk for $198. One store keeps its bait furniture piled in a dark corner, lit by a naked lightbulb. It is painted battleship gray, every stick of it, down to what used to be the chrome legs on the dinette table. If you wanted to give a salesman a heart attack, all you'd have to do is say, "Okay, I'll take it." "You don't want this stuff," he says. 'It'll fall apart in a couple of months. Besides, a person like you can afford something better. Let me show you something a little bit better." The salesman then takes the stiff upstairs in an elevator, but not before shaking him down for a $50 deposit for the privilege of "seeing the warehouse." The elevator gets "stuck" after the first trip up and doesn't get unstuck until the stiff has been signed up for a bill of goods. The idea of the T.O. is to show the stiff successively more expensive suites of furniture without letting him get discouraged about the price.

When he begins to look green around the gills the first time around, the salesman turns him over to another salesman who is introduced as the "assistant manager." The A.M. immediately "sandbags"—knocks 50 per cent off—whatever the first salesman quoted. The stiff is so taken aback that he lets the A.M. build him up again. Just before he begins to feel weak again, the A.M. turns him over to the "manager," who slashes the A.M.'s prices "as a special favor for you." The manager will try to build him up to, say, $800 or $1,000. If the stiff says he "wants to think about it" and tries to leave, he finds that the elevator is on the fritz. The "owner" now appears, knocks off a hundred bucks or two, and this usually convinces the stiff to sign. At which point the elevator suddenly clicks into action.

Now the fraud starts in earnest. When the furniture arrives, it's almost invariably damaged—delivery men routinely saw off legs on couches to get them in elevators and fit them back together with a special double-ended screw. The furniture turns out to be a junkier variety of *shlock* than what was ordered. The colors bear no relation to what was displayed in the "warehouse." The stereo doesn't work. The television looks used. Two chairs are missing. You were supposed to get a 9-by-12 rug with your order; the "rug" turns out to be a piece of linoleum. When the payment book arrives, the installments listed add up to much more than the amount that was agreed on.

Try to do something about it.

Say, for example, that the glass coffee table is cracked. You bring it back and the salesman tells you he'll be happy to give you your money back. He shows you that the contract simply says "three rooms furniture" for $943.17. It doesn't list the price of the table separately, and now he tells you the price was a dollar. "Would you like your dollar back?" he asks slyly. Or tell him the dinette table keeps collapsing and he says he'll send a man up, but nobody comes. Or say you want to send everything back because it isn't anything like what you ordered. If you're very lucky the salesman agrees and the store picks up your furniture, but when you go back to pick up your $50 deposit, he says the store is keeping it as a "service charge." And you let him bulldoze you because you don't know what else to do.

Some stores rise to printworthy extremes of doublethink when it comes to not returning deposits. Dorothy Mason, a counselor with the MEND consumer education project in East Harlem, tells about a guy who came to her recently because he couldn't get his deposit back:

"He had put down $150 at Eldorado Furniture and Appliances on Third Avenue. A salesman had convinced him to buy a washing machine and a 19-inch portable television for only $649. Two things happened to bring him to my office. First, the washing machine was delivered with a broken timer. He could not get any satisfaction from the store. Second, he found out that he could buy the same washer for $199 instead of the $299 he had paid.

"I went over to Eldorado with this man to discuss the matter with Samuelson, the boss. Samuelson said, 'Your man could have had it for $199 cash.' 'Then why did you ask $299?' I asked him. 'Because the man is a bad risk,' he said. 'How bad a risk could he be,' I asked, 'if you've got 150 of his dollars?' Well, I thought of him charging this man on welfare $649 for merchandise, on credit that he could

have purchased for $360 with cash, and I smiled, because this was almost a daily experience on Third Avenue with complaints of poor consumers. Samuelson became very upset and threw me out for smiling."

"You wouldn't believe some of these places," says Steve Press, whose New York Institute for Consumer Education is setting up a cooperative furniture store in East Harlem. "They'll stamp NO DEPOSIT RETURNED on the contract. That would never stand up in court, but poor people are impressed and don't even bother asking for their money back."

There is a certain type of used-car dealer in New York that is especially anxious to deal with poor people. Tune in to WWRL:

"Friends, have you tried to buy a car lately? Have you been turned down? Well, call Headquarters at 538–4300 . . . You have a garnishee or a judgment against you, and no one will let you forget them? Well, call Headquarters at 538–4300 . . . Your desire to pay plus a small down payment is all you need."

"Used-car dealers really do a job on poor people," says former Commissioner of Consumer Affairs Gerard M. Weisberg, recently appointed a Criminal Court judge. "Some of those lots out on Bruckner Boulevard and Queens Boulevard—they don't deliver the car that was agreed on, they inflate prices to a point you wouldn't believe, they charge a fortune for so-called 'credit investigations.' And they refuse to refund deposits if the customer's credit doesn't check out, though they lure him out there with promises that nobody's refused. Recently we revoked the license of Motorama Wholesalers on Queens Boulevard. Motorama was taking people's money and refusing to deliver the cars. The deposits ranged up to $580.

"The Department is constantly going over these dealers' books, but it's tough to police them. You put one corporation out of business, the next thing you know there's another corporation employing the same salesmen, using the same shady tactics on the same lot."

The Consumer Fraud Unit set up by US Attorney Robert Morgenthau under the direction of Richard A. Givens has been looking into the used-car racket.

"Our investigations have disclosed a pattern of sales of certain used cars at many times their original cost," explains Givens, "followed by a cycle of repossession, repurchase of the car at a low price at auction and further resale at many times that price to new customers, who in turn are frequently sued by finance agencies and often claim to have received no notice of suit. The inquiry indicated that in certain cases some used-car dealers know in *advance* that there will be a complaint regarding *each and every* automobile sold and that many customers will give up the car and default because they feel it can't be made to work. We're looking into possible violations of federal law by these people."

You don't have to leave the comfort of your home to be bilked. Peddlers making the rounds of slums and projects run the oldest-established permanent floating crap game in town. Encyclopedia salesmen tell welfare mothers they are officials of the Board of Education, that the books they are pushing are required reading for their children. They sell people encylopedias who already *have* encyclopedias. They sell $379.60 worth of books in English to people who only speak Spanish, to people who can't read at all, to people who are destitute. A peddler tells a woman she can have a set of pots and pans in her home for 10 days; if she doesn't like them, she can return them. When the utensils arrive, she signs a receipt for them. She decides to call the company and tell them to take the stuff back because it's junk. Then she realizes she has no idea what the company's name is or where it's located. The "receipt" she signed was actually a retail installment contract for $83.75. Soon she gets a payment book in the mail with a note saying she'll be sued if she misses one payment.

Richard A. Givens prosecuted a character named Rubin Sterngass recently for running a "chain referral" swindle, a mode of fleecing that is popular in the slums. A salesman would come to the house and offer quartz broilers and color television sets for nothing if the customer would refer acquaintainces to Sterngass' company. The customer would sign up for a color TV at a credit price of $1,400; commissions were supposed to be paid to him for each "successful" referral—$50 for the first, $200 for the fourth, $400 for the eighth and $1,200 on the twelfth. Givens demonstrated the scheme had its faults by presenting a table of how many new customers would be necessary at each step if the merchandise were to be paid off by referral commissions:

Step:	*New customers necessary*
1	8
2	64
3	512
4	4,096
5	32,768
6	264,144
7	2,113,152
8	16,905,216
9	135,241,728
10	1,071,933,824

Givens argued successfully that since every last human being on earth, plus everybody who had ever lived, plus a few generations yet unborn, would have to buy quartz broilers and color TVs on the eleventh go-round for the scheme to work, Sterngass ought to go to jail and think about other ways of doing business for a few years. The judge agreed.

At any given moment there is one super-fraud that sets the tone for all the other ghetto frauds in the city. Until last year the super-fraud was the "family food plan." Ray Narral, head of a legal services office of Mobilization for Youth, describes how the plan worked.

"Mr. and Mrs. Hernandez have two infant children and live in a New York City housing project. A salesman knocked on their door and said he was offering a very good food and freezer program. 'If you join,' he told them, 'you will be able to save a great deal of money feeding your children.' All of the sales literature indicated that for $12.50 a week, the family would receive a complete order of food—prime meats, fresh vegetables, everything. The freezer, the salesman announced, was theirs to store the food in, completely free of charge. The sales pitch was so inviting that the couple signed up immediately. They later discovered that the papers they signed were a retail installment contract for the food in the amount of $375.00 and a contract for a freezer for $1,020.76. Payments on the food were $93.75 a month for four months and 35 installments of $28.35 for the freezer."

Two years ago, a Nassau County District Court was asked to void one of these freezer contracts. It handed down a decision that, under the "unconscionability" provisions of the Uniform Commercial Code, "the sale of the appliance at the price and terms indicated in this contract is shocking to the conscience." Attorney General Lefkowitz' Bureau of Consumer Frauds and Protection went to court against the "family food plan" operators, seeking orders restraining Serve Best Food Plan, Thrift Pak, and People's Food from "carrying on . . . their business in a persistently fraudulent manner." In 1968, the Bureau curbed the biggest food plan operator of all, Martin Schwartz of Ozone Park, whose five companies were raking in a very neat $10 million a year.

The current super-fraud is a "sweepstakes" craze that started somewhere in the Southwest and recently arrived in New York. It offers sewing machines and stereos "free" to holders of "winning numbers." Regardless of where in the U.S. the shuck is being operated, the "contest" materials are the same. A chain with seven stores in New York is now being investigated by the city's Department of Consumer Affairs. The swindle starts with this letter:

"Here is your opportunity to participate in our 'stereo sweepstakes.'

"It's fun! It's easy! Just remove the gold seal to find your serial number, and compare it with the enclosed list of lucky numbers. If you have a lucky number, it means extra savings to you! For example! If you have a number which appears in Group 3 (grand prize) you pay nothing for a beautiful 1969 General Electric Stereo Console."

The number under the seal on this letter is 67487. 67487 is listed on the enclosed list of lucky numbers, not once, but twice, so you won't miss it and be the only person who receives such a letter who doesn't "win." A Consumer Affairs investigator visited one of the stores with this letter. He was shown a G.E. stereo model C121. The salesman explained that the investigator had won this record player, worth $150, but that it couldn't be removed unless he signed an installment contract to buy a record a week for 39 weeks at $5 each. The investigator called the Dealer Equipment Section of G.E. and found that C121 carries a list price of $99.95. The records which must be purchased under the plan are displayed around the store. They are the sort of off-brand, off-band cha-cha albums that one ordinarily finds remaindered for $1.19.

There is cash-and-carry cheating in poor neighborhoods, but most ghetto fraud hinges on the "easy credit" retail installment contract. It invariably has some features designed to protect the consumer, which seldom work, and others designed to nail him, which always work. Under the law there has to be a "Notice to Buyer." The first point must say: "Do not sign this agreement before you read it or if it contains any blank space." In fact, nobody ever reads one of these agreements. They ordinarily run to about 2,300 words in phrases like "time is of the essence hereof." (The Everything Card chit is a retail installment contract—ever read it?) The space for a description of the merchandise is hardly ever filled in completely at the time of the sale—usually only a few words are written in at the top, like "3 Rooms Furniture" or "one 23'' Color TV." What harm in that? Just a second—point number two is: "You are entitled to a completely filled in copy of this agreement," and right above where you sign, it says: "Buyer acknowledges receipt of an executed copy of this Retail Installment Contract." But the moment your pen leaves the paper the salesman whips the contract away—including your copy—and the next time you see it, if you ever do, it says "Damaged Furniture—Accepted As is" or "Used Television Set—Customer Will Repair" right in the blank space you were warned against. This is all assuming you read the "Notice to Buyer," of course. One reason you might not have read it is that you only read Spanish. The stores have *"muebleria"* and *"credito"* and *"se habla español"* plastered all over the outside, but there is no such thing as a contract printed in Spanish. The finance company's linguists are apparently too busy composing dunning letters to the *campesinos*.

The fine print on the back socks it to the buyer in terms only a lawyer can savor. The kicker is contained in the following hocus-pocus: "The Buyer agrees not to assert against an assignee a claim or defense arising out of the sale under this contract provided that the assignee acquires this contract in good faith and for value and has no written notice of the facts giving rise to the claim or defense within 10 days after such assignee mails to the Buyer at his address shown above notice of the assignment of this contract." What this means in

practice is described by Philip G. Schrag, attorney in charge of consumer litigation for the NAACP Legal Defense Fund.

"If Greedy Merchant gets Ernest Black to sign such a contract for a 'new color television' and the set turns out to be an old, battered black-and-white instrument, or *even if Merchant never delivers any set at all*, Merchant can sell Black's contract to Ghetto Finance, Inc., for a lump sum, and Black is out of luck. Ghetto has a right to payment in full from Black, and Black has no right to tell a court that he's been robbed."

The common-law justification for this is that Ghetto Finance supposedly knows nothing about Greedy Merchant's business practices, that it is a "holder in due course" of the installment paper. In practice, finance companies often work hand-in-glove with merchants to soak the poor.

Martin Schwartz' five food freezer companies at 105–32 Cross Bay Boulevard, Ozone Park, were selling their paper to Food Financiers, Inc., Associated Budgeting Corp., and National Budgeting Systems, Inc.—each of 105–32 Cross Bay Boulevard, Ozone Park. Attorney General Lefkowitz' injunction forbids Schwartz' salesmen from stating that Schwartz' finance companies are "unassociated" with Schwartz' freezer companies. Still, the finance companies are "holders in due course" of the freezer companies' contracts and are continuing to collect on hundreds of thousands of dollars worth of paper they "acquired" before the injunction.

Tremont-Webster Furniture Corp. is at 412 East Tremont Avenue in the Bronx. When I visited this *shlock* shop, it was locked. There was a sign on the door that said, "Go next door." Next door, 410 East Tremont Avenue, behind a more fiduciary storefront than Tremont-Webster's, is Argent Industrial Corp. It turns out that Argent buys Tremont-Webster's paper. No doubt it is a convenience for a holder in due course to have the store about whose affairs it knows nothing right next door. This kind of hanky-panky extends from rinky-dink outfits like Argent right up to the heavyweights. Credit Department Inc. ("That's right, Madam, no finance companies are involved in this transaction—you just sign a contract with the credit department . . .") has the distinction of suing more people in New York County Civil Court than any other finance company. Erase any image you may have of ghetto shylocks cowering behind boarded windows on burned-out, glass-littered streets. Credit Department is located in the heart of Dry Dock Country at 60th Street and Third Avenue. Credit Department does not know anything about the business practices of the operations it finances. Take Associated Home Foods of 41–01 Bell Boulevard, Bayside, which used to sell freezer plans to poor people at prices equal to those which the courts have found to be unconscionable. That's none of Credit Department's business—they bought Associated's paper, are holders in due course and are suing people for not paying. Besides, Credit Department isn't buying freezer contracts any more—they know it's "garbage paper" and they don't want to get their hands dirty. Credit Department lists a few of its clients on its door—not that it knows anything about their operations, you understand—and one of them is Vigilante Protective Systems. Vigilante is in the business of selling burglar alarm systems door-to-door and is located at—you guessed it—41–01 Bell Boulevard, Bayside.

Lately, the holder-in-due-course ploy has come under attack from consumer forces. Three states have outlawed it. A bill to end it, sponsored by Attorney General Lefkowitz, was killed in the legislature in 1968 but will be re-introduced this year. Witnesses at FTC hearings last November called for federal legislation to do away with the principle that allows finance companies to remain aloof from the dirty business practices of the companies whose paper they buy. The New York State Bar Association Committee on Federal Legislation is considering a report that would recommend that holder in due course be abolished. Richard Givens has a mail fraud indictment pending against a finance company and its officers for claiming that it was a holder in due course when in fact it had an interest in the sale of the merchandise.

Coburn Credit Company first made waves in the ghetto a decade ago when it began to carve out a commanding position in the market for furniture-and-appliance installment paper in the New York area. It rapidly gained a reputation among stores as the outfit that was willing to pay top dollar for "garbage" paper—trade cant for inflated installment contracts for purchase of low-grade goods by poor credit risks.

Today the company is listed on the American Stock Exchange as "Coburn Corporation of America." In addition to its $50 million New York metropolitan area sales finance operation, it now has small loan offices throughout the South, a mortgage operation in Louisiana and a division that runs revolving credit plans for department stores. Coburn has made skillful use of the holder-in-due-course principle to protect itself against possible charges that the merchants it finances engage in fraudulent or unconscionable practices. Under the law, for example, a finance company can't be held liable for fraud in the contract if the customer doesn't complain within 10 days after he receives notice that the contract has been sold. When Coburn buys a contract, it sends three sheets of paper to the customer. One is headed "Certificate of Life Insurance Protection," another, "American Fidelity Fire Insurance Company Insureds Memorandum of Insurance." These two are of little importance to the consumer. The third sheet, half the size of the others, has no heading. Three-quarters of the way down the page are three sentences. The first of these is 125 words long. It contains an urgent warning that if the consumer does not act quickly, he will forfeit all his rights. The second and third are seven and ten words long respectively. They read, "Enclosed you will find your payment book. Payments are to be made as directed in this book."

Coburn has had brushes with the Bureau of Consumer Frauds, but according to Assistant Attorney General Barnett Levy, it has "cooperated" in giving money back to customers who claimed irregularities in the original contract.

I visited Coburn to discuss the sales finance business with President Irving L. Bernstein. His offices are in the Coburn Building, the largest structure in Rockville Centre, Long Island. One walks toward Bernstein's office past no end of teak, brass, marble, quarry tile, bronze, royal purple couches, van der Rohe chairs and recessed lighting.

The finance company's substantial physical presence would come as a shock to its thousands of poor customers, many of whom tend to personalize institutions they never see: "I got a contract with the Coburn Company, and Mr. Coburn won't wait no longer to get paid."

I tried to get Bernstein to talk about the holder-in-due-course provision. How, I asked, did Coburn make sure that the outfits whose paper it was buying were on the up-and-up? Bernstein told me that these were technical matters that I, who was "not an expert in finance," would have difficulty understanding. He preferred to tell what a bunch of deadbeats people were who lived in certain neighborhoods. I asked whether fraudulent and deceptive practices on the part of merchants might not make poor people less than willing to pay their debts.

"Listen," said Bernstein, "I have a social conscience about these things. I grew up in one of these neighborhoods—Brownsville. These people are not exactly truthful when they give credit information. And there are entirely too many of them who have no intention of paying. It was different in my day. My mother used to steal deposit bottles rather than miss weekly payments."

I suppose Bernstein saw me wince because he asked. "Do you have a social conscience?" He talked about a social conscience as if it were painful, like an ulcer. Bernstein said we ought to cut the interview short, since an important announcement was forthcoming from Coburn and he would be in a better position to discuss the sales finance business the following week. On the way out I picked up a copy of the Coburn house organ.

"Early in December," it explained, "Coburn initiated its annual 'Adopt Needy Families' program . . . five of the neediest families were selected. To each of the families chosen, Coburn employees in Rockville Centre have contributed specified sums of money to make an otherwise bleak and destitute Christmas into a happy and hopeful one." Gelusil for the social conscience.

The next day Colburn released the news that it would "discontinue its $50 million retail installment finance business." Coburn had protected its sales finance investment with a dunning staff of 250 who engaged in what are charitably referred to in "easy credit" circles as "hard collection practices"; the staff was being let go, so $5.1 million in contracts was being written off as uncollectible. But at the end of the story it turned out that "about $30 million will be allowed to run off and the borrowers asked to convert their contracts to direct personal loans." "The company will continue to carry about $20 million in installment receivables, but will buy such contracts only on the condition that they be converted to loans."

In the trade, the procedure of converting sales finance contracts into direct personal loans is called "flipping." It is done by offering to lend the customer more than enough cash to pay off his contract. The trick is that the maximum interest for sales finance is about 18 percent, while the legal rate for direct cash loans is 36 percent. The other advantage of "flipping" was best expressed by Bernstein when I spoke to him later:

"When you have an installment finance operation, you're going to be concerned with the dealers; this way, you only worry about the willingness and the ability of the individual to pay."

If holder in due course is abolished in New York, finance companies will be liable for fraud in the original contract. Even now, if there is fraud "on the face of the contract"—if, for example, the interest rate charged is in excess of the legal rate, or the merchandise being purchased is not described—the finance company is liable. But from now on, Coburn will be lending people cash to *pay off* the original contract, so it won't be liable for anything. If other sales finance companies go Coburn's route, they will have found a way of getting around policing the dealers whose contracts they buy. Until this writing, Coburn didn't know, for example, that at least one link in the chain of stores that the Department of Consumer Affairs is investigating displays a sticker that reads, "COBURN AUTHORIZED DEALER." Now Coburn knows, but with the new policy, it won't have to care.

So whether or not holder in due course bites the dust, the customer is supposed to keep on paying. But what if the couch falls apart in three months, and the store you bought it from has gone out of business and the bills continue to come? What if the color TV explodes and the repairman tells you it was a used set to begin with and the store won't exchange it? You just can't see mailing in that money order for $26.96

every month for the next 34 months? What happens if you just *ignore* the bills?

Nothing happens until one day, a year or so after you've forgotten about the whole painful affair, your boss asks you to come into his office. He looks annoyed and shows you a paper and says he's supposed to take $7 out of your paycheck each week and send it to the city marshal and it's a damned lot of paperwork and he'd just as soon fire you if it weren't illegal. Then he hands you the paper and says you'd better take care of it or he'll find some other reason to get rid of you. So you go to the address on the paper and the marshal tells you to pay him $10 every week or he'll send the paper back to your boss. You do it because you don't want to lose your job. The furniture, the television, were long since put out on the street as junk, but you have a wife and four children. The only problem is, you only make $70 a week and you've got to pay the marshal $10 out of that. The hopeless cycle of consumer abuses goes around and around.

GHETTO FRAUD ON THE INSTALLMENT PLAN—PART II

(By Craig Karpel)

(NOTE.—" 'Sewer service,' improper venue, default judgment, garnishment—how poor people are made to pay even when they do not owe.")

"Easy credit" installment buying means high-pressure sales tactics, junk merchandise and a sales contract with blanks that are filled in by the store after the customer signs. Often unordered goods are delivered, appear on the bill and are not accepted for return. Used merchandise is sent instead of the new stipulated in the contract; if the customer returns the goods, his deposit is not refunded; and when the bills start coming in they are for more than the amount agreed upon in the contract.

The long arm of the law is not long enough to protect the customer; in fact, it extends to help the stores. Collection agencies, for example, are not held liable for the frauds in the original contracts they buy up from the stores. And long after the junk furniture falls apart, legal devices continue to work against the consumer: "Sewer service," improper venue, default judgment and garnishment are how poor people are made to pay even when, in fact, equity and law, they do not owe.

To sue on a piece of garbage paper, a summons and a copy of your complaint has to be served on the customer. In a study he is conducting for the Office of Economic Opportunity, sociologist David Caplovitz has found that only 53 per cent of all defendants in New York County Civil Court suits say they received a summons. The phrase "sewer service" suggests one possible final destination of the remaining 47 per cent.

Caplovitz says, "The reason sewer service flourishes in New York is that this is the only state in which service of process isn't handled by some court agency. Here anybody who is over 21 can serve papers."

The Civil Court allows $2.50 in costs for serving a summons. For proof that service has been accomplished, it accepts an affidavit from the process server. So a process server has a choice of walking around hostile neighborhoods, climbing rickety stairs, standing in fetid hallways and facing contentious poor people, on the one hand, and sitting in his office, filling out perjured affidavits of service on the other. Either 47 per cent of all process servers choose the latter, or all process servers choose the latter 47 per cent of the time, or somewhere in between. Of the 53 per cent who are warned they're being sued, most of them are done in by improper venue. Under New York's rules of civil practice, any county civil court has jurisdiction on a case that arose anywhere in the state. So merchants and finance companies often sue, not in the county where they reside or in the county where the defendant resides, but in some other county which is likely to be inconvenient for ghetto consumers to get to. Under the rules, the consumer can have venue changed to the county where he resides. If he is being sued in a court that is inconvenient for him to get to, all he has to do is *go to the court that is inconvenient for him to get to* and ask for a change of venue. He would also be well advised to bring his lawyer with him, because getting a venue shifted is a rather tricky procedural maneuver.

Brand Jewelers is prominent among the plaintiffs of New York County Civil Court. It is a matter of some curiosity that a large number of lawsuits it brings asks for relief in the amount of $112.64. In checking through the files of summonses kept by the clerk of the court, it appears that this $112.64 represents the full cost of the watches it sells—$69.95 plus various service charges. Why do so many Brand customers fail to make even a single payment? Coincidentally, Caplovitz has interviewed a number of Brand's $112.64 debtors.

"They all tell the same story," he says. "A salesman comes to where they work—on payday, naturally—and signs them up for watches. But they never get Brand's address, and never receive a payment book. The first they hear from Brand is when their wages are garnisheed."

Brand's offices are at 44 Court Street, near Borough Hall, Brooklyn. It sells all over the city, yet it sues in Manhattan. I called Sol H. Erstein, Brand's lawyer, who lists his address (on summonses printed with Brand's name) as 44 Court Street, and whose name is writ large on the door to Brand Jewelers. I was told that Erstein "was on vacation" and was referred to a lawyer named Sidelle, his partner. I asked Sidelle why Erstein, whose office is in Brooklyn, sues Brooklyn residents in Manhattan, although Brand is in Brooklyn. Sidelle explained that this was because Erstein has an office at 15 Park Row, convenient to the Manhattan courts. I observed that his office, 44 Court Street, was no less convenient to the Brooklyn courts.

"Look," said Sidelle, "anyone who wants to change the venue to where he lives can do it, but people hardly ever do."

The poor defendant gets either no summons, or one telling him he must report to another county. The result is almost invariably the same in either case: He doesn't show up. So a "judgment in default" is entered against him by the clerk of the court. At this point, the defendant still can get his "day in court"—a phrase which, when a lawyer says it, comes out as an ancient common-law formula, not a cliché. If he knows enough to go to Legal Aid, the judgment can be opened on grounds of failure of service or improper venue. But in order to do this he has to know not only where to go, but that a judgment has in fact been entered against him. Until recently, all he had to do to find this out was go through the minute books of the civil courts of the five counties in the city. He could start with the Manhattan books, which listed 195,011 cases in 1968. But since September 1, 1968, the law requires that the lawyer for the plaintiff send a notice by certified mail to the defendant that a judgment is pending against him.

Even if you read English, you've got to be a lawyer to understand the gibberish and to know that it isn't inevitable for the judgment to be entered, that you can still do something about it. The plaintiff's lawyers aren't obliged to take great pains to inform the defendant of his rights. What's more, most of those certified-mail letters never reach the defendant because the addresses are from the original contract and are therefore two or three years old. If the merchant or finance company has a more recent address on file—the one from the last payment, say—it doesn't have to tell the clerk of the court. So the certified letter is returned to sender, who gives the judgment to a city marshal.

The marshal hits the debtor with an "income execution," otherwise known as a garnishment, which is an order to somebody's employer to take money out of his wages and send it to a marshal. This involves the employer in a great deal of paperwork on payday, and in the past most employers were disposed to fire an employee rather than go through the rigamarole. If they kept the man on, all of his salary could go to satisfy the judgment. Now New York has a garnishment law that is, compared with other states, a model of humaneness. Thirty dollars a week is exempted, and the maximum weekly take-out is 10 per cent of wages. An employer is not allowed to fire a man for having only one garnishment, but despite the law, employers often find a pretext to dismiss men whose wages have been garnished. If a man has been retained, his second garnishment is quickly translated into a pink slip. Although the law prohibits firing a man because of one garnishment, it doesn't say anything about not hiring a man because of one garnishment. Many so-called "hard-core unemployables" in New York are unemployable primarily because of a history of garnishment. So in order to stay on the good side of employers, poor workers go directly to the marshal and promise to give, each week, more than he could legally take.

Of course, when the poor consumer hears that his wages are being attached he can still, in theory, go to court. All he needs is a lawyer to represent him, but a lawyer has to have a powerful sense of noblesse oblige or a weak head to go to bat for a poor person, however blatantly defrauded, in New York's courts.

Ghetto merchants and finance companies have the complicated process of suing in Civil Court down to a science. Samuel Kroland, house collection attorney for Coburn Corporation, one of the largest finance companies in the New York area, has its IBM System/360 computer at his disposal. Furniture stores on 125th Street go to the redoubtable Sidney Katz, Esq., of 60 Wall Street. All of Katz' furniture cases are identical—all he has to do is remember which store's rubber stamp to use on the paper. Attorney Milton Kostroff has an office 60 by 66 feet from which he is reputed to process one-fourth of the garnishments in Brooklyn, and is supposed to boast of a 100 per cent default judgment rate. These lawyers use complaint and judgment forms with all the relevant information *printed* on them—all they've got to do is fill in the amounts and send them over to the court clerk to have them filed. From that point the lawyers' service bureaus they retain (there is one that dares call itself Gett-O Claims Investigating Service at 524 East 149th Street in the Bronx) take over. The most prominent of these is American Clerical Service of 5 Beekman Street. American employs women who work full time at long tables in the civil court clerk's offices, checking the minute books for summonses that have gone unanswered, stapling "notices of proposed judgment" to the summonses and complaints, pulling copies of "judgment in default" forms to be stamped "Entered" by the clerk. Then the "income execution" forms go to the marshal and the poor start paying more. It should be noted that some of the characteristic features of courts as we ordinarily think of them never become involved in this assembly line: most notably, judges. Judges don't like to have anything to do with this process. It's too . . . *mechanical*. Besides, judges are for making decisions, and all the decisions in these courts have already been made. All that's needed to administer justice in the clerk's office is a strong right arm and a rubber stamp.

"Whoever dreamed," asks Caplovitz, "that the courts of this city would be perverted into becoming a collection agency for unscrupulous merchants and finance companies that prey on the poor?"

A lawyer who tries to defend a poor client against a ghetto merchant or finance company benefits from none of the economies of scale that suing thousands of people generates. Each case is entirely different, procedurally and on the merits. Personal trips to court are necessary to copy the papers. The circumstances of each fraudulent or unconscionable sale must be pieced together through investigation. Poor defendants cooperate by ignorance and default. The exploiters never cooperate. Why should they? You say your client didn't get a copy of the contract in question? You want to take a look at it? Go before a judge and make a motion for pre-trial discovery. That should keep you busy.

The Civil Rights Committee of the Association of the Bar of the City of New York has recently demanded three reforms. The first is that service of process be a function of a public agency. The second is that suits be allowed only where the consumer lives, used to live or make the purchase. The third is that right to counsel for the poor be guaranteed in civil actions as it is in criminal cases. These proposals would require action by the legislature. But a venue bill such as the Bar Association proposes, sponsored by the Attorney General last year, never got anywhere. The legislature has shown no great concern for protecting the rights of poor consumers in the past, and there is no reason to believe that, without a welling-up of public concern, it will do anything to help in the near future. If there is going to be a change in the courts in the meantime, it is going to have to come from the courts themselves.

There is now only one attorney in New York who is bringing test cases to court designed to bring down the legal and procedural house of cards which shelters companies that cheat poor people. Phil Schrag is assistant counsel at the National Office for the Rights of the Indigent, which is part of Jack Greenberg's NAACP Legal Defense Fund.

"Lawsuits to secure the rights of consumers are phenomenally expensive," Schrag explains. "To win the landmark District of Columbia case in which two furniture contracts were voided because the prices were unconscionable, Legal Aid lawyers had to spend 210 man-hours. In one case, we had to spend 72 man-hours just to defeat the finance company's motion to dismiss on the grounds of improper service of process! A rich man would have to be nuts to pursue a case like that; a poor person simply can't pursue at all.

"There are two ways to make it practical for poor consumers to go to court to secure their rights. One is by awarding punitive damages for fraud and unconscionability. Punitive damages are now available in New York where the seller engages in willful fraud as the very basis of his business. The problem is that many of the corporations which engage in consumer fraud are deliberately run on shoestring budgets while their owners reap large salaries. Hit the seller for punitive damages and you find the corporation has no assets. The courts have got to make it clear that punitive damages lie against the officers of a corporation, not just the corporation shell.

"We're bringing a case now which asks for punitive damages for inducing a poor couple to enter into a contract to buy a freezer for a total of $1,163.11—a price which a New York court has found to be unconscionable. If courts would award substantial punitive damages in this kind of situation and make them stick, lawyers would find it profitable to represent poor consumers on a contingent-fee basis, like accident cases.

"Our other case is a test of the availability of consumers' class actions in New York. Until recently, Coburn Corporation used contract forms that the plaintiffs alleged had portions printed in smaller than 8-point type, contrary to Section 402 of the Personal Property Law. The plaintiffs had signed such a contract for wall-to-wall carpet in the amount of $756.92. This contract was sold to Coburn. The rug started coming apart, and when they tried to get the carpet company to service it they found it had gone out of business. So they refused to pay the balance of $266.11 and sued on behalf of themselves and every other consumer that has signed such a contract during the past three years for return of the credit service charges paid to Coburn. The court held that persons who signed these contracts do not constitute a 'class'; each had to sue separately to get relief. We're appealing the ruling.

"With class actions, one knowledgeable consumer could sue on behalf of thousands who are ignorant of their rights. If the courts won't allow class actions, how is the average poor person supposed to know his rights, let alone afford to defend them?"

Schrag may be successful in the end, but so far the lower courts have been notably inhospitable to his case. Felice K. Shea, staff attorney with the Legal Aid Society's Harlem civil branch, is not surprised.

"The lower courts," Mrs. Shea sighs, "have a small-business mentality. As far as they are concerned, the sanctity of contracts must be upheld at any cost in human suffering. The lower-court judges simply have a different way of thinking about the problems of poor consumers than the average well-meaning lay person would think they have."

"If there's one thing that stands between poor consumers and a real solution to their problems," Caplovitz says, prowling his office, furious, "it's the illusion that the consumer has a place to go."

This 'llusion has survived *The Poor Pay More*, whose surveys found that 64 per cent of poor people had no idea where to go with a consumer problem. Caplovitz found that the largest number who did have an idea where to go cited the Better Business Bureau.

The following exchange of letters gives a sense of how the Bureau operates.

On January 31, 1969, Sister Mary Kenny, Dean of Students at Sacred Heart Academy in Hempstead, sent a copy of a letter she had written to Attorney General Louis Lefkowitz to the Better Business Bureau. It complained that her students had been defrauded by ---------- of New York. It offered a lengthy bill of particulars.

On February 17, 1969, Ward R. Williamson, Manager of the Service Department of the Bureau, sent Sister Kenny the following letter:

"This will acknowledge the receipt of your recent letter expressing dissatisfaction with your organization's dealings with ————.

"We appreciate your bringing this matter to our attention. Your letter will be made a matter of record in our files.

"This Bureau cannot intervene on your behalf as you request inasmuch as your letter indicates that you are sending copies of your letter to various governmental agencies."

On March 25, 1969, a letter was sent to the Bureau, as follows:

"I would appreciate it if you would let me know if you have any information or complaints on ————."

On April 18, 1969, Ward R. Williamson replied with a form letter:

"In response to your recent communication about the above ————:

"We have not received sufficient inquiries about this concern to justify preparation of a formal report. The company has been known to the Bureau since 12–17–68.

"The Bureau files shows no complaints.

"On behalf of the responsible business companies whose voluntary membership in the Bureau makes its services possible to the public without charge, we appreciate the opportunity to be of service to you."

On May 13, 1968, the Better Business Bureau of Metropolitan New York opened an office in Harlem. On November 18, 1968, the Better Business Bureau of Harlem opened its permanent offices in what used to be Fidel Castro's favorite New York hotel, the Theresa, at Seventh Avenue and 125th Street. I went there to speak with Miss Larrie O'Farrell, the public relations director.

"Everybody in Harlem is controlled," stage-whispered Miss O'Farrell. "The furniture stores are no exception."

"Who controls everybody in Harlem?" I asked expectantly, pen in hand.

"Who controls everybody in Harlem? I think we both know the answer."

"Oh, *them*," I said.

Miss O'Farrell went on to suggest that the reason the Better Business Bureau had not pursued the matter of *them* had something to do with not wanting bombs lobbed through its windows. In fact, Miss O'Farrell suggested that if I went too deeply into the matter of furniture stores, *they* might have me dodging bombs. I swallowed the lump in my throat and pressed on. I told Miss O'Farrell that, bombs or no, I was interested in seeing her files on some of the worst offenders. Miss O'Farrell buzzed for two files; both were fat with letters of complaint and memoranda of action taken. It was clear that the Bureau was fairly successful in settling complaints against both stores of damaged and defective merchandise, misleading advertising, and so on. Yet it seemed that neither store had actually changed its business practices as a result of Bureau action, but rather had seen fit to accommodate only purchasers who knew enough to complain, and where.

Enter at this point Woodrow Wirsig, president of the Better Business Bureau of Metropolitan New York. Miss O'Farrell told him I was interested in the problem of poor consumers being cheated by unscrupulous merchants.

"This is a very complex problem," explained Mr. Wirsig. "It is not just the businessman's fault; it is the consumer's fault, too." Wirsig flashed a glance at Larrie O'Farrell, scanning for corroboration. Finding none, he continued:

"These people have to learn to moderate their wants. They are entirely too eager to believe they can afford things that they do not really need; they are entirely too. . . ."

"Trusting?" offered Miss O'Farrell. A histrionic mood gelled in the room.

"Ye-e-s," said Woodrow Wirsig, raising an eyebrow, fixing a stare on Miss O'Farrell. "Too trusting."

There are other agencies where poor consumers who know enough to complain can go, but none really makes it.

The New York State attorney general runs a Bureau of Consumer Frauds and Protection in the City, but director Barnett Levy is budgeted only 10 lawyers to handle nearly 70 complaints a day. The lawyers can "mediate" by picking up the phone and trying to convince merchants not to defraud the people who complain, but they can only act against companies when there is a "pattern" of complaints against them. Then they can only seek an injunction forbidding the merchants from engaging in practices which are illegal in the first place. Levy was able to throttle 70 fraudulent operators in the city last year using this tactic, but if you're being sued *this* year by one of these operators, all his lawyers can do is commiserate. The bureau has no power to put anybody in jail for fraud.

There are a number of "consumer education" storefronts in the city, funded by the Office of Economic Opportunity, to which poor people are invited to come for help. Most of the people who come are having trouble

getting deposits returned or exchanging damaged and defective furniture and appliances. The storefront counselors have had some success, using the threat of a small claims court suit against recalcitrant merchants, but lately the stores have stiffened and refuse to settle. They go to court and lose, on the theory that they can win by attrition: poor consumers don't actually want to sit around small claims court waiting for their cases to be called. The result is that not much use is being made of the counselors' services. One consumer education project I visited had rather meager files of recent clients. A counselor there confessed that only two, maybe three, cases come in a week. It's doubtful whether the counselor was getting as much money back for her clients as she herself was being paid out of public funds.

You can go to the Legal Aid Society or an OEO-funded "neighborhood law office" if you're being sued. There you sit in two-tone green enamel waiting rooms, part of the "caseload." The lawyers do not have the budget to open judgments and defend defrauded clients, so they call the store or the finance company and ask it to settle for, say, $50 more. It's often the store that owes money to the client, of course, but Legal Aid doesn't have the funds or manpower to bring suits on behalf of its clients. A "neighborhood lawyer," if he is able to crawl out from under the caseload avalanche, can consider suing a store or finance company, but the day after the summons goes out, the defendant's lawyer is invariably on the phone, suggesting that the poor client take a $50 settlement and forget about his suit. In the four years that Ray Narral was with Mobilization for Youth, he never had a client who could resist the temptation to settle with his persecutors.

The city's Department of Consumer Affairs was created in September, 1968 as little more than a fancy title for two old agencies, Markets and Licenses. The one addition was its Consumer Advisory Council, of which Phil Schrag is chairman. Schrag's council, the department staff and the city Corporation Counsel recently presented Bess Myerson Grant, the energetic new commissioner, with a bill that would give the department a unique and potent weapon against systematic fraudulent schemes. The Consumer Protection Act of 1969, now before the City Council, a number of whose most influential members, notably Majority Leader Thomas Cuite, Edward Sadowsky and Mario Merola, are regarded by the department as sensitive to consumer needs. It would give the department the power to bring lawsuits against fraudulent operators on behalf of all the victims who live in the city. If a company defrauded 10,000 New Yorkers of $20 each, the city could collect $200,000 from it and distribute it to the victims. If the City Council passes it, New York will be the most expensive place in the country to commit fraud, instead of one of the cheapest.

THE PESTICIDE PERIL—XV

Mr. NELSON. Mr. President, the June 7 issue of the Prairie Farmer, a national agricultural magazine, expressed concern about the disappearance of our national symbol—the American bald eagle—from the American scene.

The survival rate of the baby eagle has dropped as low as 20 to 50 percent during the past decade, and it is suspected that persistent insecticides may be causing this decline.

According to Alexander Sprunt, research director for the National Audubon Society, evidence presently available points "to the involvement of an environmental pollutant of some sort. The only known pollutants that fit all of the observed facts are some of the long-lived insecticides, such as DDT." Moreover, specific evidence has been found in England that clearly links the decline of the peregrin falcon to persistent pesticides.

The Prairie Farmer's article is symbolic of the growing awareness in agriculture of the threat of pesticides to some crops, wildlife, and even man. Often, the buildup of pesticides, notably DDT and other chlorinated hydrocarbons, in a farmer's crops reaches levels too high to be acceptable by the Food and Drug Administration standards. Dairy farmers have been particularly hard hit by pesticide residues. Pesticides in feed eaten by their cows often result in harmful residues in the milk and fat. Under the pesticide indemnity payment program administered by the U.S. Department of Agriculture over the past 4 years, farmers in 29 States have been reimbursed nearly a million dollars for milk barred from commercial markets because it contains traces of pesticides approved for use by the Department.

A recent article from the New York Times reports the findings of the Audubon Society's 8-year study of the bald eagle. Again Mr. Sprunt warned of the danger of continued use of persistent pesticides and said that "unless we ban DDT the American eagle will become extinct."

The study found that eagle eggs in pesticide areas had produced no shells, and that a limp and empty membrane had been found in some of the nests. Mr. Sprunt explained that DDT residues from the fields and woods collected in waterways, where they polluted food eaten by fish. Concentrations of DDT thus develop in the fish and build up to still higher concentrations in the eagle, which is primarily a fish eater.

I ask unanimous consent that the Prairie Farmer article and the article from the New York Times be printed in the RECORD.

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

AMERICAN BALD EAGLE STRUGGLES FOR SURVIVAL

In one of Ben Franklin's lesser-known statements, he said of the American bald eagle:

"For my part, I wish the bald eagle had not been chosen as representative of the country; he is a bird of bad moral character, he does not get his living honestly; is generally poor; and often very lousy. Besides, he is a rank coward."

Franklin was only one of a long line of detractors of the bald eagle. He, with John James Audubon in agreement, considered the eagle rather cowardly, especially when surprised by the smaller kingbird. And he noted that the eagle will resort at times to snatching food from the talons of a fish hawk.

The eagle's detractors have not failed to suggest other birds more deserving of our national pedestal. Franklin offered the American turkey. Tho he admitted the turkey was rather vain and silly at times, Franklin nevertheless considered this bird's courage unimpeachable. According to Franklin, a turkey "would not hesitate to attack a grenadier of the British guards who should presume to invade his farmyard with a red coat on."

But over the years the eagle's noble appearance, independent qualities, and "eagle eye" have prevailed. And the "King of Birds" has not been dethroned as the national symbol.

But in 1969 the eagle is grappling less with detractors than with the grim face of extinction. Other creatures before the eagle have suffered this fate. They are now mere statistics in biological history. Perhaps our national symbol will join them, caution conservationists and concerned Audubonists.

If the eagle should lose his struggle for survival, who will be at fault? According to researchers like Terrence Ingram of the Illinois Audubon Society, the eagle will be losing out to polluted streams and fish—tainted with pesticides and industrial wastes. Also contributing will be careless hunters with careless minds that trigger all too carefully aimed guns.

Helping the bald eagle to survive is a responsibility particularly for midwesterners. For during the winter, from November to mid-February, eagles fly down from the frozen north to the open waters of the Mississippi along Iowa and Illinois. Here they find open water near riverside power plants and a ready supply of food in the battered fish thrown against water-intake screens.

In 1940 the eagle was granted federal protection by congress. But, according to the Fish and Wildlife Service, more eagles are killed by hunters than by any other means.

Many hunters mistake the eagle for a crow or hawk. Bald eagles do not gain their identifying white crown and tail until 4 years of age. Up to that time they are completely dark and can be easily mistaken for other birds their size or color.

Tho of similar color, eagles are 3 times larger than the ordinary crow.

But the best way for a hunter to distinguish immature eagles is by their flight. The bald eagle soars with wings completely flat. Other birds soar with upswept wings, like the vulture, or slightly curved wings, like the osprey.

So, to help preserve the eagle, hunters should sight their prey more cautiously, particularly in the Mississippi river area. It is illegal to shoot most birds of prey in the midwest.

Other efforts have been put into motion to preserve the eagle. Land-owners around the country treat thousands of their acres as sanctuaries. And nesting places in national wildlife refuges are closed off to protect eagles during the nesting seasons. The eagle is naturally a loner, and when human beings venture too close to his nest he simply abandons the eggs. So lumber cutting and other activities are not permitted within 150 feet of any nest in many wildlife parks and refuges.

But even with these precautions, nesting success among eagles has often run as low as 20 to 50% during the past decade.

The countrywide clamor against water pollution is largely on behalf of wildlife and the eagle is no exception. He feeds on fish, some of which inhabit polluted waters and absorb pollutants themselves.

Researchers hypothesize that insecticides may be tied in with a decline in the eagle's rate of reproduction. According to Alexander Sprunt in a speech before the 1966 National Audubon Society convention:

"The evidence that is presently available does point to the involvement of an environmental pollutant of some sort. The only known pollutants that fit all of the observed facts are some of the long-lived insecticides, such as DDT.

"The Department of Interior in 1964 ceased using compounds such as DDT, chlordane, dieldrin, and endrin which are known to concentrate in living organisms. The United States Forest Service has been moving toward elimination of DDT from its arsenal of usable pesticides because of the hazards involved. It would seem that in the light of the great amount of strong circumstantial evidence that is presently available, the use of such

compounds should be severely restricted or even eliminated entirely."

But evidence has yet to be gathered in this country linking insecticides with the actual death of larger birds of prey. In England, however, such clear-cut evidence has already been found in the case of the peregrine falcon.

At this stage of the declining eagle population, what can we do? Terrence Ingram suggests that since the eagle's large nest requires tall trees, perhaps certain roosting areas along the Mississippi should be set aside. Free of logging operations and human interference, the birds would be assured of a safe haven and feeding area during the winter.

And more information is needed about the very independent eagle, not only to pinpoint the dangers confronting his very existence but also to uncover new possibilities of protecting him. For more specific information on ways you can help, contact your local Audubon chapter. If there is none near you, contact Terrence Ingram, chairman of the Hawk and Owl Protection Committee, Illinois Audubon Society, Apple River, Ill. 61001.

These are all steps toward saving a bird—just one bird. But this bird gives the United States seal its meaning. And the eagle's plight is, after all, only one part of a larger problem that each generation which uses, lives, and walks upon the earth must inherit—protecting the resources with which this country is blessed for the well-being and enjoyment of all Americans.

Otherwise one of our descendants many—perhaps not so many—years from now will turn to his father and ask, "What's a bald eagle, Daddy?"

"Well, Son, once upon a time—"

SCIENTIST FEARS DDT WILL WIPE OUT AMERICAN EAGLE

ST. LOUIS, April 17.—Busloads of conservationists rode out early this morning for a day of pleasurable field trips to nearby wildlife refuges and the Pierre Marquette State Park.

But tonight the 1,200 conservationists were given something to worry about at the 64th annual convention of the National Audubon Society.

They were told that the American-bald Eagle was falling prey to pesticides that sometimes prevented it from reproducing.

Alexander Sprunt 4th, research director for the society, said in a speech prepared for delivery that "unless we ban DDT the American eagle will become extinct."

He was reporting on the society's eight-year study of the plight of the bald eagle.

The so-called bald eagle—it is not bald at all, but the white feathers that cover its head make it look bald when seen from a distance—is this country's national bird.

EGGS WITHOUT SHELLS

Mr. Sprunt said that scientific examination had disclosed that eagle eggs in pesticide areas had produced no shells, and that a limp and empty membrane had been found in a nest in the woods "north of here."

Many eagle eggs that were dangerously thin-shelled were found, he said, and "now the ultimate has been reached—no shell at all."

He said that in recent years naturalists had come increasingly to believe that DDT and other "hard" pesticides had been a major factor in what he called the catastrophic decline of the eagle.

Hard pesticides, he explained, are those that persist as poisons for many years and hence accumulate in the environment. There are others, he said, that are far shorter lived and are therefore much less dangerous.

Suspicions raised by earlier field studies have now been confirmed by experimental evidence, Mr. Sprunt reported.

OTHER BIRDS AFFECTED

He explained that DDT caused a hormone induction that in turn upset the calcium metabolism and resulted in shells too weak to protect the embryo within or resulted in no shell at all.

He said that DDT residues from the fields and woods collected in waterways, where they polluted food eaten by fish. Concentrations of DDT thus develop in the fish and build up to still higher concentrations in the eagle, which is primarily a fish eater.

The completely shell-loss egg that Mr. Sprunt reported was found in a nest on the shores of Lake Superior in northern Michigan by Serges Postupalsky of the University of Wisconsin.

He said that although the area appeared remote and untouched, pesticides had reached it, apparently by wind, water and other means.

Mr. Sprunt added that eagles were not the only birds affected. He said that United States Government experiments had shown similar eggshell difficulties with mallard ducks, and apparently, he said, it was the "hard" insecticides that wiped out the peregrine falcon as a breeding bird in the eastern United States.

The National Audubon Society is conducting a campaign to outlaw spraying with DDT and its chemical family. The conservationists believe that only short-lived types of insecticides should be used, and even these only with care.

FUNDING—OUR EDUCATION NEEDS

Mr. JAVITS. Mr. President, I ask unanimous consent that my opening statement at the hearings of the Subcommittee on Education on the extension of the Elementary and Secondary Education Act and related bills be printed in the RECORD.

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

As we consider extending and expanding the various elementary and secondary school programs as contained in the bills before us, our committee is faced with the serious problem of whether the national priority for education has any validity in the light of the severe cutbacks contained in the education budget. These budget proposals have the effect of repealing some of the programs by eliminating their funds entirely. Other programs face emasculation because they now stand to be funded at less than half the authorizations specified in the original acts written by this committee. We must decide, therefore, to what avail it will be for us, after long and painstaking study, to restructure education programs and to propose authorizations when our efforts may be negated through the funding process.

Here are some specifics. The budget for fiscal 1970, which begins July 1, contains no funds for Title II of the Elementary and Secondary Education Act dealing with library resources; no funds for Title III of the National Defense Education Act dealing with equipment and minor remodeling, and no funds for Title V–A of the same act dealing with guidance, counseling and testing. These programs are thereby, in effect, repealed.

The budget for elementary and secondary education programs is now set at merely 39% of the authorization prescribed by Congress. And, in fact, only one title of the Elementary and Secondary Education Act is to be funded at more than half of the existing authorization, according to the present budget proposal. This is Title I for educationally deprived children, and even it stands at only 51% of the authorization. How are we to prescribe authorizations reflecting natural growth and increase of local effort over a period of years when the funds available for these programs are cut back? There is a real question whether it is at all possible to meet current needs within the present budget limitations. This dilemma applies, for example, to Title III of the Elementary and Secondary Education Act pertaining to supplemental education centers, which is cut by nearly a third from its previous year's appropriation.

Clearly, local and state school authorities are seriously inhibited in formulating and executing plans. Faced with unforeseen cuts, they do not even have the time to turn to state legislatures—many of which meet only once every other year and most of which have concluded their sessions—to try to substitute state funds for the lost Federal funds.

Should the Congress fail to provide adequate funding, whether directly or through other means, to supplement existing educational programs, we will be offering the nation vain and unkept promises rather than the substantial education assistance programs which the people have been led to expect. Whatever else we do, we must meet our obligation by providing sufficient funds to enable the programs to reach at least their minimum promise.

As realists, none of us would deny the need for fiscal belt tightening. But this is far different from the budgetary guillotining which does not take into consideration the vital role education programs play in our domestic priorities.

This hearing is not on the appropriations, but it is a proper forum to sound the battle cry. And, Mr. Chairman, unless Congress and the Administration heed that cry, then we run the risk of losing much of what we have achieved in improving education throughout the nation.

RICHARD J. HERZFELDER—A REAFFIRMATION OF FAITH AND CONFIDENCE IN AMERICA'S YOUTH

Mr. MONTOYA. Mr. President over the past months, I have experienced the genuine pleasure of having on my staff a young 18-year-old intern who has unfailingly reaffirmed my faith and confidence in the youth of America. He is Richard J. Herzfelder, a participant in the Phillips Exeter Academy's congressional intern program.

It is indeed gratifying to me personally when I come in contact with exemplary young people of Richard's caliber who are destined to lead the Nation in the years ahead. An extraordinarily wise individual for all his youth. Richard has observed that there is an important distinction between merely complaining about America's problems and coming up with constructive solutions to those problems.

In his efforts in my office, Richard made it clear that he was deeply interested in trying to make a better world, not by nihilism and pulling society down, but by working at reforming and remaking it. The more responsibility he was given, the more he was stimulated and motivated. And having demonstrated to me and my staff that he possessed keen and mature intellect, good judgment, an awareness of what was going on, the ability to grapple with problems and come up with constructive and creative ideas, Richard was enabled to apply his talents and initiative—to "get his teeth into"—still new areas in the legislative process.

Moreover, there was no "generation gap," but warm and sincere camaraderie between Richard and members of my staff. He exhibited a full understanding of the fact that the pursuit of perfec-

tion is an unending struggle, and no one group has a monopoly on idealism. We all admired him too because he is the kind of person who never wrongs his neighbor; who is prompt to help a friend; but who has those virile qualities necessary to win in the stern strife of life and he was always willing to "walk that extra mile" just to help in a difficult situation.

I am confident that Richard Herzfelder will be among the vanguard of those young people who will continue to point the way in enlisting the marvelous energy, ingenuity, and enthusiasm of America's youth into improving the quality of our life. This was evident from his deep interest in finding solutions to the problems we face—poverty, discrimination, poor housing, poor education, crime, and so on. Certainly we will need a vast number of highly motivated and well-trained young people such as Richard to attack these problems in the future.

In his astuteness, Richard has seen that the great challenge open to our youth today is that of preparing themselves for the responsibility of leadership—of dedicating themselves to seriously studying their institutions and revising where necessary methods, policies, and priorities that might have become outmoded, or are damaging to our national purpose. It is through the healthy example which Richard Herzfelder is setting that our disaffected youth will be helped to value themselves and the challenges available to them through public service more highly, as well as the deep inward satisfaction to be derived from personal sacrifice and a sense of responsibility.

Mr. President, I believe that the congressional intern program is one excellent means for welcoming this type of sincere and enthusiastic energy and encouraging it to flourish. During the coming years more opportunities will be presented for other future leaders to come to Washington, under the Exeter and similar splendid programs, and prepare for their journey into the future. I shall continue to be honored and gratified at the opportunity of extending this kind of meaningful participation in the political life of our country to young people who, like Richard Herzfelder, are striving earnestly to obtain all the education they can and, in the process, increase their understanding of our representative democracy.

THE 40TH ANNIVERSARY OF CONNECTICUT JEWISH LEDGER

Mr. RIBICOFF. Mr. President, my congratulations to the Connecticut Jewish Ledge on its 40th anniversary. The Ledger has well served the people of Connecticut. As the only English language Jewish newspaper in Connecticut, it has covered a wide range of international, national, and local events. It has kept the Jewish community informed in depth on problems confronting Soviet and Middle Eastern Jewry. On the Connecticut scene, it has reported on events of local concern and has taken the leadership time and time again on problems affecting the people of our State and Nation.

It is noteworthy that over the 40 years since its founding by my good friends, Rabbi Abraham J. Feldman and the late Samuel Neusner, the Ledger has acquired a circulation of more than 23,000.

On this memorable occasion, I pay special tribute to the Connecticut Jewish Ledger and its present owners and copublishers, Mr. Berthold Gaster and Mrs. Shirley Bunis. Under their leadership, the Ledger has played a significant role in the continuing progress and welfare of the people of Connecticut. I am confident that this newspaper will continue to grow and prosper in the highest traditions of journalism; maintaining the high standards of the past and present.

The Connecticut Jewish Ledger justly deserves the support of its readers and advertisers today and for future years.

WORLD WAR II COMMITMENT TO OPPOSE GENOCIDE COUNSELS SENATE APPROVAL OF U.N. CONVENTION

Mr. PROXMIRE. Mr. President, the years 1939 to 1945 were hard ones for all of us. We were engaged in war with two powerful nations with ruthless governments. We pledged all our resources, both military and civilian, to their defeat. Many of our men were slain in battle, and our citizens stoically endured shortages of consumer necessities so that our economy might meet the challenge of the tremendous German and Japanese war machines. And why did we enter the world conflict instead of choosing to remain neutral, passively sitting and viewing the holocaust? Among other reasons, because our Nation is pledged to the belief that no race nor ethnic group has the right to dominate or subjugate any other. We abhorred the very idea of genocide, the extermination of an entire people.

After the war, the United Nations presented a human rights convention on genocide to member nations. But although this convention has been before the Senate for a number of years, the Senate has so far refused to take it up.

Mr. President, in this day and age of conflict between idealists and so-called practical men, genocide is one subject where no division need exist. There is no reason why our actions should not reflect our stated ideals. We must show the world that the United States stands firm in its commitment to protect the rights of all men from the persecution and suppression. With this in mind, I urgently request the Senate to ratify the United Nations Convention on the Abolition of Genocide.

RIPON FORUM ON THE ABM

Mr. GOODELL. Mr. President, the Ripon Society, Inc., is a Republican research and policy organization whose members are young business, academic, and professional men and women. Its most recent issue deals with the proposed Safeguard anti-ballistic-missile system, and I am pleased to call it to the attention of my colleagues.

Alton Frye, Dr. Jeremy J. Stone, and the Ripon research group have done an outstanding job in presenting the ABM issue in thoughtful and careful language. It is a supplement that should be read by every American, especially those who must vote on this important issue.

I ask unanimous consent that it be printed in the RECORD.

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

ABM DEBATE: PRELUDE TO A BROADER QUESTIONING

The arguments advanced by the Administration in favor of deploying the Safeguard anti-ballistic missile at this time have not competed very successfully in the marketplace of ideas. The most significant manifestation of this failure is the large number of Senators, among whom are many Republicans more than predisposed to support a new GOP administration's high priority proposals, who simply are not buying Safeguard.

This development represents an extraordinary turn-around in the climate of opinion, one which neither occurred overnight nor will vanish very soon. The roots of the current confrontation obviously transcend the merits or drawbacks of the ABM proposal per se. Indeed, Safeguard is by all accounts a substantial improvement over its ill-conceived predecessor, the Johnson Sentinel. But it is Safeguard's fate, like Sentinel's before it, to run up against two related and long-delayed reactions in Congress, one of dissolving confidence and one of crumbling assumptions.

Safeguard first of all must bear the burden of following a number of other expensive and dubious programs the Pentagon has pushed for in recent years—the TFX, the F–111, the AMSA, the SST, and the Sheridan tank to name a few. In addition, this gadgetry boondoggle has recently been enveloped by the indelicate aroma of the C–5 manipulations an intriguing case just opening up and which promise to cast certain aspects of the Pentagon's *modus operandi* in an unsavory light.

But overshadowing these considerations, as it has all aspects of American life for the past four long years, is the Vietnam war. America's Asian debacle, with its incalculable cost in men, treasure, and national spirit, has rightfully provoked a genuine "agonizing reappraisal" of the basic and often unstated assumptions that have determined America's world posture for the past decade and longer. Perhaps the greatest of these to have been proved a myth is the notion of the infallibility of American military might—and as a corollary, its efficacy in achieving political ends in foreign lands. The Vietnam post mortem does not stop there, however. Inexorably, it leads to a scrutiny of the other enterprises we find ourselves engaged in under the mantle of "national security."

So it is that responsible individuals in and out of government have begun to ask questions about our entire military posture. One of these questions is whether further billions invested in chancy military hardware will enhance true national security in a nuclear age or serve only to destabilize an already precarious balance of terror. While our cities rot, our poor starve, our educational systems at all levels disintegrate, major segments of the population feel the need to arm themselves, the young revolt, and our own garbage threatens to poison the planet, reasonable men question the assumption that Soviet or putative Chinese missiles are the greatest threat to our survival as a free country. Can one listen to former Secretary of Defense Robert S. McNamara admit that "clearly the Soviet

build-up (during the early 60's) is in part a reaction to our own build-up since the beginning of this decade" without wondering whether countering hypothetical threats does not become a process of self-fulfilling prophecy?

As these questions are asked and the record of the 60's examined, others must follow and other assumptions must crumble. No longer can it be gospel that only a few individuals privy to "classified information" are capable of making decisions affecting the so-called national security. It is simply not unpatriotic anymore to question items on the military shopping list.

In short, there is a movement in the nation and in Congress to restore defense to its proper role in American society, a movement which seeks not "unilateral disarmament" but what President Eisenhower termed "security with solvency"—not to mention proper cost accounting procedures, firm control by the White House and Congress, and as much diligence in grasping present opportunities to promote peace as in anticipating future wars.

It is in this incipient effort to regain a balanced society that the Safeguard proposal has become enmeshed. Transformed into a "symbolic issue," the latest ABM proposal has become a lightening rod, an immediate and specific focus for a broad-based and determined reform movement.

Thus, there is a "clear and present danger," as Alton Frye points out elsewhere in this supplement, that the ABM debate will become more cathartic than constructive and redraw the domestic battle lines of the Johnson years. Nothing could be more disastrous to the Nixon presidency or to the fate of the nation than such a regression. And nothing could do more faster to galvanize this repolarization than for the President to pull out all the stops in a Pyrrhic attempt to ram Safeguard through the Senate.

If the Administration wins such a battle, it will have won round one over the Safeguard opposition—over the younger members of its own party and a significant segment of its own staff, over a majority of the scientific community, over the regiment of citizens' groups the issue has assembled, over the governor of one of the states slated for the munificent missile construction fall-out, and over the tide of informed opinion. But many of the wellsprings which feed this movement are the same ones the President counts on to fill the pools of voluntarism which are such a vital segment of his vision for America. Such a bitter victory can poison them, but it cannot dam them. The President, if he persists in a hard line this year, must be prepared to wage the same murderous, time-consuming, and costly fight next year, the year after, and during the 1972 election year. No good can come of it.

It need not happen. The forces at work for reform are rational and constructive. There is no thirst in their ranks for "confrontation" on the Senate floor or anywhere else. They do not impugn the sincerity or integrity of the new President, nor do they deny the difficulty of the decision he was forced to make during his first 100 days. But neither do they feel they can abrogate their own responsibility—a patriotic responsibility if you will—to stand up and be counted in the attempt to alter the disturbing path America finds herself on.

If ever a political situation called for statesmanship from the White House, it is the ABM controversy. The country is about to enter a critical re-valuation of what national security means in the last third of the 20th century. The question is whether it will be a rationale dialogue or a shouting match, and the resolution of the Safeguard debate will do much to set the tone for what is to follow.

There is still time and latitude for an ABM compromise consistent with national security. Real compromise, acceptable to a majority of those who cannot now accept Safeguard, would go a long way to bring about the "lowering of voices" that the President so genuinely desires and the country so urgently needs for the task or reconstructing itself. As matters stands, the President is the only one who can make the first move toward the genuine compromise that can "bring us together," The whole world is watching and hoping.

HISTORIC ARMED SERVICES HEARINGS—"INNER DEBATE" NARROWS WHILE ISSUES BEGIN TO BROADEN

(By Alton Frye)

(NOTE.—Mr. Frye, a political scientist specializing in arms control, has taught at UCLA and Harvard and been a consultant to the RAND Corporation and to various members of the House, Senate, and executive branch.)

The policy issues raised by President Nixon's recommended ABM deployment are inherently complicated, and they have not always been simplified or clarified by the kind of political contest which has developed around this decision. There is a clear and present danger that proponents and opponents will be drawn into a process of escalating arguments, invoking irrelevancies, scoring points against each other but obscuring the real problems at the heart of the issue.

The momentum in this direction was already well-established by the earlier disputation over the so-called Sentinel deployment proposed by President Johnson. The manner in which that earlier debate merged into the current one accounts in large part for what Meg Greenfield of The Washington Post has called the "ragged non-debate on ABM." Many people, public and private figures alike, had staked out positions which seem to have made them less open to a fresh consideration of the distinctive issues posed by the Safeguard proposal, and more prone to let their predispositions govern. If one doubts this, it would be interesting to ask how many of those who expressed their views for or against Sentinel have voiced a different opinion regarding Safeguard.

The automatic quality of the response to President Nixon's decision is well illustrated by the facts that, within an hour after his first briefing on the Safeguard plan, Senator Edward Kennedy was seeking to organize a national movement against the deployment and within a scarcely larger period of time Senator Henry Jackson and other advocates of the very different Sentinel deployment were warmly endorsing the revised ABM system. In neither case did the parties allow themselves time for a thorough and deliberate study of the new proposal.

But this visible feature of the larger public debate, this tendency toward polarization and rigidity in the competition for popular support, does not adequately reflect the trends in what might be termed the inner debate, the discussion and analysis taking place among the most informed critics and supporters of the Safeguard scheme.

NEW FOCUS TO ISSUES

This inner debate reached a notable milestone in the historic hearings before the Senate Armed Services Committee on April 22 and 23. With eight prominent witnesses, equally divided between opponents and proponents of Safeguard, the Committee heard testimony widely described as the most balanced and constructive yet taken on the question. The result was to narrow the range of disagreement and to focus the issues more sharply.

Dr. Hans Bethe, though not a witness, had anticipated the drift of the inner debate some weeks before in a typically thoughtful letter to Senator John Sherman Cooper. Declaring himself still opposed to deployment as "premature," Dr. Bethe praised the President's proposal as "considerably improved" and as a "constructive move" away from a thick system of city defense against the Soviet Union.

"I consider the ABM defense of Minuteman sites technically feasible and in principle sensible," wrote Dr. Bethe. "It is a reasonable safeguard against the development of MIRV (Multiple Independently Targetable Re-entry Vehicles)." However, he urged delay in deployment to allow time both for arms limitation talks with the Soviet Union and for further work on an improved radar design for hard-point defense.

The subsequent testimony before the Armed Services Committee revolved around precisely such issues. How vulnerable is the Minuteman force likely to be in the mid-seventies? Is Safeguard likely to be an effective means of protecting the Minuteman? Is there time and is it feasible to develop better radars and other components optimized for the hard-point defense mission? Is it necessary to deploy the initial Safeguard facilities to test out concepts and technologies that will be prerequisite to any more advanced system? Will the projected arms control negotiations be helped or hindered by a present decision to proceed with deployment? These and similar issues, technical, political and strategic, were addressed in a calm and reasoned manner rarely seen in the commentary on this volatile subject.

Minuteman vulnerability

Concern over the potential vulnerability of Minuteman was generally acknowledged by the witnesses. Under the assumptions that the Soviet Union (1) could continue to deploy large SS–9 missiles at the recent rate, (2) could develop MIRV, and (3) could achieve by 1975 accuracies already demonstrated by the United States in 1969, Albert Wohlstetter of the University of Chicago presented calculations showing that only 5% of the Minuteman force would survive a first strike. He challenged numbers presented by MIT's George Rathjens, who had concluded that 25% of the force would survive. Dr. Rathjens did not rebut the observation that he had used an incorrect factor which overstated the hardness of a Minuteman silo. He and most witnesses agreed that the Minuteman system could become increasingly vulnerable during the next decade.

With common agreement that the possible vulnerability of the land-based missiles to a MIRV attack could become serious in a few years, the critical questions shifted to the nature and timing of U.S. action to cope with the problem. In earlier hearings some Senators had cavalierly suggested the United States should adopt a launch-on-warning strategy, that is, determine to fire the Minuteman force on the basis of radar indications that an attack against the United States was being launched. This hasty and ill-considered notion, which disregarded the compelling arguments against a posture which would likely paralyze an American President by demanding that he launch a strike against Soviet cities merely on the basis of "blips" on a radar screen, received virtually no support.

Other familiar options to ABM were also assessed by various witnesses in various ways. Hard-rock silos to improve Minuteman survivability were discussed as a more reliable technology, or dismissed as completely at the mercy of improvements in accuracy and largely dependent on a number of uncertain physical properties of rock. It was also evident that construction of such facilities might appear to the Soviet as a massive and provocate increase in U.S. offensive missiles, since additional silos would have to be prepared before existing silos were phased out.

No one pressed for super-hardening of this type nor was there support for a present increase in the total number of offensive weapons in the U.S. inventory, though George Rathjens and Herbert York argued that this option would probably be prefer-

able to ABM if an actual threat to Minuteman later materialized.

In brief and with some exceptions the debate before the Committee tended to concentrate on whether to proceed with Safeguard now or to postpone deployment pending strategic arms negotiations with Moscow and further development of an improved ABM system, including particularly its radars. Thus, though judgments varied sharply on these matters, the range of disagreement was substantially reduced, in both the technical and political realms.

Safeguard vulnerability

Perhaps the most striking thesis of the two days was offered by Dr. Rathjens in his analysis of the alleged ease with which the Soviets could overwhelm the presently scheduled Safeguard system. According to his figures, if the assumed production rate of SS–9 actually continued into the mid-seventies, together with MIRV and improved accuracies, the proposed defense of Minuteman could be swamped by three or four months' additional production of the large Soviet missile. If this calculation can be sustained in the classified submission which Dr. Rathjens promised the Committee, it would appear to be conclusive.

However, the calculation seems to have been based on highly static assumptions regarding defense tactics. For example, it may not take account of the reportedly favorable marginal costs of adding redundant radars and multiplying ABM missiles to improve the system's effectiveness and survivability. Among other things, a limited increase in radar capability permits the defense to adopt a so-called "preferential mode" of operation, allocating most of its missiles to protecting only certain radars while the offense must spread its attack across all the radars, if it chooses to concentrate on them as the weak link in the system. The theoretical results of such preferential operations are dramatic, and favor the ABM.

On this question the claims of Dr. John Foster, director of Defense Research and Engineering, are far-reaching indeed. Though acknowledging the relative softness of the radars compared to Mintueman silos, he asserts that the system is designed to present to an attacker a roughly equal trade-off between striking at the radars, in order to disable the ABM, and striking at the Minuteman targets directly. This contention is disputed by Professor Wolfgang Panofsky, though no detailed analyses have been released to sustain either view.

Setting aside the more intricate technological assessments, there emerged a fair degree of consensus that a potential attacker would have to assume that the ABM system works, and would have to plan any attack accordingly. But opinions vary greatly as to whether this necessary assumption is a helpful contribution to stable deterrence or a dangerous stimulus to an increase in Soviet offensive forces.

Nor is there agreement on the proposition that since the Safeguard system is oriented to a defense of the deterrent and not of cities, the Soviets need not increase their offensive if their goal is to maintain a capacity to retaliate against the U.S. population centers, and hence to deter an American first strike. Critics remain skeptical of this reasoning, fearing that the Soviets may feel obliged to expand their offensive forces in anticipation of a possible extension of Safeguard to a thicker city defense. The opponents discount President Nixon's explicit rejection of such a prospect and his attempt to define a deployment that minimizes the possibility of such expansion.

In an impressive presentation to the Committee, Professor Panofsky contended that the United States could afford the risk of delaying an ABM decision. Panofsky stressed the improbability of a successful strike against the diverse elements of the American deterrent forces in the mid-seventies.

Panofsky added the significant thesis that, if the proposed negotiations did not succeed in forestalling a possible Soviet movement toward a first-strike capability, and if there was too little time for U.S. deployment of ABM, there should still be time to protect the country's retaliatory capacity by increasing its offensive forces. At that time and under those circumstances, he concluded, the possible provocativeness of additions to the U.S. offensive would hardly be a decisive factor.

To this counsel of delay were juxtaposed the judgments of Paul Nitze and Albert Wolstetter that an early start on deployment would improve the chances for successful arms limitations. Their theory stemmed not only from an appraisal of the specific negotiating attitudes of the Soviet Union, but from a conclusion that, given the uncertainties of any likely freeze on strategic offensive weapons, not to mention the prospective Chinese nuclear force, both Moscow and Washington might be more prepared to accept the risk of arms control arrangements if they had at least the limited margin of safety afforded by an agreed level ABM defense.

As these observations make clear, the most serious controversies relate less to technical than strategic and political matters. And on these kinds of complex, nonscientific questions, exclusive expertise is singularly lacking in any quarter. In Lee DuBridge's classic phrase, "when it comes to politics, scientists are just as dumb as the rest of us."

The epigram is no chastisement to the scientists for voicing views on all aspects of the ABM problem. Rather it is a caution to the citizenry at large to be wary in evaluating testimony which blends technical estimates with political judgments and preferences. The worst folly in deciding the ABM issue would be to mistake it for an exclusively or even predominantly "technical" problem.

Far from it. What is at stake in these deliberations is really the question of which risks the American people choose to bear in their quest for a secure peace. While it is terribly important that those risks be appraised as soberly and systematically as possible, it is equally important that the choice be seen for what it is: a political decision, not in a partisan or negative sense, but in the tradition of self-government through which this nation charts its course.

Implicit in the discussion of the ABM is a perception that the gravest hazards facing the United States and the Soviet Union are the dangerous and destabilizing trends in offensive weaponry, particularly the imminent deployment of MIRV systems. If this deployment proceeds, and it will be exceedingly difficult to stop if testing continues unabated, the prospects for meaningful strategic arms control will diminish markedly. With such weapons in the forces of either or both sides, a relatively smaller number of delivery vehicles will confront a relatively larger number of independently targetable warheads. Given these conditions, the possibility of a pre-emptive first strike in moments of extreme stress may indeed rise.

It is this technology which is now fueling the arms race. Were it not on the horizon, the Safeguard ABM system need not have been proposed. Conversely, if MIRV is not controlled, the pressure for ABM deployment can only continue to mount.

Whatever the outcome of the current ABM debate, the urgent, priority task is to initiate negotiations aimed at limiting unsafe and unnecessary innovations in offensive weapons.

Otherwise, the fragile opportunity to curb the arms race will be lost, and the balance of terror will enter a new and even less predictable phase.

ABM: THE ISSUES RAISED AND THE QUESTIONS UNANSWERED

(By Jeremy J. Stone)

(NOTE.—Dr. Jeremy J. Stone is a member of the Council of the Federation of American Scientists and a member of the Institute for Strategic Studies. Currently working under a grant from the Social Science Research Council of New York City, he will be an International Affairs Fellow of the Council on Foreign Relations in 1969–1970. Dr. Stone has written widely on problems of national security and arms control and is the author of "Containing the Arms Race: Some Specific Proposals" (MIT Press, 1966) and "Strategic Persuasion: Arms Limitation Through Dialogue" (Columbia University Press, 1967). From 1964–1966 he was at the Harvard Center for International Affairs.)

I. The argument in capsule

The procurement of an anti-missile missile, Nike-Zeus was first considered by the Department of Defense ten years ago. By fiscal 1964, five years later, the Department of Defense viewed missile defense as the "most urgent problem" for the U.S. defensive forces but had concluded that Nike-Zeus, then being tested, "would not be effective against a sophisticated threat in the late 1960's and early 1970's."[1] Indeed, testimony in 1963 revealed that Nike-Zeus could have been built by 1963–1964 but would have been obsolete by the time it was operational.[2] There was, at this time, no consideration given to such later rationales as light Soviet attacks, accidental launches, Soviet submarine-launched missiles, or protection of command and control. Neither was there any public consideration of a possible Chinese threat.

The next system, Nike-X, was to have three major improvements over Nike-Zeus. It was to have a very high-acceleration interceptor (Sprint) to permit delay in firing until the last possible second, when the atmosphere would have permitted discrimination of decoys. It was to have a multifunction array radar (MAR) which would permit many objects to be tracked simultaneously. Finally, its components were supposed to lend themselves to a greater degree of "hardening," that is, various steps taken to decrease a missile site's vulnerability to near hits. Nevertheless, testimony revealed the fact that it would have been obsolete relative to projected Soviet improvements two years before its construction could have been completed in 1968.[3]

In 1965, Nike-X was further deferred because of "technical problems" and "even greater uncertainties concerning the preferred concept of deployment, the relationship of the Nike-X system to other elements of a balanced damage-limiting effort, the timing of the attainment of an effective nationwide fallout shelter system and the nature and effect of an opponent's possible reaction to our Nike-X deployment."[4]

In 1966, in discussing possible Soviet reactions to deployment of Nike-X, Secretary McNamara's posture statement included among likely responses "a large number of big, land-based missiles"; evidently he referred to the SS-9 or missiles like them. (Many are now arguing that these are being stepped up in response to the signals of our intention to deploy ABM that have been emitted over the last two years. Large missiles lend themselves to multiple warheads, which are useful for exhausting the supply of interceptors of a missile defense. This is the reason the United States is increasing the capacity of its missiles on land, and those based at sea, and is soon to emplace multiple warheads upon them.) Because of this kind of Soviet response among other reasons, and because such a response would

Footnotes at end of article.

eventually undermine, in turn, U.S. offensive weapons, Secretary McNamara further deferred Nike-X.

Enter the Chinese Threat

In 1966, for the first time, the Department of Defense broached the possibility of a defense against Chinese missiles. It argued that a small Chinese force could possibly be deployed by the "mid-to-latter part of the 1970's." But three years later, in March, 1969, Deputy Secretary of Defense Packard testified that the Chinese were "not much further along" in building ICBMs than they had been three years before, i.e., in 1966. Hence there has been little or no Chinese progress since the notion of a Chinese threat was raised. And the small Chinese force in question would presumably now emerge only in the late 1970's or early 1980's if, indeed, the Cultural Revolution has not set back the Chinese nuclear and missile program decisively. Secretary Laird did testify before the Subcommittee on International Organization and Disarmament Affairs of the Committee on Foreign Affairs of the United States Senate (the Gore Subcommittee) on March 21, 1969 that, on the best intelligence evidence available to him, the Chinese "will" fire a test ICBM in the next 18 months. But considering the length of time, and the Chinese failure to make significant ICBM progress for three years, 18 months seems to be the standard estimate of capabilities rather than a precise prediction. (For newspaper reports that ideological conflicts have "slowed the development and production of Chinese nuclear armaments," see the New York *Times* of October 28, "Nuclear Program Slowed in China." China has only a small pool of western and Soviet-trained nuclear scientists, highly suspect in China, whose efficiency might easily be undermined by the requirements of self-criticism.)

The 1966 posture statement also referred vaguely to an Nth country threat but, except for China, the source of the danger is most unclear. It is symptomatic that France has been mentioned in this connection, because there seems no more likely threat in the same time horizon. The Nth Country threat really seems to mean China. Since the 1966 posture statement deferred an anti-Chinese thin defense decision on the grounds that "no deployment decision need be made now" and since the Chinese threat is no further along, it seems in 1969 that the Chinese threat would not require a decision now, either.

Yet in September 1967, Secretary McNamara did announce the decision to deploy a thin defense against the Chinese, using exoatmospheric interceptors (Spartans) and covering the entire country with approximately 15 sites. He called the decision "marginal" and warned in extravagant terms against letting the system grow into a thick system.

How can one explain the timing of the Sentinel decision—only nine months after Mr. McNamara had testified that no decision need be made—in light of recent testimony that the Chinese Communists are "not much further along" even two years later? Assistant Secretary of Defense for International Security Affairs, Paul C. Warnke, argues that "we had to make the decision to deploy if we were to have a system in the field by the time the Chinese *could begin to deploy ICBMs.*" (Italics added.) [5] Earlier, when Mr. McNamara had argued for deferral, he had spoken repeatedly of the mid-seventies when a *"small force"* of Chinese ICBMs would have been in place.

It seems evident that the five-year lead time required to build the missile defense exceeded the lead time required by the Chinese to begin to deploy ICBM's. Hence, accepting the rule that the missile defense had to be installed against China by the time the first ICBM appeared, the U.S. would have to act in anticipation of a Chinese ICBM that might never appear.

Political Reasons?

In view of the weak rationale advanced, many political commentators suggested that the decision had been made for political reasons. These arose from: (1) the Soviet deployment of a Moscow missile defense, but one similar in important respects to an obsolete system, Nike-Zeus; (2) fears—now known to be unfounded—that the Tallinn bomber defense had significant missile defense capabilities; (3) the then approaching Presidential election of 1968; and (4) the unwillingness of the Soviet Union for 18 months to set a date to begin the talks already agreed upon in principle.

With rare unanimity, Chinese experts saw no reason why the Chinese would be "irrational" or undeterrable. In the background, however, there were reasons for a Chinese defense that were normally discussed less openly. In answer to a question put by *Life* Magazine, Secretary McNamara suggested that the Chinese would not have an ability to retaliate significantly against a nuclear attack (i.e. a second-strike capability sufficient to cause "unacceptable" damage) for fifteen or twenty years.[6] Thus an anti-Chinese missile defense would increase, at least on paper, the U.S. capability to threaten China with strategic attack, with a high assurance of avoiding retaliation. In the September 1967 speech by Secretary McNamara, this advantage was sketched as an "additional indication to Asians that we intend to deter China from nuclear blackmail." Sometimes it was given as a way of preventing China from deterring us "from taking actions that might risk a Chinese attack." [7] Others saw it as a system that might free the United States to attack the Chinese nuclear capability. Or, more generally, as one defense analyst put it: "American leaders probably would develop different attitudes toward the Chinese accordingly as the United States did or did not have BMD," i.e., ballistic missile defense.

Paradoxically, when Secretary McNamara was asked why the Chinese could not be deterred from firing misisles at us, his only explanation was that they might fear a U.S. nuclear attack and pre-emptively fire their missiles out of fear "because otherwise they would not be able to launch at all" their "small and highly vulnerable" force.[8] It seems that the United States was increasing, with its missile defense, the credibility of a U.S. attack on China. But simultaneously it was giving this U.S. threat of attack as the only explanation for the Chinese launching missiles against us!

Assistant Secretary of Defense for International Security Affairs Paul C. Warnke repeated Mr. McNamara's rationale; fear of Chinese pre-emption in anticipation of U.S. attack. Without explanation, he argued that the U.S. missile defense would "deter the Chinese from pre-empting." But if the Chinese feared that most of their missiles would be lost in an initial U.S. attack, the chance that others might be shot down in the air would hardly be an additional deterrent to firing them. And since Mr. Warnke emphasized the reduction in U.S. risks that such a missile defense might provide, the missile defense obviously would increase Chinese fears that the United States might just take a chance on disarming China. In short, the missile defense would seem to raise significantly the very fears it was supposed to answer. This argument of Chinese pre-emption played an important part in the Defense Department rationale because Mr. Warnke argued that we do not consider the Chinese as "basically irrational." [9]

Long Shot Insurance

In the speech announcing Sentinel, Mr. McNamara also raised the argument that Sentinel would protect "against the improbable accidental launch of an intercontinental missile by any one of the nuclear powers." More recently, testimony has suggested that the missile defense would not be primed to respond on very short warning, hence it might only be importantly useful to the extent that it could successfully intercept accidental firings that occurred in crises and were aimed at cities (many missiles are, of course, not so aimed). Considerable controversy exists over whether an accidental firing is really possible—none has occurred in the last decade on either side. Such accidents seem rather more an abstract fear than a concrete possibility whose probability can be assessed in any specific way.

The third reason given in the original announcement for Sentinel was that a "Chinese-oriented ABM deployment would enable us to add—as a concurrent benefit—a further defense of our Minuteman sites against Soviet attack, which means that at modest cost we would in fact be adding even greater effectiveness to our offensive missile force and avoiding a much more costly expansion of that force."

However, testimony given concerning more recent estimates of the cost of defending both the radars and the Minuteman missile has suggested that it might cost $25 to $100 million to save each $4 million Minuteman.[10] Indeed, somewhere between $700 million and $1 billion would be involved in the Phase I effort to interdict an enemy attack with approximately 75 interceptors. For these sums, 175 to 250 additional Minutemen could be purchased; thus even if every interceptor worked perfectly and every enemy missile were perfectly accurate, two or three times as many U.S. missiles could be built as would be saved.

Two years later, under the Nixon Administration Safeguard program, the defense of Minutemen had become not an option but the central rationalization of the system. Deputy Secretary of Defense Packard argued that Soviet SS–9 large missiles, if purchased at existing rates for the next five years, if made accurate, and if fitted with multiple independently guided warheads, would threaten to destroy many Minuteman missiles.

Secretary Laird noted on several occasions that this projection of possible Soviet missile production was based on "new evidence" which his Administration had received and which had not been available to the previous Administration. There was speculation that this new information was simply the discovery, through aerial reconnaissance, of some more SS–9's in December of last year. Was the evidence from one month's reports sufficient to permit an extrapolation, for five years, of 50 SS–9's a year? Could not intelligence that changed in a month change again?

The Defense Department spokesman emphasized the urgency of getting started on the protection of Minuteman with a missile defense. Asked about this urgency, Secretary Packard told the Gore Subcommittee that building an entire prototype test-site before beginning to protect Minuteman would mean a "four- or five-year delay." But many argued that the relevant question was the cost of putting off deployment for a year only. One need not commit himself to a four- or five-year delay, and research and development could continue.

Radar Vulnerability

Indeed, if there were urgency, would the Hardpoint program protect enough Minutemen? If indeed, there would be only several tens of Sprint interceptors, each with only limited range (ten miles or so), not very many Minutemen could get close-in protection.[11] And even fewer would be protected if many Sprints had to be assigned to protect the vulnerable radars. One witness noted that the radars could be attacked with SS–11's, which were too inaccurate to attack the missiles. Hence perhaps no SS–9's at all would

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Footnotes at end of article.

have to be diverted from attacking Minutemen by the Hardpoint Defense. The SS–9's need only wait until the radars had been destroyed and the Hardpoint Defense blinded.

Testimony has shown great concern over the effectiveness of the radar, as well as its vulnerability. Pentagon Fact Sheet 189–69 notes that nuclear warheads can be "deliberately detonated" outside the atmosphere to create large regions of ionized gas which is opaque to the long-range PAR radar "for many tens of seconds".[12] As far back as 1964, U.S. planners were openly discussing using a "precursor warhead" for part of the payload capacity of a multiple warheaded missile. This precursor would be "detonated above the enemy target complex blacking out, or at least degrading, enemy missile defense radars".[13] Why couldn't the Soviet planners do the same thing to the Safeguard radars, both MSR and PAR?

Along this line, many political observers wondered if it made political sense to protect one's deterrent with a weapons system in which there was little public or scientific confidence. Wouldn't there be defense scares and alarms as vulnerabilities in the radars (or arrangements of the interceptors) were perceived by defense specialists over the years? A deterrent has to do more than deter, it has to have the confidence of those at home and abroad who need reassurance about the state of our defenses. Indeed, such a complicated system might not allay the anxieties for many months of even those defense experts who were pressing for it. — Would they return and ask for something new shortly after construction began? Of the bomber defense system, one expert had written, years ago, that it had so many vulnerabilities that a defense analyst could not even make his reputation by pointing out more.

The Multiple Warhead Question

Returning to the question of the extrapolated threat, some wondered not only about the assumption that SS–9's would be built at current rates for five years, but also about the way in which multiple warheads might be emplaced upon them. Thus far, Defense Department fact sheets has only argued that the Russians were testing MRV (multiple reentry vehicles) and not MIRV (multiple independently guided re-entry vehicles). Without extensive and accurate guidance, multiple warheads do not present an added threat to enemy missiles because they cannot destroy more than one target. MRV warheads, which the Russians *are* testing, have long ago been installed in most of the U.S. missile force—e.g., in the Polaris A–3 missile which has three clustered warheads. There is no evidence yet that the Soviet Union will seek high accuracy and independent guidance both—each of which is necessary to attack Minuteman. It is significant that perhaps 800 of the approximately 1,000 Soviet land-based missiles are SS–11's, which have little accuracy and present no threat to our Minuteman.

The Russian lack of interest in high accuracy—accuracy useful for attacking missiles but not necessary for attacking cities—is one reason why Dr. Alain Enthoven, former Assistant Secretary for Systems Analysis, had testified in April 1968 that: "For the most part, however, the Soviet appear to be developing a second-strike capability that is largely designed for assured destruction. . . ."[14] Could observations like these, based on two decades of arms race with the Russians, be shifted by a month's new intelligence? What could Secretary Laird have learned to cause such a flip-flop in Defense Department interpretation? He said: ". . . they are going for a first-strike capability. There is no question about that."[15] Some speculated that Secretary Laird had not been advised of the possible Soviet-felt need to use SS–9's to multiply their warheads against a possible U.S. missile defense. Conceivably, those most interested in having the U.S. begin a missile defense would find it an undesirable point to emphasize to him.

Secretary Packard, arguing for the Hardpoint program, asserted that "This country must assure itself and any potential enemy that at least several hundred Minuteman missiles out of the 1000 deployed will survive and strike back against enemy cities. Even a few hundred surviving Minutemen could kill tens of millions of the enemy and thus deter him from attacking." He referred to the need to "guarantee the survival of the minimum essential number of Minutemen."[16]

Polaris Discounted

This raised the question of why, if a few hundred surviving Minutemen could deter the enemy, several hundred Polaris missiles could not. Was there really a "minimum essential number" of Minutemen? To this, Secretary Packard testified that we did not want to "put all of our eggs in one basket," namely the 41 Polaris submarines.

Secretary Laird also argued repeatedly that he did not believe that "Polaris would be sufficient, in that time period after 1972, to be relied upon as the deterrent force of the United States".[17] However Admiral Thomas H. Moorer, Chief of Naval Operations, testified in April 1968 before the Armed Services Committee that at least he had "very high confidence" that Polaris' invulnerability would be maintained. Among other things he noted that a very-long-range missile ULMS could be installed on the submarines that would keep them in range of targets "while in port," that is, an underwater-launched ICBM. Admiral Moorer expressed confidence that Poseidon missiles mounted *even on surface ships* would be sufficiently invulnerable through mobility to serve adequately as a deterrent.[18]

In all the apprehension over continued Polaris reliability, no specific argument has been made to show how Polaris might become vulnerable. Secretary Packard noted only that "the limitation of Polaris' concealment lies in the degree of effort an enemy is willing to make to find and destroy the submarines".[19] Secretary Laird told *U.S. News and World Report* that after what he had seen, he could not say that Polaris would be invulnerable "forever." Did such observations justify calling the Nation's most prized deterrent into question? Observers in Geneva had noted, according to newspaper reports, that the Soviet treaty on the seabed was far more comprehensive than the U.S. proposal and therefore they had concluded that the United States was far ahead in antisubmarine warfare capabilities. This conclusion is consistent with much other information, and with geography that makes the Atlantic virtually a Western sea.

Missile Multiplication

Observers also noted that if the MIRV program of emplacing multiple independently-guided re-entry vehicles was completed, each Minuteman missile would have three separately targetable warheads. Hence 350 of the 1000 Minutemen could do the job of the 1000 previously. Meanwhile, the Polaris submarines would have, or eventually gain the capacity to carry, ten or even more warheads on each missile. Hence *four to six thousand separately* targetable warheads would be emplaced on 41 submarines beneath the oceans. These increases seemed far in excess of any diminutions in U.S. striking power that large Soviet missiles might achieve. (These new MIRVed missiles are scheduled to be installed beginning in 1969 and 1970.) No indication exists whether the Defense Department's concern is pre- or post-MIRV, i.e., whether it is worried about a "minimum essential number" of Minutemen with one targetable warhead or three, backed up by 656 Polaris missiles (pre-MIRV) or four to six thousand (post-MIRV). Indeed, although U.S. MIRVed warheads may begin to be deployed in a matter of months, Defense Department charts used by Secretary Packard to illustrate the extent to which the Russians might catch up in the next five years fail to show this imminent and dramatic increase in U.S. targetable warheads from about 2400 to eight or ten thousand!

Secretaries Packard and Laird testified that they had considered, as an alternative to Hardpoint Missile Defense, increases in U.S. offensive weapons but had considered them "provocative." Indeed Secretary Packard argued:

"We have some 1,500 missiles and bombers today which we believe are indeed sufficient to guarantee deterrence of the Soviet Union. *"A further increase in the numbers of these weapons could be self-defeating however.* The Soviets do react to our weapon deployments as we react to theirs. If we were to continue to insure our deterrent by adding to these numbers, we would be inviting the Soviets to expand their own forces beyond current plans in order to keep up with us. This is the kind of arms race which we are seeking to avoid".[20]

It was unclear how this judgment related to the on-going enormous increases in U.S. targetable weapons—otherwise more or less stable for some years. Were we not already engaged in buying very large numbers of offensive weapons? These MIRV missiles had been ordered as an answer to a possible Soviet missile defense. Some were surprised therefore that Secretary Packard testified that the Russians have made no commitment to a missile defense of any strategic significance. The MIRV program had not been halted in response to this judgment and seemed more than adequate to redress a projected threat to Minuteman; indeed it seemed likely to have the arms-race-stimulating effect Packard had warned against. Was he arguing against the MIRV program?

Superhardening

Another alternative to Hardpoint Defense was superhardening with additional concrete, which the Defense Department said it was "preserving the option" to do.[21] It argued that eventually super-accuracy might make even superhardening insufficient. But this kind of accuracy seemed many years off for the Russians. Many thought additional concrete a more reliable defense than complicated radars and computers, at least until one could predict with confidence the direction of Soviet offensive emphasis. According to *Aviation Week*, Air Force officials envisioned superhardening Minuteman III silos to more than 2,500 pounds per square inch, or ten times the current rating. (By comparison, even if radars were made as hard as concrete office buildings, they would be only somewhere between five and ten pounds per square inch hard.) Superhardening would require the Russians to have up to four times the megatonnage and near perfect accuracy, compared to destroying present silos.[22] For these reasons, some questioned whether the Air Force really approved of an Army defense of Minuteman missiles with missile defense. Significantly the Administration proposed a "combination" of hardening and Hardpoint Missile Defense.

SS–9: Paper Deterrent?

Other outside studies, such as one done by Dr. Ralph Lapp, showed that the Defense Department might be even too conservative in arguing that the Russians could—even by 1976—destroy most Minutemen. By building 50 SS–9's a year with the three warheads claimed, Dr. Lapp suggested, no Soviet planner could expect to destroy more than a fraction of the Minutemen.

Perhaps most devastating to the argument that the U.S. deterrent was being undermined by Soviet SS–9's was the observation that Minuteman was not now really part of our deterrent. Long ago, the basic targeting

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doctrine had, quite naturally, used submarine-launched missiles for targeting against cities. The more vulnerable Minutemen, which might be expected to be destroyed in part if war occurred, would, quite naturally again, be targeted largely against military targets so that they might be used promptly and effectively before they could be destroyed, and so that they would not initiate reciprocal attacks on cities. Thus the SS–9 would not, in any case, significantly undermine our deterrent since it would only threaten a part of our force largely assigned for attack rather than deterrence. Indeed, it would not even undermine our ability to strike Soviet missiles first since, if we struck them first, they would not have destroyed any Minutemen. The SS–9 even at worst might do no more than remove Minutemen missiles whose targets had been military ones; indeed some of whose targets would already have been fired against them. In any case, they would have had little decisive connection with our deterrent.

New Anti-Soviet Feature

Besides noting that Sentinel had been changed to include Hardpoint Defense, Secretary Packard noted that the Safeguard program now had an anti-Soviet component that was absent from the Johnson Administration proposal. This was the "added look-around capability at all of the missile-site radars" which would make it possible for the full Safeguard program to try to shoot down Soviet submarine-launched missiles.

This addition, it was explained, was necessary to provide "early warning and area defense of our bomber bases and command and control systems." [23] Indeed, Secretary Packard's Option 2B suggested that the growth of the Soviet sub-launched missile threat to the Strategic Air Command Bomber Force would justify building the complete system (as would the growth of the Chinese ICBM threat (option 2C)).

The purpose of the defense of bomber bases was to give the bombers extra minutes of warning time to get off the ground. The Department of Defense argued that "we must be able to intercept at least the first salvo of SLBM's,[24] and this the proposed new system is designed to do." There have been a number of criticisms of this argument. First of all, keeping bombers in the air in crises is cheaper and more reliable than trying to intercept sub-launched missiles or other enemy weapons fired at them. This airborne alert in crises—indeed in peacetime—has been a long-used and still feasible solution to bomber vulnerability. Warning time can also be increased by bomber dispersal—permitting more time to get off the ground. And since Polaris-type submarines can fire missiles very rapidly—one a minute—intercepting the first salvo of sub-launched missiles could protect only such additional bombers as could take off in one minute—no more than one bomber per field. Furthermore, testimony by Professor Wolfgang Panofsky before the Gore Subcommittee has revealed the fact that a surprise attack by submarine-launched missiles would tend to defeat its purpose by giving additional warning of ICBM attack. On the other hand, an initial onslaught of ICBMs would give the bombers the warning they have in past anticipated. In short, the newest justification for the thin defense—the need to protect bombers—and the methods proposed are most controversial.

Empty Capitol Defense?

The new Safeguard program also includes terminal defense of Washington, D.C., referred to as the "National Command Authorities," against such things as an accidental launch or for other reasons. Opinions differ on whether the SPRINT interceptors themselves provide a risk of accidental detonation to the Capital or its surroundings. These risks have been compared alternatively to the Mississippi flowing backward (which it did briefly a century ago in at least one spot) or to the Northeast power failure which did, in fact, occur. Probably the risk of accidental launch and the risk of accidental detonation of defensive weapons are of the same order of magnitude and small in both cases.

In any case, as noted before, the missile defense is only likely to be ready in crises. For crisis protection, few would counsel leaving the national authorities in the Capital, no matter how well protected. More reliable alternatives for spiriting away command authorities to protected and secret destinations have been arranged for years. This raises some question of the necessity and meaningfulness of missile defense protection for Washington, D.C.

There has been mention of "small attacks," for example by the Soviet Union, perhaps as shows of force. The missile defense would play the role of preventing single missiles from being certain of success, thus requiring attackers to enlarge somewhat their show of force. It has been suggested, in response, that the missile defense might induce an attacker to try to prove that the missile defense did not work. In circumstances so frightening and tense, it seems difficult to be sure whether missile defenses would encourage or discourage such bizarre tactics as were intended to make psychological points.

Finally, in testimony before the Gore Subcommittee, Secretary Laird argued that the Safeguard system would "offer the Soviet Union added incentive for productive arms control talks." There is evidence that the Safeguard program would be of serious concern to Russian strategists, but this evidence does seem to contradict the testimony of Secretary Packard that the system was "unmistakably" defensive in intent and totally non-provocative.

II. Soviet response options

The Defense Department argues that the "defensive intent" of the modified ABM system is now "unmistakable".[25] But for the most part the full Safeguard program was similar to that of the Sentinel program, though differently rationalized and more anti-Soviet in capabilities. The original Sentinel proposal had not envisaged radars—with their protective SPRINT interceptors—near cities either, although this later became part of the plan. And, of course, the original Sentinel proposal did not threaten to neutralize Soviet sub-launched missiles. But, as for the rest, Secretary Packard was asked whether or not the scope of the system he proposed would, by 1973, look like the Johnson plan in that year. Secretary Packard asserted that it would.[26]

Of the original Sentinel system, Assistant Secretary of Defense Paul C. Warnke answered Senator Philip A. Hart by saying: "There is no practical way to provide the USSR with further assurances concerning the limited purposes of the Sentinel deployment, although we shall continue to make clear our rationale." [27]

Furthermore, the same testimony by Secretary Laird asked for money for an "important program" which "promises to improve significantly the accuracy of the Poseidon missile, thus enhancing its effectiveness against hard target" i.e., missile-sites. If the Defense Department was really planning to give several thousand MIRV warheads the accuracy necessary to attack hardened Soviet land-based missiles, would not its proposal to extend Sentinel's ability to destroy sub-launched missiles seem provocative? Both Soviet land- and sea-based missiles would then be vulnerable to attack or attrition.

While it was true that the Joint Chiefs had given up—a few weeks before the Safeguard announcement—their long-standing request for a thick defense of cities, would the Soviet Union be sure that attitudes might not change, perhaps if talks broke down? Indeed, the major reason given for not deploying a thick defense was that it was "not in our power to do so" [28] in light of current technology. Historically, however, the technology of missile defense has changed enormously every three years.

Thickenability of Thin System

Secretary Packard testified that the proposed thin system would not provide a "viable base" upon which to build a thick system. But the thin system would need only missile-site radars and interceptors around cities to be turned into a thick defense, and these could be added at any time. Certainly, many observers noted, the United States would be nearer a thick defense than the Soviet Union, and the threat of a Soviet defense had already led to the U.S. MIRV program, with its increase in targetable warheads by about a factor of four.

It seems that the Defense Department had always expected a Soviet reaction to Sentinel. In the letter quoted above from Assistant Secretary Warnke to Senator Hart, Mr. Warnke noted: "If the Soviets did not react at all, however, Sentinel, would reduce, though not take away, their second-strike capability against the U.S." He noted that Moscow "may feel a need to respond." [29] Earlier, Mr. McNamara had noted in a radio interview that the thin defense would not be destabilizing because the Russians could easily reshift the balance; this also assumes a response.

Furthermore, Mr. McNamara had argued in response to the Moscow system that "As Secretary of Defense I must assume that they will deploy a system across their entire nation. . . ." [30] Corresponding assertions in the Soviet Defense Ministry would not seem unreasonable. For example, a recent authoritative article in *Foreign Affairs* arguing for missile defenses contended that ". . . much of the support (both inside and outside the Government) for the Sentinel decision came from those who believed that the system would eventually have significant capability against large Soviet attacks. It seems very likely . . . that whatever system finally emerges will eventually have such a capability, and therefore it seems appropriate to concentrate here on the actual policy issues this prospect presents." [31]

For Soviet strategists, the prospect of an expansion of U.S. missile defenses into a very thick system must now seem very real. The Navy is proposing a Seaborne Anti-Ballistic Missile Intercept System (SABMIS) which would "complement" a thick system with antiballistic missile ships stationed around the Soviet Union. Pictures and maps of such a deployment have appeared.[32] The Air Force has a proposal for an antiballistic missile system mounted on airplanes. Not long ago, a director of the Advanced Research Projects Agency called for a review of the cost-effectiveness of satellite ABM systems formerly considered prohibitively expensive. And strategists are lecturing on "defenses in depth," in which all these systems would be combined.

Indeed, in June 1968 after the Sentinel program was first approved, Senator Henry M. Jackson, a staunch proponent of the missile defense, chided his Senate colleagues in a speech on the Senate floor, for taking "too literally" the "public rationale" given by the Defense Department concerning the Chinese threat.[33] He noted that Sentinel would have "define capabilities" for defense against the Soviet missile threat. Similar statements were made after the vote by Senator Richard Russell, then Chairman of the Armed Services Committee. It is not reasonable for the Soviet Union to expect many like-minded Senators to disown the "defend our deterrent only" rationale, much as they dis-

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owned, after the vote, the "anti-Chinese" rationale?

Soviet Signs of Alarm

In testimony, Secretary Laird and Secretary of State William P. Rogers suggested that Soviet press comment had not considered the Safeguard program provocative. And it seems true that the Soviet leadership, which clearly wants talks to begin, has—in anticipation of talks—decided not to make an issue of it. But Soviet press comment has shown signs of alarm on several occasions. Three days after the decision, R. Mikhaylov in *Pravda* said the Nixon Administration had decided to "launch another round of preparations for a bigger war." It said "the Safeguard system does not bank on disarmament or stronger peace through negotiations, but on a drive for arms with all the dangerous consequences that it spells. . . ." On March 15 at 11 P.M., Moscow Radio said, "The fact that the antimissile system will be built gradually stage by stage does not change anything. . . . America is starting on a new and highly expensive round of arms race. . . ."

Especially important, the well known *Izvestiya* political observer V. Matveyev, on March 13 shortly before the decision, warned that some speakers "from the highest platforms" in the U.S. were talking of "positions of strength" and "no hurry" about arms talks. He linked "speeding up the arms race" with "developing the Sentinel system" and warned against putting any state "in an unfavorable position with respect to other states."

Numerous affirmations, and reaffirmations, of the Soviet desire to "embark on a serious exchange of opinion", "as soon as the Nixon Government declares its readiness to do so", and "the sooner the better," and "without delay" appear in the Soviet press.[34]

It is possible that some of the Soviet urgency about talks arises from the threat of the U.S. MIRV program rather than from ABM. Recently, Former Secretary of Defense Clark Clifford warned:

"Technological developments may well make any arms limitation more difficult to develop and enforce a year from now or six months from now than it is today."

The Russians may also feel this urgency.

Preannounced Interpretation

Secretary Laird noted in testimony on March 21 before the Gore Subcommittee that a "Soviet rejection of meaningful negotiations would demonstrate a Soviet determination to continue to build toward a low-risk first-strike force, as far as they were concerned." In short, a hitch in the talks would, according to the Secretary, be interpreted as aggressive Soviet intention. But as Senator John Sherman Cooper has noted: "It is known that following the election of President Nixon, the Soviet Union wished to enter into talks on offensive and defensive weapons." Under these circumstances, the Soviet Union may feel that the *United States* is "rejecting meaningful negotiations" and may reason that the *United States* is pursuing instead a "low-risk first-strike strategy."

Indeed, despite all the rationalizations listed herein for missile defense, a more obvious one remains. The Defense Department considers it useful to maintain the option of answering Soviet aggression in Europe with a nuclear strike upon the Soviet Union's forces. This traditional scenario, which has dominated defense thinking for two decades, would find useful not only MIRV warheads with high accuracy to strike land-based Soviet missiles but also a missile defense that might shoot down both sub-launched missiles and surviving Soviet land-based missiles after launch. More generally, it would keep on top of technology and await still greater defensive efforts in the future. Despite the many reasons given for the missile defense, this approach seems more likely to be the unspoken reasoning of many in the defense community.

Is Safeguard Negotiable?

Since the Soviet Union was unlikely to cease its procurement of submarines with only a handful of Polaris-type submarines, questions were raised concerning the "negotiability" of the full thin (area defense) system with the Soviet Union. Secretary Laird had noted that the system was negotiable. Did he mean only that the Hardpoint Defense of Minuteman was negotiable if the Soviet Union ceased its build-up and modernization of SS–9's, and that the thin defense was negotiable if the Soviet Union would be content with only a handful of Polaris submarines unable to attack bomber bases?

Secretary of State Rogers had also testified that the thin system was negotiable and that, if the Russians "want to get out of the defensive missile business, we can get out of it very quickly. We are not even in it until 1973.[35] This seemed to suggest that our purpose had been a political one, to match the Soviet efforts with our own. Indeed, Secretary Rogers suggested that their system was much bigger than our own—but this must surely have been a slip.[36] The Defense Department has suggested that the Safeguard system would have "several hundred interceptors." It anticipates that the Moscow system will have only 100 eventually and has 67 now. And Dr. John Foster, Director of Defense Research and Engineering, testified that the Moscow system is "very similar" to the one we decided not to deploy in "the period of 1958 to 1961." He called it "far inferior" to the one we planned.[37]

In arguing that the decision to deploy Safeguard was not irrevocable, Secretary Rogers noted that we could "stop this program just like we stopped Nike-Zeus" and expressed surprise that many considered the decision final. However, Nike-Zeus was always in the development stage and some wonder if a program of procurement would be so easy to halt, especially under the Chinese or sub-launched rationalizations.

Finally, if the system is in anticipation of a Chinese threat, can it be validly negotiated with the Russians? This question arose immediately after the President's announcement. President Nixon was asked whether he would consider "abandoning the ABM program altogether if the Soviets showed a similar willingness or, indeed, if they showed a readiness to place limitations on offensive weapons". President Nixon replied that "as long as the Chinese threat is there, I think neither country would look upon [abandonment] with much favor." [38]

From Posture to Policy

It is significant that the original Sentinel proposal which was, if anything, less anti-Soviet in orientation was widely supported as a means to bring "pressure" upon the Russians to begin talks. This was called "one of the compelling reasons" for approval of Sentinel.[39] Now this same system—expanded to threaten Soviet sub-launched missiles—seems likely to become non-negotiable at a time when the Russians are eager for talks. This raises the question of whether, during the talks, attempts might be made to support a "thick" anti-Soviet system as a form of "pressure" on the Soviet Union. Certainly, if yesterday's pressure for talks becomes today's non-negotiable commitment, progress in negotiations will be difficult.

Supporters of Safeguard have sometimes quietly argued that the Russians would like to have us build a missile defense because it would permit them to satisfy their military pressures for it. But this seems unlikely. Certainly the Soviet scientific community now seems in complete accord with that of the United States, as the well-publicized essay by Andrei D. Sakharov, famous Soviet Academician, makes clear in 500 words on this subject. It agrees openly with Richard L. Garwin and Hans A. Bethe's *Scientific American* article and calls defense against massive attack a "practical impossibility". It refers knowingly to the private literature and gives scientific explanations from the public literature for its position. It refers to a consensus of opinion, warns of an arms race, and suggests a moratorium on missile defense systems.[40] It is known that the Soviet scientific community has a place of honor and high influence in such matters in the Soviet decision-making process.

And these views are entirely consistent with remarks of Soviet scientists in Pugwash conferences, and with high estimates of the cost of the Moscow system, viz. $20–25 billion.[41]

But even if both sides were agreeable, in principle, to negotiating about existing missile defenses, it does not seem very plausible that either would find it politically feasible to destroy what has already been built or heavily invested in. Certainly in this country, a majority of Senators would not oppose the existence of a Safeguard program that had already absorbed the funds necessary to construct it. Therefore the initial authorization of the system may tend to make it nonnegotiable in political terms.

Key Negotiating Decision

In strategic terms, the negotiability of a missile defense depends on what line the Administration wishes to take in the strategic talks on overall strategic posture. President Nixon has spoken of "sufficiency," but Secretary Laird, shortly thereafter, linked the word "sufficiency" to "superiority," in a press conference. President Nixon first called the missile defense "part of our overall defense capabilities" downgrading its application to China only. Later, in speaking of negotiability as noted above, he seemed to suggest it was needed for the Chinese threat. President Nixon has spoken in terms that suggest that parity exists more or less, but Secretary Laird has argued, in discussing strategic "parity," that it would take the United States 1,200 one-megaton warheads to destroy 45% of the Soviet population while the Soviet Union could destroy 55% of our population with only 200 missiles.

These computations are most questionable. There are more Russians in the first 50 Soviet cities than there are Americans in our first 50 cities. As a result, if one seeks the destruction of 20% to 25% of the population, that level of destruction is quite as easy for us as for the Soviet Union. At these levels of immediate fatalities, neither country might recover, for many years if ever. But, in any case, the point being made here is that either through computations of what "parity" requires, or through doctrine as to what "sufficiency" requires, the Defense Department could easily insist on substantial measures of superiority. This would make a variety of otherwise negotiable points non-negotiable, including not only Safeguard but also many other weapons systems.

The fundamental objection to Safeguard, especially when linked to the existing MIRV program, is that the United States would be buying the very two weapons systems which it presumably hopes to persuade the Soviet Union not to build in the strategic talks. Can the Soviet Union be persuaded not to build an anti-ballistic missile system if the United States seemed to be embarking on such a course? Can the Soviet Union be persuaded not to buy multiple independently-guided re-entry vehicles (MIRV) if the United States were doing so? Strategically, our ABM would encourage their MIRV (needed for penetration).

Senator Claiborne Pell of Rhode Island had elicited in testimony before the Gore Committee that testing of missile defense war-

Footnotes at end of speech.

heads would preclude a complete test ban at least until 1974, when Dr. Foster suggested that tests would be completed. These tests involve fairly large warheads and required the tests to be moved from Nevada to the Aleutian Islands. Newspaper reports suggest explosions considerably larger than a megaton and fears of earthquakes and resultant tidal waves in an area known for these phenomena were heightened by studies showing that Nevada had suffered earthquakes after tests.

III. Conclusions

The author is convinced on the basis of the analysis provided that the Nixon Administration committed itself prematurely to Safeguard with a rationalization that does not support examination. The Safeguard program should not have been approved before the Administration had completed its strategic review. The present period is perhaps only the third time in the history of the cold war in which the arms race might be negotiated to a halt—1955 and 1960 were perhaps two other opportunities. But existing programs of MIRV and ABM are likely, for political and strategic reasons, to make these negotiations very difficult, if not futile, when the talks do finally open.

In 1955 we began to pass the point of no return at which fissionable material would be available in such quantities on both sides that it could not be controlled. By 1960, the survival of both U.S. and Soviet Union was called into question by the level of arms each had obtained. The MIRV program may make control over numbers of warheads very difficult. And the ABM program may complicate and fuzz the notion of "overkill" on which arms control analysts had assumed and hoped initial restraint might be based.

It is unfortunate that the Administration was faced with these complicated questions in its first year. Secretary McNamara in his famous September 1967 San Francisco speech has already "apologized" for the overconstruction of missiles ordered in his first year, an over-purchase that, he said, had led to the comparable over-building on the Soviet side and hence to even greater threats to U.S. survival.

U.S. survival can only be ensured by cutting off the Soviet weapons build-up. This has been true for years, indeed since the arms race began. And this cut-off can be achieved only through negotiation. Our own arms efforts only exacerbate and encourage Soviet efforts. It is far safer to negotiate this cut-off than to try to struggle against its effects with untested missile defenses in a world where it is easier to destroy than to protect.

The Defense Department's sense of urgency about weapons systems arises, in part, from the traditional assumption that the greatest threat is premeditated Soviet actions which demand World War. But in a world with so much weaponry, calculated deliberate attack is not our major danger, because the Russians are not crazy. Wars arising through escalation—wars nobody wants—do threaten very directly and seriously the very survival of our nation. There is no protection against this threat except negotiations with those who aim their missiles at us—whoever they may be. We can be, and are today by *all* accounts, safe from surprise attack. It remains to mitigate the grim prospects of a not-altogether-stable balance of terror. For this the talks should be opened.

At this writing, it appears that an emotional and divisive Senate confrontation on the Safeguard proposal is shaping up. The certain closeness of the eventual vote may have serious effects on the ability of the new Administration to negotiate around the world. For this and all the other reasons to question a new arms program at this time, it seems that the Administration would do well to open the talks, defer procurement of MIRV and ABM, and give the talks a chance.

FOOTNOTES

[1] (Statement of Secretary of Defense Robert S. McNamara on Fiscal Years 1964–68 Defense Program and 1964 Defense Budget.)

[2] (U.S. Congress, House Subcommittee of the Committee on Appropriations, Department of Defense Appropriations for 1964, Part I, pp. 434–435.)

[3] (U.S. Congress, Senate Committee on Armed Services, Military Procurement Authorization Fiscal Year 1964 (88th Congress, 1st Session, 1963.))

[4] (The 1966 Defense Budget and Defense Program for Fiscal Years 1966–70, A statement by Secretary of Defense Robert S. McNamara.)

[5] (October 6, 1967. Remarks before the Advocates Club, Detroit, Michigan.)

[6] (*Life* Magazine, September 20, 1967.)

[7] (*Life* Magazine *op. cit.*)

[8] (*Life* Magazine *op. cit.*)

[9] (Warnke speech, *op. cit.*)

[10] (Testimony of Dr. George W. Rathjens, Jr. before the Subcommittee on International Organization and Disarmament Affairs of the Committee on Foreign Affairs of the United States Senate on March 28, 1969.)

[11] (The October 17, 1960 issue of *Missiles and Rockets* showed a map of the 150 Minuteman launcher sites around Malmstrom Air Force Base. They are scattered around the base as much as 115 miles away. A ten mile radius circle is enough to cover only one "flight" of ten missiles.)

[12] (This fact sheet is dated March 14, 1969.)

[13] (DOD Has New Warhead Plan, *Missiles and Rockets*, April 27, 1964, pg. 15.)

[14] (Hearings before the Preparedness Investigating Subcommittee of the Committee on Armed Services, Part I, pg. 119, April, 1968.)

[15] (Testimony by the Honorable Melvin R. Laird, The Secretary of Defense before the Subcommittee on International Organization and Disarmament Affairs of the Committee on Foreign Affairs of the United States Senate, March 21, 1969.)

[16] (Statement by Deputy Secretary of Defense David Packard before the Committee on Armed Services United States Senate, First Session, 91st Congress, March 20, 1969 on the Modified Ballistic Missile Defense System.)

[17] (Testimony by the Honorable Melvin R. Laird, The Secretary of Defense, before the Subcommittee on International Organization and Disarmament Affairs of the Committee on Foreign Affairs of the United State Senate, March 21, 1969.)

[18] (Status of Investigating Subcommittee of the Committee on Armed Services, Part II, Pg. 313–314.)

[19] (Testimony by Deputy Secretary of Defense David Packard before the Subcommittee on International Organization and Disarmament Affairs of the Committee on Foreign Affairs of the United States Senate, March 26, 1969.)

[20] (Testimony by Deputy Secretary of Defense David Packard before the Subcommittee on International Organization and Disarmament Affairs of the Committee on Foreign Affairs of the United States Senate, March 26, 1969.)

[21] (Statement by the Honorable Melvin R. Laird, The Secretary of Defense, before the Senate Armed Services Committee, March 19, 1969, Pg. 24.)

[22] (*Aviation Week and Space Technology*, May 13, 1968, Pg. 32.)

[23] (Statement by the Honorable Melvin R. Laird, Secretary of Defense, before the Senate Armed Services Committee, March 19, 1969.)

[24] (Submarine-launched ballistic missiles.)

[25] (Laird, *op. cit.* Pg. 21.)

[26] (March 14, Press Conference at Pentagon on Modified Sentinel Proposal.)

[27] CONGRESSIONAL RECORD, vol. 114, pt. 14, p. 17755.

[28] (Laird, Pg. 22, *op. cit.*)

[29] (Letter, *op. cit.*)

[30] (*Life* Magazine, September 27, 1967.)

[31] (Dr. Donald G. Brennan, *The Case for Missile Defenses*, Foreign Affairs, April, 1969.)

[32] (*Aviation Week*, July 17, 1967, Pg. 43.) (Speech on the Senate floor, released by Senator Jackson's office on June 19, 1968.)

[34] (See Jan. 20, 1969, Tass report of Soviet Foreign Ministry press conference, Jan. 30, 1969, Moscow Radio Broadcast to Eastern North America, and Jan. 22, 1969, article, "USSR Desire for Nuclear Disarmament Viewed", in *Pravda*).

[35] (Testimony by the Honorable William P. Rogers, the Secretary of State, before the Subcommittee on International Organization and Disarmament Affairs of the Committee on Foreign Affairs of the United States Senate, Mar. 27, 1969.)

[36] (Mar. 27, 1969, Gore Committee, *op cit.*)

[37] (Status of U.S. Strategic Power Hearings, Preparedness Investigating Subcommittee of the Committee on Armed Services, United States Senate, 90th Congress, second sess. Apr., 1968, p. 113.)

[38] New York *Times*, Saturday, March 15, 1969, Pg. 16.)

[39] (See, for example, Comment by Senator Henry M. Jackson released on Thursday, June 27, 1968.)

[40] (See New York *Times*, July 22, 1968, p. 14.)

[41] (See, for example, "Soviet Scientists Hint at Shift Away From Reliance on ABM;" *New York Times*, Sept. 19, 1968. See *Aviation Week* and *Space Digest*, Oct. 23, 1967.)

POETRY AND POWER

Mr. MONTOYA. Mr. President, I commend the National Foundation on the Arts and the Humanities for its many imaginative contributions to the improvement of the quality and availability of cultural activities in America. The President has recommended that $16,744,100 be appropriated to support the Foundation's programs in fiscal 1970. While this figure is well below the amount authorized for next year, it represents a significant increase over the funds appropriated to the Foundation in fiscal 1969. In view of the outstanding achievements of this agency; in recognition of the urgent financial needs of the arts and humanities; and in fulfillment of our pledge to give this Nation's cultural life the support it so richly merits, I urge my colleagues to join with me in supporting the administration's funding recommendations.

I would remind those who continue to question the need for Federal activity in this area that Congress, for many years, debated the propriety of Government support for the arts and humanities. A Special Consultant on the Arts was appointed by President Kennedy in 1962, and in 1963 the President's Advisory Council on the Arts was established by Executive order. The National Arts and Cultural Development Act was passed in 1964, creating the National Council on the Arts to "assist in the growth and development of the arts in the United States." This growing concern on the part of the Government, combined with mounting popular enthusiasm for the arts, culminated in the enactment of the National Foundation on the Arts and Humanities Act of 1965. At last the issue had been resolved; the support and encouragement of the arts had been recognized as one of our national priorities.

In 1965 Congress declared:

A high civilization must not limit its efforts to science and technology alone but must give full value and support to the other great branches of man's scholarly and cultural activity.

Unfortunately, however, congressional intent is not always the precursor of appropriate action. Although the commitment to the support of the arts and humanities was made in 1965, the Congress has yet to appropriate the full amounts requested by the administration or authorized in the legislation. The budget request for fiscal 1970 is more than $5 million less than the $22 million requested for fiscal 1969. Last year, however, only $11,500,000 was actually appropriated—little more than half the amount requested. I would suggest that we cannot continue to emphasize material progress at the expense of cultural growth without facing the dire consequences of such a policy in the very near future.

In a speech last January, Roger Stevens, then Chairman of the National Endowment for the Arts, noted:

The Federal Government appropriates about $20 billion annually for the sciences—yet gives only $20 million for the arts. What I cannot accept, is that we as the leading nation in the world, as reflected in the Federal budget, consider sciences to be 1,000 times more important than the arts—unless we have already resigned ourselves to a world of technocracy.

Appropriating the full amount requested in the fiscal 1970 budget is a much needed step toward the reordering of our national priorities.

Despite its limited funds, however, the National Foundation on the Arts and Humanities has managed, in 3 short years, to become an integral part of the Nation's cultural life. We can see the enthusiasm which it has generated in the increasing amount of private support which has been forthcoming. Roger Stevens commented on this trend recently in these encouraging words:

Our Fiscal 1968 Annual Report illustrates the exemplary cooperation we have received from corporations, foundations, individuals, labor unions, other federal, and state and local agencies. This unprecedented cooperative effort brought into our arts programs *over $27 million from other sources* for our Federal investment of $8.6 million, proving not only that all over America people are turning their efforts to encouraging the arts, but also that the Federal government ean indeed be a vital catalyst to vastly increased private support.

He also reminds us, however—

This is a historical moment in America's cultural life, a paradoxical one in which the Nation's demand for the arts grows as rapidly as does the financial crisis, documented daily by the press, besetting her artists and arts institutions.

The two components of the Foundation, the National Endowment for the Arts and the National Endowment for the Humanities, have done much to meet the demand and alleviate the financial crisis of which Roger Stevens speaks.

In 1968, the National Endowment for the Arts could include the following successful ventures among its many achievements to date:

The creation of the American Film Institute marked the culmination of many months of hard work. Although the United States was one of the pioneers of motion pictures, until last year we were one of the few countries without such an organization. The American Film Institute promises to be a vital force in the preservation and encouragement of this important art form.

The first national artists' housing center was launched in New York City marking "a high point in cooperation between private resources, the Federal Government, and municipal authorities." [1]

The American Literary Anthology, containing the best writing from our small but influential literary magazines, received excellent reviews upon publication of the first annual volume.

A new partnership between labor unions, community arts organizations, and the Federal Government was formed to develop arts demonstration projects in four major American cities. It is hoped that greater numbers of Americans will thus be introduced to the pleasures of artistic pursuits.

Through major fundraising efforts, 16 of the Nation's cities matched, on a 2-to-1 basis, funds which enabled them to provide summer arts programs to inner-city residents, many of whom thus became involved in such activities for the very first time.

The National Endowment for the Humanities can also look back on many major accomplishments. In 1968, these were some of the areas which received the Endowment's support:

A wide range of problems in American history and society, problems such as the effect of the cold war, and the causes of alienation in a highly civilized nation, were under investigation.

The study of Negro history and culture was encouraged in the belief that "the Negro and his fellow Americans must share full knowledge of their common past and their common goals to dispel the myths which foster hatred and separatism." [2]

Recognition of the importance of many early American authors has made the publication of dependable, annotated texts an essential for readers throughout the world. Funds from the Endowment are helping to produce these texts, some of which contain writings never before published.

Programs such as the development of a Southern History Institute at Johns Hopkins University, and Project Share, which pairs highly motivated girls from Harlem with girls who have been regularly admitted to a liberal arts college in New York, are utilizing the resources of our institutions of higher education to bring new understanding to the humanities.

The projects I have mentioned are only a sampling of the many cultural activities which our annual appropriation to the National Foundation on the Arts and the Humanities helps to support. A complete listing of the projects which these funds have generated, however, would serve as further proof of the many contributions of the National Foundation to the quality of American cultural life.

In a speech at Amherst College, shortly before his death, President Kennedy reflected on the importance of the arts to society. And it is with selections from his remarks that I rest my case:

When power leads man towards arrogance, poetry reminds him of his limitations. When power narrows the areas of man's concern, poetry reminds him of the richness and diversity of his existence. When power corrupts, poetry cleanses. For art establishes the basic human truth which must serve as the touchstone of our judgment. . . .

I see little of more importance to the future of our country and our civilization than full recognition of the place of the artist.

[1] National Endowment for the Arts. Annual report, 1968.

[2] National Endowment for the Humanities. Annual report, 1968.

ROMNEY TERMS WAR TRAGIC MISTAKE

Mr. YOUNG of Ohio. Mr. President, it is with a feeling of approbation and admiration for Secretary of Housing and Urban Development George Romney that I advert to the commencement address Secretary Romney made in Knoxville, June 10, speaking to the graduating students of the University of Tennessee. I read this as reported in the Washington Post. Secretary Romney said that the American intervention in the civil war in Vietnam was "the most tragic foreign policy and military mistake in our history." He further stated that the United States has three basic choices or decisions to make on the Vietnam conflict.

He added:

Admit our mistakes and pull out, negotiate a camouflage surrender, or do what is necessary in our bargaining and fighting to prevent our past mistakes from becoming an even greater mistake for those we intended to help as well as for ourselves. The mess we are in is so complex and pervasive that our national survival is at stake.

INNOCENT VICTIMS OF CRIMINAL VIOLENCE

Mr. YARBOROUGH. Mr. President, I wish to invite attention to an article entitled, "White Oak Housewife Shot Fatally," written by Stephen P. Caplan and Paul G. Edwards, published in the Washington Post of June 11, 1969. Mrs. Updike, mother of four, was struck by a bullet from a .22 caliber rifle, and other bullets were found on the patio and in an outside wall of her home. She died before reaching Holy Cross Hospital. A 16-year-old neighborhood youth has been arrested and charged with murder.

Certainly this woman is the innocent victim of this terrible crime. While we in Congress have constantly worked to protect the personal rights of each of our citizens within the framework of the protection and general welfare of society as a whole, we have for too long only prosecuted the violators and have done nothing to compensate the innocent victims of crime. The only recourse for such victims today is to sue the attacker—a process which brings highly dubious results. The victim suffers serious injury, entailing great expense, pain, and personal loss, but he is in no position to obtain any type of adequate compensation.

I am deeply disturbed by this unfair

irony in our judicial system. In 1965, I introduced my bill calling for the creation of a Federal Violent Crimes Compensation Commission which could consider claims, examine evidence, and provide up to, but not in excess of $25,000 compensation for individuals injured by criminal violence. This year I reintroduced the bill, S. 9, having the benefit of 4 years of continuing study. My bill is a fair and effective approach to victim compensation.

Mr. President, if we delay enacting this piece of legislation any longer, more people like Mrs. Updike will become, against their will, innocent victims of criminal violence without adequate compensation. We can no longer tolerate this condition. I urge this great Congress to pass the bill.

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:

[From the Washington Post, June 11, 1969]

WHITE OAK HOUSEWIFE SHOT FATALLY

(By Stephen P. Caplan and Paul G. Edwards)

The wife of a long-time telephone company employe was shot to death yesterday afternoon while she was sitting at a kitchen table in their home in White Oak, Md.

A 16-year-old neighbor youth was arrested and charged with murder.

Montgomery County police identified the victim as Patricia Louise Updike, 41, of 1022 Tracy dr., in the new Springbrook Knolls subdivision.

Despite Mrs. Updike's desperate call to a telephone operator for help and the quick dispatching of an ambulance, she was found unconscious and was pronounced dead at Holy Cross Hospital in Silver Spring.

Police said Mrs. Updike, mother of four, was felled about 2:15 p.m. by a bullet from a .22 caliber rifle that struck her in the left breast. They said the gun apparently had been fired three times.

In addition to the bullet that lodged in Mrs. Updike's chest, another bullet was found on the patio of her home and a third in the outside wall at the end of the house.

After the shooting, police canvassed the neighborhood and learned that a 16-year-old youth had received a .22 rifle at Christmas, officers said. When they checked at his home, his father discovered the rifle had been fired recently, according to police.

They said the youth, who had left his house, contacted his father about 6 p.m. Arrangements then were made for father and son to meet police. The youth is scheduled to appear in Peoples Court in Silver Spring this morning.

Mrs. Updike was alone in the house at the time of the shooting. Relatives said her husband, Warren J., who is a private branch exchange installer-repairman for the Chesapeake & Potomac Telephone Co., their daughter, Karen, 20, an employe of the National Bank of Washington, a son, James Patrick, 18, a student at Montgomery Junior College, and two other daughters, Barbara, 16, and Debra, 13, who attend public schools, were either at work or at school.

Mrs. Updike dialed zero and her signal was answered by Rosemary Bartonstein, an operator in the C&P Silver Spring office.

The operator heard a faint, "I need help, I need help," and when she asked, "Do you want a rescue squad?" heard a faint "Yes" and then silence, a telephone spokesman said.

Mildred Luckett, a service assistant, then held the line open while the telephone number and address of the caller were traced and an ambulance was sent to the scene, the spokesman said.

MEMORIALS ADOPTED BY OREGON LEGISLATURE

Mr. HATFIELD. Mr. President, I ask unanimous consent, on behalf of my colleague from Oregon (Mr. PACKWOOD) and myself, that Enrolled House Joint Memorials 3, 4, 14, 18, 24, and 37, adopted by the House of Representatives and Senate of the 55th Legislative Assembly of Oregon, be printed in the RECORD.

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

HOUSE JOINT MEMORIAL 3

(Sponsored by Representative Smith, Senator Boivin, Representative Davis, Senators Cook, Inskeep, McKay, Ouderkirk, Representatives Meeker, Day, Detering, Howe, MacPherson, Mann, McKenzie, Young, Senators Dement, Jernstedt)

To the Honorable Senate and House of Representatives of the United States of America, in Congress assembled:

We, your memorialists, the Fifty-fifth Legislative Assembly of the State of Oregon, respectfully represent as follows:

Whereas the Fifty-fourth Legislative Assembly of the State of Oregon created an Interim Committee on Public Lands to study, among other subjects, the role of this state in the management of public lands; and

Whereas the Interim Committee on Public Lands conducted extensive hearings and commissioned a study regarding forest management goals and objectives; and

Whereas the Interim Committee on Public Lands found that forest yields can be increased dramatically through application of intensive forest management techniques such as fertilization, genetic improvement, and thinning; and

Whereas the Interim Committee on Public Lands concluded that intensive forest management practices are not now being applied to public forests because current federal laws remove from this state a part of the income from forest operations which should be retained within the state for investment in forest roads and improvement forest management; and

Whereas the Interim Committee on Public Lands determined that achievement of intensive management practices on public forests depends upon retaining within this state sufficient income from timber sales and other forest operations to invest in and fund progressive forestry practices; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) The Congress of the United States is memorialized to make available to the United States Forest Service a fixed percentage of the revenue from National Forest lands for investment in intensive forest management practices and roads in order to increase the productivity of the National Forests.

(2) The Chief Clerk of the Oregon House of Representatives shall send a copy of this memorial to the presiding officer of each house of the Congress, and to each member of the Oregon Congressional Delegation.

Adopted by House April 10, 1969.

WINTON L. HUNT,
Chief Clerk of House.
ROBERT F. SMITH,
Speaker of House.

Adopted by Senate April 25, 1969.

E. D. POTTS,
President of Senate.

HOUSE JOINT MEMORIAL 4

(Sponsored by Representative Smith, Senator Boivin, Representative Davis, Senators Cook, Inskeep, McKay, Ouderkirk)

To the Secretary of Agriculture of the United States of America:

We, your memorialists, the Fifty-fifth Legislative Assembly of the State of Oregon, respectfully represent as follows:

Whereas the Fifty-fourth Legislative Assembly of the State of Oregon created an Interim Committee on Public Lands to study, among other subjects, the role of this state in the management of public lands; and

Whereas the Interim Committee on Public Lands conducted extensive hearings and commissioned a study regarding public forest management goals and objectives; and

Whereas the Interim Committee on Public Lands concluded that the long-term goal of public forest management should be to make life better for people—through the growing and harvesting of wood fibre to meet the nation's needs for housing and other products, through the provision of jobs, and through enhancing those other benefits such as recreation, wildlife, water conservation and scenic values contributed by the forests to this nation's high standard of living; and

Whereas the Interim Committee on Public Lands found that public forests can make life better for people now and in the long run if the managers of these forests seek to generate immediately greater income from timber sales so that investments may be made in the practice of intensive forestry, but this goal is not being achieved under today's fiscal and policy restraints placed on forest management and timber production in the public forests administered by the United States Forest Service; and

Whereas the Interim Committee on Public Lands concluded that investment in intensive forestry practices on the public forest will dramatically increase timber production and concentrate it on the most productive forest lands and therefore will free less productive timber lands for recreational and other uses, and will ease conflicts that now exist between timber production and competing uses; and

Whereas the Interim Committee on Public Lands found that a rigid application of the even-flow concept now governing timber harvest on the public forests administered by the United States Forest Service results in waste of timber resources and loss of potential wood production that could be harvested to serve the people; and

Whereas the Interim Committee on Public Lands found that additional budgetary and manpower resources are needed by the United States Forest Service if the maximum potential productivity is to be realized from the lands under the administration of this agency; and

Whereas the Interim Committee on Public Lands found that higher allowable production from key timber areas administered by the United States Forest Service can be achieved by applying intensive timber cultural practices to the forest, and particularly to young timber stands and nonstocked commercial timber land, and such increased wood production will create new wealth for people without creating significant conflict with other forest land uses; and

Whereas the Interim Committee on Public Lands concluded that the efficient production of forest products and other compatible uses should be the immediate objective for the more productive commercial forest areas administered by the United States Forest Service and that the people's demand for wood production and other forest land benefits justifies and requires that investment capital be employed to meet this objective; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) The Secretary of Agriculture is memoralized to cause to be adopted for forests administered by the United States Forest Service people-oriented goals as follows:

(a) Recognition of the responsibility of the National Forests to play its part in meeting the nation's need for wood fibre for housing, employment opportunities, and other benefits—such as recreation, wildlife, water conservation and scenic values that forests can provide to contribute to this nation's high standard of living;

(b) Adoption of management objectives of greater use and renewal of the forests through the application of intensive forest management to key timber areas so as to increase the efficiency of the productive forest land and to minimize losses due to insects, disease and decay;

(c) Adoption of continuing, long-term management policies which will increase the allowable cut on the public forests administered by the United States Forest Service in accord with the needs of the people but consistent with principles of sustained yield forestry and multiple use.

(2) The Chief Clerk of the Oregon House of Representatives shall send a copy of this memorial to the Secretary of Agriculture of the United States, and to each member of the Oregon Congressional Delegation.

Adopted by House April 10, 1969.

WINTON L. HUNT,
Chief Clerk of House.
ROBERT F. SMITH,
Speaker of House.

Adopted by Senate April 25, 1969.

E. D. POTTS,
President of Senate.

HOUSE JOINT MEMORIAL 14

(Sponsored by Representative M. Keith Wilson, Senator Raymond)

To the Honorable Senate and the House of Representatives of the United States of America, in Congress assembled:

We, your memorialists, the Fifty-fifth Legislative Assembly of the State of Oregon, in legislative session assembled, most respectfully represent as follows:

Whereas the federal Wholesome Meat Act and the Wholesome Poultry Products Act prohibit interstate shipment and sale of state inspected meats and poultry even though such meats and poultry are produced under inspection programs which are determined to be equal to federal standards; and

Whereas foreign produced and inspected meats are permitted to be shipped and sold in interstate commerce if on a par with federal standards; and

Whereas the adequacy of surveillance over foreign programs and plants approved for importation of meat into this country is subject to question and much more difficult to maintain than is surveillance over state inspection programs; and

Whereas the law provides a double standard, one for foreign countries and one for the several states of the United States, which is inequitable and does not adequately protect the consuming public, and works to the serious disadvantage of Oregon's valued and important livestock and meat processing industries; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) The Congress of the United States is memorialized to amend the existing Wholesome Poultry and Wholesome Meat Acts to permit the interstate shipment of Oregon inspected meats and poultry which meet federal inspection standards.

(2) The Chief Clerk of the House of Representatives shall send a copy of this memorial to the presiding officer of each house of Congress, to each member of the Oregon Congressional Delegation, and to the administrator of the Consumer and Marketing Service of the United States Department of Agriculture.

Adopted by House February 28, 1969.

WINTON L. HUNT,
Chief Clerk of House.
ROBERT F. SMITH,
Speaker of House.

Adopted by Senate April 29, 1969.

E. D. POTTS,
President of Senate.

HOUSE JOINT MEMORIAL 18

(Sponsored by Representatives Stathos, Heard, Browne, Dugdale, Hartung, McKenzie, Ripper, Wingard, Senators Atiyeh, Elfstrom)

To the President of the United States and to the Senate and House of Representatives of the United States of America, in Congress assembled:

We, your memorialist, the Fifty-fifth Legislative Assembly of the State of Oregon, respectfully represent as follows:

Whereas the war in Nigeria is bringing about untold suffering on the part of many and particularly the beleaguered peoples of Biafra; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) The President of the United States and the Congress of the United States are urged to continue the initiative in exercising every peaceful effort to bring about a cease-fire in Biafra and to extend aid to the starving peoples of Biafra.

(2) The Chief Clerk of the House of Representatives shall send a copy of this memorial to the President of the United States, to the Secretary of State, and to each member of the Oregon Congressional Delegation.

Adopted by House April 16, 1969.

WINTON L. HUNT,
Chief Clerk of House.
ROBERT F. SMITH,
Speaker of House.

Adopted by Senate May 5, 1969.

E. D. POTTS,
President of Senate.

HOUSE JOINT MEMORIAL 24

(Sponsored by Committee on Natural Resources)

To the Honorable Senate and House of Representatives of the United States of America, in Congress assembled:

We, your memorialists, the Fifty-fifth Legislative Assembly of the State of Oregon, respectfully represent as follows:

Whereas the estimated inventory of western Oregon alder timber resources is 10 billion board feet; and

Whereas the 1967 harvest presently is estimated at 42.2 million feet from the federal, state and private timber lands; and

Whereas the existing milling capacity is estimated at 75.25 million board feet annually and would afford a $3,600,000 annual payroll. All but three of these mills are located in rural areas; and

Whereas the existing mills are frequently out of production because of a shortage of logs due to lack of available timber to meet their requirements; and

Whereas approximately 75 percent of the alder timber reaching the market comes from private timber lands in spite of the fact that 50 percent of the total volume grows on public lands of the United States Forest Service, Bureau of Land Management, and State of Oregon lands; and

Whereas the State of Oregon lands administered by the State Board of Forestry have provided more than their share of available alder timber as compared with their much smaller inventories of alder timber than the federal agencies, Bureau of Land Management and United States Forest Service, and have converted these lands by planting to a higher producing coniferous timber; and

Whereas the estimated annual growth of alder on all lands of the western Oregon area is approximately 200 million board feet on perpetual sustained yield cutting; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) The Congress of the United States is memorialized to direct the Secretary of Agriculture and the Secretary of the Interior to direct the United States Forest Service and the Bureau of Land Management, respectively, to establish an annual harvest volume for alder and other hardwood timber on the lands under their jurisdiction.

(2) A workable hardwood management program should be evaluated and established by the United States Forest Service and the Bureau of Land Management in conjunction with their current conifer management program.

(3) Immediate action should be taken by the Secretary of Agriculture to add a member of the Northwest hardwood industry to the Pacific Northwest Advisory Committee to the Regional Forester to the end that such a knowledgeable member would assist the Committee in a review of hardwood timber sales procedures through competitive bidding on federal lands.

(4) The Chief Clerk of the House of Representatives shall send a copy of this memorial to the presiding officer of each house of the Congress and to each member of the Oregon Congressional Delegation.

Adopted by House April 10, 1969.

WINTON L. HUNT,
Chief Clerk of House.
ROBERT F. SMITH,
Speaker of House.

Adopted by Senate April 25, 1969.

E. D. POTTS,
President of Senate.

HOUSE JOINT RESOLUTION 37

(Sponsored by Representative Hanneman)

Whereas the American mink pelt industry is little known generally, but an economically important national industry, and this industry is presently endangered by the increasing importation of low-cost, low quality foreign, nondressed mink pelts; and

Whereas today there are over 3,700 mink ranchers in the United States generating a total annual business of $160 million, and in 1950 there were over 6,000 mink ranchers; and

Whereas the domestic demand for mink pelts has risen 30 percent in the last five years, foreign imports of duty-free mink pelts have risen almost 40 percent; and

Whereas a radical decline in the price per pelt paid producers during this period has placed our domestic mink breeding industry on the borderline of a crises, and marginal profits enable today's mink rancher to barely keep his head above the flood of cheap foreign pelts; and

Whereas in 1966 pelts were worth an average of $19.48 per skin, and this year the price has dropped to less than $15 per pelt, and imported pelts, allowed in duty free, when untreated or "undressed", are being marketed this year in competition with American produced pelts at an average of $9.54 per pelt; and

Whereas Oregon's mink industry alone produced pelts annually valued at over $7,500,000 representing a capital investment of over $8 million, and is endangered by the growing influx of low-cost duty-free foreign pelt imports; and

Whereas in the last 25 years the annual number of pelts imported has risen from about 865,000 annually to well over 5.5 million, and our American mink ranchers need our help now to protect their investment and the domestic mink market; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

That the Fifty-fifth Legislative Assembly now in session be officially recorded as supporting legislation now before the Congress of the United States which will establish a quota-tariff on undressed mink imports; and be it further.

Resolved, That copies of this resolution be forwarded to the President of the United

States of America and to the members of the Oregon Congressional Delegation.

Adopted by House March 26, 1969.

WINTON L. HUNT,
Chief Clerk of House.
ROBERT F. SMITH,
Speaker of House.

Adopted by Senate April 28, 1969.

E. D. POTTS,
President of Senate.

NEW ABM COMMITTEE FORMED

Mr. NELSON. Mr. President, in his inaugural address, President Nixon called for a reasoned approach to the Nation's critical problems. He said:

We cannot learn from one another until we stop shouting at one another—until we speak quietly enough so that our words can be heard as well as our voices.

We have been following the charge of the President. And we will continue to do so. However, it should be clear that speaking softly is not silence; that disagreement is not disloyalty; that opposito the ABM is not unilateral disarmament.

The distinguished scientists who have stated their reasons for opposing the ABM have greatly contributed to the nationwide ABM debate. Their expertise has helped us to forge a strong bipartisan force in the Senate, and there is a good chance to win the ABM fight.

On Monday our forces swelled even further with the addition of the National Science Advisory Committee on the ABM. It is made up of 13 Nobel Prize winners, as well as former Presidential advisors and defense planners.

Reading the list of the committee members is like reading a Who's Who in scientific community. They will further help in the reasoned and thoughtful discussion of the ABM—a missile system that was borne in controversy and has been in search of a mission ever since.

I ask unanimous consent that the list of distinguished members of this committee be printed in the RECORD together with a statement delivered by Drs. Herbert York and George Rathjens announcing the formation of the committee.

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

NATIONAL SCIENCE ADVISORY COMMITTEE ON THE ABM

Co-Chairmen: Donald Hornig, Herbert York.

EXECUTIVE COMMITTEE

Hans A. Bethe, Professor of Physics, Cornell University; Member, President's Science Advisory Committee, 1956–1959; Nobel Prize in Physics.

Marvin L. Goldberger, Professor of Physics, Princeton; Member, President's Science Advisory Committee, 1965–1969.

Franklin Long, Vice-President and Professor of Chemistry, Cornell University; Assistant Director, Arms Control and Disarmament Agency, 1962–63.

Carson Mark, Director of the Theoretical Division, Los Alamos Scientific Laboratory.

George W. Rathjens, Visiting Professor of Political Science, Massachusetts Institute of Technology; Deputy Director, Advanced Research Projects Agency, Department of Defense, 1961–1962; Director of the Weapons Systems Evaluation Division, Institute for Defense Analyses, 1965–1968; Special Assistant to Director, Arms Control and Disarmament Agency, 1964–1965.

Leonard S. Rodberg, Assoc. Professor of Physics, University of Maryland; Chief of Policy Research, Science and Technology Bureau, U.S. Arms Control and Disarmament Agency, 1963–1966.

Stanislas Ulam, Professor of Mathematics, University of Colorado, Boulder; Staff, Los Alamos Scientific Laboratory, 1943-, Research Advisor 1958-.

Steven Weinberg, Professor of Physics, Massachusetts Institute of Technology; Consultant, Institute for Defense Analyses and Brookhaven National Laboratory.

Jerome B. Wiesner, Provost, Massachusetts Institute of Technology; Science Advisor to the President, 1961–1964.

SPONSORS

Conrad E. Bloch, Nobel in Medicine and Physiology, Harvard University.

Owen Chamberlain, Nobel in Physics, University of California, Berkeley.

Donald A. Glaser, Nobel in Physics, University of California, Berkeley.

Edward C. Kendall, Nobel in Medicine and Physiology, Princeton University.

Arthur Kornberg, Nobel in Medicine and Physiology, Stanford University Medical School.

Joshua Lederberg, Nobel in Medicine and Physiology, Stanford University Medical School.

Edward M. Purcell, Nobel in Physics, Harvard University.

Julian S. Schwinger, Nobel in Physics, Harvard University.

Albert Szent-Gyorgyi, Nobel in Medicine and Physiology, Woodshole Oceanographic Institute.

Edward L. Tatum, Nobel in Medicine and Physiology, Rockefeller University.

Harold C. Urey, Nobel in Chemistry, University of California, San Diego.

James D. Watson, Nobel in Medicine and Physiology, Cold Spring Harbor Laboratory.

MEMBERS

Dr. Geoffrey F. Chew, Lawrence Radiation Laboratory, Berkeley/Prof. Victor Weisskopf, MIT.

Dr. John S. Clarke, Oak Ridge National Laboratory.

Prof. Frank Collins, Brooklyn Polytechnic Institute.

Professor William Davidson, Haverford.

Dr. Peter Ditner, Oak Ridge National Laboratory.

Professor William Doering, Harvard.

Professor Max Dresden, State University of New York, Stoneybrook.

Professor Joel Hildebrand, University of California, Berkeley.

Dr. David Inglis, Argonne National Laboratory.

Professor Francis E. Low, MIT.

Professor Salvador Luria, MIT.

Professor Marvin Kalkstein, State University of New York, Stoneybrook.

Professor Philip M. Morse, MIT.

Dr. Harry Palevsky, Brookhaven National Laboratory.

Dr. Isadore Perlman, Lawrence Radiation Laboratory, Berkeley.

Professor John Rasmussen, Yale.

Professor Arthur Rosenfeld, University of California, Berkeley.

Professor Leo Sartori, MIT.

Dr. Bergen Suydam, Los Alamos Scientific Laboratory.

NATIONAL SCIENCE ADVISORY COMMITTEE OF THE ABM,
New York, N.Y., June 9, 1969.

We are announcing today the formation of the National Science Advisory Committee on the ABM.

We believe that deployment of an ABM system by the United States at this time is unwise. At present we face the most promising opportunity that we have had in years to bring the strategic arms race to a halt by mutual agreement with the Soviet Union. That opportunity will not last, particularly if ABM and other new strategic systems are deployed. Further, we believe there is no need for an ABM deployment at this time, that the one planned is poorly designed for the purposes it is to serve, and that we could have little confidence in it. On balance, the planned deployment is in our judgment more likely to result in a lessening of American security than in an increase:

(1) We have grave doubts whether an ABM system would work as planned, considering the wide range of techniques available to a determined adversary for defeating it and the fact that the system could never be tested in advance in an environment that remotely simulates that of nuclear war.

(2) Neither present nor forseeable technology will permit the deployment of an ABM system that can offer significant protection for American population and industry against a nuclear attack by the Soviet Union. We are entirely in agreement with the view expressed by President Nixon that any attempt at such a deployment would simply result in an offsetting improvement in Soviet offensive capabilities.

(3) We believe that defense of our ICBM sites, which is the initial objective of the Safeguard ABM plan, is unnecessary at this time. Further, the defense of bomber bases in the second phase of the Safeguard plan is equally unnecessary. We have a capability to retaliate with absolutely devastating effectiveness after any Soviet attack. Realistic projections of possible improvement in Soviet capabilities for surprise attack do not indicate any need for Safeguard or other major new programs to strengthen our more-than-adequate retaliatory capability. If, contrary to our expectations, the Soviet Union should make worrisome progress towards development of a first-strike capability, we will have adequate time in which to take appropriate countermeasures.

(4) If at a later date, action to insure the continued invulnerability of our strategic retaliatory forces should be required, options other than defense of Minuteman might be preferable. At the present time, however, we should give first priority to bringing the strategic arms race to a halt by seeking mutual agreement with the Soviet Union. While the outcome of such an attempt is uncertain, effective arms control would give us the greatest assurance of the continued viability of our deterrent forces, as well as resulting in many other benefits. Our deployment of an ABM system could be an impediment to reaching such an agreement.

(5) The proposed Safeguard defense for our ICBMs is not very satisfactory technically. The components were not designed for that purpose, and we believe that a better defense could be built if at a later date such a deployment should appear desirable. There is sufficient time in which to carry out the necessary research and development for a more suitable defense, and we favor such an R & D program. In this connection, deployment of Safeguard would provide little, if any, experience of value.

(6) We believe that the Soviet Union might well see in our Safeguard deployment a foreshadowing of a larger scale ABM deployment which might jeopardize Russia's deterrent. Accelerated and offsetting expansion in Soviet strategic offensive forces would have to be expected as a response. Thus, the Safeguard deployment could well result in a futile and expensive escalation in the arms race that would leave us no more secure, and probably less so, than we are today. This would be especially likely if at a later date we attempted to upgrade Safeguard in the hope that it might have a continuing effectiveness against a possible Chinese attack.

(7) In this connection, we see no great need or utility in deploying Safeguard as a defense against China. Our strategic offensive capabilities should serve to deter any Chinese attack against us should the Chinese develop the necessary capabilities. Because

we could never be confident that Safeguard could prevent damage to us even from a Chinese attack (and most of us believe it would not), possession of such a defense would not measureably strengthen our hand in dealing with possible Chinese aggressiveness.

(8) We believe that many other problems have a far stronger claim on our resources at this time.

Cochairmen: Donald Hornig and Herbert York.

Executive committee: Hans A. Bethe, Marvin L. Goldberger, Franklin Long, Carson Mark, George W. Rathjens, Leonard S. Rodberg, Stanislas Ulam, Steven Weinberg, and Jerome B. Wiesner.

Sponsoring members: Conrad E. Bloch, Owen Chamberlain, Donald A. Glaser, Edward C. Kendall, Arthur Kornberg, Johua Lederberg, Edward M. Purcell, Julian S. Schwinger, Albert Szent-Gyorgyi, Edward L. Tatum, Harold C. Urey, and James D. Watson.

IMPACTED AREAS SCHOOL AID PROGRAM

Mr. BYRD of Virginia. Mr. President, I wish to express my hope that the impacted areas school aid program will not be scuttled.

The administration has called for a cut in this program of almost two-thirds below the total for the current school year, with most of the eliminated amount going to other programs.

I want to stress that impacted areas aid represents fulfillment of a commitment by the Federal Government to compensate school districts for losses of potential local tax revenues and added school expenditures.

The losses come about when tax exempt Federal installations are located on property that otherwise could be taxed by the localities. The additional expenses are incurred when classrooms are crowded with pupils who are children of those who work on the Federal installations.

The administration's proposed reduction would be made by providing assistance only for public school pupils whose parents both live and work on Federal installations. Those students whose parents live in the community would not be counted in determining eligibility for funds. Yet their children must be educated in the public schools.

Fairfax County, just across the Potomac River from Washington, provides an example of what the proposed revision of impacted areas aid could do. Under the program as it now operates, Fairfax schools could anticipate a payment of about $12 million for the 1969–70 school year.

The Fairfax School Board, knowing that Federal aid is not predictable in amount, had voted a $2 million contingency fund to cover possible reductions in assistance from the U.S. Government. But if the administration's budget proposal is adopted, the Fairfax County school system—despite its foresight—will lose nearly all impact aid and will be $10 million in the hole.

To me, the impacted areas program represents the very best kind of Federal education assistance, chiefly because the money comes to local school districts with no strings attached. This is in sharp contrast to many other programs administered by the Office of Education, in which narrow restrictions are placed upon the uses to which the money may be put.

I do not oppose all categorical aid to schools, but I do have a strong preference for the kind of program that leaves a maximum of discretion in the hands of local officials. They are the men on the scene. They are the men who know what the problems are.

Under a Government contract, the Battelle Memorial Institute of Columbus, Ohio, now is conducting a study of the impact aid program. While I am a strong supporter of the program, I have no objection to a review of its effects. Perhaps modifications may be in order.

But what the administration has done is to propose elimination of the largest sector of impact aid before the study has been completed.

This amounts to drawing one's conclusions first, then studying the premises.

I note with interest that the administration's budget for the Office of Education calls for a reduction of $323 million below the level for the current fiscal year. Since the cut in impacted areas aid is $333.8 million, there is a net increase of $10.8 million in proposals for categorical aid.

In other words, the proposed cut in impact aid is paying for a net increase in programs over which Washington exercises more control.

The budget includes one wholly new program—a $25 million "network of planned experiments in elementary, secondary, and vocational schools." I support innovation in education, but I submit that a rational set of priorities would put support of existing, hard-pressed school systems ahead of such an experimental program.

I also note that the administration's proposal includes $20 million—almost 50 percent more than requested by President Johnson—for what is called civil rights education. According to the explanation by HEW, this program "will provide funds to help school districts and communities solve their own problems related to school desegregation."

I am the first to admit that school desegregation presents problems. But I am convinced that a large majority of these problems result from heavy-handed administration by HEW itself, and I strongly suspect that the $20 million fund proposed by the administration would provide little more than a few arm-twisting lectures on the virtues of busing.

Local school districts have had quite enough of these lectures.

I hope that the appropriate committees will take a hard look at this education budget.

I shall support funds for sound educational assistance, but I am not persuaded that I would serve the best interests of the Nation were I to vote for reducing a well-established, demonstrably sound program to make funds available for experimental—and perhaps highly questionable—new efforts.

WILD ANIMALS FACE EXTINCTION

Mr. YARBOROUGH. Mr. President, on January 10, 1969, I introduced S. 335—a bill to prevent the importation of endangered species of fish and wildlife or parts thereof into the United States, and to prevent the interstate shipment of reptiles, amphibians, and other wildlife taken contrary to law.

On June 1, 1969, the Corpus Christi Caller published an article entitled "Wild Animals Face Extinction," by Anthony Smith, dispatch of the Times, London. The article is both timely and enlightening. 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:

[From the Corpus Christi Caller-Times, June 1, 1969]

WILD ANIMALS FACE EXTINCTION

(By Anthony Smith)

LONDON.—Some time soon if conservationists and others have their way, there will be an international convention on the import and export of animals. At present there is nothing of the kind. One nation with money to spare can strip another country of its animals, and the rest of the world can only watch.

Air travel has been largely responsible for the recent boost in the wild animal trade. It reduces the time between capture and sale so much that many of the more perishable species have suddenly become profitable. In fact B.O.A.C. carries more live animals than people in a year. The United States imports 92 percent of its annual consumption of 28 million live animals by air. There are no exact figures for Britain since she does not record the number and, in some instances, species of wild animals it is importing.

The exporting countries in general are even less concerned. Most animals come from the poorer and less well developed nations, the region where large numbers of animals can still be wild. The importers are the richer countries, whose inhabitants can afford to buy a monkey for a giggle. Therefore the trade helps money to flow from the rich to the poor, and a poor country is unlikely to operate effective legislation to prevent such a traffic.

The supplies must dry up; as has happened with so many profitable animals in the past. Latin America, for example, is busy stripping its forests to provide for the biggest consumer nation of them all: 115,458 ocelot skins and 35,748 otter skins went to the United States from South America in 1967. For years imports will flow unabated, with this very profusion allaying any fears for the source. Then the imports will suddenly cease and concern will be too late.

The hostel of the Royal Society for the Prevention of Cruelty to Animals at London Airport is not only a well-kept and vital transit lounge for most animals passing through London airport, but an excellent source of facts. Once again the casual attitude is remarkable, because the airport authorities are obviously content to let a charity take over their duties. There is no other animal hostel in Britain, neither airlines nor airports keep lists of animals carried, and the London hostel does not know for sure what proportion of animals arriving at London actually passes through its doors.

Anyhow, this one hostel witnessed in 1966 the arrival of 345 tree shrews, 393 bushbabies, 1,735 marmosets, 1,695 baboons, 309 chimpanzees, 31,891 monkeys, and another 3,000 mammals of various sorts—making a grand total of 39,293. By comparison London zoo, which holds by far the biggest collection of animals in Britain, acquires about 250 mammals a year. The hostel's intake of 400,000 birds in 1966 included 138 hawks, 97 eagles, 396 cranes, 4,100 parrots, 8,543 lovebirds, 10,755 parakeets and 320,000 that can conveniently be lumped together as seed-eaters.

LIST

The United States is now much better informed on total numbers, although not in detail, and in 1967 managed to draw up a "virtually complete" list for the first time of all live animals arriving at all its ports of entry. In that year 405,134 reptiles, 137,697 amphibians, 27 million fish, 203,189 birds, and 74,304 mammals were known to have entered the country.

At present, the only British laws restricting import are concerned with disease or rarity. Animals can be prohibited if it is felt they might be infectious to people or animals. The prohibition may be temporary if quarantine is considered adequate, or it may be absolute. Rare animals can be refused import permits following the animals (restriction of importation) act of 1964.

In its third year of operation, however, the committee implementing the act refused import licenses for only nine animals, and granted licenses for the import of 626,850 mammals and reptiles.

Should an international convention on the import and export of animals ever become valid it would at least force us to learn what we have been importing. The existing facts are astonishing; the whole truth will be even more disturbing.

SENATOR BENNETT OUTLINES CREDIT BUREAU PROBLEMS AND LEGISLATION

Mr. BROOKE. Mr. President, the Committee on Banking and Currency has been holding hearings on S. 823, a bill to enable consumers to protect themselves against arbitrary, erroneous, and malicious credit information.

During the course of the hearings we have heard from a wide range of witnesses with arguments pro and con on certain sections and provisions of this important legislation. I am pleased that no one, of course, is against the basic purposes of the bill, that is, that confidentiality, accurate information, and relevance in credit reports must be assured.

In a speech before the Associated Credit Bureaus, Inc., 1969 conference in Las Vegas, Nev., on June 5, 1969, the ranking Republican member of the committee, the Senator from Utah (Mr. BENNETT), explained in great detail many of the sections of the bill and gave his always frank and concise viewpoint in it. Because I feel that his speech deserves wide distribution, I ask unanimous consent that it be printed in the RECORD.

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

CREDIT BUREAU PROBLEMS AND LEGISLATION

(Speech by Senator WALLACE F. BENNETT, Republican of Utah)

I am very happy to have been invited to participate in your program here today and talk about S. 823, otherwise entitled "A bill to enable consumers to protect themselves against arbitrary, erroneous and malicious credit information." Because I am sure none of you is in the business of supplying any information that can be so described, I am also confident you will agree that confidentiality, accurate information and relevance in credit reports must be assured.

At the same time, I would like to say that having worked on so-called "consumer protection" legislation before, I have discovered that because there have been instances in which individuals have been damaged as result of the failure of certain industries to clean their own houses, we will continue to face growing demands for Federal intervention in many fields, one of which is now yours.

There would not have been a "Truth-in-Lending" bill had there not been some flagrant abuses in lending practices. There would not have been a "Truth-in-Packaging" bill had there not also been some deceptive packaging.

But whatever the reasons, whatever the background and history leading up to S. 823, the bill is actually before us now and there is no wishing it away.

I am sure you would be most happy if I could tell you that the bill has no chance to pass—but that would not be true. There are powerful forces at work in our country today that are inescapably changing our pattern of life. Some are economic—some political—some scientific—all are powerful—all affect this legislation. Today I want to mention three of them.

The first is economic. It is the force for change generated by our increasing wealth—and its broader distribution. As more and more of us attain financial stability—we create an ever-growing demand for personal credit—and cause many dramatic changes in the patterns of its use.

Once credit was based on ownership of property—now it can safely be extended against dependability of income. Once use of installment credit was regarded as a sign of weakness—now it is a sales tool. Once when credit losses were below the norm, the credit manager was always praised. Now if that happens, some sales managers may fear that they are being prevented from reaching their full sales potential. Once credit was regarded as the privilege of a few—now it is coming to be considered by some as the right of everybody—except a few—and when you talk about everybody nowadays—you use the generic term—"consumers" and this leads me to the second force I wish to discuss.

There is a rapidly, emerging second force related to consumers. It has its roots in economics but its products are political, and for a very obvious reason. Every politician seeks to identify himself with the broadest possible base of support, and while—as Americans—we may be divided into separate groups by our many varied characteristics and interests—we have one thing in common—we are all consumers. Many politicians seeking to exploit this sought to establish themselves as the consumer's champion. Obviously—no one can be a champion unless he has a foe to fight and politicians have been so very successful in casting business like yours in that role, because any weaknesses and failures by business, real or imagined, can provide the same politician with a cause.

Neither of these two forces I have mentioned would be so powerful if they were not operating in the presence of a third, which is represented by the practical flowering of our great strides in science and technology. Local life patterns are being submerged in national ones, including a trend toward nationwide consumer uniformity. Simultaneous nationwide communications produce identical nationwide advertising, which in turn has created nationwide brand and seller identity, backed by nationwide distribution. When we add to this our great increase in individual and family mobility, we see the reason for the emergence of nationwide credit, and the increasing need for a nationally integrated credit reporting system. And, because of all this, we can understand the reasons behind the developing movement to turn national, rather than local, laws to protect the consumer.

This drive for consumer protection is not new. The so-called "Truth-in-Lending" bill, introduced in 1960 was not passed until 1968. But its passage opened the gates for many other types of Federal consumer legislation which has since been introduced which is intended to capitalize on this breakthrough, and extend this protection of national law to other consumer-related fields. These will probably have an easier time of it. In the present political atmosphere neither of the two national political parties can afford not to support the basic idea of consumer protection. This being the case, the question about such laws may well have already become not "yes or no"—but "what kind?"

For you, this problem is now represented in a specific bill, S. 823, which would impose certain legal requirements on the credit reporting industry. Five days of hearings have been held by a subcommittee of the Senate Banking Committee, but it may be many weeks—maybe several months—before we will try to put the bill's ideas into final form.

Actually, the hearings on the bill went better for the industry that I expected. Senator Proxmire, being both the author of the bill and chairman of the subcommittee hearing it, could complete the preparation of his own case before the hearings began, and thus pick his own battleground. Mr. Spafford, speaking for you, did a good job under the circumstances but, unfortunately, some of his own members had undercut him in advance. The CBS firm broadcast to the country before the hearings and replayed during them, demonstrated that as many as half of a supposedly random sample of credit bureaus had violated your own guidelines on the confidentiality of information, and gave great credence to the demand for Federal sanctions.

Cases were presented during the hearings in which persons claimed to have been damaged through improper or inaccurate credit reporting. Other stories have been inserted in the Congressional Record. These carefully chosen cases in which only one side was shown have cast your industry in a bad light, so that even in those cases in which the credit bureau was without fault, the damaging effect the accusations have had on public opinion cannot be wiped out.

Up to this point, I have been developing a background against which to discuss the realities of the immediate problem. It's time now to turn to a discussion of S. 823 to consider the possible courses of action which may be open to you, as well as the probable chances of success for each course.

As I see it, there are three choices.

1. All out opposition to any Federal legislation to regulate credit bureaus.

2. A call for postponement to give you a chance to demonstrate that the industry can police itself through self-enforcement of your guidelines.

3. Acceptance of the idea that Federal legislation will be passed in some form and a concentration of effort to make it fair to all concerned, and as practical as possible.

Let's look at the three choices more closely.

First—total opposition. In my view this would be the hardest of the three to sustain. To do it, you must have the support of five members of the subcommittee, eight members of the full Committee, and at least fifty-one Senators who, if the bill goes to the Senate floor, can be counted on to be present and vote. This support cannot be created by writing letters. To be firm it must be based on personal commitments made to members of your industry by Senators from their own States. To do this you must win out over the opposition of such powerful political groups as labor unions, credit unions, and organized consumer groups. Preliminary visits with Senators by personal friends beginning with the Senators on the Committee should soon give you a measurement of the magnitude of your task, if you choose total opposition and the prospects for its success.

What about the second approach—a plea for a chance to demonstrate that your guidelines can produce adequate compliance. I'm

afraid the hearings may have effectively shot this one down already and for these reasons, among others:

1. There are too many credit bureaus outside your association, including the country's biggest one.

2. Compliance would have to be entirely voluntary with only expulsion from the association as a punishment, and the CBS film will be held up by the bill's advocates as proof that half of the credit bureaus they sampled paid little attention to the industry's guidelines.

3. Some suggest that the guidelines themselves are deficient, anyway.

That leaves us one more choice—to accept the inevitability of some legislation in this field and work to make it as fair and practical as possible. This is the alternative which I think has the best chance to succeed, and from that point of view I would like to look now at the bill itself to see how it can be most effectively improved to produce livable rules.

To begin with, I see no problems with section 162 which states the purpose of the bill or section 163 which contains definitions. There are several more proposals in section 164, however, that must be examined very carefully and therefore I will comment on each paragraph of this section separately.

Paragraph "a" in section 164 imposes a requirement to insure confidentiality of material obtained by the agency. In other words, no unauthorized disclosure, such as occurred in the 10 cases reported by CBS. This provision does not generate a new problem for you, it simply restates a duty you have already accepted by the nature of your service. Successful compliance by your industry must be based on your own internal procedures and disciplines and the quality and training of your staff. But full compliance cannot be achieved by your industry alone, because you cannot control the use of the material after it leaves your hands. Therefore, I would recommend that persons asking for or receiving information under false pretenses, or using it improperly also be made subject to the punitive damages provisions of the bill.

Paragraph "b" of this same section may appear simple and easy at first glance, but it is not. It would require that you provide any individual a reasonable opportunity to correct information you have obtained which may bear adversely upon his credit rating. The word "reasonable" in connection with the opportunity to correct the record implies that the bill may be prepared to consider that some limitations may be properly placed on a subject's access to the files. I think it is important that your industry try to spell out as clearly as possible what so-called "reasonable opportunity" should mean in practice.

The industry guidelines suggest that the subject be given full access to his file upon satisfactory identification and the signing of a waiver granting legal immunity to both the bureau and its sources. When this is compared with the present language of S. 823, we come face to face with the problem of deciding exactly what we mean by "access", and under what conditions the bureau and its sources should be given legal immunity when an individual proceeds to use his right to question information which may have been included in his record.

This problem has two legitimate aspects. First, a way should be provided for individuals to make sure that reports on them contain correct information. Second, the credit bureau and its sources must be protected if they are to perform their proper and accepted function. I think it is important to point out that it is not the raw material in the file that "may bear adversely on a man's credit rating." It is only the material that sees the light of day in a report made to a credit grantor and generally the sources are not revealed in such reports. I suggest, therefore, that upon signing a waiver granting immunity, an individual should be given the right to see any report made about him, but not the raw file, but that if after a proper showing by the subject, the credit bureau refuses to make appropriate corrections both in the report and in the file from which the report is made, that the waiver should be considered to have become null and void.

If the request to correct the record is the result of a rejection for credit, employment or insurance, the individual should be allowed to see the report and to have an opportunity to make proper corrections without charge. Otherwise, he should pay a reasonable fee large enough to cover the bureau's cost represented by the interview with him.

If the individual is told by a creditor that a credit report was the cause of the credit denial, when in fact, the information in the report standing alone did not justify a denial, the cost to the credit bureau of producing a report for the applicant's examination plus the time consumed in a related interview should be charged to the account of the credit grantor. This should solve the problem created by credit grantors who seek to make the credit bureau a scapegoat for their own decisions.

Paragraph "c" of section 164 in the bill would limit the collection and retention of credit information as well as its reporting "to those items essential for the purpose for which the information is sought." Obviously, no credit reporting agency can know at the time material is collected all the purposes for which its many credit-granting customers may later seek credit information about an individual. Nor can it determine whether information requested by a potential credit grantor is essential to his decision or whether it is of marginal benefit. I think, therefore, that this provision in the bill is completely unworkable and should be eliminated so far as collection and retention of data are concerned.

If there is to be any limit on information based on relevance, the limitation must be aimed at information which has been included in a credit report, leaving the bureau free to pursue its normal policies in accumulating materials for the file.

Before I finish with this section regarding relevance, there is a suggestion I should make that does not appear in the bill. Whenever a credit bureau serves more than one of the three areas—credit, life insurance and employment—it should keep separate files for each service and we separate easily identifiable report forms, although material common to more than one can be included in each—either physically or by reference. This also should reduce the risk of irrelevance.

Another clause in this subsection refers to information that might represent "an undue invasion of the individual's right to privacy." The gathering of any and all material involves some invasion of privacy—but again possible damage to that individual lies, not in the collection of the information or its dormant retention in the files, but in its appearance in a report. To protect a person's right of privacy, therefore, I would suggest that every person seeking credit be informed that a credit check is to be made on him and that he be required to sign a form authorizing the credit grantor to do so. This could be part of the form required by the Truth-in-Lending law which goes into effect the first of next month, and on the same form the credit grantor could be required to give the applicant the name of at least one credit bureau from which he would expect to get information. It might be necessary to waive these requirements for some orders placed by phone or mail or in the event of an emergency, but the law could be so written as to make it clear that permission to check would be considered implicit in the placing of an order under these circumstances.

Paragraph "d" refers to the length of time information should be kept. I think your guidelines on this are sound and should be accepted.

Paragraph "e", which requires a credit bureau promptly to notify every individual on which it keeps a file whenever information from a public record goes into that file, is, in my opinion, completely unworkable both in operation and its cost.

I think the situation can be handled more effectively if when credit, employment, or life insurance is refused, by any person or firm which has obtained a report which contained any matter of public record, and such material was interpreted by the credit grantor as being adverse to an individual, he must be told what that public record information was. Then, under paragraph "b", he would have the right to go to the credit bureau and correct inaccuracies if there were any.

Paragraph "f" would prevent credit bureaus from supplying information to anyone other than credit grantors, employers, and insurance firms in the normal course of their business, unless the individual involved gave authorization in writing. The effect of this section of the bill would be to wipe out the present practice of supplying information to law enforcement agencies, local and Federal. Up until now, the credit bureaus have been supplying this information as a public service, often at a net loss to themselves. If the law should prevent them from supplying it voluntarily it can be obtained by subpoena or court order. If Congress should decide that such information is appropriate for these agencies to receive it must also set the conditions for such service and also place appropriate limitations on the law enforcement agencies themselves so that the credit bureau will know how to handle such requests.

With this comment I come to the end of discussion of the bill and some possible alternatives. As I close let me say again that although it may be as long as several months before a decision on this bill will be made by the Committee you must begin now to plan and work on your policies with respect to it. You have three choices—to try to defeat it . . . to postpone it . . . or to amend it. Whatever you decide to do will require a heads-up program of personal communication with all Senators and particularly those on the Committee. The future pattern for your industry could well be set by this legislation. No matter what you adopt don't let legislation be enacted by default.

Finally let me say quite as clearly as I can that I am not trying to tell you how to run your own businesses. In spite of my comments and observations about S. 823—you must develop your own position.

As my last word—I would remind you of your constitutional right to "petition" the Congress and thus make that position known—what it may be.

I hope you appreciate that right and will not fail to use it while there is still time.

THE RHETORIC OF THE WAR IN VIETNAM

Mr. TYDINGS. Mr. President, more than half a century has passed since the United States entered World War I in hopes of ending war for all time and making the world "safe for democracy."

Three wars later our men are again in combat. And the rhetoric of this war does not include such apocalyptic images. We have limited objectives; total victory is not among them, and indeed, our national leaders have acknowledged that we do not aspire to military victory, but to a political settlement.

This war has caused a more searing division of opinion among our people than has ever before existed. We are experiencing a degree of social disinte-

gration—in the cities, on campuses and, indeed, within families—which is largely attributable to the war. The official justifications for our combat involvement have blurred and faded in meaning as casualties exceeded Korea's toll and other costs multiplied. Militarily there is no discernible progress, and in Paris the conference drags interminably on.

I think perhaps there is no accounting of this tragedy more compelling than the anguish of a parent whose son has been killed. The loss is incomprehensible and, for many, unacceptable.

I ask unanimous consent to have printed in the RECORD such a letter from the father of David Hunter Wilkerson, who died this month in Vietnam while serving with the Marine Corps.

Dr. Wilkerson has shared with me a very moving letter he sent his son last year as he entered military service. It is a testament of love and apprehension.

The pain and grief of David Wilkerson's father is turned against war and the concept that it could be inevitable. Expressing his kinship with others who have experienced such a loss he pledges—

That the good men who have given the ultimate a human being can give will not rest until we stop all such wars we are involved in. And more, that we take the technology we have now and the brains and heart of the good men that are left and devote these to the careful scrutiny of what war is, where it comes from, and how we can substitute other modes of action for it.

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

BALTIMORE, MD.,
May 27, 1969.

HON. JOSEPH TYDINGS:
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: My son, David Hunter Wilkerson, age 19, died in Vietnam 20th of May 1969 while serving in the Marine Corps. The funeral will be in Davenport, Iowa, when his body returns home, and burial will be in Rock Island National Cemetery in Illinois. Before he went in the service last July we had been living apart, but I wrote him what I have quoted below. I send this to you not advertising my personal love for my son and grief at his loss. Although these things are personal and are not ordinarily expressed, we are not in ordinary times. I send this to you rather as the only personal contribution I can make, my grief and my anger, in hope that soon no more Davids need occur.

I send it to a member of the one organization who can control whether this nation goes to war.

I send it as a physician who has spent his adult life, and 5 years of it in the service, in the work of salvaging lives, and to whom, therefore, killing is a special anathema.

As a man of integrity, I trust you will use this in the national rather than a narrow political interest. You may extract whatever part, read whatever part you choose, and again I trust you not to subvert its meaning. I am a lifelong Republican and I have no embarrassing connections.

"JUNE 9, 1968.

"DEAR DAVID: It is more than somewhat difficult to know how to say to you what I feel and think. You will be in training in a month. Every father or at least most who care wish to give their sons something to carry with them to help them deal with the harsh reality imposed by the adult world, whether it be a war experience or the independence of making a living outside of the home environment. I am no different than most fathers in this.

"I am sure that most of the advice, good luck charms, pats on the back, last minute admonitions and all the rest are vain hopes by men who hope thus because they are afraid they may have left their sons unprepared for painful experiences, and feel guilty by the sure knowledge and memory of mistakes they have made in raising them. They hope their sons will forgive them for not telling them some things which might at the least make life more pleasant, and at the most, keep them from getting killed. They also hope that their sons will forgive them for bequeathing them this chaos, disorder, and insanity which is war. The fathers feel guilty that they in their own time have not been able to still the spectre of war, and offer their sons an unmixed inheritance of positive possibilities. If it were possible to do it, most fathers who care would rather go in their sons' place. They have lived a good part of their lives; they feel their sons should have the same opportunity. They do not want to see their sons cut down in their prime, for they love them. It is not something the sons have to earn; just by being sons it falls their lot to be loved by these fathers. It is something which a son may not understand, and often does not until he has sons of his own. It may even be embarrassing for the son, or he may feel it is a weakness on his father's part to love him thus; to weep at his departure, to wish to comfort him and be overcome at his return, scathed or unscathed, with joy. These feelings are items which are unexplainable in terms of reason, and seem to have to be learned every generation by each son when he becomes a father. The debt cannot be repaid for this concern by a son to his father but will be repaid through his sons."

David will never have sons of his own. He has died before he had a chance to form a family and before he could vote.

David, and all the Davids, leave a legacy, just the same. But, it is a silent legacy unless we take the trouble to listen to it. Universally, men say they are willing to go to war and die, if necessary, so their children and their children's children, will not have to go to war and die. The clay of our men scattered all over the world, at one time, have certainly had this fervent wish.

Does this nation say to the memory of these handsome vital young men, we do not choose to honor your wish? If we say this, how can they take back their sacrifice? Are we going to take cynical refuge in the time honored escape clause that war is inevitable, and therefore acceptable, and because it is acceptable, by definition, then, bound to be sane and normal? If this is so, then what lies in my son's coffin is an obscenity, a ghastly joke on dedicated men and their families.

I submit to you that aggressive warfare, *not* in direct defense of our nation is *not* inevitable, *not* acceptable, and *neither* sane *nor* normal behavior. I submit that the good men who have given the ultimate a human being can give will not rest until we stop all such wars we are involved in. And more, that we take the technology we have now and the brains and heart of the good men that are left and devote these to the careful scrutiny of what war is, where it comes from, and how we can substitute other modes of action for it. We already know where war leads. History is largely a chronicle of systematic inhumanity by one man to another. The devasting effect of this on the fabric of nations is commonplace knowledge. All lose. None win.

If this nation does not act responsibly in this area, it does not deserve the life of my son nor any other man. Nor will the nation itself have long life. It is doomed if it does not devote total first effort to ceasing this horror.

I believe that the stored combined rage and grief of the parents of all the Davids, and the clear sense of betrayal and anger of the young men led away from home like cattle are right now enough to tear this nation asunder if they find concerted expression.

DANIEL C. WILKERSON, M.D.

NATIONAL AUDUBON SOCIETY AND NATIONAL RIFLE ASSOCIATION ENDORSE S. 4, BIG THICKET NATIONAL PARK BILL

Mr. YARBOROUGH. Mr. President, when the National Audubon Society and the National Rifle Association both endorse a bill, that is news. My bill to establish a Big Thicket National Park, S. 4, has such widespread support.

The Big Thicket National Park will include at least 100,000 acres of rare and beautiful woodland in southeast Texas. This area is truly unique. The Big Thicket Association terms the thicket the "Biological Crossroads of North America." This is no exaggeration: no other region of comparable botanical diversity exists in the United States.

The National Audubon Society and the National Rifle Association recognize these values. The National Audubon Society, one of the most distinguished conservation organizations in the world, has notified me of its support for S. 4. The National Rifle Association, an organization of thousands of hunters and gun fanciers, has written me saying that they "plan to go on record in support of the proposal when S. 4 comes up for hearing."

I believe that the endorsement of these two groups for a Big Thicket National Park in southeast Texas shows the nationwide, public awareness of the need for this national park. I believe that the letters from these two groups show its awareness transcends many interest groups and organizations.

Since the introduction of my bill to establish a Big Thicket National Park, I have received many endorsements for this proposal. On March 27, 1969, I notified the Senate that some 24 Texas organizations had endorsed the project. Support has come from other groups and from many Texas newspapers.

The letters from the National Audubon Society and the National Rifle Association are further indication of the growing interest in the establishment of a Big Thicket National Park, and I ask unanimous consent that they be printed in the RECORD.

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

NATIONAL AUDUBON SOCIETY,
New York, N.Y., March 20, 1969.

HON. RALPH W. YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I know you have kept the Audubon Societies in Texas informed about your efforts to save the Big Thicket. You can count on the support of the National Audubon Society as surely as the backing of our members and chapters in Texas.

Please keep us advised of the progress of S. 4. When hearings are scheduled, we shall want to present a statement for the record, or perhaps appear in person to testify.

I thank you for your good wishes. Knowing of your great interest in conservation,

and aware of your leadership in establishing the Padre Island National Seashore, the Guadalupe Mountains National Park, and other legislative accomplishments, I am looking forward to working with you in the future.

Sincerely,

ELVIS J. STAHR,
President.

NATIONAL RIFLE ASSOCIATION OF AMERICA,
Washington, D.C., March 19, 1969.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Many thanks for your kind words concerning our *Conservation Action Handbook*. We hope that it receives a similar reception with other members of Congress.

We are well aware of your excellent record over the years on conservation and other issues important to the people of our country.

You may rest assured that we are interested in and are looking forward to the establishment of the Big Thicket National Park in East Texas. We plan to go on record in support of the proposal when S–4 comes up for hearing. Any additional background information on the proposal you may wish to send us will be appreciated.

Sincerely,

FRANKLIN L. ORTH,
Executive Vice President.

FEDERAL JUDGES DISMISS SDS COMPLAINTS IN CAMPUS DISRUPTION INVESTIGATION

Mr. McCLELLAN. Mr. President, the permanent Subcommittee on Investigations was authorized on May 1, 1969, by unanimous recorded vote of the Committee on Government Operations, to investigate the riots and disorders that have disrupted college campuses across the Nation.

During our preliminary injury, which we expect will result in public hearings on these matters in the near future, we served a subpena on May 16, 1969, upon Columbia University in New York City, where severe property damage and rioting have occurred during disruptions of university activities. The subpena, similar to a number of others served at my direction upon officials of various universities in the United States, calls upon the president of Columbia and its legal counsel to furnish the subcommittee with the identities of students who seized buildings on the campus, the identities of officers and faculty advisors of student organizations that were involved in the disruptions, including the group known as Students for a Democratic Society, and records showing the extent and nature of Federal funds given to such students and aid granted to them from any tax-exempt organizations.

Before the university officials had turned over to representatives of the subcommittee the records and other material required by the subpena, the Students for a Democratic Society and certain individuals filed on June 2, 1969, a civil action—No. 69 C 2355—in the U.S. District Court for the Southern District of New York, against the trustees of Columbia University, seeking a temporary restraining order and a permanent injunction to prohibit the trustees from furnishing the subcommittee with the information and records required by the subpena.

The time element was important in this matter; the subcommittee's hearings on campus disruption are imminent, and the information required from Columbia University and other institutions which also have suffered disorder and violence is essential for the record and for the deliberations of the subcommittee in considering findings and recommendations relating to the Federal Government's role in this field and whether there is need for further legislation to aid in preventing the recurrence of such disorders.

I am pleased to report that the presiding judge, the Honorable Charles H. Tenney, of the U.S. District Court for the Southern District of New York, disposed of the case expeditiously. His opinion, dismissing the complaint, was delivered on June 4.

In San Francisco, a similar complaint was entered in the U.S. District Court for the Northern District of California, seeking to enjoin the University of California at Berkeley from complying with the requirements of a subpena like that served upon Columbia. The judge in that court, the Honorable Robert F. Peckham, dismissed the suit without a written opinion.

Mr. President, the decisions of the two judges are very gratifying in that they sustain the subcommittee's action and allow it to proceed with its work. The decisions permit the subcommittee to obtain the information necessary to conduct hearings without hindrance from those who do not want all the facts about campus disorders disclosed.

Judge Tenney's decision is of importance to all Members of the Congress, dealing as it does with the right of congressional committees to obtain facts and data which are vital to carrying out the legislative function. His written opinion, I think, also should be brought to the attention of all Members of Congress and of concerned citizens everywhere who are greatly distressed about the waves of disorders and violence which have occurred at many of our traditionally peaceful educational institutions. Therefore, Mr. President, I ask unanimous consent that his opinion be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. McCLELLAN. Mr. President, I wish to express on behalf of the subcommittee, my appreciation for the excellent manner in which the subcommittee was represented in court by the office of the U.S. Attorney for the Southern District of New York, the Honorable Robert M. Morgenthau, and particularly for the valuable assistance of one of his aides, Assistant U.S. Attorney Michael D. Hess.

These decisions have reinforced the power of Congress to get facts and information related to Federal expenditures in educational institutions.

I am therefore gratified that on this score, at least, the committee will not be curtailed in its power and authority to perform the duty which Congress has given it.

EXHIBIT 1

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK—LEWIS COLE, ELEANOR RASKIN, THOMAS D. HURWITZ, ROBERT H. ROTH, COLUMBIA CHAPTER OF STUDENTS FOR A DEMOCRATIC SOCIETY, suing on their own behalf and on behalf of all other individuals and/or organizations similarly situated, Plaintiffs, against THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK, Defendants.

[69 Civil 2355]

APPEARANCES

Attorneys for Plaintiffs: Kunstler & Kunstler, 511 Fifth Avenue, New York, New York. William M. Kunstler, Esq., Arthur Kinoy, Esq., of Counsel.

Lubell & Lubell, 103 Park Avenue, New York, New York, David G. Lubell, Esq., of Counsel.

New York Civil Liberties Union, 363 7th Avenue, New York, New York, Jeremiah S. Cutman, Esq., of Counsel.

Nancy Stearns, Esq., 116 Market Street, Newark, New Jersey.

Attorneys for Defendants: Thacher, Proffitt, Prizer, Crawley & Wood, 40 Wall Street, New York, New York. John W. Wheeler, Esq., of Counsel.

For the Government: Robert M. Morgenthau, Esq., United States Attorney for Southern District of New York, U.S. Courthouse, Foley Square, New York. Michael D. Hess, Esq., of Counsel, David Katsky, Esq., on Brief.

OPINION

TENNEY, J. This is a motion brought on by the plaintiffs, Columbia University Chapter of Students for a Democratic Society, and certain of its members, suing on behalf of other individuals and/or organizations similarly situated, for an order, pursuant to Rule 65(a)(b) of the Federal Rules of Civil Procedure, restraining the defendants, The Trustees of Columbia University (hereinafter referred to as "the Trustees"), from disclosing, revealing or delivering any books, records, reports, correspondence, membership lists, associational information or other documents specified in a subpoena duces tecum served upon the Trustees by the Permanent Subcommittee on Investigations of The Committee on Government Operations of the United States Senate. The Trustees, rather than risk contempt of Congress, for failure to comply with this subpoena issued by the Subcommittee, intend to release the material requested on June 5, 1969.

The underlying cause of action seeks a declaratory judgment, pursuant to Title 28, United States Code, Section 2201, declaring the subpoena duces tecum[1] served upon Columbia University unconstitutional and void, and a permanent injunction prohibiting

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[1] Pg. 2. The body of the subpoena requires the Trustees to:

". . . produce any and all records for the period from January 1, 1968 to the present date showing the identity of students or other persons or organizations who took part in the seizure of Columbia University buildings or parts thereof without the permission of university authorities, as well as records showing the identity of officers and faculty advisers of Columbia University student organizations including Columbia University Students for a Democratic Society, Students for a Restructured University, Students Afro-American Society, Hamilton Hall Steering Committee. Also records showing the extent and nature of assistance of any type rendered during this period of time by any agency of the United States Government or by any legal entity exempt by United States law from taxation, to any student or other person whose name is provided in compliance with the terms of this subpoena."

the Trustees from complying therewith.[2] Plaintiffs allege jurisdiction of this court under Title 28, United States Code, Sections 1331, 1332, 1343(3)(4), Title 42, United States Code, Sections 1981 *et seq.*, and the First, Fourth, Fifth and Ninth Amendments to the Constitution of the United States.

On February 17, 1969, during the First Session of the 91st Congress, the Senate passed Resolution 26 authorizing the Committee on Government Operations or any subcommittee thereof, from February 1, 1969 through January 31, 1970, to:

(1) make investigations into the efficiency and economy of operations of all branches of the Government, including the improper expenditure of Government funds in transactions between Government personnel and corporations or individuals. Cong. Rec.: S. Res. 26 § 1, 91st Cong. 1st Sess. (1969);

(2) make a full and complete study and investigation of crime and lawlessness within the United States which affects the national health, welfare and safety. Cong. Rec.: S. Res. 26 § 4, 91st Cong., 1st Sess. (1969);

(3) ". . . *[M]ake a full and complete study and investigation of riots, violent disturbances of the peace, vandalism, civil and criminal disorder, insurrection, the commission of crimes in connection therewith, the immediate and long-standing causes, the extent and effect of such occurrences and crimes, and measures necessary for their immediate and long-range prevention and for the preservation of law and order and to insure domestic tranquility within the United States.*" (Emphasis supplied.) Cong. Rec.: S. Res. 26 § 5, 91st Cong., 1st Sess. (1969).

(4) report to the Senate by January 31, 1970 and ". . . if deemed appropriate, include in its report specific legislative recommendations." Cong. Rec.: S. Res. 26 § 6, 91st Cong., 1st Sess. (1969).

It should be noted as well that the Legislative Reorganization Act of 1946, ch. 753, titl. X, 60 Stat. 812, provides that:

"(a) Each standing committee of the Senate, including any subcommittee of any such committee, is authorized to hold such hearings . . . [and] to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers and documents . . . as it deems advisable. . . ."

Considering the complexity of the issues presently before this Court and the limited amount of time within which a determination herein must be made, I shall not be able to resolve all the problems which this litigation raises nor accompany those issues which I intend to rule on with the degree of analysis which would be appropriate under less pressing circumstances.

Briefly, with regard to jurisdiction, although this action has been framed as one to enjoin certain individuals from complying with the terms of a Congressional subpoena, it camouflages its essence, that is, one seeking to affirmatively quash a subpoena issued by the authority of a Congressional Committee, and in which the members of the Committee itself are most appropriately parties defendant. Needless to say, it is fundamental that before this Court could quash a subpoena, it must have jurisdiction over the persons or parties whom it would seek to affect or enjoin. It, therefore, boggles the imagination to think that plaintiffs herein could reasonably expect this Court to quash a Congressional subpoena where not one member of the Committee was served with a copy of the motion, nor where the Committee was not present or represented in court for the purpose of conferring jurisdiction. *In re Motion to Quash Subpoenas and Vacate Service*, 146 F. Supp. 792, 794 (W.D. Pa. 1956).

Even assuming jurisdiction over this matter, however, the action is properly brought in the District of Columbia. It is established that in cases where jurisdiction is not solely founded on diversity of citizenship, the defendants' residence is the principal consideration for the purposes of venue. 28 U.S.C. § 1391 (Supp. 1969). More specifically, where an action is primarily directed against a Senate subcommittee, whose interests would be most directly affected by a determination therein, it is in the interest of a centralized disposition of matters of national concern that the site of the litigation should be in the District of Columbia. More importantly, however, then District Judge Irving R. Kaufman, presently of the Court of Appeals for the second Circuit, noted in *Fischler* v. *McCarthy*, 117 F. Supp. 643 (S.D.N.Y.), *aff'd*, 218 F.2d 164 (1954), that it is undesirable to expose a subcommittee of the Senate to suits in various districts around the country. To allow otherwise would seriously impair the work of the Government. If this Court, therefore, were to sanction the bringing of suits against the recipients of Congressional subpoenas in the districts of their residence rather than against the Subcommittee iself in the district of its residence, it would be effectively thwarting the sound reasoning as set forth in *Fischler, supra*. Additionally, as an aside, it should be mentioned that where in *Fischler* the subpoena was returnable in New York, in this case the subpoena duces tecum is returnable in Washington, D.C., which, under the present state of facts, makes a finding of proper venue in the District of Columbia even more compelling.

Turning to the issue which I find to be of paramount importance in reaching my determination herein, that is, the doctrine of the separation of powers, a district court must exercise extreme caution not to encroach upon legislative functions, and, accordingly, must not assume jurisdiction over any matter which does not amount to a justiciable controversy. It is apparent from the present posture of this case that the parties presently seeking the injunction are neither threatened by a taking of property belonging to them nor with any infliction of punishment, such as a Congressional citation for contempt. This Court will not attempt to protect the plaintiffs from a danger yet unknown. *Pauling* v. *Eastland*, 288 F.2d 126, 129 (D.D.C.), *cert. denied*, 364 U.S. 900 (1960); *In re Motion to Quash Subpoenas and Vacate Service, supra* at 795; *Fischler* v. *McCarthy, supra* at 649–50. Needless to say, the judiciary would construct an insurmountable barrier in the path of every Congressional investigating committee if it to were to allow the bona fides of the legislative authorization to be challenged in a court of law by any person who could conceivably be affected by the testimony elicited or documents produced at a Senate hearing.

Even assuming, *arguendo*, that the questions presented herein were ripe for litigation, it would be incumbent upon the plaintiffs, prerequisite to obtaining a hearing, to make a substantial factual showing that the Congressional investigation is unrelated to any proper legislative function in that it is beyond the powers conferred upon Congress by the Constitution or that in authorizing the investigation by the Subcommittee, the Senate failed to spell out the Committee's jurisdiction and purpose with sufficient particularity to insure that compulsory process was only in furtherance of the legislative purpose. *Watkins* v. *United States*, 354 U.S. 178, 198–201 (1957). Absent a substantial factual showing in this regard, it is not the business of a district court to investigate the bona fide underlying legislative motives.[3] Having thoroughly considered the papers submitted by the plaintiffs in this cause, it is apparent that they contain mere conclusory allegations unsupported by any factual elaboration.

Plaintiffs, in support of their motion, have referred this Court to the following cases: 1) *Dombrowski* v. *Pfister*, 380 U.S. 479 (1965); 2) *N.A.C.C.P.* v. *Button*, 371 U.S. 415 (1963); 3) *Sweezy* v. *New Hampshire*, 354 U.S. 234 (1957); 4) *McSurely* v. *Ratliff*, 398 F. 2d 817 (6th Cir. 1968); 5) *Wolff* v. *Selective Service Local Bd. No. 16*, 372 F.2d 817 (2d Cir. 1967); 6) *Carmichael* v. *Allen*, 267 F. Supp. 985 (N.D. Ga. 1967); and 7) *Rainer* v. *Bindner*, 274 F. Supp. 658 (W.D. Ky. 1967). A brief review of these cases, however, reveals to this Court points sufficiently distinguishable from the instant application to compel a finding of their inapplicability herein.

The Supreme Court in *Dombrowski*, was faced with an attack upon a Louisiana statute which sought to proscribe certain forms of expression. In answer to appellants' suit therein for federal court injunctive and declaratory relief to restrain appellees from prosecution or threatening to prosecute them under this statute, Louisiana contended that it would be inappropriate for the federal district court to interfere with the orderly processing of state criminal prosecutions since, it was alleged, the want of constitutionality of the Louisiana statute could be raised as a defense to any criminal prosecution.

A three-judge District Court dismissed the complaint for failure to state a claim upon which relief could be granted. Thereafter, appellants were indicted under the state statute. In reversing the decision of the three-judge court, the Supreme Court noted that the mere possibility of an initial erroneous application of constitutional standards by a state court will not ordinarily constitute irreparable injury warranting federal interference with orderly state proceedings. But the Court found that defense of the state's crimi-

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[2] Pg. 2. Although plaintiffs have attempted by way of Rule 15(a) of the Federal Rules of Civil Procedure to add, as a matter of right, as parties defendant to this action, John L. McClellan, Chairman of the Subcommittee, Henry M. Jackson, Sam J. Ervin, Jr., Edmund S. Muskie, Abraham Ribicoff, Robert P. Griffin, Karl E. Mundt, Charles A. Percy and Jacob Javits, the members thereof, and Jerome S. Adlerman and Donald F. O'Donnell, General Counsel and Chief Counsel of the Subcommittee, respectively, this Court has no jurisdiction over any of the above-named individuals in that none of them has been served with process, nor has any one been authorized to appear for them.

Briefly, as background to the present litigation, Students for a Democratic Society (hereinafter referred to as "SDS") is an unincorporated association consisting of young people whose views may be considered to rest at the left of the political spectrum. They seek a radical, democratic program, the methods of which embody their vision, that is, a vision of a democratic society ". . . where at all levels the people have control of the decisions which affect them and the resources on which they are dependent. . ." (See Complaint at 2, Exh. B, annexed to Affidavit of William M. Kunstler, dated June 2, 1969). In furtherance of the Society's objectives, its chapters and members have often been the focal point of the expression of opposition to certain foreign and domestic policies of the United States Government. In this respect, and in accordance with its aims and purposes, the organization has both directly and indirectly participated in campus disorders which have resulted from the spread of student unrest.

[3] Pg. 9. Plaintiffs' reliance on *Cameron* v. *Johnson*, 381 U.S. 741 (1965), and 390 U.S. 611 (1968), for the proposition that the facts of this case warrant the granting of a hearing is ill-founded inasmuch as in the present case the plaintiffs are not facing prosecution herein under any statute alleged to be unconstitutional. Additionally, plaintiffs have alleged no facts to support their allegation of harassment.

nal prosecution would not assure adequate vindication of constitutional rights, and that a substantial loss or impairment of freedoms of expression would occur if appellants must await the state court's disposition, and ultimate review by the Supreme Court of any adverse determination. Finding that a chilling effect upon First Amendment rights might result from such prosecution regardless of its prospects of success or failure, the Court held the abstention doctrine inappropriate for cases where, unlike *Douglas* v. *City of Jeannette*, 319 U.S. 157 (1943), statutes are justifiably attacked on their face as an excessively broad attempt to regulate expression, or as applied for the purpose of discouraging protected activities. As the Court had previously noted in *Douglas, supra* at 163, courts of equity should in the exercise of their discretionary powers abstain from enjoining state criminal prosecutions save in those *exceptional* cases where such action is necessary to prevent *irreparable injury which is clear and imminent.*

The instant application does not reveal circumstances wherein either the Senate Resolution which authorized this Subcommittee's investigation or the subpoena duces tecum has a sufficiently chilling effect upon First Amendment rights which would result in irreparable injury that can be considered clear and imminent. There has been no institution of criminal proceedings or the threat thereof against SDS alleged herein, as there had been in *Button, Carmichael* and *Baker*. Neither the Senate Resolution nor the subpoena itself can be attacked on their face as abridging free expression or as applied for the purpose of discouraging protected activities.

As Judge Medina of the Court of Appeals for the Second Circuit noted in *Wolff, supra* at 823, federal courts will not hear a cause "when the action complained of has not caused or is not certain to cause injury to the complaining party". Judge Medina, however, found the abstention doctrine inappropriate therein since the effect of Wolff's reclassification itself from II–S to I–A as a result of his participation in a demonstration to protest American involvement in Viet Nam, was to immediately curtail the exercise of First Amendment rights. I do not find that either the Senate Resolution or the subpoena itself has this effect.

In *Sweezy*, petitioner was summoned to appear before the Attorney General of the State of New Hampshire, who had been made a one-man legislative investigating committee by the New Hampshire Legislature. During the course of the inquiry, petitioner declined to answer several questions on the grounds that they were not pertinent to the matter under inquiry and that they infringed upon an area protected under the First Amendment. He was thereupon adjudged in contempt by the state court and ordered committed to the county jail until purged of the contempt. The New Hampshire Supreme Court affirmed the order. The Supreme Court, in reversing, found nothing to connect the questioning of petitioner with the fundamental interest of the State in preventing the forcible overthrow of its government. It therefore followed that the use of the contempt power was not in accordance with the due process requirement of the Fourteenth Amendment to the Constitution. SDS, however, which has not been called upon to produce its records, which has not been found in contempt for any failure to comply with a Congressional subpoena and which has had none of its constitutional rights interefered with as the result of the subpoena duces tecum served upon the Trustees is not in a position to rely upon *Sweezy*.

In this regard, it must be noted that the documents which were the subject of the subpoenas duces tecum in *McSurely*, were the property of the petitioners therein. These documents, which had been seized from the McSurelys in aid of a prosecution under an unconstitutional statute, had been retained by the district court which pursuant to a Congressional subpoena had ordered the parties to the action and officers of the court to cooperate with the Senate Committee in making available such material as the Committee considered pertinent. The Court of Appeals for the Sixth Circuit in reversing the order of the district court, found that the right of the court to retain possession of the seized documents had expired when under the doctrine of *Dombrowski*, the district court declared the statute, in connection with which the documents were seized, unconstitutional. This case is clearly distinguishable in that SDS, like the district court in *McSurely*, has no right to possession of the records which are the subject matter of the subpoena duces tecum.

Accordingly, and for the above-stated reasons, the within motion is in all respects denied and the complaint dismissed.

So ordered.

Dated: New York, New York, June 4, 1969.

CHARLES H. TENNEY,
U.S.D.J.

THE STIGLER REPORT ON ANTITRUST POLICY AND ENFORCEMENT

Mr. NELSON. Mr. President, it seems to me that one of the poorest things to do with an idea is to suppress it. This is true of bad ideas and good ideas alike, in my opinion. It is especially true of ideas having to do with complex areas of public policy. It is especially true of policy ideas contained in a report to the President of the United States by a Commission of experts appointed by him.

For many months it was common knowledge, reported in the public press, that President Johnson had appointed a task force to review and report on antitrust policy. For many months it was well known that President Johnson's task force had completed its review and submitted its report and recommendations to the White House in July 1968. But it was only in May of 1969 that the contents of the Johnson task force report were made known, and the text released, by the new administration.

At about the same time that the Nixon administration released the text of the report prepared by President Johnson's task force, it became known that President Nixon—before he became President—had also appointed a task force to review antitrust law and policy. Indeed, on May 22, 1969, a reporter for the Evening Star of Washington, D.C., Mr. Stephen M. Aug, published in that newspaper a summary of the contents of that task force's "secret report" to the President.

Subsequently, other reporters have written summaries of the report, from which it might reasonably be inferred that they—or at least some of them—have had access to a copy of the document.

Then, on Tuesday of this week, Antitrust and Trade Regulation Report, a publication of the Bureau of National Affairs, published a partial text. All the while, and to this day, the document is officially "confidential."

I am not going to speculate on the reasons the Johnson administration did not release its report, while the Nixon administration released the Johnson task force report and failed to release its own. I should like to believe that the present administration has released the report of President Johnson's task force and suppressed the report of President Nixon's task force because it approves the former and disapproves the latter on certain of their more important policy differences; but I do not know that, and it is not the issue with which I am now concerned.

The issue with which I am now concerned is unnecessary secrecy in Government. I think that the best number of secrets for the government of a democracy is the smallest possible number. I also think that if something deserves to be kept secret, it deserves to be well kept. The report of President Nixon's task force fails both tests. It is a pleasure, therefore, to have the text from Antitrust and Trade Regulation Report for the RECORD.

This text is unfortunately not complete. There is some ellipsis indicated in the principal report, and the dissents are entirely missing. Nevertheless, it is helpful to have so much of this important and widely discussed document available, and I am happy to bring it to the attention of Senators. I, therefore, ask unanimous consent to have printed in the RECORD the partial text of the report to President Nixon by his Task Force on Productivity and Competition, presided over by Prof. George J. Stigler, of the University of Chicago. If I come into possession of the missing language from the principal report, or the dissenting views, they will be placed in the RECORD. I would suggest that the whole report should be available and that the administration is in the best position to furnish the dissenting views.

In addition to Professor Stigler, the signers of the report are Ward S. Bowman, Jr., Ronald H. Coase, Roger S. Cramton, Kenneth W. Dam, Raymond H. Mulford, Richard A. Posner, Peter O. Steiner and Alexander L. Stott. Mr. Mulford and Mr. Stott dissented from some of the report.

By placing this in the RECORD I do not wish at this time to imply agreement or disagreement with all or any part of the "Stigler report." Indeed, on the basis of my initial examination of both, I would judge the "Neal report"—the report of the Johnson administration's task force—to be the more strongly reasoned on the issues of concentration and conglomerates; but both reports are valuable and should be available to the public. It is a disservice to have the one officially available, the other not. I think that all the economists, lawyers, and reporters who are talking about the "Stigler report" should have a chance to read the text and know exactly what they are talking about.

I also ask unanimous consent to have printed in the RECORD several of the newspaper articles describing the report, including the original article in the Evening Star of May 22.

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

[From Antitrust and Trade Regulation Report, June 10, 1969]

TEXT OF REPORT OF NIXON TASK FORCE ON PRODUCTIVITY AND COMPETITION

SUMMARY OF RECOMMENDATIONS OF THE TASK FORCE ON PRODUCTIVITY AND COMPETITION

We present here a summary of the recommendations of the Task Force on Productivity and Competition. These recommendations are elaborated and defended in the accompanying Report.

1. We recommend that the President issue a general policy statement (a) establishing the Antitrust Division as the effective agent of the Administration in behalf of a policy of competition within the councils of the Administration and before the independent regulatory commissions; (b) urging those commissions to enlarge the role of competition in their industries; (c) marshaling public support for the policy of competition.

2. We urge the commissions to permit free entry in the industries under regulation and to abandon minimum rate controls, whenever these steps are possible—and we think they usually are; and we urge the President, when occasion permits, to appoint at least one economist to membership in each of the major commissions, and institute effective procedures for the review of the performance of the commissions.

3. To enhance the effectiveness of the Antitrust Division, we urge the Attorney General and the Assistant Attorney General in Charge of Antitrust to insist that every antitrust suit make good economic sense, and to institute semi-public conferences to assist in the formulation and frequent reevaluation of enforcement guidelines.

4. We recommend that the Department of Justice establish close liaison with the Federal Trade Commission at the highest levels, with a view toward fostering a harmonious policy of business regulation.

5. We recommend that the Department bring a series of strategic cases against regional price-fixing conspiracies, which we believe to be numerous and economically important.

6. We cannot endorse, on the basis of present knowledge of the effects of oligopoly on competition, proposals whether by new legislation or new interpretations of existing law to deconcentrate highly concentrated industries by dissolving their leading firms. But we urge the Department to maintain unremitting scrutiny of highly oligopolistic industries and to proceed under section 1 of the Sherman Act—which in our judgment reaches all important forms of collusion—in instances where pricing is found after careful investigation to be substantially noncompetitive.

7. The Department of Justice Merger Guidelines are extraordinary stringent, and in some respects indefensible. We suggest a number of revisions in the accompanying Report.

8. We strongly recommend that the Department decline to undertake a program of action against conglomerate mergers and conglomerate enterprises, pending a conference to gather information and opinion on the economic effects of the conglomerate phenomenon. More broadly, we urge the Department to resist the natural temptation to utilize the antitrust laws to combat social problems not related to the competitive functioning of markets.

9. We recommend new legislation to increase the monetary penalties, at present largely nominal, for price fixing.

10. We urge a new policy for antitrust decrees. The Department should not seek the entry of regulatory decrees: decrees that envisage a continuing relationship with the defendant. Save in exceptional circumstances, all decrees should contain a near termination date, ordinarily no more than 10 years from the date of entry. And the Department should undertake a review of existing decrees to determine which should be vacated as obsolete or inappropriate.

11. The Expediting and Webb-Pomerene Acts should be repealed, and the Robinson-Patman Act substantially revised.

12. Mr. Alexander L. Stott dissents from certain parts of the Report and from certain of the above recommendations. Mr. Raymond H. Mulford dissents from two recommendations.

REPORT OF THE TASK FORCE ON PRODUCTIVITY AND COMPETITION

The Task Force on Productivity and Competition submits its report on the problems which will be confronted by the new administration in this area, and the steps which we recommend to be taken. The report is presented under three general headings:

I. The Administration's policy of Competition and the Role of the Antitrust Division and the Regulatory Commissions in This Policy.

II. Organization and Procedure in the Antitrust Division.

III. Recommendations for Change in Antitrust Policy.

Individual task force members would often change the emphasis of the Report, and larger differences are presented as dissents.

I. General policy

A. Antitrust Policy

The American Way, as we are constantly told, is to rely upon competitive private enterprise to do most of the work of allocating resources to industries and firms, organizing production, and providing economic progress. We are constantly travelling a shorter distance down this Way, however: for good reasons and for bad we have almost continuously expanded the governmental controls over economic life, and in recent years important restrictions have been placed upon private enterprise to protect the balance of payments. Some of the vast arsenal of public controls are unnecessary, and a large proportion of the necessary controls are excessively restrictive of competition. As one example, the safety of financial institutions is of course a major public concern, but this safety can often be achieved by insurance or similar devices, and hardly ever requires that competition be suppressed to the extent that the most incompetently managed institution will be prosperous, and hence safe.

The traditional American policy of seeking to minimize regulation of economic life is a profoundly wise policy, and deserves to be reasserted and implemented. Both logic and political expediency—not always close allies—dictate that economic freedom be subjected to the discipline of competitive markets. We believe, therefore, that the President should issue a general policy statement on competition and public regulation, to achieve at least three important purposes:

1. To establish the Antitrust Division as the effective agent of the Administration in behalf of a policy of competition, in intragovernmental groups, and before independent regulatory bodies.

2. To encourage and urge the regulatory bodies—which cannot ignore the clear policy positions of the President even when his appointive power is dormant—to enlarge the role of competition in their respective industries.

3. To revive and strengthen public support for the policy of competition, and to establish the bona fides of the Administration as the protector of *both* consumer and businessman.

An executive order or a major presidential address would be an appropriate vehicle for this declaration. Whether or not a formal statement commends itself, we believe that the correct policy *is* one of persistent and resourceful exploitation of competition wherever possible.

B. The Policy of Competition in the Regulated Industries

Our mandate to examine productivity and competition in the American economy compels us to brief examination of the work of the regulatory commissions themselves. The regulated industries comprise one-eighth or more of the economy in terms of income, and are too important to be omitted from our Report.

The tasks assigned to the regulatory agencies are various: to prevent monopoly pricing (as with telephone and pipelines); to prevent congestion (as with radio and television frequencies); to provide safety to savers (as with financial institutions); and so on. It is not possible for us here to examine these purposes critically, although it is notorious that in certain industries (such as motor trucking) there is no respectable case for economic regulation. There is widespread disenchantment with regulatory purposes as well as regulatory processes, and a general belief that excessive rigidity, expensive review of economically trivial details, and frequent failure to achieve any important results have characterized our regulatory efforts.

In two directions, we are convinced, there should be a major reorientation of the regulatory policy:

1. Entry of new firms should be encouraged wherever an absolute contradiction with regulatory goals is not involved. At present the practice is universally the opposite: to prohibit or ration with utmost severity the entrance of new firms.

2. Allow much freedom in price competition. The regulatory bodies should abandon *minimum* rate regulation whenever possible (and it is usually possible), and rely chiefly on maximum rate regulation.

Where rates are regulated, it is essential to make *both* changes: there is little merit in allowing additional firms to enter if they are not held to the test of unfettered competition with the existing firms.

We urge the Administration to pursue three complementary paths of reform in the regulated industries:

First, the commissions should have the merits of competition pressed upon them. Competition is not a matter of all or none, and the fact of regulation should not exclude competition as a force at each of a hundred points where it is relevant and feasible. If there must be only one railroad there can still be several truckers, several freight forwarders, and the possibility of inter-modal competition.

Second, the primary method of giving a larger role to competition is by appointing commissioners who understand and believe in a policy of competition. *We believe that every regulatory body should have at least one economist as a commissioner.* Quite aside from the implementation of the desire for more competition, this proposal has a decisive defense: economic regulation poses more economic than legal problems, and an economist knows more about economics than a non-economist. The economic triviality and irrelevance of much activity of the regulatory commissions is patent and inexcusable.

Third, the regulatory commissions are largely out of public control. Once in a decade or two, at most, a commission will be investigated by Congress. The Administration should explore methods of getting more meaningful and effective reviews than we now get. We do not know whether the best method is an enlarged Bureau of the Budget section, a national commission, the creation of academic review committees, or a special adviser to the President. The best method, however, is surely not infrequent, partisan Congressional review. The present rule of the

regulatory bodies is undirected, unmeasured, and unevaluated.

II. Organization and procedure in the antitrust division

A. The Utilization of Economic Knowledge

We anticipate little opposition to the proposition that the Antitrust Division make full and effective use of economists and their special skills. These skills are often necessary to understand the effects of economic practices (an example is market-sharing in fixed proportions), to assess the economic importance of individual cases, and to assist in devising remedies that will not shatter on economic realities. We endorse the policy of having a highly professional economist serving as adviser to the head of the Division, and a strong permanent staff of economists.

The problem is not the goal of an economically sophisticated antitrust policy, but its implementation. A division charged with the enforcement of a statute must of course be directed and largely staffed by lawyers. Unless there are substantial incentives to the staff to utilize economics—whether by central direction, or vastly more powerfully, by demonstrated assistance in winning cases—the non-lawyer will often be viewed by the lawyers as a mysteriously necessary obstacle to smooth operations. The Assistant Attorney General will have succeeded in making a truly major contribution to antitrust policy if he establishes the relevance of economic knowledge.

B. The Development of Criteria for Classes of Cases (Guidelines)

When the Antitrust Division is confronted by a large number of similar cases—and it must now be scanning many hundreds of mergers each year—it will inevitably have rules to guide the numerous men who pass on individual cases. The question is not whether to have criteria or guidelines, but how to arrive at them.

We believe, for reasons we discuss below, that the present merger guidelines are questionable in important respects. Here we consider the procedures for formulating guidelines.

A set of rules for a class of cases will be desirable only if two conditions are fulfilled:

1. There are a large number of uncontroversial, easily identified cases. If there are not, the rules give little help to either business or the Division.

2. Controversial or objectionable cases cannot be repackaged to avoid scrutiny.

The way to determine whether mergers, for example, meet these conditions is to examine a large number of them in the light of legal and economic knowledge. The Antitrust Division will perform this task vastly better if it uses the large amount of professional expertise available outside the Division. We therefore recommend that the Division have semi-public conferences to explore difficult areas of policy, inviting legal and economic experts to propose or discuss guidelines. Some members of the task force would prefer to have formal notice and public hearings in establishing rules. If rules are adopted, a periodic review of them by the same procedure will be a useful method of conferring flexibility upon them. A specific application of this method is proposed below for mergers.

C. The Role of the Federal Trade Commission

No review of antitrust policy would be complete that ignored the Federal Trade Commission, which is charged with enforcement of, among other statutes, the Clayton Act, of which Section 2, the Robinson-Patman Amendment, and Section 7, prohibiting mergers and acquisitions that may substantially lessen competition, are particularly important; and the Federal Trade Commission Act, whose operative provision, Section 5, forbids "unfair or deceptive acts or practices", a term that has been interpreted to embrace even more than the vast area of anticompetitive behavior proscribed by the Sherman Clayton Acts, as well as consumer fraud and some "immoral" sales methods such as lotteries. As is evident, the Commission's jurisdiction largely overlaps that of the Antitrust Division.

In its antitrust work, the FTC has concentrated on price discrimination, on practices believed to oppress or coerce small dealers, and on mergers, especially vertical and conglomerate, and usually in industries which by long-established understanding with the Antitrust Division have been assigned as the Commission's sphere of primary competence.

Unhappily, little that the Commission undertakes in the antitrust area can be defended in terms of the objective of maintaining and strengthening a competitive economy. Consider price discrimination. There is now an impressive body of literature arguing the improbability that a profit-maximizing seller, even one with monopoly power, would or could use below cost selling to monopolize additional markets. Yet, not only has the Commission continued to bring predatory price discrimination cases, but the alleged danger of predatory pricing remains a principal prop of its vertical and conglomerate antimerger cases. As for "secondary line" discrimination (that is, giving discounts to some dealers or distributors but not to others who compete with them), the Commission has never attempted to differentiate those cases (if there are any) in which a monopolistic buyer is able to extract unjustified price concessions from his suppliers to the prejudice of his competitors from those in which discrimination is employed by oligopolistic sellers who wish to cut prices secretly,—and should be encouraged to do so—and those in which price *differences* (which the Commission tends to equate, erroneously, with *discriminations*) are not, in fact, discriminatory. Over the last eight years the Commission, often under the prodding of reviewing courts, has pulled some of the sting from enforcement of the Robinson-Patman against secondary-line discrimination. It has demanded somewhat stronger proof of competitive injury; the meeting-competition and cost-justification defenses have been rendered meaningful; and the provisions of the Act relating to advertising allowances and brokerage payments are, in general, no longer used to compel sellers to compensate for services that are not economically beneficial to the seller (such as advertising by tiny retail outlets or brokerage when a broker's services can be dispensed with). Although the retreat from *per se* rules against secondary-line discrimination has led to a general diminution of enforcement activity by the FTC (private suits continue, of course, and are discussed later) the Commission still brings many cases that impair, rather than promote, competition and efficiency. For example, the Commission has in recent years waged vigorous war against "functional discounts", which are discounts offered to middlemen who perform certain distributive functions (such as warehousing) that other middlemen, who are not given the discounts, do not perform. Moreover, as explained later in this Report, we can conceive of no case of discrimination in which the Sherman Act would not provide an adequate remedy—adequate, that is, to protect the interest in maintaining an effectively competitive economy—and so we view Robinson-Patman enforcement as inherently likely to be pushed beyond proper limits.

The efforts of the Commission to protect small dealers from allegedly unfair and coercive business practices constitute a dark chapter in the Commission's history. Much of this enforcement activity does not eventuate in formal proceedings. What happens is that a dealer who is terminated for whatever reason, is likely to complain to the Commission, knowing that the relevant Commission staff is well disposed toward "small business". The staff uses the threat of an FTC proceeding to get the supplier to reinstate the dealer, and if threats fail—usually they succeed the FTC may file a complaint charging the supplier with having cut off the dealer because he was a price cutter, or for some other nefarious reason. Our impression, in sum, is that the Commission, especially at the informal level, has evolved an effective law of dealer protection that is unrelated and often contrary to the objectives of the antitrust laws. The Commission is supported in this endeavor by the Supreme Court's rulings that Section 5 of the FTC Act empowers the Commission to suppress practices that *resemble* antitrust violations.

With respect to the Commission's enforcement policy in the merger field, it is illuminating to compare the recent statements of Commission merger policy with the Department of Justice Merger Guidelines, discussed elsewhere in this Report. The Commission is even more severe. Unlike the Department, it attaches a good deal of significance to the absolute size (independent of market share) of merging firms; to the alleged power that large firms have over small; and to the dangers of "price squeezes".

It will, for example, challenge virtually *any* acquisition by a cement producer of a ready-mix concrete company, virtually *any* substantial acquisition by a large food chain, etc. The Merger Guidelines are models of restraint compared to those promulgated by the Commission, which are as hard on economic theory as on mergers.

We conclude that substantial retrenchment by the Commission in the antitrust field is highly desirable. In addition to retrenchment (at least by stopping the increase of the Commission's appropriations), its resources devoted to regulating competition might be redeployed. The two principal possibilities are (1) consumer protection, and (2) economic studies utilizing the very broad fact-gathering powers vested in the Commission by its enabling legislation. Unhappily, either route could be followed in a way that endangered competition. An incompetent economic study can be influential on policy makers—witness the influential 1948 FTC study which erroneously suggested that concentration was on the rise in American industry. Overzealous enforcement of consumer-protection legislation can also have errant results. We note that the application of consumer-protection law is almost always invoked not by consumers but by competitors, whose interest lies in protecting their market, not in giving consumers full information; and that elaborate requirements relating to packaging, safety, etc. can curtail consumer choice, limit competition, reduce the consumer's incentive to exercise care, and—what is most serious—impose substantial costs on society.

The Federal Trade Commission urgently needs a basic reform, but this need will be difficult to fulfill. Quite apart from the fact that there are no vacancies on the Commission, any dramatic or far-reaching Presidentially-inspired reforms would run up against the long tradition of regarding the independent agencies in general—and the FTC in particular—as "arms of the Congress." That has at times meant an office of economic opportunity for Congressmen; more important, it means that a strong showing of Presidential interest in the operations of the Commission will not be welcome on the Hill.

Perhaps the best short-run path of improvement runs through the offices of the Attorney General and the Assistant Attorney General in charge of Antitrust. Since the jurisdictions of the Commission and of the Antitrust Division are so largely overlapping, no one could object to the establishment between the Commission and the Division of close liaison at the highest levels. Indeed, it is something of a wonder (though explicable in terms of bureaucratic rivalry) that such

liaison has been wholly lacking heretofore; the only coordination between the agencies is at very low levels, and consists largely of haggling over who shall sue in cases where both agencies are interested. Especially at the beginning of a new Administration, it should be quite feasible, as well as wholly appropriate, for the Attorney General and Assistant Attorney General to establish a close cooperative relationship with the Chairman of the Commission. We think it likely that the Commission will pay some heed to the Department's views, if forcefully expressed, on antitrust and trade-regulation policy.

III. Recommended changes in antitrust policies

The general policies of the Antitrust Division are profoundly good, and we propose no major change in its emphasis or directions of policy. In fact, the main thrust of the following recommendations is that certain recent developments of policy or doctrine should not be allowed to divert the agency from its basic task of striking down conspiracies and mergers in restraint of trade.

A. Price Fixing

The price-fixing cases of the Antitrust Division are its bread and butter, and understandably its staff would prefer more cake. We emphasize the great economic and social importance of continued, vigilant, aggressive seeking-out and conviction of conventional price-fixers. Every victory weakens the efficiency of undetected collusion in that area of economic life. We strongly recommend the bringing of a series of strategic cases against regional conspiracies, which we believe to be numerous and economically important.

B. Concentration and Oligopoly

Oligopoly—the industry composed of a small number of independent enterprises—undoubtedly presents the most difficult problems in a policy for competition. The difficulties arise because of a combination of three circumstances. The first is *factual*: there are many important industries in our economy whose structure is oligopolistic—how large a number depends upon what a "small number of firms" means. The second is *interpretive*: the economists have not succeeded in fully identifying the characteristics of an industry which determine whether it will behave competitively or monopolistically. The third is the matter of *action*: if firms in an oligoplistic industry are convicted of collusive behavior, must one press for a remedy so radical as dissolution in order to stop future repetitions of the offense? (And should the standards of permissible concentration be wholly different for pending mergers than for established enterprises?)

The circumstances which determine whether or not the firms in an oligopolistic industry will usually behave more or less competitively (seeking by independent actions to improve their individual profits at the cost of rivals' profits, with the eventual general erosion of unusual profits) are partly known:

1. The easier (quicker and cheaper) new firms can enter the industry, the smaller and more short lived will be the monopolistic restrictions.

2. The more elastic the demand for the product of the oligopolistic industry the less the reward from restrictions of output below the competitive level, and hence the less the inducements to act collusively. This in turn usually depends upon what alternative products the buyers may turn to.

3. The larger the effective number of firms the less the probability of collusive behavior—collusion increases in expense (including probability of detection) as numbers increase. However, a given number of firms is more likely to result in collusion, the more concentrated is production in the hands of a few firms. If we correct for this and take the effective number of rivals to be the number of rivals of equal size which would produce the same competitive situation as the firms (not of equal size) actually in the industry, the effective number may be very roughly estimated at twice the number there would be if all firms were as large as the largest in the industry.

That is, if the largest firm has ⅓ of the industry's output and the remaining firms fall off in size regularly, the effective number of firms is of the order of magnitude of 10. By this is meant that the concentration in the industry is equivalent to what would exist if there were 10 firms of equal size.

There are other influences which probably but less certainly affect the probability of competitive behavior. One of these is the size of buyers: larger buyers, for a variety of reasons including possibility of backward integration, make for more competitive prices.

Numerous statistical studies have been made of the relationship between concentration and rates of return on investment, and these studies generally yield positive but loose relationships: concentration is not a major determinant of differences among industries in profitability, although it may sometimes be a significant factor. It appears also to be true that somewhere between five and ten *effective* rivals (i.e., largest firm with a share of ⅓ to ⅛) are usually enough to insure substantial elimination of the influence of concentration upon profitability.

Concern with oligopoly has led to proposals to use the antitrust laws (perhaps amended) to deconcentrate highly oligopolistic industries by dissolving their leading firms. We cannot endorse these proposals on the basis of existing knowledge. As indicated, the correlation between concentration and profitability is weak, and many factors besides the number of firms in a market appear to be relevant to the competitiveness of their behavior. While a flat condemnation of oligopoly thus seems to us unwise, we commend to the Antitrust Division a policy of strict and unremitting scrutiny of the highly oligopolistic industries. If, in any of these industries, pricing is found after careful investigation to be substantially noncompetitive, the Division will have a clear basis for proceeding against the leading firms under Section 1. Collusion that can be incontrovertibly inferred from behavior (such as persistent, stable price discrimination in the economist's sense) should not bring immunity from the Sherman Act, and we are confident that structural remedies will be sanctioned by the courts in cases where, due to number of firms and the other conditions of the market, lesser remedies are likely to be unavailing. In assessing the gain from such structural remedies, account should be taken of any reduction in efficiency which the remedy entails.

The concern with oligopoly is also quite visible in the Department of Justice's most recent innovation, the Merger Guidelines, to which we now turn.

C. Mergers and the Guidelines

The present merger Guidelines impose stringent restrictions upon the relative sizes permitted to companies which desire to merge. The impact of these percentages is reinforced by a definition of the market (within which shares of companies are reckoned) so loose and unprofessional as to be positively embarrassing. We propose to reverse this emphasis: not to tell companies which mergers are forbidden, but which mergers are permitted. We are persuaded that this orientation better serves the interests of both business and the Antitrust Division. Before we turn to the methods by which more appropriate Guidelines for mergers are achievable, we shall briefly discuss the present Guidelines, and indicate our reasons for dissatisfaction with them in their present orientation.

Market Definition. The delineation of a relevant market within which to appraise the lawfulness of a merger is crucial, for if the market is drawn narrowly enough, virtually any merger can be made to seem monopolistic in its effects. Unfortunately, as they are presently drafted the Guidelines seem to invite a substantial degree of market gerrymandering, especially in delineating regional or local markets. The Guidelines' test of whether a product is sold in less than a national market is loose. Any group of competing sellers in the industry is a relevant market, unless the defendant can show that there is no "economic barrier" preventing other sellers from selling in the particular area. Such a barrier may consist of freight costs, customer inconvenience, customer preference for the brands presently sold in the area, or the absence of good distribution facilities.

This is a misleading test. An industry may be riddled with the kind of "barriers" cited in the Guidelines and yet still not contain any meaningful local markets. An example will illustrate. Assume that the price of steel bars is $2 in Minnesota and $1.60 in Chicago, and the cost of shipping the bars from Chicago to Minnesota is 41 cents. On these facts, it is plain that the Minnesota sellers could not raise their price significantly without immediately losing their business to the Chicago sellers. Minnesota is thus not a meaningful local market even though, at the existing price, freight costs do impose an effective economic barrier against the Minnesota sellers. Moreover, additional firms will establish production or distribution facilities in Minnesota if it becomes profitable to do so. The same analysis can be extended to the other barriers discussed in the Guidelines.

In criticizing the test of "economic barrier", we do not mean to deny the difficulty of devising rules of market definition that will be at the same time simple and sensible. This is most probably not an area in which Guidelines provide a useful enforcement tool. If there are to be Guidelines, though, they should at least not misstate the applicable economic theory. It would, accordingly, be a decided improvement if the Guidelines were revised (at a minimum) to explain that a distant seller of a product must be included in the local market if a modest price increase in the local area—a price increase unrelated to his costs—would bring him in forthwith.

Horizontal Mergers. The provisions of the Guidelines governing horizontal mergers—that is, mergers between direct competitors—are extraordinarily strict. If a market is "highly concentrated" (defined as where the 4 largest firms account for at least 75 percent of the sales in the market), then a merger between two firms, each of which has a 4 percent market share, will be challenged: and if the acquiring firm has a share as large as 15 percent, then the acquired firm need have only a 1 percent share for the merger to be challenged. Different levels of permissible size are stated for less concentrated industries, and some account is taken of the trend of concentration.

We agree with the basic premise of the horizontal-merger provisions of the Guidelines that market-share percentages are the appropriate touchstone of illegality for such mergers. We would favor levels of concentration modestly lower than those now used (but differently structured), with the purposes of (1) allowing all mergers below the Guidelines levels, and (2) not prohibiting, but reviewing, those above the critical level, with an implied probability that the more a proposed merger lies above the level of automatic approval, the less the probability of its acceptance. We discuss below the procedure that should be followed better to utilize existing knowledge in fashioning the Guidelines.

Vertical Mergers. A merger that involves the acquisition not of a competitor but of a

customer or a supplier is a vertical merger, and the present Guidelines contain strict provisions limiting such mergers. For example, if the supplying firm in the merger has a 10 percent share of its market and the purchasing firm has 6 percent of the purchases in that market, the merger will be challenged.

Our task force is of one mind on the undesirability of an extensive and vigorous policy against vertical mergers: vertical integration has not been shown to be presumptively noncompetitive and the Guidelines err in so treating it. Within this area of agreement there are two positions around which the task force members cluster.

The one position asserts that many, and perhaps most, vertical mergers which do not have direct horizontal effects are innocuous, but that in certain situations a vertical merger will have anti-competitive effects. These situations include: increases in the capital or other requirements for an integrated firm may reduce the possibility of new entry; or price discrimination may be implemented when a monopolist integrates forward or backward. A showing that an anticompetitive effect of these sorts exists is essential before a vertical merger is challenged.

The other position denies that a vertical merger has the potentiality for economic harm in the absence of horizontal effects. To some of our members, it is wholly implausible that vertical integration places entering firms at a disadvantage. A seller who fails to minimize his input and distribution costs will be undersold by his competitors: he cannot afford to sell to or buy from an affiliate if there are more efficient alternative means of supply and distribution available to his competitors (and to him). Even if the seller is a monopolist, the desire to maximize profits will lead him to seek the most efficient methods of supply and distribution, and there will be ample opportunities for non-affiliated suppliers and outlets to compete for his patronage. Except in the case of the monopolist who cannot discriminate in price effectively without control of his outlets, vertical integration will be initiated and maintained only if and so long as it is justified by the cost savings it permits. It is not a method of extending monopoly power.

The two positions coalesce on one policy conclusion: vertical mergers should not be forbidden as a class.

The Conglomerate Merger. The large conglomerate enterprise with an aggressive acquisition policy has only recently become prominent and newsworth. * * *

Antitrust law has seemed to some a convenient weapon with which to attack large conglomerate mergers. If one interprets "elimination of potential competition," "reciprocity" and "foreclosure" as threats to competition, one can always bring and usually win a case against the merger of two large companies, however diverse their activities may be. These are often makeweights. The economic threat to competition from reciprocity (reciprocal buying arrangements) is either small or nonexistent: monopoly power in one commodity is not effectively exploited by manipulating the price of an unrelated commodity. The argument advanced against the simplistic treatment of vertical mergers—essentially that one cannot use the same monopoly power twice—also challenges the fears of reciprocity.

Potential competition, on the contrary, can be a decisive limitation on the exercise of market power, and a merger which eliminates an imminent new competitor is anticompetitive. If entry into a field is relatively easy, however, there are a vast number of potential entrants and the elimination of one or a few has no effect. If entry is difficult, and only a select few firms are capable of entry and on the record likely to enter, their independence should be preserved. The identity of potential entrants should not be established by introspection. If the producer of X is truly a likely entrant into the manufacture of Y, the likelihood will have been revealed and confirmed by entrance into Y of other producers of X (here or abroad), or by the entrance of the firm into markets very similar to Y in enumerable respects.

We seriously doubt that the Antitrust Division should embark upon an active program of challenging conglomerate enterprises on the basis of nebulous fears about size and economic power. These fears should be either confirmed or dissipated, and an important contribution would be made to this resolution by an early conference on the subject. If there is a genuine securities market problem, probably new legislation is necessary. If there is a real political threat in giant mergers, then the critical dimension should be estimated. If there is no threat, the fears entertained by critics of the conglomerate enterprises should be allayed. Vigorous action on the basis of our present knowledge is not defensible.

The central task of the Antitrust Division is to preserve competition in the American economy. This is a splendid and challenging task and deserves and requires the full resources of the Division. We shall be much the losers if we compromise the discharge of this central task by burdening the Division also with tasks such as the combatting of organized crime or the achievement of general political goals.

The Use of Conferences. We have proposed that conferences be used to revise the Guidelines and to identify the problems, if any, created by the large conglomerate enterprise. The conference will allow the Antitrust Division to utilize the expertise and wide factual knowledge of economists, lawyers, securities analysts, and other groups without the laborious machinery of formal hearings. We strongly recommend that before such conferences are held, leading students and exponents of particular positions be asked to prepare position statements which present explicit and specific theories and evidence. Then the conference members will have specific questions to address and specific views to combat or support.

D. Antitrust Sanctions

The cutting edge of law is not the abstract statement of a legal duty but the sanction provided for its nonperformance, and that is true of the antitrust laws as of other systems of legal obligation. It is essential that those laws clearly and accurately define and forbid the practices that impair competition and efficiency but it is equally essential that the sanction for violation be effective in compelling compliance and with a minimum of undesirable side effects.

In testing the antitrust sanctions by this standard, it will be helpful to distinguish two purposes of sanctions: that of preventing (or, if it has already occurred, undoing) a specific violation; and that of deterring violations that might not always be detected.

Sanctions of the first type—remedial sanctions—suffice where there is no problem of detection (e.g., in the case of an illegal merger). But take the case of price-fixing. Price-fixing conspiracies can be, and one suspects are, successfully concealed. A sanction that merely prevented the continuation of the conspiracy, such as an injunction, or one that merely restored the losses of the injured consumers, such as ordinary damages, would in these circumstances probably be insufficient. For in deciding whether to comply with the law, a seller would discount the very modest (or negligible) injury to him if his participation in a price-fixing conspiracy was detected, and he was required to stop and to pay actual damages, by the considerable probability that he would escape detection altogether; and he could conclude that he had little to lose by participating. That is why punishment by fine or imprisonment is an appropriate sanction for illegal price-fixing; it provides deterrence, as the purely remedial sanction does not.

But the deterrent sanction in antitrust is weak. A price fixer can be imprisoned and fined but prison terms are almost never imposed in price-fixing cases and when they are, they are nominal in length; and the maximum fine of $50,000 will deter only a very small corporation. The possibility of a private treble-damage suit doubtless provides additional deterrent effect, but there are serious limitations: judges are reluctant to authorize damage awards that seriously hurt a company; damages are difficult to prove in price-fixing cases; and most important, the injury caused by a price-fixing conspiracy is often so widely diffused (for example, among millions of consumers) that no one has an incentive to bring a suit. The government itself can sue for damages only when it was the victim of the unlawful conspiracy.

If concealable offenses under the antitrust laws are to be effectively deterred, either the resources devoted to the detection of such offenses must be vastly augmented—and there are obvious limitations to this route—or the fines must be increased to a point where they will give even the large corporation considerable pause before participating in (or condoning its officers' individual participation in) an illegal conspiracy. Precedent for much more severe sanctions can be found abroad. The European Economic Community, for example, may impose penalties of up to $1,000,000, or, in the case of willful violations, up to 10 percent of annual sales. We have not attempted to determine the appropriate level of antitrust fines, but we urge the Department of Justice to accord high priority in its legislative program to the upward revision of these penalties.

The creation of a more realistic scheme of antitrust fines would enable a long-overdue reexamination of the punitive aspects of the private antitrust suit. It is anomalous that private plaintiffs who have done nothing to uncover or prove an antitrust violation (the usual case) should be permitted to claim treble damages on the basis of a judgment obtained by the Antitrust Division. In such circumstances, the excess over actual damages and costs represents a pure windfall to the private plaintiff. Today, one can defend this arrangement on the ground that it furnishes an element of added deterrence which is necessary in light of the inadequacy of the existing criminal fines. But that ground would be removed if the fines were revised to a more appropriate level; and a more rational scheme of deterrence would become feasible. We are also deeply concerned that private treble damage suits provide undesirable opportunities for harassment and the furtherance of a variety of anticompetitive practices.

With regard to remedial sanctions, the principal question involves the undesirable side effects that frequently accompany a poorly formulated decree. Ideally—and it is an attainable ideal—an antitrust decree should be a "one shot" affair: dissolving the monopoly, or divesting the acquired assets, or terminating the basing-point system, etc. The antitrust laws were never intended to be a system of continuing regulation. Antitrust policy has as its basic principle the preservation of a competitive environment within which individual enterprises are free from continuing supervision. When a decree says, in effect, "Let us return to the court, or give the power to the Antitrust Division, to adjudge the propriety of various behavior of the defendant for years to come," one can be sure that the suit has failed in its purpose of restoring competitive conditions. Nor is

the Department equipped to function as a regulatory agency, and it is not likely to escape that common pitfall of economic regulation, the suppression of competition. Nonetheless, such decrees are frequently entered, especially by consent of the parties in cases where the Department (or the Federal Trade Commission, to which these remarks apply with equal, if not greater, force) is unsure of its litigation prospects and wishes to salvage something from the investment of enforcement resources.

For the future, we urge that the Department adopt a firm policy of not proposing or accepting decrees that envisage a continuing, regulatory relationship with the defendant. A correlative policy that we suggest is that every decree contain a definite—and near—termination date, ordinarily no more than 10 years from the date the decree is entered. Such a principle would compel the Department to devise decrees that restore competition rather than establish regulation, as well as assure that decrees do not remain in effect long after the relevant industrial conditions have changed (such as with the 1920 decree against the meat packers).

Little is known of the extent to which a large number of past decrees are still operative, and if operative, of any real value in protecting competition. We recommend, therefore, some such procedure as this in dealing with outstanding decrees:

1. The past decrees still running should be compiled, and the types and duration of prescribed conduct summarized.

2. The current relevance of the decrees, or at least those running against large industries, should be examined—presumably by the economics section of the Antitrust Division.

3. The older (say 25 years and over) and obsolete younger decrees should be vacated.

E. Recommended Changes in Antitrust Statutes

Several legislative reforms could improve substantially the functioning of the antitrust laws. We have recommended above a substantial increase in the maximum level of fines. In addition, we recommend immediate repeal of the Expediting Act. The low quality of many Supreme Court antitrust opinions can be traced in no small measure to the fact that direct appeal frequently requires the Supreme Court to pass on an extensive record without the benefit of the winnowing and focusing process involved in an intermediate appeal. The Supreme Court itself has noted that direct appeal is unsatisfactory. If repeal is politically impossible, then an amendment that would drastically limit the number of direct appeals would be desirable.

The Webb-Pomerene Act should also be repealed. The creation of cartels in foreign commerce is antithetical to the underlying theory of the Sherman Act. The danger that exempted cooperation between competitors in the export field will lead to illegal cooperation at home is too great to be viewed as merely a potential abuse. Nothing in U.S. domestic competition policy or foreign economic policy warrants the retention of this outmoded approach to international competition.

On the agenda for long-term legislative reform must be the Robinson-Patman Act. The Act leads to rigidity in distribution patterns and to uniform, inflexible pricing. In industries with few sellers, price reductions are more likely to be made if they can be made covertly. Such limited reductions often lead over time to generally lower prices. Thus, a prohibition against price discrimination may preclude the kind of competition that is most likely to lead to lower prices in oligopolistic industries. We view the Federal Trade Commission's tendency in recent times to relax the enforcement of the Act as a desirable but, so long as private treble damage actions are available, an inadequate reform.

In reforming the Robinson-Patman Act, two kinds of amendment are desirable. First, the general prohibition against price discrimination in Section 2(a) should be made more supple by broadening the meeting competition and cost justification defenses so as to make them more readily available for sellers whose price differentials do not stem from a predatory purpose and do not injure competition in the market place (as opposed to disadvantaging individual firms. Second, the more absolutist brokerage, payments and services prohibitions of subsections (c), (d) and (e) should be repealed while making clear that the standards of amended subsection (a) remain applicable to practices that would previously have been treated under those repealed subsections. The Task Force recognizes the political support that the Robinson-Patman Act retains in some quarters and the danger that an attempt to amend the Act might give particular interests an opportunity to add even more restrictive provisions. As a consequence, some of our members view amendment of the Act as a long-term, albeit important, reform; others wish to leave it alone.

[From the New York Times, May 22, 1969]

TRUST-LAW SHIFT URGED

(By Eileen Shanahan)

WASHINGTON, May 21.—Radical changes in the anti-trust laws that would permit the Government to break up large companies that dominate an industry have been recommended by a group of noted lawyers and economists. They were appointed by President Johnson to study the antitrust laws.

The report of the Johnson task force, which was made public today by the Justice Department also recommends legislation spelling out just what kinds of acquisitions may and may not be permitted by the large, widely diversified companies known as conglomerates.

Briefly, this portion of the report proposes that an acquisition by a conglomerate of a company that is among the top four in its industry would be prohibited but that an acquisition of a nondominant company would not be.

If the standards covering conglomerate mergers, as set forth in the task force's report, were enacted into law, some mergers that have recently been attacked by the Justice Department would be legal.

Other recommendations of the task force include a considerable relaxation of the prohibitions against price discrimination contained in the Robinson-Patman Act and considerable tightening of the rules concerning patent licensing.

The task force also proposed a number of other changes in the antitrust laws, including establishment of a 10-year limit on the ability of the Government to undo old mergers.

The task force, which was headed by Prof. Phil C. Neal of the University of Chicago Law School, was appointed by President Johnson in December, 1967, and made its report to him in July, 1968.

For reasons that have never been explained, Mr. Johnson refused to let the report be made public. It was made public today by the Justice Department with the specific concurrence of President Nixon. Richard W. McLaren, head of the Justice Department's anti-trust division, said that publication of the report "is not in any sense an official endorsement of it in whole or in part but is simply designed to make the report available for study and comment."

DIVERSE VIEWPOINTS

Despite Mr. McLaren's disclaimer, it seems likely that the report will have considerable influence, largely because of prestige of the task force members, who appeared to have been carefully chosen to represent all viewpoints.

Among the 12 members of the task force, there was only one who dissented from virtually all the major recommendations of the report. That was Prof. Robert H. Bork of Yale, who has long been known as an advocate of almost complete freedom to merge.

More limited dissents were registered by Paul W. MacAvoy, a professor of economics at Stanford and Richard E. Sherwood, who is in private law practice in Los Angeles.

The leading companies in the automobile, steel, computer and many other industries would have to be split up if the proposals of the task force to break up oligopolies were adopted.

The task force defines an oligopolistic industry (one dominated by a few companies) as one in which four companies have at least 70 per cent of the market.

VOLUNTARY STEPS

If such concentration is found to exist, after investigation by the Justice Department and the Federal Trade Commission, the oligopoly companies would be given a year to take voluntary steps—such as selling off assets—to reduce their degree of economic power, under the task force's proposal.

If adequate voluntary action is not taken, the Government could then order steps, to be completed within four years, to reduce the market share of the oligopoly companies to a maximum of 12 per cent each.

Divestiture would not be the only permissible means of reducing market shares, although the task force indicated it would probably be the most common one.

But if an adequate reduction of concentration could be achieved through liberalized licensing arrangements or changes in contracts (presumably including Government contracts) then this would be permitted.

As has been the case under present antitrust laws, the standards the task force would set up for disapproval of new mergers would be stricter than those for breaking up old companies.

There would be several different tests for the legality of new mergers—which would actually cover acquisitions by any large company and not just by conglomerates.

First of all, the acquiring company would have to have sales of $500-million or assets of more than $250-million for its acquisition of a "leading company" in an industry to be prohibited.

A "leading company" is defined as one of the top four in an industry in which the top four companies have at least 50 per cent of the market. To meet the definition of "leading company" the concern in question would also have to have more than 10 per cent of the market and the market itself would have to involve sales of more than $100-million.

Under these tests, the Justice Department would not have been able to bring two of the three cases against conglomerate mergers that have been brought since the Nixon Administration came into power.

The acquisition of the Jones & Laughlin Steel Corporation by Ling-Temco-Vought, Inc., would be legal under the task force proposals, because J. & L. ranks only sixth in the steel industry.

The acquisition of the Canteen Corporation by the International Telephone and Telegraph Corporation also would probably be legal under the task force proposals because the top four companies in the food-vending market do not have 50 per cent of the market, nor do they in the narrower market line of in-plant feeding.

It appeared at first glance, however, that today's suit challenging the acquisition of the B. F. Goodrich Company by Northwest Industries, Inc. would still be possible, even if the task force proposals were written into law.

As for the Robinson-Patman Act, the task force proposed that no discriminations in

price between different customers be considered illegally unless they (1) were systematic and part of a pattern of favoring larger customers, or (2) threatened the elimination of a "significant" competitor, or (3) involved discrimination of a geographical basis with sales below cost in some areas—the type of price discrimination by chain groceries that led to adoption of the Robinson-Patman Act in the first place.

The major proposal of the task force dealing with patents provides that, "if the patentee chooses to license others rather than exploiting the patent himself, he shall make such licenses available on nondiscriminatory terms to as many competitors as may desire it."

The task force would also require publication of all patent license agreements and would ban enforcement of a patent against some infringers if the patent owner has not taken "reasonable steps" to enforce the patent against others.

[From Business Week, May 24, 1969]

THE SWITCH ON MERGERS: REPORT OF PANEL PICKED BY JOHNSON RUNS COUNTER TO NEW TACK ON CONGLOMERATES

President Nixon's chief antitruster, Richard W. McLaren, performed the unpleasant job this week of releasing a Johnson Administration task force report on the antitrust laws that was weak where he has been emphatically strong—but strong where he has been quietly weak.

The report, written last summer by a blue-ribbon panel of lawyers and economists headed by Dean Phil C. Neal of the University of Chicago Law School, was implicitly critical of the attack on conglomerates that got under way as soon as McLaren took office.

Using the argument that the giant diversified companies are dangerously increasing industrial concentration, the Justice Dept.'s Antitrust Div. has sued Ling-Temco-Vought, International Telephone & Telegraph, and this week Northwest Industries. The Neal group pointedly warned that any attack on conglomerates through the existing Clayton Act would have to be through a "contrived interpretation."

The Neal task force also proposed a major change in the patent laws to require equal treatment of licensees and rewriting of the Robinson-Patman Act.

It was only after a lot of public—and private—heat was applied that the Neal report saw the light of day. President Johnson ordered it early last year, during a short burst of public controversy about conglomerates. Delivered to the lameduck President in June, it was confined to the dustbin until it was picked up as a weapon by opponents of the Justice Dept.'s new look at conglomerates.

The last bit of pressure came from LTV's James J. Ling, whose company was selected as McLaren's first test case. Sitting on the same panel with the Republican head of the Antitrust Div. on Wednesday, Ling talked of a "still secret" report that would "exonerate the conglomerate movement of any monopolistic tendencies." He demanded that the report be released. Without comment, the Justice Dept. complied later in the day, handing out Xeroxed copies to reporters.

Alternative. Actually, the Neal group was not all that concerned with defending the conglomerate movement—or James Ling. Its real disagreement was only over whether existing law covered diversified mergers. Denying that the Clayton Act was adequate, it suggested that Congress draft a new law barring any company with assets of more than $250-million from acquiring any market leader in a concentrated industry, where four companies have more than 50% of the business.

The panel also urged Congress to write new legislation that would eventually lead to the breaking up of big companies in highly concentrated industries such as autos, flat glass, tobacco, and organic chemicals. The proposed law would allow courts to declare that an "oligopoly" existed in any industry where four companies accounted for more than 70% of sales. In such a case the companies would be given one year to reduce their share (presumably by spin-offs) to no more than 12%. If they did not do so voluntarily, the government could get a court order directing the required action within four years.

This is just the sort of head-on attack on oligopoly that McLaren's Democratic predecessors dreamed of—and occasionally proposed. But so far McLaren has viewed such a campaign as too disruptive even to be talked about.

[From the Washington (D.C.) Post, May 23, 1969]

CAUTION URGED WITH MERGERS

(By Morton Mintz)

A Nixon Administration task force report on competition warns against vigorous action on conglomerate mergers because of inadequate knowledge about them.

This finding runs counter to the policy of the Justice Department. Backed by Attorney General John N. Mitchell, Richard W. McLaren, Assistant Attorney General in charge of the Antitrust Division, has filed three suits to break up major conglomerate mergers.

A member of the task force said yesterday that the report is "ill-suited to the tastes of McLaren and Mitchell." McLaren had no comment and declined—at least temporarily—to release the report.

The head of the task force—seven professors of law and economics and two business executives—was University of Chicago economist George J. Stigler. The group was appointed in January by then President-elect Nixon and submitted its report in March.

A member of the task force, asking not to be named, noted that the unit called for an immediate study of the financial operations of conglomerates in securities markets.

In a 10-month-old report released by the Justice Department Wednesday, a Johnson Administration task force staked out a different position on conglomerates—one intended to make acquisitions by these large diversified corporations consistently procompetitive.

The recommendation of the Johnson advisers: a law to prevent any large firm from acquiring any leading company in an industry in which four leaders have half or more of the market.

The Nixon task force members reached yesterday confirmed one publication's account of additional differences between the views of most of his colleagues and the Justice Department:

ORGANIZED CRIME

In an interview last Friday, McLaren said that steps have been taken to use the antitrust laws against "strong-arm" business methods—an idea McLaren and Mitchell discussed at their first meeting in January in New York City. But the Nixon task force said the Antitrust Division should not be responsible for tasks such as "combating organized crime or the achievement of general political goals."

MERGER GUIDELINES

These were promulgated late in the Johnson Administration. McLaren said that he uses them, and hopes to enlarge them with "more specifics." But the Stigler group called them "extraordinarily stringent, and in some respects indefensible."

But the Stigler unit and McLaren agree on other points. Both want criminal antitrust penalties sharply increased from the present $50,000, for example. Both are concerned about ways to make regulatory agencies stimulate competition in the industries in their jurisdiction (the task force said that insofar as trucking is concerned, there is "no respectable case for economic regulation").

The most controversial recommendation of the Johnson consultants was for a law to attack existing industrial concentration by forcing "oligopoly" firms to reduce their share of the market to a maximum of 12 per cent. The Nixon advisers want no such legislation—or, for that matter, use of existing laws to dissolve dominant firms such as General Motors. McLaren, in the interview, indicated that his views were along similar lines.

[From the Wall Street Journal, May 23, 1969]

STUDY OF CONGLOMERATES FOR NIXON URGES NO ANTITRUST SUITS TO BAR THEIR MERGERS

(By Louis M. Kohlmeier)

WASHINGTON.—The growing conglomeration of antitrust studies of conglomerates includes a secret one made for President Nixon soon after his election last fall.

The Nixon study is thinner and less formal than most, but, like the others that have been finished thus far, it hasn't made any perceptible impression on its intended beneficiaries.

A major recommendation is that the Justice Department not sue to prevent conglomerate mergers—meaning those of companies that aren't competitors. "Vigorous action on the basis of our present knowledge is not defensible," the study asserts.

But Richard W. McLaren, the Chicago lawyer Mr. Nixon picked to head the Justice Department's Antitrust Division, has undertaken a crusade against large conglomerates, filing suits to stop them from taking over companies that are leaders in their industries. His targets have been among the nation's largest conglomerates—Ling-Temco-Vought Inc., International Telephone & Telegraph Corp. and Northwest Industries Inc.

PRESENT LAW SEEN SUFFICIENT

Mr. McLaren is trying to prove that big conglomerate mergers can be dealt with under existing antitrust law and thus there isn't any reason for Congress to enact a new law. His suits have been approved by his boss, Attorney General Mitchell, and Mr. Mitchell is perhaps closer to the President than anyone else in the Nixon Administration.

The Nixon study wasn't released by the Justice Department. The department's public information office confirmed yesterday that such a study had been made, but refused to release it, although the same office the day before had released the antitrust study that had been prepared last year for President Johnson, which he had kept secret.

The public information office defended its secrecy on the Nixon report by saying that it was more informal than the Johnson study and was written to be read in confidence by Nixon Administration officials.

Details of the study were confirmed elsewhere.

Both the Nixon and Johnson studies were headed by University of Chicago academicians. But there are differences between the two. George J. Stigler, University of Chicago Law School professor who headed the Nixon group, is generally regarded as a conservative on antitrust matters. Phil C. Neal, dean of the same school, headed the Johnson group and has a more liberal reputation.

The other members of the Nixon group were six professors of law or economics and two industry executives—R. H. Mulford, president of Owens-Illinois Inc., and Alexander L. Stott, vice president of American Telephone & Telegraph Co. The 11 other members of the Johnson group were professors or practicing lawyers.

On conglomerate mergers, the Nixon study group says "we seriously doubt that the Antitrust Division should embark upon an active program of challenging conglomerate enterprises on the basis of nebulous fears about size and economic power."

It also says antitrust laws shouldn't be used to combat "social problems," organized crime" or for the "achievement of general political goals." Attorney General Mitchell has suggested using such laws to break up syndicated gambling rings and other operations of organized crime.

The Nixon task force is critical of the Federal regulatory agencies, which control private industries that in general are exempt from antitrust laws. It takes the agencies to task for "excessive rigidity, expensive review of economically trivial details and frequent failure to achieve any important results." And it criticizes them for using their licensing powers to restrict entry into regulated industries and for restricting price and rate competition in the airline, railroad and other industries.

The study singles out the Interstate Commerce Commission's regulation of the trucking industry, saying "there is no respectable case for economic regulation" of trucking.

It also criticizes the Federal Trade Commission, saying its "overzealous enforcement of consumer-protection" laws hasn't helped consumers so much as it has protected some small businessmen. The criticism apparently relates to the FTC's enforcement of the Robinson-Patman Act which bars manufacturers from giving price discounts to big customers unless the discounts and other allowances also are made available to small retailers.

COMPARISON OF STUDIES

The Nixon group doesn't recommend any new legislation or the use of present antitrust laws to attack large companies in highly concentrated industries where a handful of corporations have the lion's share of total sales.

The Johnson group advocated a new Concentrated Industries Act to break up companies in "oligopoly industries" where four or fewer companies account for 70% or more of total industry sales. That group also proposed a new Merger Act to prevent large conglomerate companies from acquiring big corporations in concentrated industries.

President Johnson didn't propose any such laws to Congress and didn't disclose that they had been recommended. President Nixon has remained silent about his task force's report as his antitrust chief has attacked large conglomerate acquisitions.

A third antitrust study was recently completed by the antitrust section of the American Bar Association. It's a formal and voluminous document that brings antitrust laws up to date by tracing and explaining court interpretations of those laws in recent years. It doesn't contain recommendations, however.

CONGRESS TO USE REPORTS

All three reports will become part of the antitrust literature that Congressional committees will use later this year when they begin hearings on what, if any, new legislation is needed to deal with conglomerates and concentration.

In addition, Congress by September will have the benefit of at least two other studies. The FTC is studying conglomerate mergers. And the American Bar Association is studying the FTC, at President Nixon's request.

The House Antitrust subcommittee is making its own study of conglomerates, and also is awaiting the FTC's study. The Senate Antitrust subcommittee, which already has held lengthy hearings on concentration and conglomerates, is awaiting the FTC report too.

[From Newsweek, June 2, 1969]

ANTITRUST: "LET'S TURN IT LOOSE"

For months there had been talk in conglomerate circles of a secret antitrust report prepared for President Johnson by a blue-ribbon task force of professors and lawyers under the direction of Phil C. Neal, dean of the University of Chicago Law School. The report, kept secret by the Johnson Administration, was said to recommend concentration of the Justice Department's fire on such giants as General Motors rather than on conglomerate mergers. In effect, it was rumored, the report would undercut the anti-conglomerate stand of President Nixon's antitrust chief, Richard W. McLaren.

Last week, almost a year after it had been submitted to the White House, the task force's report was made public—at the specific behest of McLaren himself, who went to Mr. Nixon and said, "Let's turn it loose."

The report's main target proved indeed to be the giants of what it called the "oligopolistic" industries, those where "monopoly power is shared by a few very large firms." It proposed a Concentrated Industries Act that would require divestiture of interests by companies dominating such fields as autos, steel and computers. In short, its message was break up GM, not Litton or Ling-Temco-Vought.

THE TERMS

But the conglomerates were by no means let off—certainly not to the extent they had hoped. The report recommended a second law, the Merger Act, that would prohibit the acquisition by "large" companies (i.e., with sales of more than $500 million or assets of more than $250 million) of "leading companies" in their field. Even so, the task force took a more lenient view of conglomerate mergers than McLaren has put on the record. "An active merger market," it said, "suggests a healthy fluidity in the movement of resources and management in the economy toward their more effective utilization." (Another, still-secret Presidential study apparently supports conglomerates even more forcefully.) Furthermore, the Neal study's proposed legislation—should it ever be enacted—would apparently invalidate the two major cases McLaren had already launched, one against the acquisition of Jones & Laughlin Steel by Ling-Temco, the other against the acquisition of the Canteen Corp. by the International Telephone and Telegraph Corp. Neither J&L, the sixth-largest steelmaker, nor Canteen, a food vendor, would meet the report's strict definition of what constitutes a "leading company."

Why had McLaren urged release of a report that, however musty and academic, could only make his life more difficult? McLaren's answer, as he put it in a cover letter transmitting the report to Congress, was that its publication "is simply designed to make the report available for study and comment." It was not, he took pains to point out, "in any sense an official endorsement" of the report. Certainly it was putting no brakes on McLaren's own merger-challenging course. On the same day the report was made public, his antitrust division took its third major anti-conglomerate action with the filing of a suit, in Chicago, to prevent the bitterly contested take-over by Northwest Industries, Inc., of B. F. Goodrich Co.

[From Automotive News, June 9, 1969]

NIXON TASK FORCE WRITES ITS OWN ANTITRUST REPORT—DIFFERENT VIEW TAKEN ON HOW TO HANDLE U.S. AUTO INDUSTRY

(By Helen Kahn)

WASHINGTON.—This is the season for antitrust reports. Two weeks ago, a study made by a Johnson Administration Task Force was released, but not endorsed, by the Nixon Administration.

Now comes the report of the Nixon Administration's own Task Force on antitrust matters.

Similar, but not identical, ground is covered in both. A major point of agreement is the need to revise the Robinson-Patman Act. A major disagreement is how to handle an oligopolistic industry like the auto industry.

The Johnson group suggested legislation drastic enough to break up each of the Big Three auto companies.

The Nixon Task Force suggests "unremitting scrutiny," but it favors proceeding under present law where pricing is found to be substantially noncompetitive and where collusion can be inferred.

The Johnson Task Force was headed by Phil C. Neal, dean of the University of Chicago Law School, and was composed of lawyers and economists.

The Nixon Task Force was headed by George J. Stigler, economics professor at the University of Chicago. It was made up of lawyers and economists plus two businessmen—one from Owens-Illinois Glass Co. and one from American Telephone & Telegraph.

The Neal report (Johnson) runs 200 pages. The Stigler report (Nixon) runs 28 pages. The opinions in both reports are expected to be aired in congressional hearings.

In addition to the recommendations to leave antitrust action against highly concentrated industries to collusive behavior under the Sherman Act, the following are the major recommendations of the Stigler report:

Issuance by the President of a general policy statement "(a) establishing the antitrust division as the effective agent of the administration in behalf of a policy of competition within the councils of the administration and before the independent regulatory commissions; (b) urging those commissions to enlarge the role of competition in their industries;

(c) marshaling public support for the policy of competition.

Urging of commissions to permit free entry into regulated industries and where possible to abandon minimum rate controls.

Urging the attorney general and the antitrust chief to make sure that every antitrust suit make good economic sense and to start semi-public conferences to make and oversee enforcement guidelines.

Closer liaison between the Justice Department and the Federal Trade Commission at the highest levels.

Bringing a series of strategic cases against regional price fixing where the Stigler group believes conspiracies are "numerous and economically important."

Making changes in the present Justice Department merger guidelines which are described as "extraordinarily stringent and in some respects indefensible."

Recommending against any action against conglomerate mergers and conglomerate enterprises, pending more information, and urging the Justice Department to "resist the natural temptation to utilize the antitrust laws to combat social problems not related to the competitive functioning of markets."

(EDITOR'S NOTE: New Antitrust Chief Richard McLaren has already taken action against three conglomerate mergers.)

New legislation to increase the fines for price fixing.

A new policy for antitrust decrees: Not seeking the entry of regulatory decrees; almost always using decrees with a termination date of not more than 10 years, and reviewing decrees to see which should be vacated as obsolete or inappropriate.

Repealing the Webb-Pomperene and the Expediting Acts.

Substantially revising the Robinson-Patman Act.

Although the Stigler report does not call for mandatory dissolution of companies in highly concentrated industries (as does the Neal report), neither does it play down the problems of oligopoly.

In fact, the Stigler report calls the problems of oligopoly the "most difficult ones" in a policy for competition.

The report gives three reasons for this: The first, described as "factual," is that there are many important industries that are oligopolistic.

The second, described as "interpretive," is that "economists have not succeeded in fully identifying the characteristics of an

industry which determine whether it will behave competitively or monopolistically."

The third, described as a "matter of action," is "if firms in an oligopolistic industry are convicted of collusive behavior, must one press for a remedy so radical as dissolution in order to stop future repetitions of the offense? (And should the standards of permissible concentration be wholly different for pending mergers than for established enterprises?)"

The Stigler report lists circumstances which determine whether the companies in an oligopolistic industry behave more or less competitively.

"The easier new firms can enter the industry, the smaller and more short-lived will be the monopolistic restrictions."

"The more elastic the demand for the product of the oligopolistic industry, the less the reward from restrictions of output below the competitive level, and hence the less the inducements to act collusively. This in turn usually depends upon what alternative products the buyers may turn to."

"The larger the effective number of firms the less the probability of collusive behavior . . ."

Another factor suggested by the Stigler group as "probably but less certainly" affecting the probability of competitive behavior is the size of buyers, since larger buyers make for more competitive behavior.

The Stigler group believes that although concentration may be a "significant factor" in profitability, it is not a "major determinant."

The Task Force believes that "somewhere between five and ten effective rivals (i.e., a largest firm with a share of ⅓ to ⅛) are usually enough to insure substantial elimination of the influence of concentration upon profitability."

The Stigler group cannot go along with proposals to break up oligopolies by dissolving the leading firms because the "correlation between concentration and profitability is weak, and many factors besides the number of firms in a market appear to be relevant to the competitiveness of their behavior."

Nevertheless, the Task Force counsels a "policy of strict and unremitting scrutiny" for oligopolies. If after a careful investigation, pricing is found to be "substantially noncompetitive," then it thinks there are grounds for proceeding under the Sherman Act.

The Robinson-Patman Act is put on the agenda for long-term legislative reform by the Stigler group on grounds that it "leads to rigidity in distribution patterns and to uniform, inflexible pricing."

The Stigler group thus joins the Neal group of the Johnson administration in calling for changes. The two panels agree that limited price reductions may lead over time to generally lower prices.

The Stigler groups feels that a "prohibition against price discrimination may preclude the kind of competition that is most likely to lead to lower prices in oligopolistic industries."

The Stigler report suggests two kinds of changes in the R–P act:

1. Making the general ban against price discrimination in Section 2–A more "supple by broadening the meeting-competition and cost-justification defenses so as to make them more readily available for sellers whose price differentials do not stem from a predatory purpose and do not injure competition in the marketplace (as opposed to disadvantaging individual firms)."

2. Repealing subsection C, D and E while making clear that standards of the amended Section A apply to practices which would have been handled under the repealed sections.

The Stigler group "recognizes the political support" the R–P Act has and the danger that trying to change it might give some interests a chance to add even more restrictive provisions. That is why some members of the Task Force want change to be a long-term reform and others wish to leave it alone.

The Federal Trade Commission—still reeling from the body blows by Ralph Nader's Ivy League law students—comes in for some sharp criticism from the Stigler panel.

"Unhappily," said the Stigler group, "little that the commission undertakes in the antitrust area can be defended in terms of the objective of maintaining and strengthening a competitive economy."

As an example, it slaps FTC actions against companies for predatory pricing. It accuses FTC of never properly distinguishing between price differences and price discriminations.

Although the Stigler group finds some improvement over the last eight years—helped by reviewing courts—it believes that FTC still brings many cases that impair, rather than promote, competition and efficiency.

The Stigler panel "can conceive of no case of discrimination in which the Sherman Act would not provide an adequate remedy," and so it views the enforcement of the R–P Act as "inherently likely to be pushed beyond proper limits."

FTC's efforts "to protect small dealers from allegedly unfair and coercive business practices constitute a dark chapter in the commission's history," according to the report.

Much is not even formal proceedings, complains the Stigler panel.

According to the Stigler group, the small dealer, no matter for what reason he is terminated, complains to FTC knowing of its bias for small business, and FTC uses the threat of a proceeding to "get the supplier to reinstate the dealer, and if threats fail—usually they succeed—the FTC may file a complaint charging the supplier with having cut off the dealer because he was a price cutter, or for some other nefarious reason."

The report added: "Our impression, in sum, is that the commission, especially at the informal level, has evolved an effective law of dealer protection that is unrelated and often contrary to the objectives of the antitrust laws."

Further, the Stigler report asserts, FTC is even more severe in its merger policy than the Justice Department, and it concludes that "substantial retrenchment" by FTC in the antitrust field is "highly desirable."

The Stigler group feels FTC resources might be redeployed into two possible areas—consumer protection and economic studies—but it adds: "Unhappily, either route could be followed in such a way that endangered competition. . . ."

Although FTC needs "basic reform," the Stigler panel admits it will be hard to do, partly because the President would run up against the tradition of regarding the commission as an "arm of Congress."

Because of likely opposition on the Hill to reforming FTC, the panel suggests for the short-run closer cooperation between the Justice Department and FTC on the highest levels with the hope that FTC will pay some attention to the department's view of what it should do on antitrust and trade-regulation matters.

[From Antitrust and Trade Regulation Report, June 10, 1969]

NIXON TASK FORCE DISAGREES WITH PRESENT AND PAST ADMINISTRATIONS' MERGER POLICIES

Unable to agree with either the Johnson Administration's merger guidelines or the present Administration's policy toward conglomerates, the Nixon Task Force on Productivity and Competition does recommend sweeping reform of present antitrust laws. Everything from the Expediting Act to price-fixing, Webb-Pomerene, Robinson-Patman, and consent decrees were touched upon by the Task Force.

The Nixon Task Force made the following recommendations:

1. That the Department of Justice decline to undertake a program of action against conglomerate mergers and conglomerate enterprises, pending a conference to gather information and opinion on the economic effects of the conglomerate phenomenon. More broadly, the Department should resist the "natural temptation to utilize the antitrust laws to combat social problems not related to the competitive functioning of markets."

2. That the Department of Justice maintain "unremitting scrutiny of highly oligopolistic industries" and proceed under Section 1 of the Sherman Act in instances where pricing is found to be substantially noncompetitive. The Task Force does not endorse proposals, whether by new legislation or new interpretations of existing law, to deconcentrate highly concentrated industries by dissolving their leading firms.

3. That a number of revisions be made in the Department of Justice Merger Guidelines which are "extraordinarily stringent, and in some respects indefensible."

4. That the Robinson-Patman Act be substantially revised and that the Expediting and Webb-Pomerene Acts be repealed.

5. That a new policy for antitrust degrees be promulgated. The Department of Justice should "not seek the entry of regulatory decrees: Decrees that envisage a continuing relationship with the defendant. Save in exceptional circumstances, all decrees should contain a near termination date, ordinarily no more than 10 years from the date of entry. And the Department should undertake a review of existing decrees to determine which should be vacated as obsolete or inappropriate."

6. That new legislation be passed to increase the monetary penalties for price-fixing.

7. That the Department of Justice bring a series of strategic cases against regional price-fixing conspiracies, which "we believe to be numerous and economically important."

8. That the Department of Justice establish close liaison with the Federal Trade Commission at the highest levels, with a view toward fostering a harmonious policy of business regulation.

9. That substantial retrenchment by the Federal Trade Commission in the antitrust field is highly desirable. In addition to retrenchment, its resources devoted to regulating competition might be redeployed. "The two principal possibilities are (1) consumer protection and (2) economic studies utilizing the very broad fact-gathering powers vested in the Commission by its enabling legislation. Unhappily, either route could be followed in a way that endangered competition. Overzealous enforcement of consumer-protection legislation can also have errant results. The Federal Trade Commission urgently needs a basic reform."

10. That the Attorney General and the Assistant Attorney General in Charge of Antitrust insist that every antitrust suit make good economic sense, and institute semi-public conferences to assist in the formulation and reevaluation of enforcement guidelines.

11. That regulatory commissions permit free entry in the industries under regulation and abandon minimum rate controls, whenever these steps are possible and that the President appoint at least one economist to membership in each of the major commissions, and institute effective procedures for the review of the performance of the commissions.

12. That the President issue a general policy statement (a) establishing the Antitrust Division as the effective agent of the Administration in behalf of a policy of com-

petition within the councils of the Administration and before the independent regulatory commissions; (b) urging those commissions to enlarge the role of competition in their industries; (c) marshaling public support for the policy of competition.

Many similar suggestions were made in a Neal Report released (p. A–1, ATRR No. 411, 5/27/69) late last month. Both reports agreed upon the need to revise the Robinson-Patman Act and the need for improvement in the quality and enforcement of the antitrust laws. But each went its separate way on the conglomerate and oligopolistic industry problems. The "Neal" Report recommended enactment of legislation to supplement Section 7 of the Clayton Act to prevent some possibly anticompetitive mergers which might go unchallenged because of the difficulty of applying Section 7 standards, Also, the "Neal" group recommended legislation that would employ established techniques of divestiture to reduce concentration in industries where monopoly power is shared by a few large firms.

Members of the Task Force on Productivity and Competition were: George J. Stigler, Chairman; Ward S. Bowman, Jr.; Ronald H. Coase; Roger S. Cramton; Kenneth W. Dam; Raymon H. Mulford; Richard A. Posner; Peter O. Steiner; and Alexander L. Scott. Mr. Mulford and Mr. Scott dissented from some of the report.

INTEREST RATES

Mr. BYRD of Virginia. Mr. President, in November of 1968 commercial bank prime interest rates were 6½ percent.

Today—only 7 months later—prime interest charges have reached the astonishing figure of 8½ percent.

I am not an expert of high finance and do not pretend to be.

I did, however, seek from the Office of Debt Analysis of the Office of the Secretary of the Treasury the amount of short-term Government bonds that have been issued in recent months.

I find that during the short period from October 24, 1968, to February 15, 1969, the Government sold $23.4 billion in short-term bonds.

In other words, the Government itself, in a period of less than 4 months, took out of the money market $23.4 billion. Thus, there was that much less money available to meet private demand.

So following the law of supply and demand, the interest rates have gone up.

As I see it, the effective way to tackle the question of high interest rates, as well as the effective way to tackle the Government's own financial problem—is to reduce Federal spending.

During the past 8 years Federal spending has doubled.

I ask unanimous consent to have printed at this point in the RECORD three tables, each of which I obtained on June 9, 1969, from the Office of Debt Analysis of the Office of the Secretary of the Treasury.

One table is the Commercial Bank prime rate changes, 1968–69.

The next table is U.S. Treasury short-term coupon issues, 1968–69.

The third table is U.S. Treasury tax anticipation bill offerings, 1968–69.

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

COMMERCIAL BANK PRIME RATE CHANGES 1968–69

[In percent]

Effective date of change	From—	To—
1968:		
Apr. 19	6	6½
Sept. 25	6½	6¼–6
Nov. 13	6¼–6	6¼
Dec. 2	6¼	6½
Dec. 18	6½	6¾
1969:		
Jan. 7	6¾	7
Mar. 17	7	7½
June 9	7½	8½

U.S. TREASURY SHORT-TERM COUPON ISSUES 1968–69

Date of issue	Maturity date	Amount issued (billions)	Coupon rate (percent)	Effective rate [1] (percent)
Feb. 21, 1968	May 15, 1969	$4.3	5⅝	
May 15, 1968	Aug. 15, 1969	3.4	6	
Nov. 15, 1968	May 15, 1970	7.8	5⅝	5.73
Feb. 15, 1969	do	8.8	6⅜	6.42
May 15, 1969	Aug. 15, 1970	2.3	6⅜	6.42

[1] Issued at a discount.

U.S. TREASURY TAX ANTICIPATION BILL OFFERINGS 1968–69

Date of issue	Maturity date	Amount issued (billions)	Bank discount rate (percent)	Coupon equivalent yield (percent)
Jan. 15, 1968	June 24, 1968	$2.5	5.058	5.26
July 11, 1968	Mar. 24, 1969	2.0	4.399	5.65
Do	Apr. 22, 1969	2.0	5.426	5.69
Oct. 24, 1968	June 23, 1969	3.0	5.178	5.40
Dec. 2, 1968	do	2.0	5.489	5.73
Jan. 20, 1969	do	1.8	5.940	6.18

NEWSPAPER PRESERVATION ACT

Mr. INOUYE. Mr. President, on March 12, 1969, together with 24 other Senators, I introduced S. 1520, the proposed Newspaper Preservation Act. Since then, eight additional Senators have become cosponsors of this important piece of legislation, so that today there are 33 sponsors in the Senate. There are also approximately 100 sponsors of identical bills in the House of Representatives. I have this day submitted a statement to the Subcommittee on Antitrust and Monopoly on behalf of my bill and wish now to make available for the RECORD the gist of my remarks to the subcommittee.

During the 90th Congress, I had cosponsored, with 14 Senators, S. 1312, which was introduced by former Senator Carl Hayden. S. 1312 was the subject of 21 days of hearings by the Subcommittee on Antitrust and Monopoly. These hearings are contained in seven volumes of testimony and exhibits. At the close of hearings, to meet major criticisms of the original bill, Senator Hayden provided the subcommittee with an amended version of the bill. The subcommittee favorably reported S. 1312, as amended, to the full Committee on the Judiciary, but it was too late in the session for the full committee to act.

S. 1520 is identical to the bill reported favorably by the Subcommittee on Antitrust and Monopoly last year. The subcommittee has now scheduled 3 more days of hearings on this measure for June 12, 13, and 20.

Before these hearings take place, I want to place in the RECORD the reasons why 33 Senators agreed to sponsor the bill and to meet the remaining criticism and objections.

I shall not belabor the Senate with a history of newspaper economics in the 20th century. As I noted a moment ago, seven volumes of hearings held last year cover the subject in detail. Suffice to say that commencing around 1909, a trend emerged which resulted in the disappearance—through suspension of publication or merger—of a great number of metropolitan newspapers. Whereas, in 1909, there were 689 cities in the United States with two or more newspapers competing commercially and editorially, in 1968 this number had been drastically reduced to some 45 with commercial and editorial competition, and another 22 where there is only editorial and news competition.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a table which graphically demonstrates the decline in such competition. This table was included in the amicus curiae brief of the American Newspaper Publishers Association submitted to the U.S. Supreme Court in Citizen Publishing Co. against United States.

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

TRENDS IN OWNERSHIP OF ENGLISH-LANGUAGE DAILIES OF GENERAL CIRCULATION AND CONTENT IN THE UNITED STATES 1880–1968 [1]

	1880	1909–10	1920	1930	1940	1945	1961	1968
Circulation (thousands)	3,093	22,426	27,791	39,589	41,132	45,955	58,080	61,561
Total dailies	850	2,202	2,042	1,942	1,878	1,744	1,763	1,749
Total daily cities	389	1,207	1,295	1,402	1,426	1,396	1,461	1,500
A. 1-daily cities	149	509	716	1,002	1,092	1,107	1,222	1,284
Percent of total	38.3	42.2	55.3	71.5	76.6	79.3	83.6	85.6
B. 1-combination cities	1	9	27	112	149	161	160	[2] 150
C. Joint-operation cities					4	11	18	[3] 22
Total, lines A, B, C	150	518	743	1,114	1,254	1,279	1,400	1,455
Percent of total	38.6	42.9	57.4	79.4	87.3	91.6	95.8	97.0
Cities with 2 or more commercially competing dailies	239	689	552	288	181	117	61	45

[1] Sources: Figures from 1945 to 1968 from Editor & Publisher International Year Book for years covered, with only minor corrections. Sources for earlier years are give in Raymond B. Nixon, "Trends in Daily Newspaper Ownership Since 1945," Journalism Quarterly, 31:7 (Winter 1954).

[2] Each of the 150 combinations consists of a morning and an evening paper under single-ownership except for 2 small Indiana cities, where a single owner publishes 2 evening papers, 1 Democratic and 1 Republican.

[3] Each of these 21 joint operations consists of a morning and an evening paper in the same city. There also is a joint operation between dailies in Franklin and Oil City, Pa.

Mr. INOUYE. Mr. President, the cause of this trend can be found in the economics of newspaper publication. There simply was, and is, not enough advertising and circulation revenue available in most central city markets to support

commercially competing newspapers. In addition to increasing costs for equipment, newsprint, and labor, the competition from other media—including radio, television, magazines with regional editions, and weekly "shoppers"—giveaway papers—has resulted in losses of advertising revenues with disastrous effects upon core city newspapers.

In an endeavor to survive, 44 newspapers, located in some 22 cities, entered into agency or joint newspaper operating agreements. In each of these arrangements it would appear from the record that at least one of the papers was losing money and in danger of going out of business. The joint newspaper arrangements may vary in details, but all effectively merge most or all of the commercial functions, while maintaining separate and competing news and editorial departments.

The first joint operating arrangement was adopted by the newspapers in Albuquerque, N. Mex., in 1933. Newspapers in 21 other cities have since adopted similar arrangements. The cities with such arrangements and the dates when they were entered into are:

Albuquerque, N. Mex	1933
El Paso, Tex	1936
Nashville, Tenn	1937
Evansville, Ind	1938
Tucson, Ariz	1940
Tulsa, Okla	1941
Madison, Wis	1948
Fort Wayne, Ind	1950
Bristol, Tenn.-Va	1950
Birmingham, Ala	1950
Lincoln, Nebr	1950
Salt Lake City, Utah	1952
Shreveport, La	1953
Franklin-Oil City, Pa	1956
Knoxville, Tenn	1957
Charleston, W. Va	1958
Columbus, Ohio	1959
St. Louis, Mo	1959
Pittsburgh, Pa	1961
Honolulu, Hawaii	1962
San Francisco, Calif	1965
Miami, Fla	1966

Moreover, these arrangements were known to Congress and were discussed in the debates of the Celler-Kefauver Act and in hearings held a few years ago by the House Antimonopoly Subcommittee.

Late in 1964, however, the Antitrust Division of the Department of Justice brought an action in the Tucson Federal court, challenging the joint newspaper operating arrangement which had been in existence there for some 25 years. The district court determined that the Tucson joint arrangement was a per se violation of the antitrust laws, in the following particular respects:

First. Price fixing: As a result of the merger of the advertising and circulation departments of the two Tucson newspapers, the district court determined that the setting of subscription prices and advertising rates was unlawful joint action.

Second. Profit pooling: As a result of the merger of all commercial operations, the Tucson agency corporation received all revenues and distributed profits in specified ratios to both newspapers. This was held to be unlawful.

Third. Market allocation: As a result of the commercial merger, both Tucson newspapers agreed not to engage in any other business in Pima County, Ariz., which would conflict with the business of the agency corporation. This, too, was held to be an unlawful activity.

The Tucson newspapers appealed the district court decision. On March 10, 1969, the Supreme Court affirmed, holding that the two papers had violated the Sherman Act, as found by the district court, and further stating that the papers had not met the stringent requirements of the present failing company defense.

The Tucson newspapers had argued to the district court and the Supreme Court that their arrangements should be considered a merger since all commercial functions had been merged, while only the editorial functions remained separate. Unfortunately, this argument was dismissed by both courts.

If the joint arrangement were to be considered and treated similarly to a one-owner situation as S. 1520 provides, there would be no violation of the antitrust laws. If there is only one owner, obviously he can set the advertising and subscription prices for both papers. The profits may properly be divided in accordance with stock ownership. Finally, the agreement not to compete would be acceptable as the express obligation to the corporate stockholder.

In the 150 or more cities where there are two papers—morning and evening—owned by one owner, all of the above operations are indeed legal. It is neither sensible nor consistent with the purposes and intent of the antitrust laws to discriminate against joint newspaper operating arrangements on the basis that their separate and competing news and editorial departments foreclose their being treated as a merger.

Yet this was the verdict of the courts. The only remedy now is that which the Justice Department noted in its argument before the Supreme Court—the Congress must change the law. Apparently, the Justice Department continues to oppose this remedy, despite the anomalous situation which prevails, since it always opposes any exemption to the antitrust laws.

Moreover, the Department of Justice has made clear that its action in Tucson was a test case and that after the Tucson case is settled, it will proceed against the remaining 21 joint operating arrangements. The demise of at least one of the newspapers in each of these cities will be the likely result. The weaker paper in each city will revert to its former perilous financial position, and ultimately be forced to either suspend publication, sell out to, or merge into its competitor. One of the competing editorial voices will then be stilled.

To hypothesize that new papers will spring up in these cities is sheer fancy. To my knowledge, no new newspaper has been able to operate successfully in any core city in the last 40 years. I ask unanimous consent to have printed at this point in the RECORD a table showthe vast number of metropolitan newspapers which have suspended, merged, or been forced to reduce daily publication to a weekly basis during the period 1930 through 1967. This table was included in the amicus curiae brief of the American Newspaper Publishers Association to the Supreme Court.

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

U.S. DAILIES OF GENERAL CIRCULATION SUSPENDED, MERGED, OR GONE WEEKLY, 1930–1967

[In cities of 100,000 or more]

YEAR 1930

Detroit, Mich.: Daily.
Paterson, N.J.: Press Guardian.
Canton, Ohio: News.
Providence, R.I.: News & Tribune.

YEAR 1931

Birmingham, Ala.: Independent.
Elizabeth, N.J.: Times Herald.
Newark, N.J.: Free Press.
New York, N.Y.: World & Telegram.
Cincinnati, Ohio: Commercial Tribune.
Portland, Ore.: News & Telegram.
El Paso, Tex.: Post & Herald.
Spokane, Wash.: Times.

YEAR 1932

Los Angeles, Calif.: Express & Herald.
New Haven, Conn.: Times.
Chicago, Ill.: News & Post.
New Bedford, Mass.: Standard & Times.
Detroit, Mich.: Mirror.
St. Louis, Mo.: Star & Times.
Brooklyn, N.Y.: Times & Standard Union.
New York, N.Y.: Graphic.
Yonkers, N.Y.: Herald & Statesman.
Scranton, Pa.: Sun.
Knoxville, Tenn.: Times.
Milwaukee, Wisc.: Herald.

YEAR 1933

Birmingham, Ala.: Mirror.
Washington, D.C.: U.S. Daily.
Cambridge, Mass.: Journal.
Cincinnati, Ohio.: Sentinel.
Memphis, Tenn.: Evening Appeal & Commercial Appeal.

YEAR 1934

Philadelphia, Pa.: Star.

YEAR 1935

Louisville, Ky.: News & Enquirer.

YEAR 1936

Los Angeles, Calif.: Press.
Youngstown, Ohio.: Vindicator & Telegram.
Oklahoma City, Okla.: Beacon.
El Paso, Tex.: Democrat.

YEAR 1937

Evansville, Ind.: Journal.
Omaha, Nebr.: Bee News.
Trenton, N.J.: Press.
Albany, N.Y.: Knickerbocker Press & News.
Brooklyn, N.Y.: Standard Union & Times.
New York, N.Y.: Journal & American.
Rochester, N.Y.: Journal & American.
Dayton, Ohio.: Gross Daytoner Zeitung.
Tacoma, Wash.: Ledger.

YEAR 1938

Miami, Fla.: Herald & Tribune.
South Bend, Ind.: News-Times.
Worcester, Mass.: Telegram.
St. Paul, Minn.: News.
Akron, Ohio.: Times Press.
Providence, R.I.: Star Tribune.
Dallas, Tex.: Journal & Dispatch.

YEAR 1939

San Diego, Calif.: Sun.
Washington, D.C.: Capital Daily.
Atlanta, Ga.: Georgian-American.
Chicago, Ill.: Herald-Examiner.
Chicago, Ill.: Midwest Daily Record.
Boston, Mass.: News Bureau.
Minneapolis, Minn.: Journal & Star.
Kansas City, Mo.: Democrat.
Newark, N.J.: Star-Eagle.
Buffalo, N.Y.: Times.
Rochester, N.Y.: Evening News.
Syracuse, N.Y.: Journal.

Oklahoma City, Okla.: News.
Portland, Ore.: News Telegram.
Chattanooga, Tenn.: News.
Spokane, Wash.: Press.
Milwaukee, Wis.: News & Sentinel.

YEAR 1940

San Francisco, Calif.: Mission Daily Times.
Hartford, Conn.: Newsdaily.
Chattanooga, Tenn.: Tribune.
Memphis, Tenn.: Democrat.
Nashville, Tenn.: Times.

YEAR 1941

Bridgeport, Conn.: Times-Star.
New Orleans, La.: Tribune with Item.
Boston, Mass.: Transcript.

YEAR 1942

Atlanta, Ga.: Post.
New Bedford, Mass.: Mercury.
Kansas City, Mo.: Journal.
Trenton, N.J.: State Gazette.
Philadelphia, Pa.: Public Ledger.
Chattanooga, Tenn.: Times (Evening Paper).
Dallas, Tex.: Journal.
Milwaukee, Wis.: Post.

YEAR 1943

None.

YEAR 1944

None.

YEAR 1945

Long Beach, Calif.: Sun with Press-Telegram.

YEAR 1946

Erie, Pa.: Sun.
Philadelphia, Pa.: Northeast Times.

YEAR 1947

Washington, D.C.: United States Journal.
Springfield, Mass.: Republican (Morning paper suspended).
Springfield, Mass.: Union (Evening paper suspended).
Brooklyn, N.Y.: Citizen.
Philadelphia, Pa.: Record.
Seattle, Wash.: Star.

YEAR 1948

Chicago, Ill.: Sun & Times (merged into Sun-Times).
Minneapolis, Minn.: Times.
Bronx, N.Y.: Home News & New York Post.

YEAR 1949

Camden, N.J.: Post.
New York, N.Y.: Star.
Dayton, Ohio: Journal & Herald.
Tacoma, Wash.: Times.

YEAR 1950

Birmingham, Ala.: Age-Herald.
San Diego, Calif.: Journal.
New York, N.Y.: Sun.
Kansas City, Mo.: Sun-Herald.

YEAR 1951

St. Louis, Mo.: Star-Times.

YEAR 1952

New York, N.Y.: Compass.
Salt Lake City, Utah: Telegram.

YEAR 1953

None.

YEAR 1954

Los Angeles, Calif.: Daily News.
Washington, D.C.: Times Herald.
Atlanta, Ga.: North Side News.
South St. Paul, Minn.: Reporter.
Allentown, Pa.: News-Digest.
Baton Rouge, La.: Journal.
Rumford, Me.: Times.

YEAR 1955

Portsmouth, Va.: Star.
Montgomery, Ala.: Examiner.

YEAR 1956

Boston, Mass.: Post.

YEAR 1957

Portsmouth, Va.: Times.

YEAR 1958

New Orleans, La.: Item (Eve) & States (Eve).
Cincinnati, Ohio: Times-Star & Post.

YEAR 1959

San Francisco, Calif.: Call-Bulletin & San Francisco News.
Grand Rapids, Mich.: Herald.
Columbus, Ohio: Citizen & State Journal.

YEAR 1960

Wichita, Kans.: Beacon with Wichita Eagle.
Detroit, Mich.: Times.
Cleveland, Ohio: News with Cleveland Press.
Pittsburgh, Pa.: Sun-Telegraph with Pittsburgh Post-Gazette.

YEAR 1961

Boston, Mass.: Record with American.

YEAR 1962

Los Angeles, Calif.: Examiner.
Los Angeles, Calif.: Mirror with Los Angeles Times.
Minneapolis, Minn.: Herald.
Jackson, Miss.: State Times.

YEAR 1963

Phoenix, Ariz.: Arizona Journal.
Brooklyn, N.Y.: Eagle.
New York, N.Y.: Mirror.

YEAR 1964

Phoenix, Ariz.: Arizona Journal (started and suspended second time).
Portland, Oreg.: Reporter.
Houston, Tex.: Press.

YEAR 1965

Phoenix, Ariz.: American.
Phoenix, Ariz.: Arizona News.
San Francisco, Calif.: News Call Bulletin with San Francisco Examiner.
Atlanta, Ga.: Times.
Indianapolis, Ind.: Times.
Minneapolis, Minn.: American.

YEAR 1966

New York, N.Y.: Herald-Tribune, Journal American & World Telegram.

YEAR 1967

Boston, Mass.: Traveler with Boston Herald.
New York, N.Y.: World Journal Tribune.
Tucson, Ariz.: American.

Mr. INOUYE. Mr. President, unless we act favorably on the bill, this list of epitaphs will continue to grow in the future. The economics of newspaper publication offer no other conclusion. There are no new daily papers in New York City to replace those which have fallen. Nor has anyone in the entire State of Michigan demonstrated a willingness to start a second morning paper to compete with the only one now in existence. We in Congress must be realistic, and we cannot pin our needs upon phantoms of the future.

Rather than concede these economic facts, the Department of Justice has offered no real relief to the Tucson papers and the others similarly situated. The Department has indicated that the two papers may continue to share production and circulation facilities—the presses and delivery trucks. Yet, cost studies by these papers show that these savings would be insufficient to offset the tremendous costs of establishing two separate advertising and circulation departments. Without question, advertising and circulation rates would have to be increased to cover those added costs. The paper with higher circulation would attract more of the advertising revenue, forcing the other paper to cut back on its expenses for news, features, and editorial comment, which would itself result in further circulation loss and an even further decrease in advertising revenues. This vicious cycle is verified by experience and the number of papers which have folded is ample testimony to its existence.

What of Sunday? A single set of presses can only put out one Sunday paper. The paper with the Sunday edition would have a tremendous advantage with advertisers. I have been advised that the Department might consider allowing the two papers to use the agency or joint operating plan on Sundays—dividing the profits, setting single advertising and circulation rates, and the rest. If I may be so bold, this could be called "only on Sunday" since it would allow the papers to break the law on the Sabbath, but not during the rest of the week. To me this is sophistry. If the law now allows a joint plan on Sunday, it should allow it all week, and, conversely, if it is unlawful 6 days a week, it should not be done Sunday.

The newspaper preservation bill would authorize joint operations 7 days a week. To do otherwise would be hypocritical. Though ignored by the Department of Justice, the intent of the bill is to treat joint operating agreements the same as a total merger and to do so for all purposes, not just once a week. The fact that the joint operations maintain competing editorial voices should be considered as favorable under the antitrust laws—and not as the basis for discriminatory treatment. The bill we offer provides only a limited exemption to the antitrust laws by enabling joint operations to have the same alternatives available in one owner situations.

The other change in existing law made by S. 1520 would be the creation of a realistic definition of a failing newspaper. In the Supreme Court's decision in the Tucson case, they reverted to the definition of a failing manufacturing concern provided in the International Shoe case. In fact, to my mind the Supreme Court devised an even more stringent test for newspapers. In any event, the test devised by the Supreme Court in the Tucson decision would create ex post facto criteria which could not readily be met by any of the existing joint operating arrangements.

I call these court requirements ex post facto because they were not known by any of the papers when they entered into joint operating arrangements, nor were they required heretofore by the Department of Justice when it gave "release" letters to some of these joint operators.

The failing company doctrine is court created. It has been recognized by the Congress in the Celler-Kefauver Act, and Congress has in the past demonstrated its ability to reshape this doctrine to fit specific situations. Thus, in the Bank Merger Act of 1966, we devised a less stringent failing test for banks, and this was accepted by the Supreme Court in

the Third National Bank of Nashville decision.

The public interest in preserving editorial voices is a sound basis for substituting a more realistic definition for determining when a newspaper is failing. The Court's definition in International Shoe and the Citizens Publishing decisions ought to be replaced by the language of S. 1520 in defining a "failing newspaper." Our language is broad and general, but so is the language in the Sherman and Clayton Acts, and I am certain that the Federal courts will similarly be able to develop a criteria for the application of this definition.

These, then are the two basic provisions of the Newspaper Preservation Bill, which amends the antitrust laws. The first would treat joint operations the same as one owner combination papers. The second would provide a more realistic test as to when a newspaper is failing. The exemption to the antitrust laws is indeed slight and is consistent with the spirit of the antitrust laws and the purposes of the first amendment.

I wish to address myself briefly to the arguments being made against this legislation. Certain of the national labor unions in the newspaper industry have lobbied against the bill. Apparently their position is based upon an opposition to any exemption to the antitrust laws, particularly where newspapers are concerned. There is also a concern that future joint operating arrangements may result in a loss of employment within the industry.

This opposition is most assuredly not to the preservation of editorial voices. While there has been some comment about possible new entries into the metropolitan newspaper field at some unknown time in the future, I believe all would agree that we must make every reasonable effort to preserve the editorial voices now in existence rather than encourage their demise in some wishful expectation of future developments.

I cannot offer any other response to the opposition to any antitrust exemptions, except to note that this is not a perfect world, and that we must deal pragmatically with the situations at hand. We know that there are justified exemptions to the antitrust laws and that we cannot foreclose any further changes in the law. Congress has in recent years provided for certain exemptions for professional sports and for banks. It is my contention that the newspaper industry is at least as deserving of consideration. The exemption proposed in S. 1520 is very limited in scope and is designed to provide a relief for joint operating arrangements, which is certainly in the public interest, by preserving editorial voices.

As to the question of jobs, none of us intends to take any action which would cause the loss of employment for persons in the newspaper industry. We realize that every time a newspaper closes down or merges into another paper, there is a diminution in employment. We believe that if S. 1520 is not enacted and the 22 joint operating arrangements dissolved, there will be a number of failures and mergers. Neither of these alternatives is in the best interests of the newspaper employees. Rather, maintenance of the existing joint operating arrangements would insure continued employment.

Mr. President, I ask unanimous consent that there be placed in the RECORD at this point an article from the Guild Reporter of August 10, 1962, which describes the efforts made and results achieved when the Honolulu Star-Bulletin and the Honolulu Advertiser entered into a joint operating arrangement. This report demonstrates that there need not be a decrease in employment. Moreover, the recent endorsements of the newspaper preservation bill by newspaper locals in Honolulu, as well as other labor, civic, and government organizations would indicate that there is more than a little public and labor support for the bill.

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

EASY DOES IT—IN HONOLULU

HONOLULU, HAWAII.—An agreement has been signed here embodying what a Guild negotiator said he hoped would serve as a "lesson in patience for any publisher tempted to embark on the all-too-frequent newspaper crash diets for fattening the failure by slimming the staff."

The description came after the Hawaii local had signed an interim agreement covering more than 300 employees in its jurisdiction affected by the recent move to combine the Honolulu Star-Bulletin and Honolulu Advertiser operations in all departments except editorial.

Although most departments have been physically consolidated since the announcement was made in June, no Guild members have yet been cut from the staff.

Management had agreed with the Guild to a ban on discharges during the initial stages of the consolidation and pending the outcome of negotiations covering the changeovers.

In its negotiations, it cited "attrition" as the route papers hoped could be followed to accomplish any cutbacks, saying: "We've been in business a long time, we expect to stay in business for a long time, and we're not going to rush into cutting costs when it means a loss of jobs."

The consolidation saw the two dailies form a new corporation called the "Hawaii Newspaper Operators" under which integrated mechanical, circulation, delivery, business office and advertising departments will function to produce both papers, ultimately out of one plant.

Both the Star-Bulletin and Advertiser continue as separate corporate entities and the Guild's contracts with each, negotiated last year and expiring next March, remain in effect for departments and divisions not consolidated.

The new interim contract signed by the Guild will also expire next March. It incorporates essentially all terms of what the Guild described as "the best of our four Hawaiian contracts—the Star-Bulletin pact—plus modifications and improvements negotiated to cover problems arising out of the consolidation."

Among other things, the Star-Bulletin's higher contract minimums are applied to the new company, thus accelerating for former Advertiser staff now working with HNO a mid-term contract increase they were not due to receive until next November.

In addition, the contract requires immediate negotiations to establish a formal pension plan for all—to become the first such plan for Advertiser employes—and to be at least equal to the benefits provided by the pension plan protected by the Guild's Star-Bulletin contract.

Extensive provision is made in the agreement for any discharges, that result from the consolidation.

The seniority of all employes transferred from the dailies to the new company is blended and any layoffs are to be on a strict seniority basis from the blended lists.

Past service is preserved, merit and personalized pay rates protected.

The Guild is to be given as much notice as practicable in addition to the required two weeks in advance of any layoffs.

Advance consultation is planned on ways of attempting to reduce layoff totals through such devices as retirement, early retirement, elimination of some part-time work and voluntary quits, with severance pay for any "voluntary quit" who is a substitute for an employe due otherwise to be discharged.

Special rehiring rights extending over 18 months have been set up with the provision that anyone rehired within 12 months of discharge is rehired with unbroken service and continuous seniority while a rehire between 13 and 18 months from date of discharge resumes work as a new employe.

Severance pay provisions—one week per year up to a maximum of 20 weeks in the Guild's Star-Bulletin contract, and a flat four weeks regardless of service length in the Advertiser agreement—is made a matter of choice, and Guild members can take either severance right regardless of which paper he had served.

Anyone rehired before using up the number of weeks for which he collected severance repays the "unused severance" on a payroll deduction formula of one week's reimbursement per month of reemployment.

Thus an employee collecting 20 weeks of severance who's rehired 18 weeks after discharge must reimburse the company for two weeks' severance via the payroll deduction formula.

The Guild and other unions were advised of consolidation plans some 10 days prior to the public announcement. Agreement was reached in advance of the public announcement to negotiate an interim contract outlining the terms under which the consolidated company's staff would operate and the machinery for effecting any layoffs.

Joint bargaining by the Guild and the International Longshoremen and Warehousemen's union, representing circulation staff, were underway with the company when news of the consolidation was printed.

Initial bargaining produced agreement to "maintain the status quo on total work force" for a period of two weeks and subsequent bargaining extended the status quo agreement throughout the nearly month-long negotiations.

Final negotiations were conducted by a bargaining committee representing all unions in the newspaper, with ANG International Representative Charles Dale named spokesman. Nearly identical terms were achieved in each union's interim agreements.

Representing the Guild in its negotiations were Administrative Officer Thomas W. O. Lum, Local President Ray Kruse, Treasurer Phil Mayer, Secretary Fred Lee, Executive Committee Members Ed Greaney, Chuck Turner, Don Horio, Al Goodfader, Scotty Stone, and Dale.

Not affected by the consolidation are Guild members in the commercial printing divisions of the two dailies and those employed on the Tribune-Herald in Hilo, a Star-Bulletin subsidiary operation on the island of Hawaii.

Mr. INOUYE. Mr. President, the newspaper preservation bills (S. 1520 and H.R. 8765) have been endorsed by the following, among others, in Hawaii:

Organization	Number of members
Hawaii Newspaper Guild, AFL–CIO	370
Honolulu Printing Pressman and Assistants Union	85
Local 201, Lithographers and Photoengravers International Union	200
Lodge 1245, International Association of Machinists	1,400
International Longshoremen's and Warehousemen's Union	26,000

The above contracts with the Honolulu newspapers. In addition, the following have also endorsed S. 1520:

Hawaii Education Association	7,500
Local 996, Teamsters & Allied Workers	4,000
Local 5, Hotel, Restaurant Employees & Bartenders' Union, AFL–CIO	4,500
Hawaii Government Employees Association	17,500
Senate and House, Hawaii State Legislature	
City council and county of Honolulu	
Council of the county of Kauai	
Retail board of the Chamber of Commerce of Hawaii (firms, large and small)	600
Chinese Chamber of Commerce of Hawaii	400
The Honolulu Japanese Chamber of Commerce	450

Mr. President, I ask unanimous consent that copies of some of these endorsements and news stories and editorials regarding support for S. 1520 be printed at the close of my remarks.

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

(See exhibit 1.)

Mr. INOUYE. Mr. President, I am advised that there is also opposition to the bill by an organization representing basically suburban papers, mostly weeklies, which oppose any exemption in the antitrust laws for newspapers. Obviously, these individuals feel that they do not need relief and take the position that no advertising competitor should be given relief.

The main fallacy in these contentions is that they ignore the purpose of the bill and the results it will achieve. We seek only to preserve editorial voices by providing limited exemption for joint newspaper operating arrangements. We are not claming that all newspapers need help, but we can see no point in the opposite contention that no newspapers need help. As I have just explained, joint operating arrangements are in immediate danger, and our relief is restricted to placing such arrangements on equal footing with the lawful operations of one-owner combination papers.

I have already discussed the fact that joint use of mechanical facilities would not provide the requisite savings to offset the losses of maintaining separate advertising and circulation staffs. "Wholesaling" advertising, which has been suggested, would still require the use of two staffs, with its high expense, and not supply the answer to price fixing as a per se violation. "Wholesaling" would still require both papers to get together to determine the rates to be charged each other.

The other criticisms raised, by the Department of Justice or the others opposed to this bill, fail to recognize the realities of the situation. In a city where one person owns the morning, evening, and Sunday papers, he can use combination rates—as do persons who own a chain of weeklies; he can set advertising rates for all of the papers under his control—and so can the owner of a chain of weeklies; he can set circulation rates—as would the owner of the weeklies; and he can divide the profits among his stockholders—as can the owner of the chain of weeklies.

Thus, the opposition wishes to maintain a fiction in the law. We intend by S. 1520 to recognize a reality. Two papers in a joint newspaper operating arrangement is a commercial merger. To treat them otherwise is inequitable and defies logic. By amending the law to recognize this fact, we eliminate all of the violations of the antitrust laws which were found objectionable by the court—price fixing, profit pooling, and market allocation.

Mr. President, we cannot allow ourselves to be blinded to the facts by unrealistic and inapposite cliches about competition in the newspaper industry. I cannot believe that the Nation would be benefited by a loss of editorial voices, or that the limited exemption to the antitrust laws provided in S. 1520 would do damage to our economy.

I urge every Senator to consider the plight of these newspapers which are struggling to retain their identity and to the facts involved. The newspaper preservation bill deserves our support.

EXHIBIT 1

SENATE CONCURRENT RESOLUTION 85

Concurrent resolution expressing full support in the passage of the newspaper preservation bills

Whereas, there has been an alarming decline in the number of American newspapers to the point where there are fewer than 60 cities with competing dailies as agains 552 such cities a half-century ago; and

Whereas, 22 such cities have been able to maintain newspaper competition only by virtue of joint operating plans in which a newspaper in dire financial straits merges with its stronger competition, its commercial components (mechanical, advertising, circulation) but withholding its editorial functions; and

Whereas, the alternative in such cases is to enter into a full merger, with the result of a single ownership of morning and evening papers and of a single editorial policy—as has been done in such cities as Milwaukee (11th largest U.S. city in population, 1960 census), New Orleans (15th), Atlanta (24th), Minneapolis (25th), Indianapolis (26th), Louisville (31st), and numerous other cities larger than Honolulu (43rd in size); and

Whereas, the joint-plan operation of The Honolulu Advertiser and the Honolulu Star-Bulletin, separately owned and with independent editorial policies and staffs, have given the community that healthy diversity of opinion and commentary which is essential to public awareness and understanding of vital issues; and

Whereas, the joint-plan operation has enabled the two Honolulu newspapers to employ talented staffs, to add such supplemental news services as that of the New York Times and of the Washington Post-Los Angeles Times, and to expand the news coverage provided the citizenry, for example, The Honolulu Advertiser's editorial budget increased from $500,000 to $1.1 million a year under the joint-plan operation; and

Whereas, in response to a United States Supreme Court decision adverse to the joint-plan operation, there have been introduced in the United States Senate and the House of Representatives identical bills for newspaper preservation sponsored by Hawaii's U.S. Senators Dan Inouye and Hiram Fong and 31 other senators and by Hawaii's U.S. Representative Spark M. Matsunaga and some 90 other representatives, respectively; and

Whereas, this legislation proposes that a failing newspaper merging its commercial but not its editorial functions with its competitor will be regarded under the law as a full merger, but with no predatory practices permitted; and

Whereas, the existing Honolulu joint-plan must be allowed to continue because its dissolution will precipitate either a single newspaper or single ownership of both newspapers to the great loss and detriment to the State of Hawaii, including the City and County of Honolulu; now, therefore,

Be it further resolved that duly certified Legislature of the State of Hawaii, Regular Session of 1969, the House of Representatives concurring, that this body expresses its full support in the passage of the Newspaper Preservation bills; and

Be it further resolved that duly certified copies of this Concurrent Resolution be transmitted to the Honorable Richard M. Nixon, President of The United States; the Honorable Hiram L. Fong, U.S. Senator; the Honorable Daniel K. Inouye, U.S. Senator; the Honorable Spark M. Matsunaga, U.S. Representative; the Honorable Patsy T. Mink, U.S. Representative; the Honorable Governor John A. Burns; L. Porter Dickinson, President and Director of Hawaii Newspaper Agency, Inc.; Chinn Ho, Chairman of the Board of Directors, Honolulu Star-Bulletin; Alexander S. Atherton, President, Honolulu Star-Bulletin; and Thurston Twigg-Smith, President and Publisher, the Honolulu Advertiser.

Passed the Senate of the State of Hawaii, May 19, 1969.

DAVID C. MCCLUNG,
President of the Senate.

SEICHI HIRAI,
Clerk of the Senate.

Passed the House of Representatives of the State of Hawaii, May 19, 1969.

TADAO BEPPU,
Speaker, House of Representatives.

SHIGETO KANEMOTO,
Clerk, House of Representatives.

RESOLUTION No. 42

Whereas the State Legislature of Hawaii—the Senate on May 15, 1969 and the House on May 16, 1969—did unanimously adopt a concurrent resolution "expressing full support in the passage of the Newspaper Preservation Bills"; and

Whereas this body wholeheartedly shares the views and conclusions expressed in the attached resolution of the Hawaii Legislature; Now, therefore,

Be it resolved by the Council of the County of Kauai, State of Hawaii, that it go on record as asking the Congress of the United States to expeditiously enact the Newspaper Preservation Bills.

Be it further resolved that copies of this resolution be sent to the members of the Hawaii Congressional Delegation; to Senator James O. Eastland, Chairman of the Senate Judiciary Committee; to Representative Emanuel Celler, Chairman of the House Judiciary Committee; to Governor John A. Burns; and to the Honolulu Star-Bulletin and the Honolulu Advertiser.

[From the Honolulu (Hawaii) Advertiser, Apr. 2, 1969]

UNION SUPPORTS LAW TO SAVE NEWSPAPERS

The Executive Committee of the 370-member Hawaii Newspaper Guild (AFL–CIO) yes-

terday recommended that Guildsmen in the Islands support the Newspaper Preservation Bills recently introduced in Congress.

The Hawaii Newspaper Guild's members work at The Honolulu Advertiser, the Star-Bulletin and Hawaii Newspaper Agency in Honolulu; the Hawaii Tribune-Herald in Hilo and the Maui News in Wailuku.

The Guild's Executive Committee expressed concern over a recent United States Supreme Court ruling in the Tucson newspaper case and its possible implications for The Advertiser.

The Executive Committee urged Guild members to write to their U.S. Senators and Representatives, to State legislators and other interested parties, asking them to support the Newspaper Preservation Bills.

"Our concern is with the direct and immediate threat to the survival of The Advertiser," the Executive Committee said.

Text of the suggested letter to be written to the Congressional delegation and others follows:

"On behalf of the 370 members of the Hawaii Newspaper Guild, I write to ask your support of the Newspaper Preservation Bills recently introduced by 25 Senators and 84 Representatives.

"Our concern in the matter stems from the direct and immediate threat to the survival of The Honolulu Advertiser posed by the Supreme Court's ruling in the Tucson newspaper case. It is our understanding that the financially weaker paper in many, if not in all of the other 21 cities with joint newspaper plans, is equally imperilled.

"We recognize, better than most organizations, the importance to an open society of a vibrant press and of the need to preserve competition of ideas in the marketplace. We are all too aware that nationally, cities with competing newspapers have declined from 552 a half-century ago to about 50 now—of which 22 are in the joint-plan category.

"Some six and a half years ago, the morning Advertiser—which was in dire financial circumstances—was saved by its entry into a joint plan with the Evening Star-Bulletin. Advertising, circulation and mechanical functions were merged, but ownerships and editorial policies and staffs remained separate. It was clear that the merging of only the mechanical departments—which the Justice Department has said it would condone in such cases—would not produce economies sufficient to sustain the operation.

"As a result of the partial merger—the alternative to a single ownership of morning and afternoon papers and a single editorial policy—Honolulu is remarkably well served by the diversity of news and editorial commentary.

"Our representation of a significant number of the employees of the two papers here makes us familiar with local newspaper economics. If the joint plan here were broken up, The Advertiser as an entity would die.

"Theoretically, it might be suggested that a new organization would move in to fill the void. Realistically, it would not. Honolulu would wind up as a single-ownership city, just as much larger cities have: Milwaukee, Minneapolis, New Orleans, Atlanta, Indianapolis, many others.

"This would be as tragic as it is needless. Your support of the Newspaper Preservation Bills would contribute greatly to the preservation of independent editorial voices here and elsewhere. We hope that your reply will be favorable."

[From the Honolulu (Hawaii) Advertiser, May 15, 1969]

THE 17,000-MEMBER HGEA FAVORS NEWSPAPER BILLS

The 17,000-member Hawaiian Government Employees Association has endorsed the Newspaper Preservation Bills now before Congress and urged their "expeditious passage."

The legislation is being sponsored in the U.S. Senate by Hawaii Sens. Daniel K. Inouye and Hiram L. Fong; and Sens. Mike Mansfield, the majority leader; Fred R. Harris, national Democratic chairman; Alan Cranston, Hugh Scott, Wallace Bennett, George Murphy, Howard Baker and 24 others.

In the House the sponsors include Reps. Spark Matsunaga, Ed Edmondson, House majority whip Hale Boggs, James Symington, Edith Green, Don Clausen, William Mailliard, Paul McCloskey Jr. and 82 others.

The HGEA support of the measure is the latest in a series of union and other endorsements in Hawaii.

Daniel K. Ainoa, executive director of HGEA, sent the following letter to the Hawaii delegation:

"The Hawaiian Government Employees Association, with 17,000 members, is writing to ask your support of the Newspaper Preservation Bills (S–1520 and HR–8765) and to urge their expeditious passage.

"We are aware of the recent court decision in the Tucson newspaper case and the threat it represents to the survival of the Honolulu Advertiser and its joint-plan relationship with the afternoon Star-Bulletin.

"The Advertiser was widely known to be in an ominous financial condition before entering in 1962 into a consolidation of its commercial departments with those of the Star-Bulletin (but with a retention of independent ownerships and editorial staffs and policies). It is clear that if the joint arrangement were ordered dissolved, The Advertiser could not survive as a separate institution.

"The two daily voices which we presently have are obviously better than having a single editorial policy in the community.

"We believe with Judge Learned Hand that the First Amendment presupposes that right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection. To many this is, and always will be, folly; but we have staked upon it our all.

"With the general welfare of Honolulu in mind, we would appreciate whatever you and your colleagues are able to do to facilitate the passage of the Newspaper Preservation Bills."

Other organizations which have similarly backed the legislation include the Hawaii Newspaper Guild, the Printing Pressmen and Assistants Union Local 413, the Lithographers & Photoengravers Union Local 201, International Association of Machinists Local 1245, the ILWU Local 142, the Teamsters & Allied Workers Local 996, the Hotel, Restaurant Employes and Bartenders Union Local 5, AFL–CIO, the Hawaii Education Association, and the Retail Board of the Chamber of Commerce.

[From the Honolulu Hawaiian Advertiser, May 27, 1969]

CHAMBER SUPPORTS NEWSPAPER BILLS

The Honolulu Japanese Chamber of Commerce has joined numerous other community organizations in urging enactment of the Newspaper Preservation Bills.

This legislation would enable continuation of the joint-plan arrangement between the Advertiser and the Star-Bulletin and between two papers in each of 21 other cities. The result is to provide the community with separate and independent editorial voices.

William H. Tsuji, Chamber president-elect, has sent this resolution to the Hawaii delegation:

"Whereas, the Honolulu Japanese Chamber of Commerce, with a membership of 450, is keenly aware of the great value to the community of having two major daily newspapers, the Advertiser and the Star-Bulletin, with separate ownerships and separate editorial policies and staffs; and

"Whereas, the Chamber recognizes that this diversity of news and opinion is made possible only because of the economies realized from the consolidation seven years ago of the commercial departments of the two newspapers; and

"Whereas, the alternative to the present arrangement would be a full merger of the two companies, with the result of a single editorial policy, to the detriment of the community's need for the greatest possible dialogue on important issues; and

"Whereas, necessitated by a recent Supreme Court ruling in a mainland newspaper case, remedial legislation (known as the Newspaper Preservation Bills) has been introduced by Senators Daniel K. Inouye and Hiram L. Fong and Representative Spark M. Matsunaga and numerous of their colleagues in both houses of the Congress; and

"Therefore be it resolved that the Honolulu Japanese Chamber of Commerce wholeheartedly add its voice to the community-wide endorsement of the Newspaper Preservation Bills already demonstrated by other business, labor, government and civic organizations, and that the Chamber communicate its views, in the form of this resolution, to the Hawaii delegation in Congress, urging their support and further urging them to enlist the support of fellow Senators and Representatives."

[From the Honolulu (Hawaii) Advertiser, May 8, 1969]

TEAMSTERS, HOTEL, RESTAURANT UNIONS FAVOR NEWSPAPER PRESERVATION BILLS

The Hawaii Congressional delegation has been urged to give "hearty support" to the Newspaper Preservation Bills by the Teamsters & Allied Workers Local 996 and the Hotel, Restaurant Employes & Bartenders' Union, Local 5, AFL–CIO.

Letters signed by Arthur A. Rutledge, president of the unions, have been sent to Senators Hiram L. Fong and Daniel K. Inouye and to Representatives Spark M. Matsunaga and Patsy T. Mink.

The legislation would provide that when a newspaper in failing financial circumstances merges its advertising, circulation and mechanical departments, but not its ownership or editorial functions, with a stronger competitor it would be treated under law as if it were in a full merger.

Such a law is needed to grant relief from a U.S. Supreme Court ruling against such joint-plan operations—although complete mergers involving a single ownership of morning and afternoon papers and a single editorial policy have been permitted in many large cities.

The Hawaii Teamsters and Hotel Workers Unions' letter is in accord with those from five unions which have contracts with the local newspapers and from the Hawaii Education Association.

Text of the letter follows:

"Hawaii Teamsters & Allied Workers, Local 996, and Hotel, Restaurant Employees & Bartenders' Union, Local 5, are concerned over the jeopardy in which The Honolulu Advertiser is placed by the recent ruling of the U.S. Supreme Court in the Tucson press case.

"It is common knowledge that The Advertiser went through a substantial period of losses prior to the merger of its commercial departments with those of the financially stronger Honolulu Star-Bulletin.

"As a consequence of the consolidation of mechanical, advertising and circulation functions but with maintenance of separate ownerships and separate editorial staffs and policies, The Honolulu Advertiser has been able to continue publication; so that the papers here provide two different and independent viewpoints to the community.

"Although Local 996 and Local 5 do not always agree with either paper on issues facing organized labor, the community and the nation, we fully recognize the importance of having the greatest possible diversity of independent opinion and comment.

"It is our understanding that a score of other cities across America have similar joint-plan arrangements and are also seeking legis-

lative relief from the Court's ruling on Tucson.

"The fact that 33 United States Senators and some 90 Representatives of both parties and of widely varied views have sponsored Newspaper Preservation Bills is indicative of the magnitude of the problem and the need for a Congressional remedy.

"These Newspaper Preservation Bills have the announced support of the Hawaii Newspaper Guild, the Printing Pressmen & Assistants Union, Local 413, the Lithographers & Photoengravers Union, Local 201, International Association of Machinists, Local 1245 and the ILWU, Local 142, all of whom have had contracts with the two Honolulu dailies for the six years of the joint-plan operation, and are thus intimately familiar with the economics of the local press.

"Local 996 and Local 5 join with these unions in urging the Hawaii Congressional delegation and their colleagues to give hearty support to the Newspaper Preservation Bills."

LITHOGRAPHERS AND PHOTOENGRAVERS INTERNATIONAL UNION, LOCAL 239,

Salt Lake City, April 15, 1969.

Hon. WALLACE F. BENNETT,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BENNETT: Our members have received information of S.B. 1520, introduced in the current session by the Honorable Daniel K. Inouye.

We are very much aware of the security we have had in the past working under the Agency operation in Salt Lake. Now, the Justice Department is threatening that very security by possible prosecution of the Agency operation that has worked so well for all of us.

We ask you Senator Bennett, in behalf of all Agency operations, to support this very important bill and give it every possible consideration.

Sincerely,

(The entire membership of the Lithographers and Photoengravers International Union, Salt Lake Local No. 239.)

RETAIL BOARD,

Honolulu, Hawaii, April 16, 1969.

The Retail Board of the Chamber of Commerce of Hawaii has 600 members, representing both large and small businesses in this community.

We are, of course, in constant contact with our daily newspapers, The Advertiser and The Star-Bulletin, and thus aware of the threat to them because of the recent ruling of the U.S. Supreme Court in the case of the two Tucson newspapers.

The joint-plan operation which has been in effect here since the middle of 1962 has been an asset to the community, providing the readers with independent editorial viewpoints and benefiting subscribers and advertisers alike through reasonable rates. These have been made possible by the economies effected through consolidation of the non-editorial departments.

The breakup of the joint plan threatened by the court ruling would be a great blow to the entire community, since it would mean the end of The Advertiser as a separate entity.

Our inquiries lead to the conclusion that in most, if not all, of the other joint-plan cities, more than 20 in all, there would be similarly disastrous results.

This is not a narrow issue. A number of the unions here have already endorsed the Newspaper Preservation Bill, for they, as well as the business community and the general readership, have received fair and equitable treatment from the joint plan operation.

We deeply hope that we can count on your support of this legislation.

Sincerely yours,

DONALD E. ROWLETT,
President.

[From the Honolulu (Hawaii) Advertiser, May 22, 1969]

CITY COUNCIL BACKS NEWSPAPERS BILL

The Honolulu City Council is asking Congress to pass legislation which would enable continued editorial competition in Honolulu and 21 Mainland cities.

Measures to achieve this have been introduced by U.S. Sens. Hiram L. Fong and Daniel K. Inouye and 31 other Senators and by Rep. Spark M. Matsunaga and some 90 of his colleagues in the House.

The Council at its Tuesday meeting adopted a resolution stating:

"Whereas the State Legislature of Hawaii has unanimously adopted a concurrent resolution 'expressing full support in the passage of the Newspaper Preservation Bills'; and

"Whereas said Congressional proposals would permit Honolulu's two major daily newspapers to continue their joint commercial operations while maintaining editorial independence; and

"Whereas the continuance of editorially competitive newspapers is preferable to the possible alternative of total merger between the two main Honolulu daily newspapers; now, therefore

"Be it resolved by the Council of the City and County of Honolulu that it request the Congress of the United States to enact the Newspaper Preservation Bills; and

"Be it further resolved that the clerk be, and she hereby is, directed to transmit copies of this resolution to members of the Hawaii Congressional Delegation; to Sen. James O. Eastland, Chairman of the Senate Judiciary Committee; to Rep. Emanuel Celler, Chairman of the House Judiciary Committee; to Gov. John A. Burns; to the Honolulu Star-Bulletin and to the Honolulu Advertiser."

The national legislation—made necessary by a Supreme Court ruling in a Tucson newspaper case—would approve commercial mergers of two papers in cases where one of the papers was in dire financial circumstances.

The bills have been endorsed by five local newspaper unions, the Hawaii Education Association, the Teamsters, the Hotel, Restaurant Employes and Bartenders Union, the Hawaiian Government Employees Association, the Retail Board of the Chamber of Commerce of Hawaii, the Legislature, and the Chinese Chamber of Commerce.

[From the Honolulu (Hawaii) Advertiser, May 22, 1969]

CHINESE CHAMBER OF COMMERCE APPROVES

The Chinese Chamber of Commerce of Hawaii has urged the Islands' Congressional delegation to work for passage of legislation affecting The Advertiser and the Star-Bulletin.

Kenneth H. Lum, Chamber president, wrote the following to Sen. Hiram L. Fong and Daniel K. Inouye and to Reps. Spark M. Matsunaga and Patsy T. Mink:

"The Chinese Chamber of Commerce of Hawaii, in active operation for almost 60 years and with 400 members, asks your support of the Newspaper Preservation Bills.

"We have seen at first-hand how the Honolulu Advertiser has been enabled to survive because of its commercial, but not editorial, merger with the Star Bulletin—and how the entire commun'ty has benefited by tremendously improved news coverage of not only local but national and international affairs.

"The interest the two papers have shown in covering in depth the developments of an Asia deep in ferment has contributed to a high level of general understanding of the problems and potentials of the Orient by all elements of the Hawaii public.

"The Chamber endorses the legislation which will enable a continuation of our present healthy newspaper situation. We will appreciate your efforts in terms of encouraging your colleagues to give their support."

[From the Honolulu (Hawaii) Sunday Star-Bulletin & Advertiser, Apr. 6, 1969]

ILWU BACKS BILL TO SAVE NEWSPAPER

Support of the Newspaper Preservation Bill now in Congress was voiced yesterday by the International Longshoremen's and Warehousemen's Union in Hawaii, on behalf of its 26,000 members.

Carl Damaso, president of the statewide Local 142, said the remedial legislation is necessary because of the Supreme Court ruling in a Tucson newspaper case.

The decision, he said in a letter to Hawaii's congressional delegation, poses a real threat to the Honolulu Advertiser and other papers which operate on a joint-plan basis.

Under this plan, commercial and production facilities of two papers are consolidated, but separate ownerships and separate and independent editorial policies and staffs are maintained.

Twenty-one U.S. cities, from San Francisco to Pittsburgh, from Nashville to Salt Lake City, have such arrangements as an alternative to a single ownership.

SPONSORS OF BILL

Sens. Daniel K. Inouye and Hiram L. Fong and Rep. Spark M. Matsunaga are among the 32 senators and more than 90 representatives sponsoring the Newspaper Preservation Bill.

The ILWU letter pointed out that "we represent the circulation department employes of both the Advertiser and its afternoon competitor, the Honolulu Star-Bulletin, and we understand the economics of the newspaper industry.

"Because of the desirability—yes, the necessity—of maintaining two competing and editorial voices in Hawaii, we, and the other five newspaper craft unions, cooperated with the publishers in the formulation and effectuation of the joint facility arrangement.

TUCSON DECISION

"It is our opinion that the Tucson decision will magnify the 'problem' it would in theory eliminate. Certain papers produced and distributed by joint facilities would be forced to close. Other papers, unable because of the decision to enter into a joint plan, would meet the same fate. In such instances the community is the loser.

"Today we have in Hawaii two independent dailies. We have two distinct editorial policies and excellent news coverage. We want to keep both.

"We believe, because we are familiar with the local situation, that if the joint facility were broken up, the Advertiser would die.

THEORY ONLY

"In theory it could be argued that some person or some corporation would establish a new morning daily. However, the people of our state and the people in the several states where joint production facilities exist cannot read theory. They want and need two or more competing papers.

"We urge you and your colleagues to support the Newspaper Presevation Bill and thus preserve the Advertiser and other daily newspapers.

"Incidentally, all of the newspaper unions in Honolulu recently negotiated the highest wage increases ever. The increases, which range from $40 to $48 a week, would not have been possible without joint facility production and distribution."

GUILD BACKING

An endorsement of the Newspaper Preservation Bill similar to the ILWU's was announced April 1 by the executive committee of the 370-member Hawaii Newspaper Guild (AFL–CIO).

The congressional sponsors of the legislation include both liberals and conservatives from the Democratic and Republican parties.

UNIVERSITY OF HAWAII,
March 20, 1969.

Hon. DANIEL K. INOUYE,
U.S. Senate,
Washington, D.C.

DEAR DAN: I know you have heard enough of what follows, but I will say my piece anyhow. The very survival of The Honolulu Advertiser and other papers in cities ranging from San Francisco to Pittsburgh is at stake.

The problem is created by the Supreme Court ruling last week in a newspaper case in Tucson, which has a joint operation similar to that in Honolulu and in 20 other communities. The only solution is legislative relief—but first a bit of background.

As you well know, as a newspaper in failing circumstances, The Advertiser could have totally merged with the Star-Bulletin. (The Justice Department has never acted against such a full merger, even though it means a single ownership of two papers with a single editorial outlook.) Instead, The Advertiser merged only its commercial functions, but retained separate ownership and separate editorial policies and staffs.

Honolulu thus has a healthy diversity of opinion. The Advertiser is a realistically liberal paper which gets constructively involved in the issues which count. It has been a great source of strength to those of us in the academic community.

It would be a senseless tragedy were it to go under and yet economics would dictate that were the joint plan broken up.

Your statement that "where the public interest in a free and varied press runs afoul of the language but not the spirit nor the intent of the anti-trust laws, it is time for Congress to take corrective action," well expresses the sentiments of many of us.

There will have to be greater backing in both houses of Congress for the Newspaper Preservation Bill to pass, and I think this is a vital issue and will come back there on my own to help buttonhole other legislators.

Sincerely,

RICHARD L. BALCH,
Vice President.

HAWAII EDUCATION ASSOCIATION,
Honolulu, Hawaii, May 2, 1969.

Hon. DANIEL K. INOUYE,
Washington, D.C.

DEAR DAN: On behalf of the Hawaii Education Association, composed of 7,500 educators whose memberships are unified with the National Education Association, I am writing to ask your assistance in a crisis facing *The Honolulu Advertiser*—and a score of other newspapers across the nation—as a result of the Supreme Court's recent ruling in a Tucson case. A legislative remedy is urgently needed.

Six years ago the morning *Advertiser,* in dire financial straits, merged its commercial functions (mechanical, advertising, circulation), but not its editorial, with the afternoon *Star-Bulletin.* The result was to keep *The Advertiser* alive and to preserve for the community two separate and independent editorial voices.

The alternative would have been a full merger with the *Star-Bulletin,* resulting in a single ownership of morning and afternoon papers and a single editorial policy. This has been the route which papers in much larger cities—such as Minneapolis, Milwaukee, Atlanta, among others—have gone, and without Justice Department action. We would submit that the general welfare is better served by a partial merger with two voices than by the full merger with one voice.

If the joint plan in Honolulu were broken up, *The Advertiser* as an entity would die. So would the financially weaker paper in most, if not all, of the other joint-plan cities including Nashville, San Francisco, Pittsburgh, Miami, Tulsa, Knoxville, Birmingham, Columbus, O., Madison, Wis., Salt Lake City, Charleston, W. Va., Evansville and Fort Wayne, Ind., El Paso, Shreveport, Bristol, Va.-Tenn., St. Louis, Albuquerque and Lincoln, Neb.

To save the joint-plan papers, Newspaper Preservation Bills (S. 1520 and H.R. 8765 and others in the House, all identical) have been introduced by 33 Senators and some 90 Representatives. They run the political gamut in both Senate and House.

The proposed legislation provides simply that when a failing paper merges its commercial but not its editorial functions with its stronger competitor, the result should be treated under law as if it were in a full merger. No predatory practices would be condoned or permitted. In other words, the partial merger could engage in no actions which are not permitted in a full merger.

You, Senator, put it well when you said: "Where the public interest in a free and varied press runs afoul of the language, but not the spirit nor the intent of the anti-trust laws, it is time for Congress to take corrective action." The large number of co-sponsors shows a substantial sharing of this viewpoint.

What an irony it would be if the Sherman Act, designed to stimulate competition, were employed in the joint-plan newspaper cases to destroy the competition in ideas so fervently needed in an increasingly complex world.

HEA hopes you can see your way clear to give this legislation your support. I'm enclosing news stories which list the initial sponsors; their number has now grown.

With every good wish and aloha.

As ever,

DANIEL W. TUTTLE, Jr.,
Executive Secretary.

[From the Cincinnati (Ohio) Enquirer, May 2, 1969]

TO PRESERVE A COMPETITIVE PRESS

For several years, Congress has been seeking the most prudent and practical answer to the problems posed by the disturbing attrition with which American newspapers are beset. One major city after another has found itself without competing newspapers. Some newspapers have vanished altogether; others have been combined with their former competitors in a way that leaves only one overall management and sometimes one and sometimes two editorial voices.

The upshot of congressional interest and investigation is the Newspaper Preservation Act, which appears at the moment to enjoy substantial bipartisan support in both houses of Congress.

In effect, the measure would correct some of the injustices of the Supreme Court's decision on the hard-fought case involving the newspapers in Tucson, Ariz.

That case, as we noted in this space on March 18, dated back to 1940 when Tucson's two daily newspapers, the Citizen and the Arizona Daily Star, agreed to form a new corporation to assume responsibility for printing and distributing both newspapers and for soliciting advertising for both. Each paper retained its own editorial voice and identity. Had the agreement not been made, the Citizen, which had been losing money consistently, would probably have had to cease publication. In 1965, however, even though both newspapers were flourishing, the management of the Arizona Daily Star chose to sell out to the management of the Citizen. At that point, the Justice Department intervened to challenge not only the sale, but also the 1940 agreement for joint operations.

The case was significant because similar agreements are in operation in a score of other U.S. cities in which competing newspapers have survived only because of the financial savings joint operations have made possible.

The Newspaper Preservation Act would exempt joint newspaper operations from antitrust prosecution, provided the joint operating arrangements "have been entered into because of economic distress" and provided that jointly operated newspapers do not engage in any practices that would be unlawful if they were engaged in by a single entity. The latter provision is a recognition of the Supreme Court's finding that the Tucson newspapers, through their joint operation, engaged in price-fixing, profit-pooling and market control.

The essential purpose of the proposed legislation is not to enlarge the profit of the nation's newspaper publishers, but to open the door for the joint mechanical and distribution facilities that can spell the difference between one editorial voice in a community or two. The goal is the sort of continuing competition from which the reading public benefits.

There is little doubt that the costs of printing and distributing newspapers will continue to climb in the years ahead. So too will the mortality rate for newspapers—unless Congress takes the reasonable step that the Newspaper Preservation Act represents.

[From the Omaha (Nebr.) World-Herald, May 14, 1969]

SAVING EDITORIAL VOICES

With the impressive sponsorship of some 30 senators and 90 representatives, legislation is moving forward in Congress to let daily newspapers which have joint business operations and publishing facilities continue to operate that way.

The legislation was made necessary by a Supreme Court decision in the Tucson case, which declared that a 29-year-old joint operating arrangement was in violation of antitrust laws.

The decision and the proposed legislation do not affect The World-Herald. But they do affect 44 papers in 22 cities, including the Lincoln newspapers, and they raise the prospect that government will drive some of these newspapers out of business.

We believe that one newspaper can do a good job of serving a community. But if the community supports two editorial voices operating from one plant, as in Lincoln and the 21 other cities, we are strongly of the opinion that government should not interfere.

We hope, therefore, that Midlands senators and representatives will support the proposed remedial legislation, which is S. 1520 in the Senate and H.R. 8765 in the House.

[From the Chicago (Ill.) Daily News, Apr. 15, 1969]

KEEPING THE PRESS ALIVE

Because of the skyrocketing costs of operation, the newspaper industry, especially in the larger cities, has suffered spectacular attrition in recent decades. One result has been a drastic reduction in newspaper competition as city after city found itself reduced to a single editorial voice, whether in one newspaper or a one-ownership combination of morning and evening newspapers.

To combat this trend and to preserve editorial competition in the face of costs that would otherwise have been intolerable, newspapers in several cities began combining certain of the operations—production, circulation, advertising, or some combination thereof—while continuing the editorial departments as vigorously competing entities under separate editors.

The U.S. Supreme Court, in deciding that the merger of two Tucson newspapers, the Citizen and the Arizona Star, should be dissolved, ruled that while combined production facilities are apparently acceptable, combining circulation and advertising departments or the pooling of profits from those departments is not.

The court also drastically narrowed the application of the "failing company doctrine" under which a merger was recognized as immune from the antitrust laws if one of the publications appeared certain to fail unless the merger took place. The court ruled that:

"The failing company doctrine plainly cannot be applied in a merger or in any other case unless it is established that the company that acquires it or brings it under domination is the only available purchaser."

The court also held that "the burden of proving that the conditions of the failing company doctrine have been satisfied is on those who seek refuge under it."

The first thing to be said of the decision is that it threatens to put many newspapers out of business, and thus to slash back the very competition the antitrust laws were written to preserve and extend. Newspapers in 22 others cities including San Francisco, Honolulu, Salt Lake City, Miami, Tulsa and Shreveport have similar combined circulation and advertising setups or profit pooling arrangements. Regardless of the fact that many such arrangements have been in operation for many years, and have been responsible for survival of whatever editorial competition remains in those cities, the companies are clearly considered fair game for the Antitrust Division of the Justice Department under the new decision.

The legal technicalities involved are many, and this is not the place to debate them. What appears unarguable to us is that the Supreme Court, charged with defending the rudiments of American freedom, has lost sight of the forest for the trees. For the nation to have a free press it must first have a press, operating in as competitive a manner as possible. As we read the record in Tucson the newspapers were operating as competitively as they could in the economic stringencies—and certainly to the far greater benefit of the reader than if a single newspaper had monopolized the field—an arrangement that would evidently have been blessed by the court.

The ruling that the failing company must have proved that it tried its best to sell to a noncompetitor strikes us as having no validity whatever. There is simply no market for a failing newspaper except with a competitor. The whole bleak story of the diminishing field of daily newspapers in the United States makes it abundantly clear that to seek an "outside," noncompetitive buyer for an economically troubled newspaper would be to seek a needle in a haystack. We were accordingly pleased to note that Justice Stewart dissented from this finding.

But the real remedy lies in legislation. The body that wrote the antitrust laws has the authority to make certain they serve only good purposes.

Various measures have been introduced in Congress in recent years to accomplish this purpose regarding joint newspaper operations. The most recent and best of these is Senate Bill 1520 (identical with House Resolution 8765) specifically exempting from the antitrust laws "certain combinations and arrangements necessary for the survival of failing newspapers."

Citing the public interest "of maintaining the historic independence of the newspaper press in all parts of the United States," the measure declares public policy to be "to preserve the publication of newspapers" wherever "a joint operating arrangement has been or may be entered into because of economic distress."

The measure would have no bearing in any case of "predatory pricing . . . practice . . . or other conduct . . . which would be unlawful if engaged in by a single entity." In short it would provide no special privilege for newspapers. But it would enable two competing editorial departments to survive and serve a community on the basis of shared business and production facilities, and it would commute the death sentences of any newspapers already condemned under the Supreme Court ruling.

In urging Congress to adopt this legislation, The Daily News speaks as a party not operating under any such arrangements as affected by The Supreme Court decision. We speak simply as a member of the free press, concerned for the continuing exercise of that freedom.

HIGH INTEREST RATES A HEAVY LOAD TO FARMERS

Mr. SYMINGTON. Mr. President, the announcement earlier this week by major banks that the prime interest rate would be increased to 8.5 percent is just one more evidence of the many financial problems facing our country. In large measure these problems are the result of the heavy outflow of U.S. dollars in recent years to meet overseas commitments.

These increased interest rates will adversely affect all taxpayers, all consumers, and every segment of our economy, including the homebuilding industry. Plans for new plants and equipment for big as well as small business will have more trouble passing on increased costs.

The heaviest load of all, however, could well be on the people of agriculture, a segment of our economy that has never had a fair share of the prosperity of America during this century.

In that latter connection, I ask unanimous consent to have inserted in the RECORD a telegram received yesterday from Mr. Ernest T. Lindsey, president of Farmland Industries, Inc., Kansas City; and I would hope that his presentation of this serious problem of the producers of food and fiber will receive consideration and helpful action from both the Congress and the administration.

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

KANSAS CITY, MO., *June 10, 1969.*

HON. STUART SYMINGTON,
Senate Office Building,
Washington, D.C.

We are sending today the following telegram to Secretaries Kennedy and Hardin and to William McChesney Martin, Jr.:

The decision of major banks to set the prime interest rate at 8½ is more than American agriculture should be asked to bear.

Even before this jump in interest rate, the high cost of money was an important factor in the cost-price squeeze that has pushed the farmer to the tail-end of the economy.

Farmers and ranchers can't cut back in the sense industry can.

They have their cattle in pastures and feed lots, their crops in the ground, their plans for the 12-month cycle at the point of no-return. They have no choice but to accept somebody else's decision that their money in 1969 will cost more than they anticipated.

As individuals and as the owners of far-reaching marketing and purchasing cooperatives, agricultural producers must borrow money to stay in business. They have managed to survive the economic inequities of the last 15 years largely because they have improved their efficiency at a higher rate than other segments of the economy.

There comes a time, though, when operating efficiencies simply cannot offset mounting production costs. For some farmers and ranchers that time could very well have arrived with the one-percent hike in money cost.

In behalf of more than a half million farmers who make up the memberships of the 2,000 cooperatives in the 14-state farmland industries family, I plead for whatever action you can take to bring about a reversal of this interest rate increase.

ERNEST T. LINDSEY,
President, Farmland Industries, Inc.
KANSAS CITY, MO.

JOHN L. LEWIS, CRUSADING LABOR LEADER, LEAVES HIS IMPRINT OF GREATNESS

Mr. RANDOLPH. Mr. President, yesterday I was in the southern West Virginia coal mining area when the news of the passing of John L. Lewis was announced.

The former great leader of the United Mine Workers of America is reverently remembered on the hills and in the valleys of West Virginia. Last night at Princeton, where I addressed the high school graduating class as a part of commencement ceremonies, and again this morning in Bluefield, from where I returned to Washington, many expressions of sadness and loss were heard. I share their sadness and feeling of loss.

The United Mine Workers of America became a vigorous labor movement under the leadership of Mr. Lewis, and I remember well his significant influence and his magnificent organizing ability.

When a Member of the House of Representatives, I recall his vigorous and effective testimony to the Labor Committee on which I sat as a member in the thirties. The eloquence of this self-made man with an abundance of God-given talent was one of the hallmarks of his crusading career on behalf of the coal miners and all men who toiled.

Few men in this century have made their presence felt in this country with the impact that John L. Lewis did. For half a century his labors on behalf of the workingman earned him a prominent and lasting place in the history of labor-management relations as the architect of institutions and practices that will live far beyond his time.

Although not a West Virginian, he was regarded by most of us as typifying the rugged mountaineer and the free spirit we admire. In fact, the West Virginia Society of the District of Columbia honored him with its Adopted Son Award. He also was awarded the honorary doctor of humanities degree by West Virginia University.

It was my privilege to have enjoyed a personal cherished friendship with John L. Lewis over many years spanning my service in the House of Representatives and the Senate.

JOHN L. LEWIS, A GREAT AMERICAN

Mr. BYRD of West Virginia. Mr. President, John L. Lewis was as controversial as he was colorful. There can be no doubt that he left his imprint on West Virginia.

Through the mine union, of which Mr. Lewis was the soul and the embodiment, West Virginia's coal miners gained wages more nearly commensurate with the dirty and backbreaking toil they performed, and the risks they took, than they might have ever before hoped for, and the conditions of their employment were very materially improved.

John Lewis was a force to be reckoned

with on the American labor-management scene. The contribution which he made toward improving the conditions of life for all Americans who toil in the mines and in the mills and factories is incalculable. He was a man of courage and of unique ability. The causes that he championed will not soon see a more remarkable and effective advocate again.

Mr. President, I ask unanimous consent to insert in the RECORD a statement by W. A. "Tony" Boyle, president of the United Mine Workers of America, on the death of Mr. John L. Lewis.

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

STATEMENT BY W. A. BOYLE ON DEATH OF JOHN L. LEWIS

The thundering voice of America's greatest labor leader has been stilled. The passing of John L. Lewis is a great loss for the United Mine Workers of America and a personal tragedy for me. I have lost a friend, a counselor and mentor. John L. Lewis brought me from Montana, guided me and helped me to carry the heavy burdens I now must carry. His passing leaves a void in my life that can never be filled.

To the working men and women of the world, he was the symbol of dignity, strength, unity and labor's struggle for betterment. To America's coal miners, he was the fighter who led them from serfdom to their rightful place as first-class members of the American society.

John L. Lewis was a man of deep compassion, possessed of tremendous capabilities, extraordinary vision, sheer genius of mind and, as characterizes his brother coal miners, had indominatable courage. His entire life was dedicated to improving the lot of his fellow man. His name is a legend, as is the inspiration he has given to all of us. All America and the entire free world mourn his death. But it is felt most deeply among the members of the United Mine Workers of America and its leadership.

I am asking that on Monday, June 16, 1969, all coal miners gather in their respective churches and union halls for services in memory of John L. Lewis. Beginning at 12:01 a.m., June 13, 1969, until after the funeral there will be a period of mourning during which time all coal mining will cease in the United States and Canada as we honor our fallen leader. It is altogether fitting that the coal mine be silent while the men who work in them come together to do honor to John Llewellyn Lewis.

As an even more fitting memorial to him, I demand that the United States Congress immediately pass strong coal mine health and safety legislation. A John L. Lewis health and safety bill would be a fitting climax and memorial to the career of this outstanding champion of coal mine safety.

We hope that Americans of all stations and especially the American labor movement will now rally and support the push of John L. Lewis' union for health and safety legislation.

John L. Lewis best described himself at a convention of coal miners when he said: "I have pleaded your case from the pulpit and the public platform . . . not in the quavering tones of a feeble mendicant asking alms, but in the thundering voice of the captain of a mighty host, demanding the rights to which free men are entitled."

That was John L. Lewis.

RE-REFERRAL OF S. 2241

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of S. 2241, the Remote Areas Medical Facilities Act of 1969, introduced by the Senator from Nevada (Mr. BIBLE) on May 26, 1969, and that S. 2241 be re-referred to the Committee on Labor and Public Welfare.

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

THE NATIONAL COMMITTEE ON TAX JUSTICE

Mr. KENNEDY. Mr. President, the announcement yesterday of the formation of the National Committee on Tax Justice, under the chairmanship of former Senator Paul Douglas, is a significant public response to the growing demand for tax reform now being expressed in all parts of the Nation. For the first time in many years, Congress has the opportunity to enact comprehensive tax reform legislation, and I welcome the contributions the new committee will make to the coming debates.

Throughout America today, there is strong and rising sentiment for tax reform. Indeed, we are now witnessing a case where popular democracy has worked its very best. Every Senator's office is being bombarded by communications from outraged constituents demanding reform. One of the most important factors in the current efforts toward tax reform is the realization by millions of taxpayers that the 10 percent income tax surcharge is unfair. It aggravates the already serious inequities in our existing tax laws, because it applies only to those who already pay taxes on their income. It requires no contribution whatever from those who escape their fair share of taxes altogether, and it requires too little contribution from those whose taxes are too low. At a time, therefore, when the administration is asking that the surtax be extended, it is fair to insist that the administration also demonstrate its commitment to prompt and meaningful tax reform.

The need for reform is obvious. As many experts have pointed out in recent weeks, our existing revenue code is more loophole than law. Unreasonable tax privileges divert essential resources away from their best use and distort the operation of our free enterprise system. Millions of Americans below the poverty level pay taxes they cannot afford, while many of our wealthiest citizens, earning millions of dollars each year, pay little or no tax at all.

The Committee on Ways and Means of the House of Representatives has completed its extensive hearings on tax reform, and has already announced a series of tentative proposals in a number of significant areas. I commend the timely and judicious action the House committee has taken, and I look forward to early debate on these matters in the Senate.

I believe that the National Committee on Tax Justice will play an important role in educating Congress and the Nation in the areas where tax reform is most needed. The committee's initial press release contains new and far-reaching recommendations in some of the most obvious areas of potential reform, including the treatment of capital gains, the percentage depletion allowance, taxation of State and local government bonds, and tax relief for low- and middle-income families. Their proposals are a major addition to the present debate on tax reform, and they deserve the closest scrutiny by all of us in Congress committed to the cause of tax justice.

CONCLUSION OF MORNING BUSINESS

Mr. KENNEDY. Mr. President, if there is no further morning business, I move that morning business be closed.

The PRESIDING OFFICER (Mr. HUGHES in the chair). Is there further morning business? If not, morning business is closed.

ORDER OF BUSINESS

The PRESIDING OFFICER. Pursuant to the previous order, the Chair recognizes the Senator from Connecticut (Mr. DODD) for not to exceed 1 hour.

S. 2379 INTRODUCTION OF A BILL FOR THE PROTECTION OF PUBLIC OFFICES

Mr. DODD. Mr. President, I introduce for appropriate reference, a bill which will make it a Federal crime to unlawfully enter a Federal office, or without authorization knowingly and willfully remove any document from such office, or to make unauthorized copies of documents either inside the office or at any other place, or to receive such documents or copies of such documents.

And this, of course, includes the office of a Member of the U.S. Senate or the U.S. House of Representatives.

It is a principle of equity that there is no wrong which does not have a remedy.

Over the centuries a body of law has been built up in civilized society which applies this principle. But new laws are constantly necessary because we continue to discover serious wrongs for which there is no ready remedy under existing law, or for which it is claimed there is no remedy.

The measure I introduce today is intended to deal with precisely such a situation.

About 4 years ago my Senate office was illegally entered by two former employees who had been fired by me for bad personal conduct and, particularly, for immoral conduct. These two thieves removed thousands of papers from my files, made photocopies of them, and turned them over to Drew Pearson and Jack Anderson, of infamous reputation.

Early in 1966 I submitted evidence to the Department of Justice which clearly pointed to a conspiracy between Pearson and Anderson and the immoral thieves, to loot my Senate office, to steal documents from my files, and to use these documents in a maliciously distorted manner.

The facts established beyond any challenge that a multiple crime had been committed in the office of a U.S. Senator.

They also established beyond any challenge that there was a criminal conspiracy to plunder my office, to remove my files, and to convert them to booty for the use and profit of the conspirators.

The identity of the conspirators and

plunderers was known. Indeed, the conspirators had more than confirmed the essential facts in a whole series of public statements.

And yet they have never been brought to justice; and chances are now that they may not be because of the incredible ambiguity of our laws, and the refusal of responsible officials to do their duty.

When I first raised the matter with a then high-ranking official in the Justice Department, he told me that there was no doubt in his mind that a crime had been committed. But, he said that the Department was deferring action because the principals involved were then possible witnesses before a congressional inquiry.

I asked the official whether the Department would defer prosecution in the case of murder or bank robbery, or even assault and battery, if those accused of the crimes happened to be witnesses before a congressional committee.

He conceded that he could not conceive of any delay in prosecuting any such cases I mentioned.

And he had no answer when I asked him how the Justice Department drew the line and how it decided when to defer prosecution and when it should not defer prosecution.

And, I asked why the Department of Justice could not take the necessary initial prosecutive steps, and hold the matter for court presentation until the congressional committee had finished its work. But I got no answer.

Subsequently, the Justice Department informed the press that there was no section of the law that was clearly applicable.

Besides pressing for action by the Justice Department, I filed suit against Pearson and Anderson. But, in view of the decision of the Supreme Court in the New York Times against Sullivan case in 1964 it became clear to me that public officials, under that rule, were regarded as second-class citizens in that they must prove the additional fact of malice in order to make a clear case of libel or slander.

Under this ruling of the Sullivan case, it is practically impossible for one in public office to obtain the relief that is available to all other citizens for libel and slander.

As a consequence of that bad decision, an irresponsible minority in the press has been given virtually complete license to lie about and distort the facts concerning any public official.

However, I did pursue a suit against Pearson and Anderson, based on the unchallenged fact that they had knowingly received documents which were stolen from my office, and had converted them to their own malicious use and for their shabby profit.

When this case was heard before the U.S. district court in 1968, Judge Alexander Holtzof, one of our ablest jurists, found that Pearson and Anderson were guilty of the actions I had charged against them, and that I was entitled to redress.

When Pearson and Anderson appealed the decision to the U.S. Court of Appeals of the District of Columbia Circuit, the finding was overturned in one of the most confused and outrageous decisions I have ever read. Many outstanding lawyers share my view of the Court of Appeals' opinion, and it will long be considered as a landmark of juridical mumbo jumbo.

And when I appealed to the U.S. Supreme Court, that Court, only 10 days after my petition was filed, including a long Memorial Day weekend, announced that it would not take the case for review.

Up to that point and as matters stood under the Supreme Court decision in the Sullivan case, for all practical purpose, any public official could be libeled without fair recourse to the law.

As matters now stand, the public official also has no recourse of any kind to the law of the land if his office is rifled and if his files are stolen and copied as a result of plot between uncrupulous newspapermen and wretched thieves.

I have not spoken about this entire matter on the floor of the Senate for more than 2 years now, because I felt that it would be improper for me to comment publicly on it while the case against Pearson and Anderson was before the courts.

The decision of the U.S. Supreme Court on Monday of this week not only removes any such restraint, but, as I see it, makes it imperative that I speak out. I want to set out the facts and introduce legislation which will make public officials coequal with other citizens before the law.

I believe that the legislation I have today introduced is absolutely necessary if there is not to be further instances of breaking and entering and thefts in Federal offices.

And, without this legislation, there will be more conspiracies and more lies told about the stolen documents after they have all been shuffled and distorted, and some destroyed. And this will be true not only of congressional and judicial offices and chambers, but also of executive offices of the United States, from top to bottom.

The question must now be asked whether the failure of the Justice Department to prosecute the conspirators and the decision of the courts denying me redress, will not now encourage other unscrupulous members of the press and other dishonest persons to embark on similar conspiracies directed against other public officials.

The question must now be asked whether these two failures by the Justice Department and by the courts will not serve to encourage any person to engage in more plunder, more burglary, more pilfering, and more skullduggery.

Mr. President, I have no quarrel with the press as a whole, nor do I urge abridgment of the essential freedoms guaranteed by the first amendment.

I agree that robust discussion of public issues and public figures is important.

But the issue involved here is far bigger than one Senator; far greater than one Senate and one Congress.

It involves the basic security of free government and free people.

It has the gravest implications for our national security.

It also involves the basic rights of every citizen.

In the course of these crimes in my office, correspondence with the President of the United States, with Cabinet officers, with colleagues in the Senate and House of Representatives, and with family members was involved.

And, lest it be forgotten, classified documents were stolen which were never returned, together with many, many other papers which I now know would have cast an entirely different light on this whole ugly affair.

In a crystal clear violation of law, copies of my income tax returns were stolen and published, and the Justice Department stubbornly refused to prosecute the admitted violation of this law.

It is a fact that many of the stolen papers have never been found, because they would have refuted the lies that were told by the conspirators.

The Hartford Times almost 3 years ago ran a remarkably cogent editorial on this subject. I shall quote a few paragraphs from this editorial, because I believe they are more pertinent than ever today:

Charges and counter-charges in the Dodd case notwithstanding, it is disturbing that the theft of documents, records, and correspondence from the office of a United States Senator is looked upon by official Washington with benign unconcern.

What everyone has overlooked is that correspondence involves other parties; that since he became a Senator in 1959 thousands upon thousands of his Connecticut constituents have written to Mr. Dodd, using the privacy of the mails to relate, request, report business or personal matters, some of which are undoubtedly confidential, confessional, or confused.

If individuals can unlawfully remove, read, and copy (perhaps even sell) anything in a public official's office—and do so with apparent impunity—then the Congress, the courts, or the Justice Department should consider whether the rights of any of Senator Dodd's constituents have been violated or may be violated hereafter.

What about a letter from an over-wrought mother pleading with her U.S. Senator to try to keep her boy from being shipped to Viet Nam?

Or the letter from a small store owner who exaggerated his income tax deductions, wants to make amends, but is afraid of being arrested, and asks his Congressman for advice?

What protection exists for the privacy of the authors?

After the legal and political dust have settled on the Dodd controversy . . . civil libertarians should think it through.

I have stated here on the Senate floor, and offered to prove, that Pearson and Anderson conspired to steal and copy the top secret Valachi file from the Department of Justice on the same Xerox machine that was used to copy the thousands of documents stolen from my office.

In precisely the same way, Pearson and Anderson or other unscrupulous newspapermen can arrange to invade the files of our Federal judges or of Cabinet members, or even of the President of the United States.

This does not exaggerate the case by a single iota.

The fact is that Anderson, in an appearance on the Mark Evans show on February 18, 1967, specifically defended the taking of documents from the files of the President of the United States.

I shall quote a brief exchange between Evans and Anderson:

EVANS. I am not a lawyer, and I don't pretend to be, but I am wondering that if letters written to me aren't my personal possession no matter who pays me.

ANDERSON. Not if you are a government official and are concerned——

EVANS. You mean to say that any letter written to President Johnson is the possession of all the people in the United States?

ANDERSON. If in these letters President Johnson is in a conspiracy to defraud or to deceive the public, then those letters should be made public.

I say that orderly government demands that Government offices and Government officials be protected against the invasion of their files by miserable thieves and newspapermen who pretend to justify their crimes by lies and false allegations.

I say that the President and members of the Cabinet and members of the judiciary and Members of Congress are entitled to exactly the same protection from illegal intrusion that is accorded to every other citizen of the United States of America.

I say that when the privacy of Government officials is violated, the privacy of thousands of citizens who have corresponded with them is also violated.

I say that this situation cannot be permitted to continue because it constitutes a violation of a precious fundamental right which is enshrined in our Constitution.

The legislation which I have proposed today seeks to deal with this situation in the following manner:

First. It provides for a penalty of 1 to 3 years in prison and a fine of up to $2,500 for any individual who illegally enters the office of a Federal official after closing hours.

Second. It provides for a penalty of 3 to 5 years in prison and for a fine of up to $5,000 for any person, whether or not employed by the Federal Government, who knowingly removes files from a Federal office, or who copies them without authorization, or who knowingly receives files or copies from a Federal office.

There may be a small minority who will oppose this measure on the alleged grounds that it is designed to protect wrongdoing. Nothing could be further from the truth.

The fact is that anyone who suspects wrongdoing would in no way be impaired by this law from bringing the facts to the attention of the appropriate authorities.

He would simply be prevented from setting himself up as a vigilante and engaging in the unauthorized invasion and seizure of official and private documents which is denied to officers of the law.

I believe that the measure I have presented today will have the support of the overwhelming majority of Congress, of the great mass of Federal employees, and of all but a handful of the American press and of the American people.

I earnestly hope that this measure will be enacted without delay, not for my own protection, because this is a matter of past history, but for the protection of Government officials, for the protection of Senators and Congressmen, for the protection of the judiciary, and for the protection of the American people.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

The bill (S. 2379), to protect the executive, legislative, and judicial branches of the U.S. Government by prohibiting the unauthorized entry into U.S. Government offices and the unauthorized removal or use of certain records of the U.S. Government, introduced by Mr. DODD, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 2379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 91 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1864. Unlawful entry of Government offices

"Whoever, without lawful authority or permission, enters, or attempts to enter, any office of the United States Government after business hours, shall be fined not less than $2,500 or imprisoned not less than one year nor more than three years, or both."

(b) The analysis of such chapter, preceding section 1851, is amended—

(1) by adding at the end of the chapter heading the words "AND OFFICES"; and

(2) by adding at the end thereof the following new item:

"1864. Unlawful entry of Government offices."

(c) The table of contents of part I of such title is amended by adding after the word "lands" in the item relating to chapter 91 the words "and offices."

SEC. 2. (a) Section 2071 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Whoever knowingly and willfully—

"(1) removes or receives from an office of the United States Government without the knowledge, consent, or authorization of the head of such office any book, record, document, or paper which is the property of the United States, either House of the Congress, or any Member of the Congress;

"(2) makes or causes to be made, or receives, within an office of the United States Government by any means any copy of the whole or any part of the contents of any such book, record, document, or paper which is situated within such office without the knowledge, consent, or authorization of the head of such office; or

"(3) makes or causes to be made, or receives, at any other place by any means any copy of the whole or any part of the contents of any such book, record, document, or paper with knowledge that such book, record, document, or paper has been removed unlawfully from an office of the United States Government;

shall be fined not more than $5,000, or imprisoned not less than two years nor more than five years, or both. The provisions of this section shall not apply to the making of any copy of the contents of any book or document which has been printed or otherwise reproduced for public use or for distribution to the public."

(b) The caption of such section is amended to read as follows:

"§ 2071. Concealment, removal, mutilation, or copying generally."

(c) The item relating to such section contained in the section analysis of chapter 101, title 18, United States Code, is amended to read as follows:

"2071. Concealment, removal, mutilation, or copying generally."

THE FIRST AMENDMENT AND RIOTING ON THE CAMPUS

Mr. ERVIN. Mr. President, inasmuch as the first amendment and the right of dissent are being invoked with frequency nowadays to justify rioting by students on the campuses of some of our institutions of higher learning, it is timely for us to consider this amendment and this right.

THE FIRST AMENDMENT

The first amendment undertakes to make the minds and spirits of men free.

To this end, it guarantees to every person in our land freedom of thought, freedom of speech, freedom of the press, and freedom of religion. One may exercise these freedoms either as an individual or in association with others having a common lawful purpose.

Furthermore, the first amendment expressly recognizes a collective freedom, that is, the right of the people "peaceably to assembly and to petition Government for a redress of grievances."

Under our Constitution, men can be punished for what they do or fail to do, but not for what they think or believe.

For this reason, freedom of thought is absolute in nature, and confers upon everyone full liberty to question existing concepts, customs, institutions, or laws and to judge them antiquated or evil, no matter how long they may have been taken for granted or how passionately they may be supported by legislative or popular majorities.

The first amendment secures freedom of speech and freedom of the press to every human being who happens to be inside our borders. Therefore, these freedoms are exercisable by fools as well as by wise men, by agnostics and atheists as well as by the devout, by those who defy our customs and our laws as well as by those who conform to them, and by those who hate our country as well as by those who love it.

These freedoms endow everyone in our land with a legal right to advocate peaceful changes in existing concepts, customs, institutions, or laws. Indeed, they even authorize one to urge the substitution by constitutional methods of a communistic or fascist system of government for the one we have.

Freedom of speech and freedom of the press permit every person to say or publish with impunity whatever he wishes, provided what he says or publishes is not obscene, and does not falsely and maliciously slander or libel another, or tend to obstruct the courts in their administration of justice, or create a clear and present danger that it will incite others to commit crime.

Freedom of religion creates certain rights, and limits the powers of Government in certain respects to make those rights secure.

Under this freedom, every man has the right to entertain such religious beliefs as appeal to his conscience, the right to practice his religious beliefs in any form of worship not injurious to the rights of others, and the right to endeavor by

peaceful persuasion to induce others to accept his religious beliefs.

Freedom of religion forbids Government to support or oppose any religion, or to interfere in any way with any religious belief entertained by any man. But it does not deny to Government the power to punish as crimes acts injurious to society, even though the acts are done in the name of religion.

The freedom of assembly recognized by the first amendment extends to the people the right to meet peaceably for consultation and protest in respect to public affairs and to petition those invested with the powers of Government for a redress of their grievances.

THE RIGHT OF DISSENT

The right of dissent, which is the right to differ from others in opinion, may be said to be a part of the first amendment. It is certainly embodied, in essence, in the first amendment freedoms, which allow individuals to think, say, and publish what they will, no matter how displeasing it may be to their neighbors or those entrusted with the powers of Government, and which permit the people to meet peaceably and petition Government for a redress of their grievances. Consequently, I shall not speak of the right of dissent hereafter as something apart from what I call first amendment freedoms.

According to their language and the judicial construction placed upon them, first amendment freedoms can be invoked only against Federal and State laws and the public officers who administer or enforce them. By analogy, however, officers of private institutions customarily extend the right of assembly and petition to those subject to their authority.

We cannot value freedom of thought, freedom of speech, freedom of the press, freedom of religion, and freedom of assembly too highly. This is so because they are the fundamental freedoms which make it possible for our country to endure as a free society.

To be sure, these freedoms compel us to put up with a lot of intellectual rubbish. But our country has nothing to fear from them, however much they may be abused, as long as it leaves truth free to combat error.

LIMITS OF FIRST AMENDMENT RIGHTS

The first amendment assures to the people freedom to think, speak, publish, and worship, and freedom to assemble and petition Government for a redress of grievances.

The amendment requires that these freedoms be exercised in a peaceful and law-abiding manner. This requirement is explicit in the declaration that those who wish to petition Government for a redress of grievances must assemble peaceably, and is implicit in the nature of the freedoms themselves. They are designed to enable people to inform and persuade others, not to coerce them.

The first amendment does not authorize any acts whatever except nonviolent acts tantamount to the freedoms it secures such as peaceful demonstrations and peaceful picketing, which merely proclaim the views of the participants and do not infringe on the rights of others.

These things being true, the first amendment freedoms do not legalize, or exempt from punishment, the acts of those who commit crimes or incite others to commit crimes. Indeed, they do not deny Government the power to curtail a person's right to speak if his manner of speaking and the surrounding circumstances create a clear and present danger that his words will incite others to violence and thus endanger the public safety.

In making these distinctions, the Constitution does not choose between order and freedom. It chooses between freedom with order and anarchy without either.

CAMPUS DISORDERS

During recent months groups of students, acting in concert, have used physical force and threats of physical force to disrupt the educational process on the campuses of some of our public and private institutions of higher learning.

By these violent means, they have detained presidents, deans, and other administrative officers of the institutions in their offices; they have denied teachers and fellow students access to buildings of the institutions set apart for instructional purposes; they have seized, occupied, and held buildings of the institutions for their own purposes and refused to surrender them to academic and legal authorities; they have obstructed the efforts of recruiting officers to recruit fellow students for service in the Armed Forces of the Nation; they have assaulted administrative officers, teachers, and fellow students, who refused to cooperate with them, and law enforcement officers, who sought to restore order; and they have burned buildings belonging to the institutions.

Apologists for the offending students make alternative claims to relieve them from accountability.

They assert initially that in committing their excesses the students were merely exercising their first amendment freedom of speech and their first amendment freedom of assembly and petition. This assertion is preposterous. The offending students were committing willful acts constituting crimes under the laws of the States in which the institutions are located.

The apologists contend secondarily that even if their acts were crimes the offending students are free from moral blame and ought not to be held accountable for them by either the institutions of learning or the law.

To sustain this view, they argue that the offending students perpetrated their lawless acts to compel recalcitrant administrations to recognize their grievances and to submit to their demands.

I refrain from comment on the demands of the offending students beyond observing that they contemplated such things as lowering admission and academic standards, giving students the power of hiring and firing instructors and otherwise participating in the management of the institutions, setting racial quotas for the composition of student bodies, and disestablishing ROTC programs and research projects which assist our country to maintain its military strength in our precarious world.

Whether the demands were justified or unjustified is immaterial in the present context. The simple truth is that criminal coercion has no place on the campus of any university or college anywhere in our land.

The apologists for the offending students advance another argument, which is somewhat disconcerting to those of us who believe that university and college students ought to be able and willing to exercise reasonable self-control and act with reasonable civility. After all, they were exposed to the educational process in primary and secondary schools for at least 12 years before being admitted to the institutions of higher learning.

But the apologists maintain that notwithstanding this, the offending students should be exonerated from moral accountability for their excesses. They say this is so, because the students were frustrated by the war in Vietnam, the possibility that they might be drafted to serve in the Armed Forces of the Nation, their discontent with their teachers and courses of study, and their dissatisfaction with conditions of life on the campus and in the world beyond; and that they ran berserk to give vent to their feelings.

This argument does not excuse. Anarchy, like criminal coercion, has no place on the campus of any university or college anywhere in our land.

Lest I paint too dark a picture let me observe: The disorders upon our campuses have been instigated and perpetrated by a small minority of the students, and the overwhelming majority of our institutions of higher learning have enjoyed the tranquillity essential to the educational process.

THE DUTY TO END CAMPUS DISORDERS

Our country cannot tolerate the violent disruption of the educational process on the campuses of our universities and colleges. Besides, it need not do so. The administrators of these institutions and the State officers charged with the duty to administer criminal justice have ample authority to put an end to violence on the campuses. To accomplish this, they must do these things:

First. Administrators of institutions of higher learning must recognize the right of students to petition for a redress of grievances. This being so, they must keep the lines of communication open and receive and consider any recommendations for changes in curriculums or management recommended to them by students acting peaceably and courteously. In addition, they must be willing to accept and implement any proposed changes which improve the administration of the institutions or the quality of the instruction they afford.

Second. Administrators of our institutions of learning must make it plain that their institutions are not going to be havens of repose for the indolent or places of correction for the incorrigible. Besides, they must not appease students who commit violent crimes or seek to obtain for them immunity from prosecution and punishment. Furthermore, they must safeguard the right of students desirous of pursuing an education in an atmosphere of peace by expelling those who seek to disrupt by violent methods the educational process.

Third. State officers charged with re-

sponsibility for administering criminal justice must prosecute and adequately punish students who commit violent crimes on campuses.

After all, the first duty of a free society is to enforce law and thus maintain order. This is so, because disorder denies to the people the right to exercise and enjoy their freedoms.

I cannot overmagnify the obligations resting upon administrators in institutions of higher learning and State officers charged with the duty to administer criminal justice to prevent the violent disruption of the educational process. This is so because, in the ultimate analysis, our universities and colleges must supply the intellectual and spiritual light necessary to keep our society free.

THE SURTAX, INTEREST RATES, AND OUR ECONOMIC CRISIS

Mr. HARTKE. Mr. President, the United States today faces its most severe economic crisis in a generation. And this crisis is directly attributable to the mistakes and miscalculations of the money managers of Wall Street, the Treasury, and the Federal Reserve Board.

The prime interest rate now charged by the big New York banks stands at the all-time record high of 8½ percent. Assurances of other bankers notwithstanding, everyone knows that banks throughout the rest of the country will certainly follow suit within a very short time. And actually we have to be concerned with a much higher interest rate than 8½ percent, since banks require business borrowers to maintain deposits amounting to 20 percent of the loan. This means that the business borrower who receives a loan at the prime rate will really be paying an effective rate of more than 10 percent. And the rate for the home loan, the student loan, the ordinary household loan will be much higher.

I am sorry to say, Mr. President, that I predicted this drastic increase in interest rates when Government officials were stoutly denying that any such rise was anticipated. But the mistakes and miscalculations of the money managers made it obvious to anyone with eyes to see that the worst "credit crunch" of our times was on the way. Now it is here, and we have to try to estimate its consequences.

First and foremost, the inflationary spiral will take yet another upward turn. This will happen because the great corporations will continue to be able to borrow money even at the present exorbitant rate, and will simply transfer their additional costs to the buyer in the form of increased prices. They have done so in the past; they will do so now. There is nothing secretive about it. Even the theory-intoxicated manipulators of the Federal Reserve Board should have no trouble understanding the implications of a comment made by an official of the City Stores Co. of New York: "The prime rate increase," he said, "is just one more reason to raise prices." And the Wall Street Journal reports that many other companies have already said that they would pass on their higher borrowing costs in the form of price increases.

But we are told that the policies of the Federal Reserve Board that have helped bring us to this appallingly dangerous pass were designed precisely to fight inflation. We are told by the "fine-tune" addicts that if the Fed and the Treasury can just have enough dials to fiddle with inflation will be halted and prosperity assured. So the Fed fiddles with the rediscount rate and a variety of other monetary devices, and the Treasury's highest officials conjure up the bogeyman of wage and price controls unless the surtax is extended by Congress—and all the while, inflation gallops on and interest rates rise to record highs.

May I ask, Mr. President, whether any of us have had time to forget that one of the big selling points for the surtax last year was the promise of relief from high interest rates? And may I remind the administration that we have now had four—count them, four—increases in the prime rate since then?

Inflation, then, far from being slowed by this new interest rate outrage, will only be fueled by it. It is only a slight exaggeration to say that fighting a cost-push inflation with higher interest rates is like fighting a fire with gasoline.

But more inflation is only one of the disastrous consequences of this week's action by the bankers. The small businessman, unlike his giant competitors, will not be able to escape its worst effects. He will find it that much more difficult to compete for the consumer's shrunken dollars. And so small business failures and bankruptcies will increase sharply, and an ever-greater portion of this once-vital segment of our economy will be absorbed by the giant corporations.

Furthermore, existing distortions in the economy will only be worsened, as industries particularly sensitive to changes in the credit market—the housing industry is only one example—begin to feel the effects of unbearably tight money.

Nor will the working man be exempt from the consequences of this latest monetary folly. We must not forget that millions of jobs are generated by medium- and small-sized firms—firms for whom the credit squeeze demands retrenchment. So the returning veteran and the recent graduate will find fewer jobs. Instead of too much money chasing too few goods, we will have too many people chasing too few jobs. And it goes without saying that increased unemployment will be concentrated among the youth, the elderly, and members of minority groups. In this respect, the rise in interest rates can be said to guarantee the failure of many of the Government's manpower training programs. Indeed, it almost appears to be a program to increase the numbers of hard-core unemployed.

Higher prices; more numerous business failures; increased distortions in the economy; large-scale unemployment. These are the consequences of this week's prime interest rate hike by the New York banks. They are the auguries, as I said at the outset, of the worst economic crisis of a generation.

Who is responsible?

Most immediately, of course, the New York bankers who made this shocking decision. From all we can learn, they acted without the consent—and even against the advice—of the administration. Just last Friday, Mr. Arthur F. Burns, President Nixon's chief adviser on domestic affairs—this is just last week, right before the increase in the interest rates was put into effect—warned:

> A further rise in interest rates would be a serious threat to the continuance of our prosperity . . . there would be a credit crunch followed by a business recession.

Those are the words of the chief economic spokesman on domestic affairs from President Nixon's office in the White House.

And yet, the administration itself is waging an all-out fight to extend the equally inflationary, equally wrong-headed income surtax.

The New York bankers at least have the excuse that the monetary policies of the Nation's central banking authority—the Federal Reserve Board—have so deranged the credit market that they had little choice but to pursue the course of higher interest rates. But the administration's money managers have only their own mistakes, their own discredited theories to appeal to—and now they are asking us to swallow more of the same.

The Federal Reserve Board and the Treasury, instead of abandoning policies that have plainly failed, are persisting in them with an almost fanatical zeal. They seem intent on hammering the American economy into whatever grotesque shape fits their theories. Together they remind me of nothing so much as the physician who, having prescribed a therapeutic dose of arsenic without success, now gives the patient a lethal dose.

That patient, Mr. President, is the American economy—by which I mean the ordinary American consumer, the wage earner, the small businessman. These are the defenseless victims of an inflation generated by war and fueled by the mistakes of the money managers.

The American people are crying out for help. In the last election the President promised that he would do away with the surtax. I for one want to help the President keep that promise, even though he and his advisers are saying that that promise was only election oratory. I suggest that one of the prophets of gloom and doom, William McChesney Martin, should have earlier retirement and that it would be for the benefit of America. He is an expert in alliteration. Perhaps he should take a job as a professor in one of the universities.

All the American people have received from the money managers are empty words about "patience, perseverance, and persistence"—and ever larger doses of the same destructive medicine.

Help must be provided, Mr. President, and it must be provided by us in the Congress. The most direct, immediate steps we must take are, first, to absolutely refuse to extend the surtax, and second, to cut Federal spending drastically in nonessential areas—most especially in military spending which now consumes so unconscionable a portion of our total resources.

Having taken those two essential steps, we can then turn our attention to the basic problem of restoring public control over the money managers. There is no

greater danger to a democracy than irresponsible power, whether economic or political. We see today what a condition it has brought us to, and we know that it is intolerable. Our goal now must be to set it right.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk preceeded to call the roll.

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

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

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO MAKE CERTAIN TRANSFERS OF APPROPRIATIONS

Mr. RUSSELL. Mr. President, the supplemental appropriation bill was reported to the Senate this morning. It provides funds necessary to meet the payroll obligations of the Senate on June 20.

There is some doubt as to whether that bill can possibly be enacted into law by that date.

On yesterday the Committee on Appropriations requested me to offer a resolution to deal with this question. I, therefore, send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The LEGISLATIVE CLERK. A resolution (S. Res. 209) to authorize the Secretary of the Senate to make certain transfers of appropriations.

Mr. RUSSELL. Mr. President, the resolution merely permits the Secretary of the Senate to utilize any funds available to him to meet the payroll obligations for June. Of course, it also provides that any funds so utilized shall be replaced when the supplemental appropriations bill is enacted into law.

The PRESIDING OFFICER. Is there any objection to the immediate consideration of the resolution?

There being no objection, the resolution (S. Res. 209) was considered and agreed to as follows:

S. RES. 209

Resolved, That the Secretary of the Senate is authorized and directed—

(1) pending the enactment of the Second Supplemental Appropriation Act, 1969, to make such transfers between appropriations or funds available for disbursement by the Secretary of the Senate as may be necessary to provide for payment of the salaries of Members, officers, and employees of the Senate for the month of June, 1969; and

(2) upon the enactment of such Act, to reimburse, out of funds made available thereunder for disbursement by the Secretary of the Senate, any appropriation or fund for any amount transferred from such appropriation or fund under paragraph (1).

FEDERAL LANDS FOR PARKS AND RECREATION ACT OF 1969

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1708.

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

The LEGISLATIVE CLERK. Calendar No. 216, S. 1708, a bill to amend title I of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs, with an amendment, to strike out all after the enacting clause and insert:

That this Act may be cited as the "Federal Lands for Parks and Recreation Act of 1969".

SEC. 2. Section 2(b) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (effective March 31, 1970, section 2(b) becomes section 2(a) pursuant to the provisions of Public Law 90–401, July 15, 1968), is further amended by deleting the last sentence and adding the following new paragraphs.

"*Provided, however*, That, notwithstanding the provisions of the Surplus Property Act of 1944, as amended, and the Federal Property and Administrative Services Act of 1949, as amended, States and their political subdivisions may acquire until June 30, 1973, from the United States for public park and recreation purposes surplus Federal real property together with such improvements, equipment, and related personal property that the Secretary of the Interior has recommended to the Administrator of the General Services Administration for such acquisition based upon the suitability of the property for park and recreational uses; the accessibility of the property to major population centers; the need for park and recreation facilities in the immediate geographical area, as identified in the comprehensive statewide outdoor recreation plan required under section 5(d) of this Act; and the highest and best use of the property taking into consideration the need of future generations for parks, open spaces, and recreational opportunities. Conveyances of such property for park or recreation purposes shall be in accordance with one of the following methods as determined by the State or political subdivision thereof:

"(1) Where the State or its political subdivision originally donated the property to to the United States, the surplus Federal property may be reacquired without the payment of any consideration; or

"(2) Where a State or its political subdivisions so elects, the surplus Federal property may be acquired at zero to 50 per centum of the fair market value, as determined by the Administrator of the General Services Administration in accordance with the recommendations of the Secretary of the Interior; or

"(3) Where the United States paid valuable consideration for the property to the State, its political subdivisions, or to any person, the State or its political subdivison may acquire the surplus Federal property upon the payment of the cost to the United States at the time of such acquisition.

"Deeds conveying any surplus real property disposed of under this authority shall be issued by the General Services Administration and shall provide that the property shall be used and maintained for the purpose for which it was conveyed, and, in the event that such property ceases to be used or maintained for such purposes, such property shall at the option of the Secretary revert to the United States. The deeds may also contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator to be necessary to safeguard the interest of the United States. The Secretary of the Interior may exercise all of his existing authorities under section 203(k) of the Federal Property and Administrative Services Act of 1949, as amended, as to property transferred under this Act. The State and their political subdivisions shall compensate the United States for the administrative costs of surplus property transfers made pursuant to this Act."

"The Secretary of the Interior is directed to prepare and publish guidelines and regulations for implementing the provisions of this Act.

"Except as provided in this section, nothing in this Act shall affect existing laws or regulations concerning disposal of real or personal surplus Federal property to schools, hospitals, States, and their political subdivisions."

Mr. JACKSON. Mr. President, I introduced S. 1708, the Federal Lands for Parks and Recreation Act, earlier in this session of Congress because it is my view that, as a nation, we are not meeting the need of present and future generations of Americans for parks, for open spaces, and for recreational opportunity.

We are not meeting this need because we have failed to appropriate money to set aside enough land for these purposes.

Mr. President, those of us who have the honor to serve in the Congress are the trustees of the land and the environment for those who come after us. Our decisions today will determine the shape of our country's future environment. Our decisions will determine whether our legacy to the future is a quality life in quality surroundings, or whether it is a legacy of social unrest bred in conditions of crowding, congestion, ugliness, and lack of recreational opportunity and natural beauty.

It is my judgment, and it is the unanimous judgment of the members of the Senate Interior and Insular Affairs Committee, that S. 1708, as reported by the committee, can play an important role in insuring that our legacy to future generations is a quality life in a quality environment.

The purpose of this measure is to make surplus Federal property available to State and local governments for park and recreational purposes, at prices which reflect the important role recreation and open spaces play in our contemporary life.

This bill is in accord with and in furtherance of our longstanding national policy as expressed in the Land and Water Conservation Fund Act and other measures designed to encourage State and local governments to acquire and develop lands for parks and outdoor recreation.

This bill is of special importance to many of our major metropolitan areas, where the need for parks and open spaces is greatly increasing, while at the same time the limited land available is being dedicated to other, often incompatible, purposes. If we are to improve the quality of life and surroundings for the residents of our major cities, we will have to take advantage of every future opportunity to acquire land adjacent to where people live for recreational and park purposes.

In spite of our longstanding national policy to encourage and assist State and local governments in the acquisition of open spaces we are not coming close to meeting the need. This failure may be seen in the statements of various groups quoted in the report on S. 1708 and by reviewing the hearing record on the bill.

As a result of the high price of potential park and recreation areas which are located where they are needed most—where the people are—many cities are unable to meet the demand. To cite only one concrete example, a recent report of the League of Cities notes that San Antonio, Tex., a city of 722,000 people has been able to acquire an average of only 6 acres of park land per year between 1945 and 1961. It is estimated that 170 acres should have been added each year if the needs of city residents were to be met. This same picture of inadequate revenues to meet the public need for open space is repeated in city after city, and in State after State.

One way to meet the Nation's critical need for parks and recreation areas is to take advantage of every available opportunity to see that appropriate parcels of surplus Federal property—property owned by all Americans—are dedicated to the highest and best use of the American public. The crowding, the congestion and the growing pressures of modern life make it clear that one of the highest and best uses of land in the last one-third of the 20th century is for parks and open spaces.

It may not be the use that generates the most immediate revenues, but government is not a business for profit. And the success of government is not measured by maximizing the monetary return on investment. It is measured by the calibre and the quality of the life made available to the people which government serves.

S. 1708 would authorize the transfer of lands from one public purpose for which they are no longer needed to another public purpose for which the need is critical.

The utility and reasonableness of such intergovernmental property transfers have already been recognized. Transfers are presently authorized at no cost, or at a 0- to 100-percent discount, to make surplus Federal property available to States and their political subdivisions for use for health and education purposes, for historic sites, for wildlife conservation, and for airports. S. 1708 places needs of people for parks and for open space on a more comparable basis with their need for health and education facilities. It places the needs of our young people for recreational opportunity on a more comparable basis with the public's need for historic sites, for wildlife conservation, and for airports.

Today there are over 30 million acres of land presently held in fee ownership and used by the Department of Defense alone. Periodically, portions of this property are declared surplus. Many of these surplus military installations are located in or near major metropolitan areas and afford a great opportunity for urban park and recreational complexes. Authorizing disposition of those properties which are suitable for park and recreational purposes would be a concrete demonstration that swords can be hammered into park benches; and that military parade and training grounds can be turned into ballparks for our youth.

Surplus property held by other departments of the Federal Government afford similar opportunities.

The alternative to enactment of S. 1708 is, of course, to continue to deal with surplus Federal property as we have in the past. Of the thousands of acres of surplus property disposed of every year, less than 5 percent by valuation have been dedicated to park and recreational purposes.

Mr. President, I do not believe this is adequate. I do not believe it fits the real needs of our Nation and our people. In fiscal year 1968 only 22 properties totaling a mere 2,740 acres were conveyed to State and local government for park and recreational purposes under the provisions of the present law. That is one-half of a square foot for every man, woman, and child in America.

Twenty years of this type of policy means 10 square feet of park space for every American.

Mr. President, passage of the measure which is before us today will make it possible for the Congress to insure that the States and units of local government in this Nation have a chance—a financially realistic chance—to acquire these lands for park and recreational purposes.

The Federal Lands for Parks and Recreation Act of 1969 would amend the Land and Water Conservation Fund Act by providing that until June 30, 1973, surplus Federal property could be conveyed to State and local government for park and recreational use at less than the 50 percent of fair market value required under present law.

The bill provides three methods by which a State or its political subdivision may acquire surplus Federal property for park and recreational purposes. First, if the State or its political subdivision originally donated the property to the Federal Government, it may be reacquired at no cost. Second, the property may be acquired at the purchase price which the Federal Government paid for the property. Third, the surplus Federal property may be acquired at 0 to 50 percent of fair market value. Decisions as to whether the property should be transferred and, if so, the price discount to be used, are to be determined on the basis of standards relating to suitability, accessibility, need, and the highest and best use of the property.

Under the terms of the bill all deeds transferring property for park and recreational purposes must contain reverter clauses and other provisions to insure that the use and character of the property is not subsequently changed.

One of the most significant features of this measure is that it enlarges the Nation's park and recreational land base without requiring the acquisition of property held in private ownership.

A second major feature of this bill is that it makes these lands available without in any way reducing the revenues available to State and Federal Government from the Land and Water Conservation Fund. As surplus Federal lands are turned over to State and local governments for park and recreational purposes, there would be a minor reduction in revenues paid into the Fund from this source. But this reduction would automatically be made up by section 2(c)(1) of the Land and Water Conservation Fund Act, which authorizes an appropriation to the fund of $200 million per year. Section 2(c)(2) of the act provides that to the extent that $200 million is not appropriated in any year, an amount sufficient to cover the remainder shall be credited to the fund from Outer Continental Shelf leasing revenues, and shall remain in the Fund until appropriated.

Mr. President, as I noted in my statement on March 27 when this measure was introduced, I became aware of the urgent need for legislation on this subject when it became apparent that Fort Lawton—a military installation in the city of Seattle—would soon be declared surplus to Federal needs. The problem Seattle and many other units of local government face is that paying 50 percent of fair market value for property or for portions of property of this nature may be financially impossible. This is especially true when the property is located in or near a major metropolitan area and the land appraisals are based on commercial, industrial, or high density residential development.

The problem posed is national in scope. The Citizens' Advisory Committee on Recreation and Natural Beauty and other groups have recommended that legislative action be taken at an early date. These groups have no axe to grind. They act in the public interest and they reflect the public's sense of national priorities.

The great need in our cities to develop facilities for public recreation is self-evident. The escalating costs of land acquisition often preclude purchase of additional property at market value. Where unique opportunities exist to turn surplus Federal lands to such use, it surely is in the public interest to do so. My bill, as reported to the Senate by the Interior Committee, includes safeguard provisions to insure that the Secretary of the Interior will determine that the properties are suitable for the purposes intended.

While it is indeed regrettable that not every community in America will be able to derive a benefit from the provisions of S. 1708, it is certain that many will be able to do so. I believe that this is adequate reason to endorse the bill. The Federal Government cannot put a national park, a national recreation area, or a seashore in every State, but this does not furnish an argument against the establishment of these areas.

S. 1708 is an important and necessary adjunct to our Nation's park and recreational program. It is designed to allow property which would otherwise be sold for private and industrial development to be dedicated for public use and enjoyment. We have both an opportunity and a responsibility to see that surplus lands held in Federal ownership are reviewed for their park and recreational potential, and where the lands are suited for these purposes, that State and local government have an opportunity to acquire the property for park and recreational use.

This measure would be of great benefit to our cities and our urban areas. It is no answer to the public's needs for open space to say that the cities should go out on the open market and purchase property for park and recreational use. Property which has park and recreational

value is in great demand by real estate developers and by business interests for commercial and industrial purposes. State and local government cannot compete with these groups. And as a result, history shows that they have not acquired the property needed for these purposes.

We already have enough concrete in our cities. What we need is grass, trees, and open spaces. We need a policy to reverse the one-way process of urban sprawl, development and shrinking open areas.

Mr. President, I am in basic and fundamental disagreement with those who propose that the Federal Government should let marketplace economics dictate whether and where our States and cities will have park and recreational facilities. We need only look around any major city to see that the marketplace does not make decisions which are in the public interest. The marketplace makes decisions which maximize private profits. And at the same time, it generates air and water pollution; it gobbles up land with urban sprawl and concrete; and it initiates many other private actions which are often flatly opposed to the public interest.

I am not an economist. I am interested in efficiency in government, however. But government efficiency is not measured in short-term profits. Government efficiency is measured by its success in achieving long-term public goals—goals that benefit present and future generations of Americans, goals that lead to a better America.

Mr. President, of the many issues which come before the Congress, many of them do not present true questions of national priorities. For good or bad, our national priorities are, in large measure, set by the President's power over the purse; by his authority to recommend to the Congress a budget; and by his power to decide whether to spend the moneys appropriated.

S. 1708 is a measure which presents Congress with the rare issue of national purpose and national priorities. Enactment of this measure does not involve new appropriation authority or the expenditures of revenues. It presents a simple question for congressional decision. The question is this: Should Congress seek to maximize short-term profits in the disposition of surplus public lands; or, as proposed in S. 1708, should Congress establish a system of disposition which will enable and encourage State and local government to retain surplus Federal property which is found to be suitable for park and recreational purposes in public ownership for public enjoyment.

I have heard the testimony on this measure. As chairman of the Interior and Insular Affairs Committee, I am intimately familiar with our Nation's critical need for parks, open spaces and recreational opportunity. As ranking member of the Government Operations Committee, so ably presided over by the Senator from Arkansas (Mr. McCLELLAN), I am intimately familiar with the shortcomings of our present surplus property disposal laws in this area.

By any rule of commonsense, by any standard of reasonableness, by any measure of congressional responsibility for leadership in determining national priorities, I would recommend—indeed, I would urge—favorable Senate passage of this needed and deserving legislation.

Mr. President, the problem of acquiring lands for park and recreation purposes has been particularly acute in the urban areas where the need is the greatest. In most cities, acquisition of lands for these purposes has become nearly impossible because of escalating land costs and the critical financial situation of local and metropolitan government. This land acquisition problem can only intensify as our population continues to increase in urban areas. Approximately 130 million people in this country now reside in metropolitan areas. This number is expected to rise to over 250 million, almost double—and equivalent to 85 percent of our total population, by the year 2000.

If we are to improve the quality of life and surroundings for Americans, and particularly those residents of our major cities, we will have to take advantage of every future opportunity to acquire land adjacent to where people live for recreation and park purposes. S. 1708 will go far toward accomplishing this purpose.

Mr. President, I make the point in my statement on S. 1708 that I believe this measure would be of great importance to the residents of our cities and major metropolitan areas. My point is that I believe government has an obligation to insure that there is a wide sharing of life's amenities. But there is another reason why S. 1708 is important.

Psychiatrists and sociologists have long told us that there is a connection between congestion and crowding and social violence. The same point was made in a recent report of the U.S. Commission on Civil Disorders. The Commission determined that the lack of recreational opportunities was a major source of discontent among the inhabitants of urban ghettos. Upon categorization of these problems, the Commission determined that adequate recreational opportunities ranked fifth in level of importance among the people themselves, in fact, it was considered more important than the inequitable administration of justice or the ineffectiveness of local political mechanisms.

Yet, how much of the Federal recreation dollar has really gone into Harlem or Watts or similar areas in our major metropolises; and, for that matter, does the Federal Government have the programs and the authority to deal effectively with the problem?

S. 1708 provides a means to deal with this problem.

Mr. President, I hope that the Senate will act expeditiously and favorably on this important measure.

Mr. McCLELLAN. Mr. President, the pending measure is one of which the subject matter the Committee on Government Operations might well have had jurisdiction. When the bill was introduced, some question arose about whether it should be processed by the Committee on Interior and Insular Affairs or by the Committee on Government Operations.

The distinguished author of the bill is the ranking member on the Committee on Government Operations. After some discussion about the jurisdiction and the merits of the bill, we had an exchange of correspondence.

Mr. President, I ask unanimous consent that a letter from the Senator from Washington to me of May 6, 1969, my reply thereto of May 9, 1969, and a letter from the Senator from Washington to me of June 10, 1969, be printed at this point in the RECORD.

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

U.S. SENATE, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., May 6, 1969.

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

DEAR JOHN: You will recall that we discussed my bill, S. 1708, the "Federal Lands for Parks and Recreation Act of 1969" after the Government Operations Committee's executive session last Thursday. This measure would provide for a limited five-year exemption from the present provisions of the Surplus Property law for the transfer of surplus Federal real property for park and recreational purposes.

Because this measure is a matter of jurisdictional concern to both the Government Operations Committee and to the Interior and Insular Affairs Committee, I want to notify you that I have scheduled hearings on S. 1708 for May 14 at 10:00 a.m. in Room 3110. The Interior Committee would, of course, welcome any statement you or other members of the Government Operations Committee might care to make.

Enclosed for your use and information is a copy of S. 1708 and my introductory statement on introducing the measure.

With best regards.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

U.S. SENATE, COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., May 9, 1969.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Thank you for your letter of May 6, with enclosure, advising that hearings will be held on S. 1708, the Federal Lands for Parks and Recreation Act of 1969, on Wednesday, May 14.

As indicated, the provisions of S. 1708, would appear to be within the jurisdiction of both the Government Operations and the Interior Committees. More importantly, however, is the desirability of making surplus Federal property more readily available to States and local governments. I have long supported efforts to facilitate the return of surplus property to productive use. Certainly, in this day and age, the use of such property for park and recreational purposes is becoming increasingly important and in this connection I support the general objectives of your bill.

To insure that the property is used for the purposes intended for a specified period of time, however, I wonder if any thought has been given to including a reverter clause in S. 1708. There is also the question of whether S. 1708 is intended to establish any priority over existing methods of disposal, and whether the inclusion of the term "personal property" would in any way infringe upon or be in competition with current disposal procedures in that category. Finally, it would appear appropriate to have the ultimate authority over the disposition of surplus property remain vested in the General Services Administration. In this regard is the role of the Secretary of Interior under the terms

of S. 1708, to be merely recommendatory or final?

Copies of our correspondence on this matter are being made available to the members of the Committee on Government Operations so that they might have an opportunity to express their views on this legislation.

With kindest personal regards, I am

Sincerely yours,

JOHN L. MCCLELLAN,
Chairman.

U.S. SENATE, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., June 10, 1969

Hon. JOHN L. MCCLELLAN,
Chairman, Senate Government Operations Committee, Washington, D.C.

DEAR JOHN: Thank you for your letter of May 9 and your helpful suggestions on S. 1708, the Federal Lands for Parks and Recreation Act of 1969. I appreciate your support of the objectives of this bill. I delayed replying until the Committee reported the measure. I am including a copy of the Committee's report and the bill for your use and information.

As you know, the Interior Committee held a public hearing last month on S. 1708, at which time the Bureau of the Budget and the Department of the Interior recommended amendments to the bill. As a result of the hearing and your letter, a reverter clause has now been added to insure that in the event that properties are not used for the purposes set forth in the Act, they would revert to the Federal government. Language was also inserted to clarify the transfer of "personal property," and to make this transfer conform to section 203(k) of the Federal Property and Administrative Services Act of 1949, as amended. This would eliminate any infringement upon, or competition with, current disposal procedures.

As amended, S. 1708 does not affect existing laws or regulations concerning the disposal of real or personal surplus Federal property to schools, hospitals, States, and their political subdivisions. In addition, before lands can be acquired for park and recreation purposes, they must be included in a statewide comprehensive outdoor recreation plan, and be recommended by the Secretary of the Interior to the Administrator of General Services. These measures eliminate the concern that S. 1708 would establish any priority over existing methods of property disposal. Language to this effect has been included in the Committee report on S. 1708.

The ultimate authority to transfer surplus Federal property for park and recreation purposes remains with the General Services Administration and, under the terms of the bill, the Secretary of the Interior's role is recommendatory.

I appreciate your interest in this measure, and I hope you will give it your support on Thursday, June 12, when a Senate vote is expected.

With best regards.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

Mr. MCCLELLAN. Mr. President, I should like to ask the distinguished Senator from Washington a few questions pertaining to the merits of the bill and what its effect will be.

The Senator will recall that in my letter of May 9 I stated:

To insure that the property is used for the purposes intended for a specified period of time, however, I wonder if any thought has been given to including a reverter clause in S. 1708. There is also the question of whether S. 1708 is intended to establish any priority over existing methods of disposal, and whether the inclusion of the term "personal property" would in any way infringe upon or be in competition with current disposal procedures in that category. Finally, it would appear appropriate to have the ultimate authority over the disposition of surplus property remain vested in the General Services Administration. In this regard is the role of the Secretary of Interior under the terms of S. 1708, to be merely recommendatory or final?

I understand that possibly some, if not all, of these recommendations or suggestions were adopted in the bill. I should like to have the distinguished Senator, the author of the bill, respond to that paragraph in my letter of May 9 with respect to the questions raised and advise what action was taken by the committee with relation thereto with respect to the bill.

Mr. JACKSON. Mr. President, I will respond by saying that all of the questions raised by the able Senator from Arkansas have been answered in the affirmative by the committee. And we have taken legislative action in the committee to carry out the points that the Senator had made and very properly recommended.

First, the reverter clause, was adopted. That will be found on page 5 of the bill, section 3, commencing on line 15.

With reference to the parity question, in my letter of June 10, which has been printed in the RECORD, we made it clear that:

As amended, S. 1708 does not affect existing laws or regulations concerning the disposal of real or personal surplus Federal property to schools, hospitals, States, and their political subdivisions. In addition, before lands can be acquired for park and recreation purposes, they must be included in a statewide comprehensive outdoor recreation plan, and be recommended by the Secretary of the Interior to the Administrator of General Services. These measures eliminate the concern that S. 1708 would establish any priority over existing methods of property disposal. Language to this effect has been included in the Committee report on S. 1708.

On the last point, whether the Secretary of Interior's role is recommendatory or final, the answer is that it is advisory, and the final decision, as in the case of all other surplus property disposition, is made by the General Services Administration.

There is no change in any provisions of the basic law except to include, of course, the use of lands for parks and recreation purposes on a basis similar to that for health and educational purposes.

Mr. MCCLELLAN. Mr. President, with these provisions in the bill and with this assurance from the distinguished Senator from Washington, I have no opposition to the measure. I am not opposed at all. In fact, I think there are some purposes in the bill that are quite worthy and I wholeheartedly support them.

The first point is that we need more parks. We need more recreation centers. And if the Federal Government is going to make a contribution of some of its resources for any purpose to a State or municipality, this is one of the urgent needs of our time today, to provide these extra facilities and recreational opportunities, to provide additional park space. I support that.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. MCCLELLAN. I yield.

Mr. JACKSON. Mr. President, I think the Senator has made a very important point. Many Senators are not currently aware of the existing law on the disposition of surplus Federal property.

The Senator from Arkansas is an expert in this field. I think it might be well to mention that for historic monuments, public airports, and wildlife conservation—for those three categories—Federal lands are available locally without any payment. In other words, what we are saying here—and it is important—is that to conserve wildlife, the States and the political subdivisions of the States, can acquire land without cost. However, if we want to do something to provide open spaces, for some of the wild youngsters in the cities, we are not permitted to transfer property without charging for that property.

I might also mention that this bill places the park and recreation standard on the same basis as health and education purposes. We are not asking that it be totally free. In the case of health and education purposes, surplus land is sold at a discount ranging from 0 to 100 percent; and in the vast majority of cases it is conveyed at no cost. The purpose of S. 1708 is to place the sale of surplus Federal land on a more comparable basis with other important uses such as public health and education.

I think it is good at this point to summarize the existing law and what we are trying to do in relation to this specific problem.

Mr. MCCLELLAN. I thank the distinguished Senator. That is the way I understand the bill.

Another thing that impresses me about this bill is that, in the first instance, if a city or a State has donated the property to the Federal Government—in other words, if the Federal Government originally acquired the property from the municipality or from the State—then, when the Federal Government's use for the property has ceased to exist, there should be some way for that municipality or that State to have a prior claim on the property. When the Federal Government no longer has any need for the property, it should return the property. That would be the effect of it. When a price was paid for the property, I think the municipality or the State should be given a preference in getting the property back at the same price they received for it in the original transaction.

Mr. President (Mr. EAGLETON in the chair), these are the things that appeal to me, particularly now, with the reinforcement of the reverter clause. If surplus property is made available to a municipality or a State for park and recreational purposes, it has to be used for that purpose; and when they cease to use it for that purpose, it reverts to the Government. So, overall, I do not see that the Federal Government is suffering any serious loss. It is going to make contributions for these purposes out of the Federal fund, as it is doing now in many instances; it is going to make some contribution to these programs, anyway; and wherever it can, it should do so with surplus property it does not need, with the assurance that it will be used for that purpose, and when it ceases to be used for

that purpose, it reverts to the Government. I think it is sound, and I think it cannot be charged as a giveaway of Federal assets.

We are spending a great deal of money to create recreational opportunities through the summer for the youth of our country and to help municipalities build parks and recreation facilities, and I see nothing wrong with this method of doing it.

I did not want the respective Government Operation Committees which have legislative jurisdiction over surplus property deprived of the right and the duty they now have in cases involving property of $1,000 in value, and not to be deprived of an opportunity to examine the proposed transaction before it is consummated.

With these assurances and with my interpretation of the bill as written, I am very glad to support it.

Mr. JACKSON. I thank the able Senator from Arkansas.

I am happy to yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, perhaps this question already has been answered, but I want to be sure that we understand correctly the reversionary clause.

As I understand it, where a State or political subdivision originally donated the property to the United States, the surplus Federal property may be reacquired without payment of any consideration. Just take that one instance. Would that property carry the same reversionary clause if it were never used for public purposes or if it ceased to be used later?

Mr. JACKSON. The answer is "Yes."

Mr. WILLIAMS of Delaware. The same with respect to section 2: Where a State or political subdivision so elects, the surplus property may be acquired at zero to 50 percent of the fair market value as determined by the Administrator, and so forth. The answer is that case, likewise, would be that all deeds would carry this reversionary clause, which would automatically be in effect if the State ceased to use it for parklands or for recreational purposes.

Mr. JACKSON. The Senator is correct.

I would assume, too, that the State or the political subdivision thereof would forfeit whatever money, from zero to 50 percent, may have been paid, because it would have been in violation of the deed of conveyance.

Mr. WILLIAMS of Delaware. That is the second point. Suppose in this interval the State has spent more money in building facilities and then decided not to use it for recreational purposes. Would the Government be obligated to reimburse the State for its expenditures, or would the State automatically lose it when the title reverted to the Government?

Mr. JACKSON. I would assume, as a matter of law, that any improvements on the real estate, put on there by the State or political subdivision thereof, would become a part of the land, and it would be a part of the realty. It would revert, unless they wanted to remove it, and then it would become a lawsuit. When you put permanent improvements on land, they become a part of the real estate.

Mr. WILLIAMS of Delaware. That was my understanding, but I wanted to make sure of it.

The third section reads:

> Where the United States paid valuable consideration for the property to the State, its political subdivisions, or to any person, the State or its political subdivision may acquire the surplus Federal property upon the payment of the cost to the United States at the time of such acquisition.

Do I correctly understand that this refers to an instance in which the Federal Government obtained the property from an individual but that, under this bill, the individual will not have any right to reacquire this property; that only the State or a political subdivision thereof will have that right, and then they only acquire it for public recreational purposes with the same reversionary clause to which we referred?

Mr. JACKSON. The Senator is correct in his understanding. No individual would be able to acquire it.

Mr. WILLIAMS of Delaware. No individual would be able to acquire the property under this bill. As I understand it if the property is acquired by the State or a political subdivision of the State, they in turn could not under any circumstances pass it on to any individual for any purposes whatever. It would have to revert automatically to the Federal Government.

Mr. JACKSON. The Senator is correct. That would be a violation of the reverter clause, and it would be an improper use, in violation of the conveyance.

Mr. WILLIAMS of Delaware. I thank the Senator for his answers.

I have just one further question. On line 21, page 5, in referring to this reversionary clause, it says that such property shall "at the option of the Secretary revert to the United States." Does that means that the Secretary would have a choice in making a decision? If the State or a political subdivision thereof decided not to use this land for parks and recreation, would it automatically revert to the Government, or could the Secretary exercise an option and say, "We are not going to take it back"? What would happen then?

Mr. JACKSON. The point is that there needs to be a finding. As I envision the administration of this act, the Secretary is to determine whether or not there has been a violation of the provisions of the conveyance; and the Secretary would be bound to make that finding. For example, there might be an allegation that the land is no longer being used for park and recreation purposes. Obviously, that mere allegation would not cause the title to revert.

This provision is there so that there will be a legal means to determine whether there has been a reversion. As I interpret this, the Secretary is bound—he cannot be compelled—under the provisions of this bill to cause the land to revert. I would assume that, in order to clear the title unless the party in violation was willing to give a quitclam deed, it would be necessary for the Secretary of Interior, through the Department of Justice, to institute action to cause the title to the property to revert to the Federal Government.

Mr. WILLIAMS of Delaware. That is the question I had in mind. I wanted to make sure that once we transfer this property to the State or political subdivision they must use it for recreation and park purposes; and if they do not, under no conditions could the land be transferred to private industry or private individuals, but it must revert back to the Federal Government, and it would. That is the point I wanted to make clear.

Mr. JACKSON. The Senator is correct. We tried to be completely unequivocal on this point. The sole purpose for making the land available is for park and recreation use. If the State or any political subdivision thereof fails to carry out that provision of the law, the title reverts through proper legal proceedings as provided in the Act.

Mr. WILLIAMS of Delaware. And there would be no way around it.

Mr. JACKSON. There would be no way around it directly or indirectly. As the Senator knows, the Department of Interior must bear the responsibility of seeing to it that the provisions of the conveyance are carried out, and whenever there has been a violation of the provisions of the deed or the conveyance, then, as I interpret this legislation, it is incumbent upon the Secretary of Interior to take appropriate means to make sure that title reverts back to the Federal Government.

Mr. WILLIAMS of Delaware. I thank the Senator. That was my interpretation upon reading the bill and the committee report, but to make sure of that understanding I thought I would ask these questions and have it established here beyond any doubt as to our intent.

I thank the Senator.

Mr. JACKSON. Mr. President, as the chairman of the committee, I wish to say this is now a part of the legislative history we have made here. I think the language is clear in the bill, but these questions have certainly made it sufficiently clear. There can be no real question about it.

I thank the Senator.

Mr. HANSEN. Mr. President, I support S. 1708, the Federal Lands for Parks and Recreation Act of 1969. This legislation will make surplus Federal property which is suitable for park and recreation purposes more readily available to State and local governments.

Wyoming is a State which is recreation oriented. We have worked hard to insure that recreational facilities are available for the enjoyment of citizens in Wyoming and of other States. In fact, the cities and counties in Wyoming have acquired more land per capita for park and recreational purposes than the cities and counties of any other State. We are proud of our record.

While I was Governor of Wyoming, the land and water conservation commission was created and a comprehensive recreational plan for the State of Wyoming was developed. However, the Land and Water Conservation Fund Act does not always meet the need.

Often, the States, counties, and cities are hard pressed to raise 50 percent of the

fair market value of the property as is required under present law. If the funds can be found and the property is purchased, the State and its subdivisions then find it difficult to make additional funds available for the necessary improvement and development of the park or recreational facility.

We all recognize the need for more land for recreational purposes. The proposed legislation being considered today is an effective means of insuring that surplus lands now held by the Government will be available for parks and recreational use if it is suitable for that purpose. Presently, if the State and local governments are not able to come up with the money to pay 50 percent of the fair market value of the surplus Federal property, the property is sold for other uses and the opportunity to devote the property to recreation is lost forever.

At a time when the Nation is undergoing social crises, the Federal Government should make suitable property already in public ownership available for park and recreational purposes. It should not be sold and devoted to other and possibly conflicting uses.

Making Federal money available is not always the best solution to a problem. Children can not play on money. This legislation would make land available.

Federal surplus property is oftentimes particularly well suited for recreational purposes. Its location in or adjacent to centers of population means that it is available where recreational needs are the greatest. In addition, surplus Federal property becomes available in all parts of the country. This means that the people in all of the States have an opportunity to benefit from this legislation. Federal assistance for capital costs of State and local recreation projects will continue to be available to all States under several major programs, including the land and water conservation fund State assistance program, the open space land program, and the community action programs authorized by the Economic Opportunity Act of 1964.

Under present law, surplus Federal land may be acquired at discount prices varying from no cost to 50 percent of fair market value, for the purpose of historic monuments, public airports, wildlife conservation, and health or education. Certainly recent events in the urban areas of our Nation indicate that it is as important for the Federal Government to also make Federal surplus property available for park and recreational purposes under these same terms.

The need is great. I urge support for the Federal Lands for Parks and Recreation Act of 1969.

Mr. STEVENS. Mr. President, I wish to make a very brief statement today, in support of S. 1708, the Federal Lands for Parks and Recreation Act of 1969.

This legislation is potentially valuable for all the States. Alaska, in particular, because of the large amount of Federal land within the State, will benefit from the provisions of the bill. Too often, Federal land of recreational potential has been sold without consideration of its park or recreational value. This is particularly true of Federal lands in the vicinity of large metropolitan centers where the need for such recreational facilities are the greatest.

The provisions of this act provide an extremely inexpensive and simple method for the Federal Government to aid in the development of recreational areas within the States. I do not think such an opportunity should be passed up, and I hope that S. 1708 will be affirmatively acted upon by this body.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SENATE JOINT RESOLUTION—A PROPOSAL TO REFORM THE CONTINGENT ELECTION PROCESS

Mr. YARBOROUGH. Mr. President, I wish again to direct the attention of the Senate to my proposal to amend the Constitution relative to the election of a President in the House of Representatives. My proposed constitutional amendment relates to only those cases where the election of a President of the United States is thrown into the House of Representatives by failure to obtain a majority of votes in the electoral college, or for any other reason.

The Constitution presently provides that if no candidate for the Presidency gets a majority of the electoral vote, then the House of Representatives shall choose the President and the Senate, the Vice President.

This fact was most vividy brought to the attention of the American people during the 1968 presidential election campaign. During the fall, it was frequently brought to the attention of the public that a deadlock and a serious constitutional crisis could develop if the election were thrown into the House of Representatives, because the election there would be by States, there being only 50 votes in the House, one for each State.

It is this fact which prompted me to draft the amendment I propose in Senate Joint Resolution 18. I think that the potential for crisis is no less serious today than it was last fall. It is not as imminent; it is just as serious. I think that the need to adopt this amendment still exists. We need to have it before the 1972 election.

In order to refresh all our minds about the potential seriousness of this problem, I direct the attention of my colleagues to an article entitled "Chance of Electoral Impasse Spurs House Fights," which appeared in the New York Times on Sunday, October 20, 1968. I ask unanimous consent that the text of this article be inserted in the RECORD at this point.

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

CHANCE OF ELECTORAL IMPASSE SPURS HOUSE FIGHTS

(By Felix Belair, Jr.)

WASHINGTON, October 19—An outside chance that the House of Representatives might be called upon to elect the next President has produced a struggle for partisan control of that body without parallel in recent political history.

Both major parties are spending as much time, effort and money to win a working majority in the House as they are to win the Presidency. No one in the Democratic or Republican high command thinks it likely that Congress will have to break a deadlock in the Electoral College. But the possibility is no less real on that account.

It has happened twice before in the nation's history, in 1801 and in 1825, and under the present electorial system established by the 12th Amendment to the Constitution the danger of a recurrence is always present whenever there is a strong third candidate for the Presidency, a candidate like George C. Wallace of Alabama.

If Mr. Wallace can siphon enough popular votes away from either Richard M. Nixon or Hubert H. Humphrey to prevent one of them from getting a 270-vote majority in the Electoral College, then the election must be decided in the House.

NO SECOND CHANCE

The 538 members of the Electoral College get no second chance. They may not reconsider their vote. Each state has as many electors as it has members of the Senate and House and there are three for the District of Columbia, which has no representation in Congress. If they do not give 270 votes to any candidate, a House election of the President is automatic and the Senate elects a Vice President.

The focus of the partisan struggle for control of the House is on 10 pivotal seats that could give either the Democrats or Republicans a majority in the 26 state delegations needed to decide a Presidential election in that body.

No matter which candidate received the largest share of the popular vote, once the election was thrown into the House a number of mathematical possibilities could tip the scales one way or another.

One extreme possibility is that 76 members of the House from 26 states with a population of 32 million could outvote the other 359 members from 24 states with a combined population of 150 million. The reason is that each state gets one vote and who gets it is determined by a poll of the members from each state.

Another extreme possibility is that the House would be deadlocked—25 to 25—up to Inauguration Day on Jan. 20 and that Edmund S. Muskie would take over the White House as Acting President following his election as Vice President by a Senate in which Democrats still held a majority.

A COMPRISE CANDIDATE

It is even conceivable that a deadlocked House would settle on a comprise candidate like Governor Rockefeller. But for that to occur it would be necessary for enough electors to disregard their pledges in the Electoral College for the New Yorker to receive the third largest number of votes in that body.

The number of eligible Presidential candidates in a House election is limited to three under the 12th Amendment. Prior to 1804, the choice could be from five candidates.

Ordinarily, to prevent one of the major party candidates from winning an absolute majority of the electoral vote, two conditions must prevail. There must be a close contest between the Republican and Democratic candidates and there must be at least one minor party candidate capable of winning electoral votes in several states.

The coincidence of the two conditions has been rare. But there have been two recent

elections in which a relatively small shift of popular votes would have caused an electoral stalemate.

One was in 1960, when John F. Kennedy received 34,220,984 popular votes and 303 electoral votes and Richard M. Nixon received 34,108,157 popular votes and 219 electoral votes. Unpledged electors from Mississippi and Alabama cast 14 votes for Virginia's Democratic Senator Harry Byrd, who also received the vote of one renegade elector from Oklahoma.

A shift of only 8,971 popular votes from Mr. Kennedy to Mr. Nixon in Illinois and Missouri would have prevented either candidate from getting an Electoral College majority.

A similar situation developed in 1948 when Harry S. Truman, running for re-election, received 24,179,345 popular votes and 303 electoral votes and the Republican candidate, Thomas E. Dewey, received 21,991,291 popular votes and 189 electoral votes.

Strom Thurmond, the states' rights, or Dixiecrat, candidate, received 1,176,125 popular votes and 39 electoral votes. Henry A. Wallace, the Progressive candidate, received 1960 to get all of Illinois' 27 electoral votes

12,487 VOTES THE KEY

A switch of 12,487 popular votes from Mr. Truman to Mr. Dewey in California and Ohio would have denied an electoral majority to either candidate and the election would have gone to the House.

The reasons for these vagaries in translating popular into electoral votes is that each state's electoral votes are awarded on a "winner-take-all" basis. The elector slate receiving one more popular vote than any other slate wins that state's entire bloc of electoral votes.

That is how Mr. Kennedy was able in 1960 to get all of Illinois's 27 electoral votes with a popular plurality of 8,858, while Mr. Nixon's popular margin of 273,363 in Ohio won him only 25 electoral votes. It also explains why Mr. Kennedy got only 50.08 per cent of the popular vote but 62 per cent of the electoral vote.

But the Constitution discards this plurality system when it comes to voting by the Electoral College. It requires a majority, of one more than half the votes involved. In 1968 that means one half of 538 plus one vote, or 270.

The Constitution left it to the states to determine the method of choosing their electoral slates. Some do it by party convention, some by primaries and some by designation of the state committee of the party. It was left for the Congress to decide when the Electoral College should meet and ballot for President, the single condition being that all electors meet on the same day in the various state capitals.

TIME SET BY CONGRESS

Congress fixed the time of this meeting for the first Monday after the second Wednesday in December, or, in 1968, Dec. 16. The date of Election Day, Nov. 5, is also fixed by Congress, as is the day for counting the certified ballots of the electors, Jan. 6, at a joint session of the Senate and House.

The results of each of these steps, including the possibility of a deadlock in the Electoral College, will have been public knowledge from the night of Nov. 5 or the following morning. But the net effect of the present arrangements of dates is to provide 40 days between the election and the meeting of the electors and three more weeks before their ballots are counted in the House.

It is in the initial period that Mr. Wallace, in the event of an electoral deadlock, might make an arrangement with one of the major party candidates for certain concessions in return for enough of his electoral votes to provide a majority. He has said he would pursue this course rather than allow the contest to be settled in the House by men unknown to him.

Both Mr. Nixon and Mr. Humphrey have stated publicly that under no circumstances would they enter into negotiations with Mr. Wallace or his adherents for their support either in the Electoral College or the House of Representatives. What their adherents might do on their own initiative is only conjectural.

DEGREES OF FIRMNESS

The essential point is that a candidate's electors are pledged to vote for him with varying degrees of firmness. Only 16 states require by law that electors votes for the candidate of their party. With the possible exception of Tennesse and Virginia, none of these is expected to end up with electors for Mr. Wallace.

Three such states—Florida, Oklahoma and New Mexico—make it a misdemeanor for an elector to violate his pledge. And even in those states an elector's vote could not be thrown out if he jumped the fence. The only consequences would be a fine—in Oklahoma, $1,000.

Moreover, most legal authorities are of the opinion that laws binding electors to vote for the candidate of their party are not enforcible. The Constitution provides that they must vote by ballot, a procedure that at least implies that they are free agents.

FEAR OF OSTRACISM

Fear of political ostracism rather than any legal force appears to have been the chief inhibition to electors' breaking their pledge. Only four elector votes of the 15,245 cast since 1820 were definitely "against instructions."

One of the constitutional peculiarities of the Electoral College is that there is no provision for a second ballot in the event that no candidate receives the majority vote required. It gets no second chance. The separate ballots for President and Vice President must be certified and forwarded to the President of the Senate—Hubert Humphrey in this case—as the official designated to act for the United States Government.

The Constitution directs that these ballots be counted in the presence of members of the Senate and House in joint session. And if no candidate for President and Vice President has received a majority, the 12th Amendment says, "the House of Representatives shall choose immediately, by ballot, the President."

The amendment further provides that "in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice."

The same amendment directs that if a President has not been chosen in the House by Inauguration Day—Jan. 20—"the Vice President shall act as in the case of the death or other constitutional disability of the President."

LAW OF SUCCESSION

If a Vice President has not been elected by the Senate, which takes over that function as the House votes on a President, or if he is unable to discharge the duties of that office, the law of Presidential succession applies, beginning with the Speaker of the House.

However, once it became the responsibilty of the Senate to elect a Vice President, the selection of a Democrat—Edmund S. Muskie—would at this time become almost a mathematical certainty, whatever the outcome of the House balloting.

Unlike the House, where the voting is by state delegations, Senate members would vote as individuals, as they always do, since there must always be two Senators from each state.

The partisan division of that body is now 63 Democrats and 37 Republicans. With only one-third of its members standing for re-election this year, not even the most optimistic Republicans actually believe that they can upset the present Democratic majority.

It is generally assumed that if the Presidential election goes to the House, the procedure there would be governed by the rules laid down in 1825. But since no session of the House can bind its successor there is no certainty of this.

Actually, new rules of procedure would have to be drawn up by agreement of the leadership on either side of the aisle and adopted by the House before the voting began. Probably they would be patterned after those of 1825 and designed to be fair to both sides.

PRESENCE OF A QUORUM

Following adoption of the rules, the first step would be to determine the presence of a quorum for the purpose, or two-thirds of the state delegations. Eligible candidates would be limited to the three receiving the largest number of electoral votes.

If no candidate received votes of the necessary 26 delegations, the balloting would continue until one was chosen, each delegation having one vote. No other business could be introduced until the election was completed but the House might adjourn from one day to another if a stalemate developed. A motion to adjourn might be offered by any state and seconded by another and the question settled by a vote of the states.

Each state delegation sitting as a group, under the rules of 1825, would be supplied with a ballot box into which each member would place a ballot describing his vote. Tellers could be appointed to count the vote within the delegation. When the delegation's vote was determined, duplicates of the result would be placed in two separate boxes provided by the sergeant at arms.

The contents of the two boxes would then be counted at separate tables and they would have to agree to be considered official. The intent of this double balloting system was to preserve the secrecy implicit in the constitutional rule of voting by ballot instead of by voice to prevent fraud or chicanery.

This secrecy applied under the 1825 rules both as to how each member voted and to how the majority of members voted. Whether it would satisfy the requirements of a modern democracy in electing a President is something the House would have to decide for itself.

The first time the House elected a President was in 1801. At the time, the Presidency went to the candidate receiving the largest number of votes in the Electoral College. The Democrats of those days called themselves Republicans and wanted to elect Thomas Jefferson as President and Aaron Burr as Vice President.

But the electors forgot to cast one vote fewer for Burr than for Jefferson and gave both the same number, throwing the election into the House. On the first ballot, Jefferson received the votes of eight states—one short of a majority of the then 16 states. Burr was backed by six states. The Vermont and Maryland delegations were equally divided, so they lost their votes.

The House was deadlocked for 35 ballots, from Feb. 11 to 17. The impasse was broken on the 36th ballot when Vermont and Maryland switched to Jefferson. Delaware and South Carolina also withdrew their support from Burr by casting blank ballots. The final vote was 10 states for Jefferson and 4 for Burr.

The resulting election of Burr, a despised political enemy of Jefferson, as Jefferson's Vice President, paved the way for a major change in the Congressional election system that provided for Senate election of a Vice President.

The only constitutional requirement governing a deadlocked Presidential election in the House is that if no candidate has been elected by Jan. 20, "then the Vice President shall act as President." Conceivably then, Sen. Muskie as the Senate's choice for Vice

President could continue in the White House until the election of a new House of Representatives two years later.

DEMOCRATS IN CONTROL

Right now the Democrats have control of the House, 245 to 187, and there are three vacancies. Democrats have a majority in 28 state delegations, Republicans in 18 and four delegations are evenly divided. But it is the House to be elected on Nov. 5 that would elect the next President if his selection fell to that body.

The shift of only a few seats could swing the balance of power in the House to one party or the other for Presidential purposes.

To begin with, if the five states of the Deep South that gave their electoral votes to Barry Goldwater in 1964 gave them this time to Mr. Wallace, the Democratic delegations favoring their party's Presidential candidate could be reduced to 23.

Four of those states are currently considered safe for Mr. Wallace—Georgia, Louisiana, Mississippi and South Carolina. Candidates there have not said they would vote against Mr. Humphrey in a House contest, but they would be under strong pressure from Mr. Wallace to do so.

There are now 10 House delegations that are evenly divided or Republican controlled where the shift of a single seat would give the Democrats a majority of the delegation. They are Alaska, Arizona, Delaware, Illinois, Indiana, Montana, Oregon, Pennsylvania, Vermont and Wyoming.

Conversely, there are seven states where the shift of a single House seat would swing delegation control to the Republicans. These are Illinois, Kentucky, Montana, Nevada, Oregon, Pennsylvania and Tennessee.

HOUSE TRENDS UNCERTAIN

So far this year, House race trends indicated in various national surveys fall far short of suggesting which major party would have state delegation control even if one or the other party gained control of the House with a plurality of its members.

Delegation control aside, the Republican high command is bending every effort to win control of the House, organize its committees and install a Speaker—a goal that has eluded the party since 1952 when the Eisenhower landslide proved more than adequate for the purpose.

To turn the trick this time, the Republicans must gain 31 seats.

The total Republican campaign has assumed the proportions of a Shakespearean drama, with the central plot devoted to the election of Mr. Nixon and two subordinate plots revolving around control of the House and control of at least 26 separate delegations.

MORE THAN $2 MILLION AVAILABLE

With more than $2 million at its disposal, the House Republican Campaign Committee is devoting half of the amount to help elect its challengers of Democratic incumbents and half to the re-election of sitting Republican members.

The most puzzling aspect of the constitutional provision for Presidential election by the House is that it has survived demands that it be scrapped for more than a hundred years.

Thomas Jefferson wrote in 1823: "I have ever considered the constitutional mode of election ultimately by the legislature voting by states as the most dangerous blot on our Constitution, and one which some unlucky chance will some day hit."

Jefferson anticipated the event by 18 months. In the election of 1824, Andrew Jackson polled 152,933 popular votes against 115,696 for John Quincy Adams. The electoral vote was widely split because of the presence of two other candidates, Henry Clay and William Crawford.

Jackson received 99 electoral votes of the 261 in the Electoral College. Adams got 84, Crawford 41 and Clay, then Speaker of the House, 37. Clay apparently intended to support Adams from the start as the lesser of two evils. But before the election could be brought to a vote a scandal erupted.

A Philadelphia newspaper published an anonymous letter alleging that Clay had agreed to support Adams in return for being appointed his Secretary of State. The charge was denounced immediately by Clay, who called the writer of the letter "a base and infamous character, a dastard and a liar."

But Jackson believed the charge and found his suspicions vindicated when Adams, after his election by the House, did name Clay as his Secretary of State. With Clay's backing a majority of 13 state delegations voted for Adams, the minimum necessary from the 24 states of the Union at the time.

"Was there ever witnessed such a barefaced corruption in any country before?" Jackson wrote to a friend at the time.

The episode seems to have haunted House leaders ever since. But agreement on how the present system should be changed has never been reached.

FEDERAL LANDS FOR PARKS AND RECREATION ACT OF 1969

The Senate resumed the consideration of the bill (S. 1708) to amend title I of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), and for other purposes.

Mr. MOSS. Mr. President, the bill before us today has my strong support and also the support of the Utah State Division of Parks and Recreation.

We find it a very pleasing prospect in Utah that surplus Federal property might be made available to State and local governments for park and recreational use at prices which reflect the important role recreation and open space play in our contemporary life.

It is difficult to pay a full 50 percent of the fair market value for surplus property. Our funds will not stretch this far. It would be most helpful if we could get some of this surplus property with no payment, and other property at prices ranging upwards to 50 percent. We have a very ambitious program at both the State and local levels for the development of our superb Utah scenery and geological and historical areas. More and more we are becoming a center for western scenic and recreational America. This is the time to make our investments—to set aside the land we want and must preserve.

It is most important, it seems to me, that we take action on this bill here today in view of the fact that the administration is cutting back in the allocation of land and water conservation funds to the Bureau of Outdoor Recreation for distribution to Federal, State, and local agencies for park and recreational development. In fact, we have never lived up to our promises in this respect, and the States and localities have had their expectations raised again and again only to have them dashed when actual appropriations became available.

Another problem is that escalating land values have made more expensive the acquisition of private lands where they are essential to national or State parks or recreation areas, and the privilege of acquiring surplus Federal property at more nominal prices would relieve some of the strain on both Federal and State budgets for these purposes.

There is one listing by the General Services Administration of land in Utah which would be immediately affected by the passage of this bill. It concerns 357 acres of land at Moab, Utah.

This property was originally a part of the public domain. It is located approximately 6 miles south of Moab on Highway 160. The land is improved with an asphalt landing strip 1 mile long and 75 feet wide.

The land was conveyed to Grand and San Juan Counties in 1951 for airport use, subject to its reversion to Federal ownership when no longer used for public airport purposes. The property reverted to the Federal Aviation Administration in 1966. It has since been declared surplus, and Grand County has expressed an interest in acquiring the property for public park and recreational use.

There is undoubtedly other Federal surplus property in Utah which could be made available once this bill was cleared. This legislation would also make personal property including equipment, supplies, and vehicles, which are surplus available to Federal, State, and local recreational agencies for recreational purposes, and this would also be most welcome.

I ask unanimous consent that a telegram from the Governor of Utah be printed in the RECORD at this point.

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

SALT LAKE CITY, UTAH,
June 11, 1969.

Hon. FRANK E. MOSS,
U.S. Senate,
Washington, D.C.

S. 1708 which would make surplus Federal land available to States and localities for park and recreation purposes on the same terms as for education and hospitals is scheduled for your consideration Thursday, June 12. The bill has my endorsement and would provide a real measure of assistance in the acquisition of needed parks areas on a more equitable basis. I respectfully urge you to support this bill.

GOV. CALVIN L. HAMPTON.

PROXMIRE OPPOSES ENACTMENT OF S. 1708

Mr. PROXMIRE. Mr. President, S. 1708 would amend the Land and Water Conservation Fund Act of 1965 by making it possible for States and municipalities to acquire surplus Federal property for parks and recreational development at 0 to 50 percent of fair market value. It would establish a three-tier method of determining the price to be paid as follows: First, where the property was originally donated to the Federal Government by the State or municipality. It could be reacquired without consideration; second, where the property was originally purchased by the Federal Government, it could be reacquired for the original purchase price; or third, the Federal Government may sell the property for 0 to 50 percent of its fair market value, the percentage to be based on the recommendations of the Secretary of the Interior. In determining the percentage to be applied on the sliding 0 to 50 percent scale, the Secretary would base his recommendation on, first, the suitability of the property for park and recreational uses; second, the accessability of the property to major population centers; third, the need for park and recreation facilities in

the immediate geographical area; and fourth, the highest and best use of the property.

S. 1708 represents a complete renunciation of the Morse formula, and has been strongly opposed by both the Bureau of the Budget and by former Senator Morse. Although I think that the underlying philosophy of S. 1708 is sound—namely increasing parks and recreational facilities—the approach of the bill is totally unsound, and I cannot support it.

The background of the Morse formula is an interesting one, and I would like to discuss it briefly, because I think this will demonstrate just how unsound S. 1708 is. Wayne Morse began his battle for the Morse formula shortly after the end of World War II, at a time when a great deal of property that the Government had been using in the war effort was declared surplus to the Government's needs.

Mr. MAGNUSON. Mr. President (Mr. CRANSTON in the chair), will the Senator yield on that point for a moment?

I wanted to listen to the remarks of the Senator from Wisconsin on this bill, but we have an important appropriation meeting with the Secretary of Defense.

Mr. PROXMIRE. I am delighted to yield for any purpose to the Senator.

Mr. MAGNUSON. I hope the Senator will cover this phase of the matter. I am also familiar with the Morse formula, but there are cases in which the local subdivision of government had given the land to the Federal Government for a dollar, or something like that; and I think they make some kind of legitimate claim that if the Federal Government is not going to use this land and is going to abandon it and make it surplus, they are entitled to have it back for the amount that had been paid.

The Morse formula, I think, was well taken when it got to the point where the Government had to go out and purchase land or owned it originally and it was not turned back.

I will read it very carefully when I return.

Mr. PROXMIRE. I thank the Senator from Washington.

One of my objections is that in some cases the locality or the State may have given the land——

Mr. MAGNUSON. Obviously, in some cases it may have been given to attract a Federal installation.

Mr. PROXMIRE. And in many cases, the Federal Government has spent a great deal of money on the land, has had to maintain it, and has incurred expenses; and to give it back would be a sacrifice for all taxpayers. I will cover that matter a little later.

Wayne Morse began his battle for the Morse formula shortly after the end of World War II, at a time when a great deal of property that the Government had been using in the war effort was declared surplus to the Government's needs. A subcommittee of the Armed Services Committee, consisting of Senator Saltonstall of Massachusetts, Senator Harry Byrd, Sr., of Virginia, and Senator Morse was directed to investigate the situation and consider means for disposing of the property. Among other things, the subcommittee recommended that transfers of Federal surplus property to States or municipalities for parks or recreational purposes should be at 50 percent of fair market value. That recommendation was enacted by Congress and became section 602(a) of the General Property and Administrative Services Act of 1949. This formula applies to every transfer of property by either the General Services Administration or any related agency, relating to either military property or to Government property generally.

Naturally, the 1949 act is simply a piece of legislation, and as such it can be overridden by any subsequently enacted statute or special interest legislation.

For more than 20 years, Senator Wayne Morse of Oregon fought to prevent giveaways of Federal property that had been declared surplus. Morse insisted, and rightly so, that surplus Federal property belonged to each and every taxpayer, and that the Federal Government had no right to give one community a financial windfall at the expense of the rest of the country.

On many, many occasions since 1949, far too numerous to list, Senator Morse stood up and fought against proposed legislation which did not adhere to the 50 percent of fair market value formula. Each and every time a piece of legislation came along that was inconsistent with the 1949 act, Senator Morse insisted upon 50 percent payment by the State or municipality purchasing the property.

Senator Morse was successful in virtually every case, and there was certainly no blanket provision, such as this bill provides, to transfer enormous amounts of Federal property at, as I have said, down to zero of the assessed valuation. In fact, the 50 percent test became such accepted practice that it came to be known as the Morse formula; and any special interest legislation that went into the hopper which failed to meet that test was sure to have the Morse formula in it by the time Senator Morse got hold of it. It has been estimated that consistent and uniform application of the Morse formula has saved the taxpayer nearly $1 billion in hard cash over the past 20 years.

Wayne Morse, unfortunately, is no longer in the Senate. This is Oregon's loss, the Senate's loss, and the country's loss. But it need not be the taxpayer's loss as well. Senator Morse labored for over 20 years to the point where the Morse formula became virtually an unwritten rule of the Senate. It would be a shame and a public affront if, 6 months after Wayne Morse's departure from the Senate, the Morse formula were to be overthrown by enactment of S. 1708.

Later, Mr. President, I intend to read the letter from Senator Wayne Morse to me, a letter of approximately four pages, in which he sets forth specifically why this bill violates the Morse formula and why it would be very bad public policy.

Turning to the specifics of S. 1708, I can see no justification at all for provisions which would allow a State or municipality which donated property in the first instance to reacquire it free of cost—subsection (1). This is what the distinguished senior Senator from Washington and I were discussing a few minutes ago. During the period of Federal ownership, the Federal Government may have put substantial improvements on the land which add tremendously to the value of the property—all paid by the taxpayer, of course. When the property is conveyed, is the taxpayer to foot the bill entirely and lose out on reimbursement for the improvements as well as the land? S. 1708 certainly poses no bar to that.

Even apart from improvements, property which has been held for a period of time by the Federal Government has undoubtedly increased substantially in value—particularly if it is located in or near an urban center. Maintenance costs, insurance, payments in lieu of taxes, all have been borne by the Federal Government while holding title to the property—part of the investment which goes with the accrual in value. Owners of private property are not expected to give away for nothing the valuable increase in real estate; and when private property is condemned for public use, the increase is reflected in the condemnation award. Why should a different standard apply when the Federal Government conveys real estate?

Subsection (3) of S. 1708 would permit a state or municipality to reacquire property for the original purchase price where the Federal Government originally paid valuable consideration for it—either to a State, municipality, or private individual. Here, again, I see no justification for permitting reacquisition of the property at the original purchase price where the Federal Government has borne the costs and risks of ownership during the interim. Whether the property was originally donated or sold at cost, the purchaser has no right to a financial windfall, courtesy of the Federal taxpayer.

Of course, even less justification exists where the property was originally purchased by the Federal Government from a private individual. What reason is there for allowing a State or municipality, which had no connection whatsoever with the original transaction, to take advantage of a selling price which may be a fraction of the current market value?

Let me give an example. There is property in the State of Washington, at Moses Lake, the original cost of which was $24,600. The present value of that Moses Lake, Wash., property is $8,957,145. Under this bill, that property could be given to Moses Lake for $24,600. While I am sure it would be very popular in Moses Lake, Wash., it would mean that in the other 49 States we would be losing property that belongs to the taxpayers of all our States.

Apart from specific objections to subsections (1) and (3) of S. 1708, I have several general objections to the main provision of the bill, which would eliminate the Morse formula and substitute a sliding 0 to 50 percent scale for the sale of surplus Federal property.

First, permitting States and municipalities to acquire property on a donation or partial donation basis may encourage them to use less than sound judgment in selecting real estate for parks and recreational facilities.

There is no question that one of the

great disciplines of our free enterprise system and our free market system is that because we require people when they secure property to pay for it they will only secure that property and put it to use where it can be put to its most economical use. This is one of the great disciplines of the marketplace. This assures us that our resources are being put to efficient and constructive use and are not being wasted.

The price of merchandise is bound to influence a buyer in selecting whatever it is he is about to buy, and States or municipalities would be no less subject to this type of influence. Given a choice between two pieces of real estate, one costing fair market value, and the other available for nothing or at a tremendous discount, the potential purchaser may well select the latter, even though the former may be far more suitable for use as a park or recreational facility.

Second. It should be borne in mind that the Morse formula embodied in the Federal Property and Administrative Services Act of 1949 already represents a considerable subsidy to States and local governments. That act, by making property available at 50 percent of fair market value, in effect provides 50–50 system of matching grants, the Federal Government putting up 50 percent of the cost, and the State or local entity putting up the other 50 percent. A 50–50 division of costs is typical of the way in which the Federal Government provides subsidies, grants, or relief to deserving States oi communities, that is, the Land and Water Conservation Fund Act, 50–50 grants to cover capital costs of State and local recreation project; the Federal Water Pollution Control Act, 50–50 matching grants to help States and communities build water pollution control facilities; the Public Health Services Act, 50–50 grants for maintaining adequate public health services; the Vocational Education Act, 50–50 grants for construction of area vocational schools. S. 1708, on the other hand, would permit property to be acquired free of cost in some instances, and well below 50 percent of cost in most instances; as such, it would abrogate entirely the principle of matching costs. Such a time-tested principle should not be abrogated without a showing of, first, extraordinary need, and second, complete inability to pay. No such showing has been made here, nor is any such showing required by S. 1708.

Third. If S. 1708 goes into effect, the fortuitous locations of Federal surplus property will provide some States and communities with a financial windfall, while other, possibly equally deserving, will be left out in the cold. Presumably the object of S. 1708 is to encourage the development of parks and recreational facilities generally, on a nationwide basis. But this purpose can only be served by legislation which makes suitable property within the financial reach of States and communities most in need, and not just those that are fortunate enough to have suitable surplus Federal property within their midst. In my opinion, the only equitable method of helping the States and communities to increase their park areas and recreational facilities is to make part of the funds available, that is through the land and water conservation fund, and then have the States and communities purchase property which is needed and most suitable for recreational use.

Mr. President, I regard S. 1708 as an unwarranted burden on the Federal taxpayer, a burden which is made all the more objectionable by the fact that those States and municipalities that are least in need of recreational facilities may benefit at the expense of those with the greatest need.

Mr. President, S. 1708 is strongly opposed by both the Bureau of the Budget and by former Senator Morse. I find their arguments convicing and compelling. I cannot support S. 1708, and plan to vote agaist the bill.

I should like at this time, because I think this letter is so significant, to read from the letter of former Senator Morse respecting the Morse formula, which has generally been considered traditional in these cases before the Senate for the last 20 years. The letter from Senator Morse reads as follows:

DEAR BILL: Let me congratulate you on your opposition to S. 1708. The speech you have prepared for delivery—

Which is the speech I have just given—

in the Senate in opposition to the bill is very sound. It gives an accurate account of the history of the Morse Formula and its purpose.

It is my recollection that, after the Armed Services Committee adopted the Morse, Byrd, Saltonstall report for the disposal of all surplus military property, the principle of the policy was then included in Section 602(a) of the General Property and Administrative Services Act of 1949. However, as to the disposal of surplus military property, the Armed Services Committee required that 50% of the fair market value be paid to the Federal Government for at least two years before the 1949 General Property and Administrative Services Act.

After the Armed Services Committee required the 50% of fair market value on military property, I announced that under the unanimous consent rule I would not grant unanimous consent for the disposal of any surplus property when called up on the unanimous consent calendar, unless the criteria of the Morse Formula were met.

They are as follows:

CRITERIA OF THE MORSE FORMULA

(1) If a bill seeks to transfer federal property to a local county, state, or other public body or public institution for a *public purpose and use* then 50% of its fair market value must be paid for the property.

The basis for requiring this criterion is that the property belongs to all of the taxpayers of the United States and should not be turned into a gratuity to the people living within the area of its location at the expense of all the taxpayers of the country.

Thus as my many many speeches on this criterion pointed out, the real estate for a park, or camp, or hospital, or any of a myriad of other public projects designed for the primary benefit of the people in a local community should not be financed 100% by the Federal government. Such projects do contribute to the national welfare to some degree but they contribute primarily to the welfare of the people in the local area and should be paid for the most part by the divisions of the local government.

Also it should be noted that the formula is not limited to land. It applies to any and all types of tangible property belonging to the Federal government that the author of some bill seeks to give away for nothing.

Some of the cases over the years involved trucks, machinery, livestock, surplus equipment of all types belonging to Uncle Sam. In fact, after World War II, too many members of Congress tried to turn over storehouses of surplus property and our excess real estate holdings into a huge grab-bag for give-away disposals. I said at the time, my investigation showed that politicians were seeking to buy the support of their constituents by seeing how much surplus property they could obtain for their districts and states without cost to their voters. In a sense, the practice was developing some serious questions of political ethics.

Furthermore, as you point out in your speech, the very location and concentration of large amounts of surplus property in certain areas of the country, worked to the favor of the people in those areas. Some of the bills covered thousands of acres of military reservations, or federal office buildings, that had been built for war administration use, or tin smelters, airports etc. etc. But there was no equality of distribution of such property across the nation. As a result, the Senators or Congressmen in the heavily concentrated surplus property areas were the political beneficiaries of political hand-outs.

(2) If the bill sought to transfer the property to a city, county, state, or other public body but the use was to be for a private purpose, then 100% of the fair market value would have to be paid.

This is the Morse formula, as spelled out by former Senator Morse in his letter.

Two precedent-setting cases come to my mind. Early in the application of the Morse Formula there came before the Senate a bill that proposed to give to a Nebraska Municipality a very valuable acreage of Federal land for absolutely nothing. The author of the bill didn't even want to agree to a payment of 50% of the fair market value.

What was the purpose of the grant? It was to allow the city government to offer industrial sites to new businesses, manufacturing firms, and other private enterprises without cost if they would locate in that particular city. Of course, the purpose was not a public purpose in the sense intended by the Morse Formula. It was basically a private-use objective. It was an attempt to have the Federal government pay a subsidy for the benefit of the city concerned to help it get new business.

The Senate supported my opposition to the bill. It is interesting that in this case, and many others in which other forms of subsidies for special groups were sought at the expense of all the taxpayers of the country, the Senate recognized the basic unfairness involved.

For example, in cases such as the Nebraska case just mentioned, city after city without the availability of surplus property would be placed at a competitive disadvantage by subsidy giveaways by the Federal government.

Another precedent-setting case on the private-use criterion involved the Methodist Church. In the depression of the 1920's a Methodist Church in San Francisco went into receivership on a combined church and office building. Following receivership litigation, new owners took over. Early in World War II the Federal government bought the building for a War Office Building. After the War it was declared surplus. A bill was introduced to give the building to the Methodist Church that had lost it during the depression. I objected unless 100% payment of its fair market value was inserted in the bill. In essence, the bill violated the public-use criterion of the Morse Formula. I good-naturedly but seriously also contended that it violated the separation of state and church doctrine. The controversy was raised from time to time on the unanimous consent calendar for two years and finally the bill was withdrawn.

(3) If a local government agency gives a piece of property without reservation to the Federal government and then some years later it becomes surplus to federal needs, the local agency is not entitled to get the prop-

erty back. Once it becomes the property of all the taxpayers of the country they are entitled to have it sold for the benefit of all the taxpayers.

Furthermore, the Federal government does not hold property without costs to itself, as you point out in your speech. Also, costly improvements might have been added to a property the government obtains by gift or purchase.

In those cases where a city, county, or state give property to the Federal government with reservations attached, then the Morse Formula is modified accordingly but not entirely.

For example, some of the cases involved the giving to the U.S. Veterans Bureau, land for the location of a veterans hospital, with the reservation that the land was to revert to the local government if the Federal government ceased to use it for hospital purposes. In such cases the land goes back, but the Federal Government gets whatever it can get for the salvage of the improvements on the property.

(4) S. 1708 clearly violates the Morse Formula in many respects.

Its 0–50% figure leaves to the Department of Interior a dangerous power for political manipulation. The taxpayers are entitled to have a rule such as 50% of appraised fair market value established by law. We must watch out for such gimmicks of discretion which the bill seeks to turn over to the Interior Department in S. 1708.

The bill gives away without cost to the local agency all the improvements on the property concerned. This can run into great value. It is one thing for the Federal government to establish a Federal Park if the circumstances justify it. However, to permit the Department of Interior the broad discretion to give away federal property to local government agencies brings us another step in the direction of government by arbitrary discretion of mere men.

Next the fact that the state gave the property in the first place is immaterial unless reservations were designated in the transfer.

The provision of S. 1708 which would allow the state to get the property back years later at the same price the Federal government paid for it is a shocking example of short-changing all the taxpayers of the country. The property belongs to all of the taxpayers at its present worth and they should not be cheated out of 50% of its assessed fair market value.

Finally, Bill, I want to say that this bill is another example of an attempt to have Congress delegate away its responsibilities, to officials in the Executive branch of government. It is another step toward government by Executive Supremacy. Congress has not only the authority but the clear duty to dispose of federal property for fair value. It should not delegate away this duty to officials in the Department of Interior or any other department. The danger of potential abuses and potential political corruption resulting from this type of bill are great.

The record of the Department of Interior, and other departments exercising blanket discretionary authority such as the weak guidelines of this bill, is replete with injuries to the public interest. Surely the experiences the people of the country have had with land manipulation scandals with various administrations of the past, should cause this Congress to reject S. 1708.

I have many other objections to the bill but your speech covers the points so well as to why this bill should be put in the legislative ash-can, that I shall say no more.

Best wishes, always

Cordially,

WAYNE MORSE.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from the Bureau of the Budget found on pages 11 to 13 of the committee report, opposing the bill, and giving the Bureau's specific reasons why it opposes the bill.

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

EXECUTIVE OFFICE OF THE PRESIDENT, BUREAU OF THE BUDGET,
Washington, D.C., May 13, 1969.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of April 14, 1969, for the views of the Bureau of the Budget on S. 1708, a bill to amend title I of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), and for other purposes.

The bill would give the States and their political subdivisions the right to acquire surplus Federal real and personal property for park and recreational purposes for a period of 5 years, notwithstanding provisions of the Surplus Property Act of 1944, and the Federal Property and Administrative Services Act of 1949, as amended, under the following methods:

(a) Where the State or political subdivision originally donated the property to the Government, the property could be reacquired at no cost.

(b) Where the Federal Government paid for the property, the State or political subdivision could acquire the property, at its election, either at the original purchase price or at a price ranging from zero to 50 percent of fair market value as determined by the Administrator of General Services in accordance with specified recommendations of the Secretary of the Interior.

The bill's apparent intent, with which we are sympathetic, is to encourage State and local governments to acquire and develop additional land for parks and recreational opportunities.

With respect to the provision which would allow States and their political subdivisions that have donated property to the Federal Government the right to reacquire the property without charge. We generally do not object to such reacquisitions when it can be demonstrated to the Congress that such action is equitable. However, there are a number of other provisions in the bill which, in our view, involve difficulties as to approach and concept.

First, by giving the States the right to acquire surplus real and personal property for park and recreational purposes, S. 1708 apears to establish a priority for such use, regardless of the highest and best use of the property. The highest and best use might be for schools, hospitals, housing, industry to increase opportunity for economic development, or for a number of other purposes. We believe that the principle of highest and best use should be retained in the disposal of surplus real and personal property.

Second, the availability of surplus Federal land in a donation or partial donation program tends to encourage State and local governments not to use sound judgment by acquiring such real property even when it is not the most suitable property for the purpose acquired. Property having an extremely high current market value has occasionally been donated for a purpose which might have been served with less valuable property. Such situations are aggravated when the sale of such property could have increased local tax revenues and helped the economy of the community. To provide a further reduction in the price to be paid for park and recreational conveyances might well tend to encourage local governments to acquire less suitable land in the locality than could be acquired through the use of Land and Water Conservation Fund Act grants.

Third, the provision that conveyances of surplus property to the States and their political subdivisions at the price the Federal Government originally paid for the property would be a departure from a fair value standard. This method of price determination might result in enormous windfalls to some States and political subdivisions while others would be afforded little or no advantage. Some surplus lands were acquired many years ago at what would now be considered nominal cost. More recent land acquisitions would have been at prices more closely reflecting present values.

In addition, under paragraphs (1) and (2) of the proviso in S. 1708, it is not clear how Federal improvements to the property would be disposed of. If it is intended that such improvements would be conveyed with the property originally donated or sold by the State or locality, further windfall could result. Where the State or political subdivision donated the property to the United States, it could reacquire the property at no cost regardless of the value of Federal construction or other improvements. Under paragraph (2), where the United States paid valuable consideration for the property, the State or political subdivision could acquire the property at the original purchase cost, with no compensation to the United States for valuable Federal improvements on the property.

Fourth, S. 1708 would authorize a departure from the general standard of 50 percent Federal assistance for State and local recreation project costs. At present, a discount equal to 50 percent of fair value is authorized by the Surplus Property Act of 1944, as amended, for Federal surplus property sold to public agencies for park and recreational purposes. In addition, 50 percent Federal assistance for the capital costs of State and local recreation projects is available under the following major Federal programs: (1) the land and water conservation fund State assistance program, (2) the open space land program, (3) the separable recreation costs for small watershed program (Public Law 566), (4) the community action programs authorized by the Economic Opportunity Act of 1964, and (5) the separable recreation costs for Federal water projects built by the Corps of Engineers and the Bureau of Reclamation.

Fifth, the bill does not include a provision to require that the property will revert to the United States if the Secretary of the Interior determines that the property is not being used for the purpose for which it was conveyed.

Sixth, Federal surplus property is not distributed evenly or necessarily located where shortages of park and recreational opportunities exist. While equity might be improved by adjusting the distribution of grant assistance among the States under the land and water conservation fund grant program, such adjustments would be extremely difficult to make and would likely be only partially successful.

In view of these concerns, we are unable to recommend enactment of S. 1708. However, we recognize that the general structure of our system of Federal real property disposal needs improvement because of some inequities in Federal surplus property disposals under various public use authorities. We have worked with the major program and property disposal agencies to perfect the system, and are still interested in improving the disposal program. We would be happy to work with the committee to develop appropriate legislation to achieve that objective.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

Mr. RIBICOFF. Mr. President, one of the great needs of our country is to provide open areas for parks and recreation for our citizens. We need such facilities not only now for today's population but for future generations to insure that they have the proper recreational facilities they deserve.

I am, therefore, proud to be a cosponsor of S. 1708, the Federal Lands for Parks and Recreation Act of 1969. This bill will make surplus Federal property more readily available to State and local governments for park and recreation uses.

Under present law, surplus Federal property may be purchased by State and local governments at 50 percent of fair market value. However, surplus Federal land can be attained at no cost if the intended use is for a historical monument, a public airport, or for wildlife purposes. Such land may also be sold at any figure from 0 to 50 percent of fair market value if the proposed purpose is for education or public health.

The rapidly increasing value of land and the skyrocketing demand for land for commercial and residential purposes have frustrated attempts to develop recreation areas under the existing law. In fiscal 1968 only 22 properties totaling 2,740 acres were conveyed to State and local governments for park and recreational purposes.

Land prices are rising at the rate of 10 percent a year. The rate for land with recreational potential is rising even higher. At the same time, State and local governments are finding their financial resources burdened with the increasing demands of necessary programs to improve the quality of education, health, law enforcement, welfare, and housing. Thus local governments have been unable to meet the spiraling cost of acquiring surplus Federal property for recreational purposes.

A recent report by the National League of Cities concluded that this process of land acquisition "has become difficult, if not impossible, in most of the Nation's cities." Yet it is in these urban areas of America where the recreational needs are the greatest, especially as we look to the future.

Today more than 200 million people live in the United States. This number will increase to over 300 million by the year 2000. In my own State of Connecticut, today's population of 3 million will double in size by the year 2000. These future generations will have more time for recreation due to increasing salaries and a shorter workweek. It is therefore imperative that we set aside today the land to be used for tomorrow, lest it be irrevocably lost to new highways which swallow up forests at the rate of 60 acres a mile and to huge shopping centers and parking lots that greedily devour open land in our urban areas.

Passage of S. 1708 would give park and recreational facilities an equal priority with historical sites, airports, wildlife conservation, and health and educational facilities. This will permit States and municipalities to make decisions based upon the needs of their residents rather than on the relative price discounts available. By decreasing the purchase price of these park lands, the limited budgets of our State and local governments could be used more to develop, maintain and improve recreational facilities rather than primarily to make the initial purchase, as is presently the case.

As of December 31, 1969, there were Federal surplus lands in 48 States, presenting an enormous potential for needed park and recreational areas across the Nation. Once lost to other uses, these areas cannot be regained. Present and future citizens will have been deprived of the peace and pleasure that those areas would provide.

Mr. President, I therefore urge the prompt passage of S. 1708.

Mr. SCOTT. Mr. President, I was pleased to have my name added as a cosponsor of S. 1708, the Federal Lands for Parks and Recreation Act of 1969. This proposal is designed to make surplus Federal properties more readily available to State and local governments for development as parks and recreational areas.

In my Commonwealth of Pennsylvania, there are at least nine sites that would be eligible under this bill for acquisition either by the Commonwealth itself, or by local governments. These sites include both urban and rural property.

I have always felt that urban areas, where three-fourths of our people live, need to have the same proximity to recreational facilities as do rural areas. I believe that the bill, introduced by the Senator from Washington (Mr. JACKSON), will advance this goal, and I add my name in cosponsorship with that hope.

Mr. MAGNUSON. I appreciate the opportunity today to lend my encouragement and support to S. 1708, the Federal Lands for Parks and Recreation Act of 1969. The purpose of S. 1708 is to make surplus Federal property easily obtainable by State and local governments for park and recreation use.

One of the great and important goals of our country is to provide open spaces in our cities and urban areas. It is extremely important that the Federal Government play a central role in seeing that this goal is achieved. One way that this can be accomplished is to modify the standards laid down in the Surplus Property Act of 1944.

Particularly important is the provision in this bill which will allow local governments to purchase available surplus Federal property at a price less than 50 percent of fair market value—50 percent was the magic number under the Surplus Property Act of 1944. I particularly am impressed with the provision which states that if a State or political subdivision originally donated the property to the Federal Government, that this same political subdivision or State may reacquire it at no cost. I think that there are strong policy reasons for supporting this bill and I give it my wholehearted endorsement today.

Hopefully, this will set a trend which will prompt our local governments to acquire surplus property for open spaces which they so desperately need if the children of the future are to have places where they can enjoy our country in all its beauty.

S. 2390—INTRODUCTION OF THE TRADE EXPANSION ACT OF 1969

Mr. BROOKE. Mr. President, I rise today to address a subject which is of great concern to me—the role of the United States in world trade. The Committee on Banking and Currency is presently considering a proposal to extend the termination date of the existing Export Control Act to June 30, 1973, and a proposal to replace the present act with new legislation which would deal with both the expansion and regulation of exports. I do not believe that either proposal represents the optimum solution to the important problems which surround past administration of the export control program.

It would be inappropriate for me to support an extension of the present act—with nothing more—since this would result in a continuation of the policies which have discouraged trade in nonstrategic goods. At the same time, I believe that we must not lessen the President's authority to control exports that make a significant contribution to the military potential of any nation which would prove deterimental to the national security of the United States.

I have not supported the second piece of legislation because I feel it possesses shortcomings which cannot be easily corrected by amendments. I am, however, in sympathy with the efforts of its sponsors to bring about a meaningful improvement in our export control program.

Accordingly, the bill which I introduce today seeks to strike a proper balance between encouraging trade in peaceful goods and providing the President with necessary authority to control exports of strategic goods. I should like to emphasize that this bill is not intended to diminish the President's authority to control the exportation of strategic—or military—goods. It is, however, intended to convey by belief that trade in peaceful goods should be expanded.

Section 2 of this bill would give the President authority to control exports to any nation if he determines taking into consideration availability of the particular goods from other nations, that such export makes a significant contribution to the military potential of the importing nation which would prove detrimental to the national security of the United States. Thus, controls would not be precluded where the item is readily available from another country; however, the President would be required to consider foreign availability in making his determinations.

Section 3 of the bill would require the President to seek information and advice from private industry in determining what action to take with regard to expanding and regulating exports, consistent with considerations of national security.

Section 7 would establish a "Trade Expansion Commission" charged with the responsibility of determining practicable ways by which exports from the United States can be expanded without jeopardizing the national security.

Section 11 would require the President to exercise his authority to control the export and import of arms, ammunition and implements of war under the Mutual Security Act of 1954 in such a manner as to achieve effective coordination between the controls authorized under that act and the controls authorized under this bill.

I feel that this bill, coupled with administrative changes which I shall be

recommending shortly, will improve our export control program considerably.

Trade is not a process that can be alternately encouraged and discouraged by the Government if we hope to achieve long-run improvements in our balance-of-payments situation. We must seek to encourage trade in peaceful goods at every opportunity and must minimize the use of international trade as a political tool. We must think beyond Vietnam and begin improving our economic ties with the countries of Eastern Europe and the Soviet Union. Trade is vital to our economic well-being when it does not contribute to the military potential of another country in such a manner as to prove detrimental to our national security.

We are at a historic juncture in the development of nonstrategic trade with Eastern Europe and the Soviet Union. We can extend the present export control program and thereby perpetuate restrictive policies of the past or we can undertake broad initiatives to expand trade which is not detrimental to our national security and thereby reassert our leadership in the markets of the world. I am confident that we will take the latter approach.

Mr. President, I ask that the text of the bill be printed in the RECORD at this point in my statement.

The PRESIDING OFFICER (Mr. CRANSTON in the chair). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 2390), to promote the general welfare, foreign policy, and national security of the United States through the expansion of international trade and through the regulation of certain exports, and for other purposes, introduced by Mr. BROOKE, 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. 2390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Trade Expansion Act of 1969".

DECLARATION OF POLICY

SECTION 1. The Congress makes the following declarations:

(a) It is the policy of the United States to encourage expanded trade in peaceful goods and technology with all countries with which we have diplomatic or trading relations; and to use export controls only to the extent necessary (1) to exercise vigilance over exports from the standpoint of their significance to the national security and foreign policy of the United States; and (2) to protect the domestic economy from the excessive drain of scarce materials and to reduce the inflationary impact of abnormal foreign demand.

(b) It is the policy of the United States to formulate, reformulate, and apply such controls to the maximum extent possible in cooperation with all nations with which the United States has defense treaty commitments, and to formulate a unified commercial and trading policy to be observed by all such nations.

(c) It is the policy of the United States (1) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States and (2) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country or against another country friendly to the United States.

AUTHORITY

SEC. 2. (a) To effectuate the policies set forth in section 1 hereof the President may prohibit or curtail the exportation from the United States, its Territories, and posessions, of any articles, materials, or supplies, including technical data or any other information, except under such rules and regulations as he shall prescribe. To the extent necessary to achieve effective enforcement of this Act, such rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. Such rules and regulations shall provide that express permission and authority must be sought and obtained to export articles, materials, or supplies, including technical data, or any other information, from the United States, its Territories and possessions, to any nation or combination of nations if the President shall determine, taking into consideration availability of such exports from other nations, that such export makes a significant contribution to the military potential of such nation or nations which would prove detrimental to the national security of the United States. Such rules and regulations shall implement the provisions of section 1(c) of this Act and shall require that all domestic concerns receiving requests for the furnishing of information or the signing of agreements as specified in section 1(c) must report this fact to the Secretary of Commerce for such action as he may deem appropriate to carry out the purposes of section 1(c).

(b) The rules and regulations authorized by this section shall provide that the export of a particular category of items shall not be subjected to the requirement that express permission and authority be sought and obtained where such export does not make a significant contribution to the military potential of any nation or combination of nations which would prove detrimental to the national security of the United States.

(c) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate.

(d) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils, during any period for which the supply of such commodity is determined by the Secretary of Agriculture to be in excess of the requirements of the domestic economy, except to the extent required to effectuate the policies set forth in section 1(a) of this Act.

(e) Nothing in this Act, or in the rules and regulations authorized by it, shall in any way be construed to require authority and permission to export items in any categories other than those specified in this Act or under any circumstances other than those specified in this Act.

CONSULTATION

SEC. 3. In determining what action to take with regard to expanding and regulating exports, any department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on our exports. Consistent with considerations of national security, the President shall seek information and advice from private industry in connection with the making of these determinations.

VIOLATIONS

SEC. 4. (a) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued hereunder, with knowledge that such items are being exported contrary to any provision of this Act or any regulation, order, or license issued hereunder, shall, upon conviction, be punished by a fine of not more than five times the value of the exports involved or $20,000, whichever is greater, or by imprisonment for not more than five years, or by both such fine and imprisonment.

(b) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $1,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(c) The payment of any penalty imposed pursuant to subsection (b) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the continued right to export of the person upon whom such penalty is imposed.

(d) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (b) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28 of the United States Code, no action for the refund of any penalty may be maintained in any court.

(e) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (b), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection, and in subsection (c), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(f) Nothing in subsection (b), (c), or (e), shall limit—

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 5. (a) To the extent necessary or appropriate to the enforcement of this Act, the head of any department or agency exercising any functions hereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the

case of contumacy by, or refusal to obey a subpena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443) shall apply with respect to any individual who specifically claims such privilege.

(c) No department, agency or official exercising any functions under this Act shall publish or disclose information obtained hereunder which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information unless the head of such department or agency determines that the withholding thereof is contrary to the national interest.

(d) In the administration and enforcement of this Act, reporting requirements shall be so designed as to reduce the cost of preparation of reports and recordkeeping required under this Act to the extent feasible, consistent with effective enforcement and compilation of useful trade statistics. Reporting and recordkeeping requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT

SEC. 6. The functions exercised under this Act shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237), except as to the requirements of section 3 thereof.

TRADE EXPANSION COMMISSION

SEC. 7. (a) There is hereby established a Trade Expansion Commission (hereinafter referred to as the "Commission") to be composed of fifteen members to be appointed by the President. The President shall designate one of the persons appointed to the Commission to serve as Chairman.

(b) The Commission shall conduct a study to determine practicable ways by which exports from the United States can be expanded without jeopardizing the national security. The Commission may make interim reports to the President and the Congress, and shall make a final report thereto with respect to its findings and recommendations no later than one year after the date of enactment of this Act.

(c) Each member of the Commission who is appointed from private life may receive compensation at the rate of $100 for each day he is engaged upon work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(d) The Commission may, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or to classification and general schedule pay rates, appoint and fix the compensation of an executive director, and the Executive Director, with the approval of the Commission, may employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission. No individual so appointed may receive compensation in excess of the rate authorized for GS–18 under the General Schedule

(e)(1) The Commission may require directly from the head of any Federal executive department or agency available information which the Commission deems useful in the discharge of its duties. All such departments and agencies shall cooperate with the Commission and furnish information requested by the Committee to the extent permitted by law.

(2) The head of any executive department or agency of the Government may detail, on a reimbursable basis, any of its personnel to assist the Commission in carrying on its work.

(f) Thirty days after submission of its report, the Commission shall cease to exist.

(g) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

QUARTERLY REPORTS

SEC. 8. The head of any department or agency or other official exercising any functions under this Act with the exception of those specified in section 7 hereof, shall make a quarterly report, within 45 days after each quarter, to the President and to the Congress of his operations hereunder.

DEFINITION

SEC. 9. The term "person" as used herein shall include the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof.

EFFECTS ON OTHER ACTS

SEC. 10. The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

SEC. 11. The authority granted to the President, pursuant to section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), to control the export and import of arms, ammunition, and implements of war, including technical data relating thereto, shall be exercised in such manner as to achieve effective coordination between the controls authorized under that section and the controls required under section 2(a) of this Act.

EFFECTIVE DATE

SEC. 12. This Act shall take effect on June 30, 1969.

SENATE JOINT RESOLUTION 122—INTRODUCTION OF A JOINT RESOLUTION TO PROVIDE FOR A TEMPORARY EXTENSION OF THE AUTHORITY CONFERRED BY THE EXPORT CONTROL ACT OF 1949

Mr. BROOKE. Mr. President, while we were considering the proposal which I have just introduced and the other proposals which I have referred to above, we must not ignore the fact that the President's authority to control the exportation of strategic goods expires on June 30, 1969. I am, therefore, introducing a joint resolution which would extend the expiration date of the present Export Control Act from June 30, 1969, to August 30, 1969. While the Senate may be in a position to report out legislation on this important subject by June 30, I have been informed that it is doubtful whether the House could do so in the time remaining. I, therefore, introduce this resolution so that controls over strategic items do not lapse in the event that the Congress does not take action on this matter before June 30. I am hopeful, however, that both Houses of the Congress will be able to report out a compromise bill and that it will not be necessary to pass this resolution.

I am pleased to indicate that the Senator from Alabama (Mr. SPARKMAN), the Senator from Maine (Mr. MUSKIE), and the Senator from Utah (Mr. BENNETT), join as cosponsors of this resolution. With their able leadership, I am confident that the Committee on Banking and Currency will be able to take action on this proposal, should it prove necessary to do so.

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

The joint resolution (S.J. Res. 122), to provide for a temporary extension of the authority conferred by the Export Control Act of 1949, introduced by Mr. BROOKE (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Banking and Currency.

ARMS CONTROL AND THE MIRV TESTS

Mr. BROOKE. Mr. President, I wish to call the attention of the Senate to a most insightful editorial in today's Washington Post, entitled "Arms Control and the MIRV Tests."

As cogently and meticulously as possible, the Post reviews the considerations which have led me and a number of other Senators to conclude that it would be wise national policy to seek a delay in further testing of the so-called multiple independently targetable reentry vehicles by both the Soviet Union and the United States. I ask unanimous consent that the Post editorial be printed at this point in the RECORD.

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

ARMS CONTROL AND THE MIRV TESTS

In a couple of weeks time it will have been one full year since the Soviet Union picked up the United States' recurrently proferred invitation to discuss strategic arms limitations. No one can say what progress—if, indeed, any—might have been made by now toward some sort of stabilizing arrangement, had not the talks been delayed in turn by the Soviets' invasion of Czechoslovakia, our own election campaign and change of government, and Mr. Nixon's insistence on a thoroughgoing, snail's pace review of the U.S. negotiating position. But it takes no special insight to observe what has happened in the past year without arms talks, and little of it suggests that time is working to either side's advantage.

This is especially and even crictically true in relation to the development of MIRV—the multiple independently targetable reentry vehicle, which has already come far enough along to complicate enormously any agreement we and the Soviets might reach, not to mention the prospect of our reaching one at all.

The shorthand in which MIRV has been discussed as an obstacle to arms control is slightly misleading. That is, it is frequently argued that techniques of control and inspection likely to be tolerated by the Soviets in any agreement would not include the kind of on-site scrutiny required to establish how many individual warheads a missile contained, so that there would be no mutually acceptable way of "counting" weapons in an agreed-upon arms limitation or freeze. That is true, but at this point is neither the central nor immediate question. We have already deployed "cluster" warheads in some of our missiles—MRV's, minus the crucial "I"—and these already present a simple "counting" problem; but precisely because

they are not independently targeted their maneuverability is limited, their purpose as a defense system penetrator fairly clear, and their relative unsuitability for conversion into a first-strike weapon evident.

None of this holds true for MIRV, which was also undertaken in the first instance as a penetrator of a Soviet ABM defense. The improved accuracies that are meant to be gained from continued testing could in time qualify land- and sea-based MIRVs as first-strike weapons, capable in their great and undeterminable number of destroying the other side's hardened land-based missile—the protection retaliatory force which is supposed to be its deterrent. When such accuracies have been achieved, the "counting" problem will become real. Thus, absent an agreement, we could experience an almost unimaginable shift from addition to multiplication as the basis for each side's effort to match the other and to protect its own arsenal.

We are a long way yet from the fulfillment of this grotesque promise. But it can also be argued that we are at a point in the development of this weapon—as the Soviets may be too—when the decisions we take could have a profoundly and even permanently harmful effect on our chances of reaching an agreement concerning it. Our own present series of MIRV tests is intended to lead, in a matter of months, to the deployment of these weapons in refitted nuclear submarines and also in the new Minuteman III. Few people, it is true, believe that the accuracies acquired by this stage will have qualified the MIRV as the menace to stability it could become. And those who view the process with least alarm declare that it will be around eighteen months before the first new sea-based MIRVs are operational, adding that in these early stages the Soviets would know the limited extent of its attributes as a weapon.

Be all that as it may, the uncertainties regarding the achievements of our current tests, the rate at which we may proceed with Minuteman III (which is not distinguishable in the silo from its predecessor and does not require refitting operations comparable to those of the sea-based MIRVs), and the improvements that could be mastered via so-called "confidence firings" of these early weapons once deployed, al must contrive to make the terms of any weapons agreement far more arguable in Moscow than they might otherwise have been. The uncertainty is at least equal to the demonstrable fact—and perhaps more important than it—in the area of arms control agreements. What can be believed or imagined or suspected and consequently argued may be more important than a reality which falls far short of it. That is why it is so urgent for the Administration to move now to get the arms talks going or, failing that, to put some sort of brake on the MIRV development that will keep it a negotiable item.

A year ago, you heard it argued that, on the eve of an arms bargaining session with the Soviet Union, it would be imprudent—a weak and misleading sign—to cancel the first MIRV flight tests or to delay them. Today, you hear it argued that the moment has vanished, alas, for a unilateral slowdown or moratorium: it would have been practical, the argument now runs, a year ago. There was truth to the first of these propositions, and there is a measure of truth to the second. For at this point, even if there were a slowing or halt of flight tests, progress on the MIRV has already been such that neither side could be entirely confident of where the other had got to or what it might be capable of achieving backstairs.

But it does not follow from this that the only course left to allay these anxieties involves each side's moving unilaterally toward a condition that is preferable only in that we know for sure how much we have to be anxious about—namely, the unchecked development of MIRV weapons by both countries. An eventual agreement to limit the size and number of launchers and also the deployment of anti-ballistic missile systems is—by most good accounts—still attainable and even susceptible of adequate inspection at this stage of MIRV's progress, although MIRV has already introduced complications that may soon bring us past this point. What is left is the opportunity—if these weapons are to be deployed—to control this deployment and restrain it by mutual agreement under negotiated, circumscribed conditions. It is an opportunity Mr. Nixon should seize—or at the very least keep available.

He can do so by braking the flight tests of these weapons or by moving with more dispatch toward substantive talks in Geneva. The critics to the contrary, this is a decision of infinitely more importance at the moment than that of whether or not to approve the President's first request for authority and funds to undertake the Safeguard ABM. Its consequences are more far-reaching and less possible to reverse. Moreover, the original rationale for MIRV—the prospective deployment by the Russians of a heavy ABM system—is at least open to question at this time and also a subject which will be understood more clearly only when the bargaining begins. It would not be difficult to understand the reluctance of a President to enter into arms talks with the Russians at a moment when his whole strategic policy has come under impassioned domestic attack, so that Mr. Nixon may well have it in mind to deal with nothing but the preliminaries until a few things have been voted up or down—resolved, if only temporarily—at home. If that is the case, he should (and could afford to) slow down the MIRV tests. It is late now. Pretty soon it will be too late.

Mr. BROOKE. Mr. President, as Senators know, I have circulated a sense-of-the-Senate resolution dealing with this vital issue. Together with a large and growing number of cosponsors I now plan to introduce this resolution shortly, urging the President to propose an immediate joint suspension of MIRV tests by the Soviets and ourselves, and expressing the Senate's support for an early start of strategic arms negotiations to head off another dangerous round in the arms race.

I have been investigating this issue in detail for many months and believe I can state with assurance that there are many points of consensus among those most fully informed about this subject.

There is no dispute that the prospective vulnerability of the American Minuteman forces would be greatly reduced if the Soviet Union could be persuaded to forgo development and deployment of MIRV technology.

There is no dispute that the U.S. MIRV program was intended to penetrate an expected heavy Soviet ABM system, which has not yet materialized.

There is no dispute that the United States could achieve an effective MIRV capability in a shorter time than it would take the Soviet Union to deploy a heavy ABM system; hence there is no dispute that so far as the stated mission is concerned, the U.S. MIRV program can be safely delayed for a time.

There is no dispute that if MIRV systems are actually deployed, they will increase the difficulties of verifying compliance with the hoped-for freeze on strategic weapons, since one could not then be confident of precisely how many accurate and independently aimed warheads were mounted on a particular missile.

There is no dispute that, if the United States MIRV program is completed, it will be more difficult to dissuade the Soviets from deploying similar technology.

In short there are many sound reasons for concluding that the control of MIRV is the paramount problem of the arms race at this time, and that an early joint suspension of MIRV flight tests could provide additional time for devising adequate arrangements to limit such destabilizing technology.

I will be expanding on these and related arguments in the next few days and hope that other Senators will join me in sponsoring the proposed resolution.

ORDER OF BUSINESS

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

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

SENATE CONCURRENT RESOLUTION 32—SUBMISSION OF A CONCURRENT RESOLUTION ON RAIL TRANSPORTATION

Mr. ALLOTT. Mr. President, there is little comfort in having correctly foretold the future, when dire consequences were predicted and they have now come true.

I am, unfortunately, in that position today. In the early days of the 90th Congress, I submitted, on behalf of myself and a bipartisan group of interested Senators, Senate Concurrent Resolution 25. This resolution was designed at least to attempt to solve the already then critical situation regarding rail passenger service.

The resolution was introduced against the background that hundreds of long distance passenger trains had been discontinued by leading railroads throughout this country. The problem early in 1967 had become acute, and many of us felt that the time had come to take some constructive action.

As I told the Senate then:

> What was once referred to as "creeping abandonment" has begun to gallop.

And I pointed out:

> Almost nothing is being done to face up to the problems of today, namely the abandonment and discontinuance of most long haul or non-commuter short run passenger service in this country.

I predicted then that unless action were taken we would be faced with a "gigantic problem" in years hence.

For a variety of reasons, which would serve little good to explore, no action was taken, and today the "gigantic problem" about which I warned is upon us.

Just in the time since the start of the 90th Congress, or roughly in the past 2½ years, the Interstate Commerce Commission has received petitions to discon-

tinue more than 320 trains. That figure, by the way, does not include the gigantic passenger service restructuring on the New York, New Haven & Hartford Railroad subsequent to its absorption by the Penn Central. In that case alone, some 91 trains were involved, of which 40 survived.

The ICC, during this period, allowed 202 trains to be discontinued, while discontinuance cases involving 94 trains were either denied, dismissed, or withdrawn. Cases concerning 28 trains are presently pending. These figures include only interstate trains and do not reflect the dozens of intrastate trains which have been allowed to be discontinued either by the ICC or by State utility commissions. Considering the fact that little more than 500 long-distance passenger trains are still operating at this time, the revelation that more than 200 have been discontinued in the past 30 months puts this matter sharply into perspective.

Mr. President, I ask unanimous consent that the record of ICC action on passenger trains for 1967, 1968, and the first half of 1969, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ALLOTT. Mr. President, if the problem was serious in 1967, it has indeed become grave in 1969.

As I see it, we are faced with a choice. Either we will be content to allow all but a handful of the remaining 500 trains to be discontinued so that by 1972, or 1973, there will be virtually no rail passenger service at all in the United States, or we will take some constructive action to indicate to the Department of Transportation, the Interstate Commerce Commission, the railroads, and the public that Congress is concerned about this problem and wishes to seek a solution.

It is for the purpose of suggesting a beginning toward a solution that I rise today to introduce an updated version of the resolution I sponsored in the 90th Congress. The list of cosponsors, which I will announce at the conclusion of these remarks, supplies ample evidence that people from one end of the Nation to the other are most concerned about this problem. The question of providing adequate rail passenger service for the people of America is one which crosses party lines, as well as geographic and ideological barriers.

It is obvious that there is no area of the country which has not suffered from declining rail service. It is further obvious that virtually all major railroads have sought actively to rid themselves of the passenger business. In some cases, there has been and continues to be economic justification for this action on the part of the private carriers; in other cases, the move to discontinue passenger trains has been or continues to be just another step toward freeing more and more capital for freight operations.

Well, Mr. President, we have reached the point where we must decide just how much obligation a highly profitable railroad has to operate passenger trains, and just how much obligation public bodies must assume for the operation of passenger trains on deficit-ridden railroads, or in areas where the trains themselves cannot operate profitably, even though they may be needed.

The aim of the resolution being introduced today is to seek to determine the facts upon which such policies can be built.

Few would suggest that passenger trains will reap huge profits for the railroads. Many have suggested that passenger trains need not lose money. The great success of the three Penn Central Metroliners currently in operation between Washington and New York offers an excellent case in point.

It is true that these trains do operate in a heavily populated corridor. But trains have been operating in this corridor all along, and passenger traffic was on the decline. The advent of the Metroliners, which are fast, reliable, clean, and efficient, has brought people back to the rails.

Who is to suggest that other kinds of clean, fast, efficient trains would also not bring people back to the rails?

The supporters of this resolution do not suggest additional rail service is imperative because they necessarily prefer trains over other means of transportation. We do, however, suggest that the continued and even expanded utilization of rail passenger trains is inevitable, especially in the so-called corridor areas of this Nation.

This is true because expressways and interstate highways are near the saturation point in many parts of America. In addition, air congestion has become a problem of national concern.

Thus, the railroads, despite some financial problems, can, and indeed must, play a role in solving our ground transportation problems. The question is whether all passenger facilities should be allowed to be abandoned now, only to be replaced very soon at a cost of billions or whether meaningful remedial legislation can prevent such a mistake.

The resolution we now propose would direct the Department of Transportation to conduct a 6-month study of various aspects of the rail transportation question, during which the Interstate Commerce Commission would be asked to prevent any abandonment or sale of rail passenger service facilities.

We are deliberately suggesting a brief study. The time for studying has nearly diminished. The time for action is at hand. I feel certain, after appropriate consultations, that DOT would be able to make proper recommendations in a period of 6 months.

The investigation, as the resolution suggests, should have as its primary objective an analysis of the feasibility of developing, promoting, and operating long-distance rail passenger transportation through the establishment of regional or intrastate rail transportation commissions; a Government-industry public corporation; or through direct assistance to railroad operators.

In that regard, we ask that DOT make a comprehensive determination of where and how the technology and service developed in the northeast corridor high-speed rail project can be utilized in other intercity corridors in the United States.

This is most important because the concept behind the enactment of the High Speed Ground Transportation Act 4 years ago, even though this has been nearly forgotten, was to conduct experiments in passenger service which would have benefit to all parts of the Nation. Since funds were provided for limited experimentation, demonstrations have been confined to the northeast corridor. What we learn here, however, concerning public attitudes toward improved rail service, travel patterns, and the ability of railroads to attract passengers from the air and the highways, should prove to be quite applicable elsewhere in the Nation.

We further ask that, in consultation with the railroads, State utility commissions, and State or regional transportation authorities, DOT determine the feasibility of providing Federal assistance for the planning and development of regional rail passenger services.

This is a most worthwhile concept to explore because if the problem of rail passenger service is indeed to be solved, then States and regional bodies will have to be involved. I cannot foresee a time when the Federal Government will completely absorb the financial burden of operating unprofitable long-distance trains across the country. I can foresee a time in the very near future when the Federal Government or regional transit authorities might help the railroads run such trains.

In addition, we ask that DOT make a comprehensive determination of the feasibility of providing Government assistance to furnish a pool of rail passenger equipment. The National Association of Railroad Passengers—NARP—the widely respected spokesman for rail travelers in all 50 States of the Union, has expressed great interest in this aspect of our proposal, as well as the resolution itself. In fact, Anthony Haswell, the chairman of NARP, sent word from Chicago that—

> Favorable action on the Allott resolution will be of vital assistance in combating the negative attitude toward passenger service which today is so widespread within the railroad industry.

The association is particularly concerned about "the deteriorating condition of passenger equipment which is causing increased repair and maintenance expense together with inferior service to the public."

I welcome NARP's support, and I believe that their suggestions now and in the future will prove to be most valuable as we continue to discuss this whole question.

As auxiliary points to the matter of a passenger equipment pool, we are asking for DOT to examine the questions of Government assistance for terminal facilities, fare structure experimentation, and outright operation of long-distance trains.

A further point to be studied, under our resolution, is whether or not containerized mail can be coordinated with existing or future passenger train schedules to insure both fast mail service and a continuation of needed passenger routes.

I have addressed the Senate many times on the ruthless discontinuance of railway post office—RPO—operations under the policies of one William J. Hartigan. That has now become a

separate matter, and I shall not comment on it further at this time, except to say that all the facts have not yet been revealed on this case. At least, it seems to this Senator that now that the Post Office Department has succeeded in dismantling the reliable RPO system which served the Nation so well, we ought to be able to explore ways of hauling mail on passenger trains. This would help the mail service, because passenger trains are on the whole rather reliable; this would also assist passenger trains because of the revenue which would accrue to the railroads.

The argument over whether the railroad determined to discontinue trains first, thus forcing the Post Office to cancel RPO's, or whether the Post Office Department determined to cancel RPO's thus forcing the railroads to discontinue passenger trains, has not yet been fully settled. Therefore, it is high time that the debate over this issue be supplanted by a positive investigation of what can be done to ship mail by trains.

We also ask what responsible management, labor, and Government officials have also been requesting for some time now, namely, that DOT examine the question what changes can be made in work rules to insure the greater use of rail passenger service.

We are extremely hopeful that this resolution will receive prompt hearings and action in committee. We are not, we believe, acting a moment too soon, and indeed if we wait much longer, there will not be any trains to save.

In my own State of Colorado, we are now fighting, for the third time around, the discontinuance of the California Zephyr. We are all hopeful that the ICC will order the train continued for another year, which it presently has power to do. Yet, that is hardly a permanent solution. The Zephyr equipment is getting older. Complaints of poor service, dirty coaches, difficulties with reservations, the necessity to use cash rather than credit cards, and so forth, have been reaching my office daily since the Denver & Rio Grande Western petitioned to discontinue its portion of the train's run.

If the Commission merely orders the train to operate year after year, and the service continues to deteriorate, eventually passengers simply will not ride. At that point, whether or not there is need for the service, the Commission will be forced to give the railroads permission to discontinue.

The Zephyr case is only one of many examples we could mention. Obviously, what are needed are permanent solutions, because the problems confronting us will be with us for generations to come.

I do not believe that a railroad should be obliged to continue the operation of truly defict-ridden passenger trains indefinitely with no relief. I believe that a railroad which seeks in good faith to maintain clean, efficient, and reliable passenger service, and which having done so, still cannot at least break even, must be given sympathetic consideration of its situation by the ICC, the Department of Transportation, and the Congress.

All we are saying is that the study we propose is necessary to determine the direction we must go now and in the future.

As I mentioned at the outset, this resolution aims only at a beginning. The time is at hand; the support is present; the conditions warrant it. Let us begin.

Mr. President, on behalf of myself and other Senators I submit the concurrent resolution and ask that it be appropriately referred.

The PRESIDING OFFICER (Mr. HANSEN in the chair). The concurrent resolution will be received and appropriately referred.

The concurrent resolution (S. Con. Res. 32), which was referred to the Committee on Commerce, is as follows:

S. CON. RES. 32

Resolved by the Senate (the House of Representatives concurring), That, because (1) expressway and interstate highways in major urban areas are near the saturation point, (2) air congestion has become a problem of national concern, (3) large segments of rural America will soon be without rail passenger transportation, and (4) the railroads, despite financial problems, can play a vital role in solving our ground transportation problems, it is the sense of the Congress that the Secretary of Transportation should make an investigation of the potential of rail transportation, particularly over existing lines and rights-of-way, for passenger and mail transportation in the United States. Such investigation should have as it primary objective an analysis of the feasibility of developing, promoting and operating inter-urban railroad transportation through the establishment of regional (or intrastate) rail transportation commissions, a government-industry public corporation; or through direct assistance to railroad operators. Such an investigation should also include:

(a) a comprehensive determination of where and how the technology and service developed in the northeast corridor high speed rail project can be utilized in other intercity corridors in the United States;

(b) in consultation with railroad companies, State utility commissions and State or regional transportation authorities determine the feasibility of providing federal assistance for the planning and development of regional rail-passenger services;

(c) a comprehensive determination of the feasibility of providing Government assistance to furnish a pool of passenger equipment; provide modern terminal facilities; and for experimentation in fare structure, type of service and frequency of service through loans to railroads, or grants to public authorities established for the purpose of promoting and operating regional rail-passenger services;

(d) in consultation with the Postmaster General, a determination as to how containerized mail can be coordinated with existing or future passenger train schedules to insure both fast mail service and a continuation of needed passenger routes;

(e) in consultation with railroad management and railroad labor organizations, a determination as to what changes in work rules can be worked out to insure greater use of rail passenger service;

(f) a review of all existing research and development in rail transportation and a determination of areas where future research and development should be concentrated, with special emphasis on equipment design, maintenance, right-of-way, and track and power supply improvements; and

(g) such other matters as would determine and promote the potential of rail transportation for the purpose of assisting in the solution of such problems.

SEC. 2. It is also the sense of Congress that in view of the urgency of the problems involved such investigation and study by the Secretary of Transportation, and a report thereon, should be completed in not more than six months, and pending such completion the Interstate Commerce Commission should exercise such authority as it has under law to prevent any abandonment or sale of rail passenger service facilities.

Mr. ALLOTT. The cosponsors of the concurrent resolution are as follows:

Messrs. AIKEN, ALLOTT, BENNETT, BIBLE, CANNON, COOPER, CRANSTON, CURTIS, DODD, DOLE, DOMINICK, FANNIN, HANSEN, HRUSKA, JAVITS, JORDAN of Idaho, MCGEE, MILLER, NELSON, PELL, PERCY, PROUTY, RIBICOFF, SCOTT, SPONG, STEVENS, THURMOND, TYDINGS, YARBOROUGH, and YOUNG of North Dakota.

EXHIBIT 1

F.D. No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
24435	Chesapeake & Ohio Ry. Co., Washington, D.C. to Cincinnati, Ohio, and 4 others.	Jan. 10, 1967	Feb. 10, 1967	Jan. 26, 1967	June 9, 1967	Feb. 27, 1967	6	Denied June 5, 1967.
24462	Chicago, Burlington & Quincy RR. Co., Alliance, Nebr., and Brush, Colo.	Feb. 6, 1967	Mar. 15, 1967	Mar. 2, 1967	July 14, 1967	Apr. 3, 1967	2	Granted, June 20, 1967.
24499	Illinois Central RR. Co., Chicago, Ill., and Waterloo, Iowa.	Mar. 3, 1967	Apr. 5, 1967	Mar. 22, 1967	Aug. 4, 1967	Apr. 24, 1967	2	Granted July 26, 1967.
24529	Southern Pacific Co., Tucumcari, N. Mex., and Los Angeles, Calif.	Mar. 19, 1967	Apr. 21, 1967	Apr. 7, 1967	Aug. 20, 1967	May 25, 1967	2	Granted Aug. 11, 1967.
24542	Monon RR., Chicago, Ill.-Louisville, Ky	Mar. 27, 1967	May 8, 1967	Apr. 25, 1967	Sept. 7, 1967	June 12, 1967	2	Granted Aug. 30, 1967.
24545	Chicago, Burlington & Quincy RR. Co., Billings, Mont., and Alliance, Nebr.	Mar. 30, 1967	May 1, 1967	Apr. 19, 1967	Aug. 31, 1967	June 5, 1967	2	Denied, Aug. 24, 1967.
24546	Colorado & Southern Ry. Co., Chicago, Burlington & Quincy RR. Co., Denver, Colo., and Billings, Mont.	do	do	do	do	do	2	Granted, Aug. 24, 1967.
24558	Norfolk & Western Ry. Co., St. Louis, Mo., and Chicago, Ill.; St. Louis and Detroit.	Apr. 7, 1967	May 10, 1967	Apr. 26, 1967	Sept. 9, 1967	June 19, 1967	4	2 granted, 2 denied, Sept. 5, 1967.
24562	The Colorado & Southern Ry. Co., Fort Worth & Denver Ry. Co., Dallas, Tex.,-Denver, Colo.	Apr. 10, 1967	do	Apr. 25, 1967	do	June 12, 1967	2	Granted, Aug. 31, 1967.
24571	Southern Railway Co., Washington, D.C., and Salisbury, N.C.	Apr. 26, 1967	May 27, 1967	May 12, 1967	Sept. 26, 1967	June 14, 1967	2	Granted, Sept. 19, 1967.

EXHIBIT 1—Continued

F.D. No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
24589	Chicago, Milwaukee, St. Paul & Pacific RR., Chicago, Ill., and Omaha, Nebr.	May 12, 1967	June 12, 1967	May 31, 1967	Oct. 11, 1967	July 10, 1967	2	Granted, Sept. 21, 1967.
24595	Northern Pacific Co., St. Paul, Minn. and Jamestown, N. Dak.	May 12, 1967	June 18, 1967	June 6, 1967	Oct. 17, 1967	July 17, 1967	2	Granted, Sept. 27, 1967.
24615	Chicago, Burlington & Quincy RR. Co., Chicago, Ill. and Omaha, Nebr.	May 29, 1967	July 1, 1967	No			1	Granted, June 19, 1967.
24616	Chicago, Rock Island & Pacific Railroad Co., Minneapolis, Minn. and Kansas City, Mo.	May 29, 1967	June 30, 1967	June 16, 1967	Oct. 29, 1967	Aug. 7, 1967	2	Granted Oct. 6, 1967.
24625	Missouri Pacific Railroad Co., Little Rock, Ark. and Alexandria, La.	June 9, 1967	July 17, 1967	July 5, 1967	Nov. 16, 1967	Aug. 14, 1967	2	Granted Nov. 7, 1967.
24645	Illinois Central RR. Co., Memphis, Tenn., and New Orleans, La.	June 27, 1967	Aug. 1, 1967	July 18, 1967	Nov. 30, 1967	Sept. 6, 1967	2	Granted, Nov. 28 1967.
24646	Louisville & Nashville RR. Co., St. Louis, Mo., and Nashville, Tenn.	June 28, 1967	July 31, 1967	July 18, 1967	Nov. 30, 1967	Aug. 21, 1967	2	Denied (part), Nov. 22, 1967; petition denied May 24, 1968.
24723	Pennsylvania RR. Co., Chicago, Ill., and Valparaiso, Ind.	Aug. 30, 1967	Oct. 2, 1967	Sept. 18, 1967	Feb. 1, 1968	Oct. 30, 1967	2	Denied Jan. 26, 1968.
24725	Chicago & Eastern Illinois RR. Co., Chicago, Ill., and Evansville, Ind.	Aug. 31, 1967	Oct. 1, 1967	Sept. 18, 1967	Jan. 31, 1968	Oct. 30, 1967	2	Granted Jan. 25, 1968. petition denied May 8, 1968.
24728	Chicago, Burlington & Quincy, change in service Nos. 8 and 30, Chicago, Ill., Omaha, Nebr.	Sept. 1, 1967	Oct. 1, 1967	No			2	Granted Sept. 19, 1967.
24739	Great Northern Ry. Co., Fargo, N. Dak., and St. Paul, Minn.; 2 discontinued and 1 change of service.	Sept. 12, 1967	Oct. 15, 1967	Oct. 3, 1967	Feb. 14, 1968	Nov. 27, 1967	3	Granted Feb. 9, 1968.
24746	Chicago, Rock Island & Pacific RR. and Southern Pacific Co. Nos. 3 and 4 between Chicago and El Paso, Tex.	Sept. 18, 1967	Oct. 20, 1967	Oct. 5, 1967	Feb. 19, 1968	do	2	Granted Feb 15, 1968.
24759	Chicago, Burlington & Quincy RR. Co. Nos. 22 and 23 change of service between Chicago and St. Paul.	Sept. 27, 1967	Oct. 29, 1967	No Oct. 27, 1967 on reconsideration.		Jan. 8, 1968	2	Feb. 26, 1968, 1 granted, 1 denied.
24760	Chicago, Milwaukee, St. Paul & Pacific RR. Co. Nos. 55 and 58 between Chicago and Minneapolis.	Sept. 29, 1967	Oct. 31, 1967	Oct. 19, 1967	Feb. 29, 1968	Dec. 4, 1967	2	Denied Feb. 26, 1968.
24766	Chicago, Milwaukee, St. Paul & Pacific RR. Co. and Soo Line RR. Co. between Milwaukee, Wis. and Calumet, Mich. Nos. 9–10 and 49–48.	Oct. 6, 1967	Nov. 8, 1967	Oct. 25, 1967	Mar. 7, 1968	Dec. 11, 1967	2	Granted Mar. 1, 1968.
24771	Chicago, R.I. and Pacific RR. Co., Nos. 21 and 22 between Memphis, Tenn., and Tucumcari, N. Mex.	Oct. 9, 1967	Nov. 10, 1967	No			2	Granted Oct. 26, 1967.
24772	The Atchison, Topeka and Santa Fe Ry Co., Nos. 3 and 4 between Kansas City, Mo., and Gallup, N. Mex.	do	do	No; dismissed notice.			2	Oct. 19, 1967; Oct. 30, 1967.
24773	The Atchison, Topeka & Santa Fe Ry. Co., Nos. 47 and 48 and 211 and 212 between Kansas City, Mo., and Tulsa, Okla.	do	do	Oct. 27, 1967	Mar. 9, 1968	Jan. 8, 1968	4	2 granted; 2 denied; Mar. 1, 1968.
24774	The Atchison, Topeka & Santa Fe Ry. Co., Nos. 7 and 8 between Chicago, Ill., and Los Angeles and Bakersfield, Calif.	do	do	No; dismissed notice.			2	Oct. 19, 1967; Oct. 30, 1967.
24779	Southern Pacific Co. Nos. 21 and 22 between Ogden, Utah, and Oakland, Calif.	Oct. 16, 1967	Nov. 16, 1967	No			2	Granted Nov. 1, 1967.
24780	New York Central R. Co. Nos. 312 and 341 between St. Louis, Mo., and Indiana-Ohio State line.	do	Nov. 19, 1967	Nov. 7, 1967	Mar. 18, 1968	Jan. 15, 1968	2	Granted Mar. 14, 1968.
24781	New York Central R. Co. Nos. 57 and 96 between Chicago and Indiana-Ohio State line.	do	do	do	do	Jan. 22, 1968	2	Granted Mar. 14, 1968.
24809	St. Louis-San Francisco Ry. Co. 101 and 102 between Kansas City, Mo., and Birmingham, Ala.	Nov. 3, 1967	Dec. 8, 1967	No			2	Granted Nov. 24, 1967. Petition for reconstruction denied Dec. 7, 1957.
24812	Southern Ry Co. discontinuance of train No. 36 and consolidation of No. 47 with 37 between Washington, D.C., and Atlanta, Ga.	do	Dec. 4, 1967	No			2	Granted Nov. 21, 1967.
24818	Atchison, Topeka & Santa Fe Ry. Co. trains Nos. 13 and 14 between El Paso, Tex., and Albuquerque, N. Mex.	Nov. 8, 1967	Dec. 10, 1967	Nov. 28, 1967	Apr. 9, 1968	Jan. 22, 1968	2	Granted Mar. 28, 1968.
24819	Atchison, Topeka & Santa Fe Ry. Co. Nos. 9, 11, and 12 between Chicago, Ill., Kansas City, Mo., and Fort Worth-Dallas, Tex.	Nov. 9, 1967	Dec. 18, 1967	Dec. 4, 1967	Apr. 16, 1968	Feb. 5, 1968	3	Granted Apr. 11, 1968.
24821	Chicago, Burlington & Quincy RR. Co. Nos. 35 and 36 between Chicago, Ill., and Kansas City, Mo.	do	Dec. 10, 1967	Nov. 27, 1967	Apr. 9, 1968	Jan. 29, 30, 31, Feb. 1, 2, 6, 7, 1968.	2	Denied Apr. 2,
24827	Chicago, Burlington & Quincy RR. Co., Nos. 7 and 8, between Omaha, Nebr., and Denver, Colo.	Nov. 17, 1967	Dec. 17, 1967	No			2	Dec. 5, 1967, petition for reconsideration denied Dec. 15, 1967.
24836	Seaboard Coast Line RR. Co., Nos. 77 and 78, between Richmond, Va., and Florence, S.C.	Nov. 27, 1967	Dec. 31, 1967	No			2	Granted Dec. 19, 1967.
24853	Kansas City Southern Ry. Co.; Louisiana & Arkansas Ry. Co.; Nos. 1 and 2, between Kansas City, Mo., and New Orleans, La.	Dec. 4, 1967	Jan 4, 1968	Dec. 19, 1967	May 3–10, (time voluntarily extended by railroad.	Feb. 5–24, 1968	2	Denied May 7, 1968.
24854	Kansas City Southern Ry. Co.; Louisiana & Arkansas Ry. Co.; Nos. 15–9, 10–16, between Kansas City, Mo., and New Orleans, La., and Port Arthur, Tex.	do	do	do	do	Feb. 5, 1968	6	Granted May 6, 1968.
24855	Northern Pacific Ry. Co., Nos. 1 and 2 between Fargo, N. Dak., and Tacoma-Seattle, Wash.	Dec. 4, 1967	Jan. 10, 1968	Dec. 18, 1967	May 9, 1968	Feb. 13, 1968	2	Denied May 6, 1968.
24857	Chesapeake & Ohio Ry. Co., Nos. 43 and 46 between Portsmouth and Charlottesville; Nos. 3 and 4 between Washington, D.C., and Cincinnati, Ohio; Nos. 47 and 46 between Ashland, Ky., and Detroit, Mich. June 25, 1959, petition for reconstruction.	Dec. 5, 1967	Jan. 5, 1968	Dec. 21, 1967	May 4, 1968, May 12, 1968 (time voluntarily extended by railroad).	Feb. 5, 1968	6	4 granted, 2 denied May 7, 1968. Petition denied Oct. 23, 1968.
24861	Union Pacific RR. Co., Nos. 5 and 6 between Omaha, Nebr., and Los Angeles, Calif.	Dec. 6, 1967	Jan. 8, 1968	Dec. 28, 1967	May 7, 1968		2	Withdrawn Jan. 12, 1968.
24869	Atchison, Topeka & Santa Fe Ry. Co., Nos. 19 and 20, 23 and 25 between Chicago and Los Angeles.	Dec. 13, 1967	Jan. 14, 1968	Dec. 29, 1967	May 13, 1968	Feb. 13, 1968	4	2 granted, 2 denied, May 8, 1968.

EXHIBIT 1—Continued

F.D. No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
24873	Pennsylvania RR. Co. Nos. 3 (Penn-Texas), No. 30 (Spirit of St. Louis), bet. St. Louis, Mo. & N.Y., N.Y.	Dec. 20, 1967	Jan. 21, 1968	No. Invest. inst. Jan. 18, 1968.			2	Jan. 9, 1968. Dismissed, Jan. 31, 1968.
24879	Union Pacific RR. Co., Nos. 35 & 36 bet. Salt Lake City, Utah & Butte, Mont.	Dec. 20, 1967	Jan. 22, 1968	Jan. 9, 1968	May 21, 1968	Mar. 4, 1968	2	Denied, May 16, 1968.
24884	Illinois Central RR. Co., Nos. 21 & 22 bet. Springfield, Ill. & St. Louis, Mo. Nos. 15, 16, 101, 102, 105 & 152 bet. St. Louis, Mo. & Carbondale, Ill.	Dec. 20, 1967	Jan. 20, 1968	Jan. 5, 1968	May 19, 1968	Feb. 19–23, 1968	8	6 Granted, 2 Denied, May 14, 1968.
24886	Erie-Lackawanna RR. Co. No. 10 (New York mail) and No. 15 (The Owl) between Buffalo, N.Y. and Hoboken, N.J.	Dec. 21, 1967	Jan. 21, 1968	Jan. 9, 1968	May 20, 1968, May 31, 1968 (Time voluntarily extended by railroad. Petitioned June 19, 1968; heard Oct. 15, 1968; reopened Aug. 23, 1968 for further hearing).	Feb. 26, 1968	2	Denied May 23, 1968. (Granted May 20, 1969 on further hearing.)
24912	Norfolk and Western Ry. Co., discontinuance of trains Nos. 302 and 303 between St. Louis, Mo. and Detroit, Mich.	Jan. 8, 1968	Feb. 10, 1968	Jan. 26, 1968	June 9, 1968	Mar. 18–26, 1968	2	Granted May 31, 1968.
24916	Southern Pacific Co., trains 101 and 102 between Ogden, Utah and Oakland, Calif. (City of San Francisco) Aug. 26, 1968 (petition for reconsideration).	Jan. 15, 1968	Feb. 15, 1968	Jan. 31, 1968	July 20, 1968	Mar. 25–Apr. 12, 1968.	2	Denied July 17, 1968. Petitioned Oct. 29, 1968, denied.
24917	Union Pacific RR. Co. Nos. 17 and 18 between Kansas City, Mo., and Portland, Oreg. (Portland Rose).	Jan. 15, 1968	Feb. 19, 1968	Feb. 7, 1968	June 18, 1968	Mar. 25–Apr. 10, 1968.	2	Denied June 13, 1968.
24918	Western Pacific RR. Co. Nos. 17 and 18 between San Francisco and Salt Lake City (California Zephyr). (Petitions for reconsideration.)	Jan. 17, 1968 Aug. 22, 1968	Feb. 20, 1968	Feb. 7, 1968	July 20, 1968	Mar. 25 to Apr. 12, 1968.	2	Denied July 17, 1968. Petition denied Oct. 29, 1968.
24923	Seaboard Coast Line RR. Co. Nos. 17 and 18 (the Tidewater) between Portsmouth, Va., and Raleigh, N.C.	Jan. 19, 1968	Feb. 19, 1968	No			2	Granted Feb. 7, 1968.
24925	Southern Ry. Co. and the Cincinnati, New Orleans & Texas Pacific Ry. Co. Nos. 1–28 and 27–2 between Cincinnati, Ohio, Atlanta, Ga. and Columbia, S.C. (Carolina trains). (Petition for reconsideration July 15, 1968, trains to be continued for 5 months instead of 1 year.) Sept. 6, 1968 (order of June 10, 1968, required reconsideration).	do	do	Feb. 7, 1968	June 18, 1968	Apr. 1 to October 1968.	6	4 granted, 2 denied June, 1968.
24929	New York Central RR. Co., Nos. 404 and 405, between Albany, N.Y., and Boston, Mass.	Jan. 23, 1968	Feb. 23, 1968	Feb. 9, 1968	June 22, 1968	Mar. 1–4, 1968	2	Denied June 17, 1968.
24931	Louisville & Nashville RR. Co., Nos. 14 and 19, between Bowling Green, Ky., and Memphis, Tenn.	do	Feb. 28, 1968	No			2	Granted Feb. 15, 1968.
24932	Chicago, Burlington & Quincy RR. Co., Nos. 22 and 23, between Omaha, Nebr., and Kansas City, Mo. (Petition of July 25, 1968 for reconsideration.)	do	Feb. 23, 1968	Feb. 8, 1968	June 22, 1968	Apr. 1–4, 1968; petition denied Oct. 4, 1968.	2	Granted June 17, 1968.
24933	Chicago, Burlington & Quincy RR. Co., Nos. 26 and 27 between Omaha, Nebr., and Kansas City, Mo. (Petition July 25, 1968 for reconsideration.)	do	do	do	do	do	2	Denied June 17, 1968.
24935	Union Pacific RR. Co., trains Nos. 5 and 6 between Omaha, Nebr., and Los Angeles, Calif. (Petition for reconsideration denied Oct. 4, 1968; period reduced from 1 year to 6 months.)	Jan. 24, 1968	Feb. 26, 1968	Feb. 13, 1968	June 25, 1968	Apr. 15–24, 1968	2	Denied June 20, 1968.
24942	Louisville & Nashville RR. Co. trains Nos. 17 and 18 between Cincinnati, Ohio, and Atlanta, Ga.	Jan. 30, 1968	Mar. 7, 1968	No			2	Granted Feb. 20, 1968.
24952	Louisville & Nashville RR. Co. trains Nos. 1 and 2 between Nashville, Tenn., and Atlanta, Ga.	Feb. 6, 1968	Mar. 14, 1968	No			2	Granted Feb. 29, 1968.
24956	Missouri Pacific RR. Co. and Texas Pacific Ry. Co. Nos. 7 and 8 between St. Louis and Texarkana, 27 and 28 between Texarkana and Fort Worth, 23 and 24 between New Orleans and Marshall, Tex.	Feb. 7, 1968	Mar. 10, 1968	Feb. 27, 1968	July 9, 1968	Apr. 22 to May 3, 1968.	6	Granted July 2, 1968.
24970	Union Pacific RR. Co., Nos. 69 and 70 between Kansas City, Mo., and Salina, Kans.	Feb. 15, 1968	Mar. 18, 1968	No			2	Granted Mar. 6, 1968.
24972	Pennsylvania-New York Central Transportation Co. Nos. 94 and 95 (the Kentuckian) between Logansport, Ind. and Louisville, Ky.	Feb. 19, 1968	Mar. 24, 1968				2	Dismissed Mar. 12, 1968.
24976	Seaboard Coast Line Railroad Co. Nos. 53 and 54 between Florence, S.C. and Augusta, Ga.	Feb. 21, 1968	Mar. 23, 1968	No			2	Granted Mar. 11, 1968.
24977	The Baltimore & Ohio RR. Co., consolidation of Nos. 37 and 40 with 51 and 52 between Washington, D.C. and Cumberland, Md. (see F. D. 25288 where trains were consolidated).	Feb. 23, 1968	Mar. 25, 1968	No; Mar. 22, 1968	No date; Dec. 18, 1968.	May 13–25, 1968; Denied in effect.	4	Mar. 12, 1968; Investment instituted on reconsideration.
24980	Chicago, Milwaukee, St. Paul & Pacific RR. Co., Nos. 117 and 118 (the Varsity), between Chicago, Ill., and Madison, Wis. (required to be continued on Friday, Saturday, and Sunday and 5 national holidays and the days preceding and following holidays).	Feb. 26, 1968	Mar. 29, 1968	Mar. 15, 1968	July 28, 1968	Apr. 29, 30; May 2, 3, 1968.	2	Denied July 12, 1968.
4984	Illinois Central RR. Co., Nos. 205 and 208, between Vicksburg, Miss., and Shreveport, La.	Feb. 28, 1968	Mar. 30, 1968	No			2	Granted Mar. 18, 1968.
24986	Southern Ry. Co., Nos. 45 and 46 (Tennessean) between Chattanooga, Tenn., and Memphis, Tenn.	Feb. 29, 1968	Mar. 31, 1968	No			2	Granted Mar. 19, 1968.
25026	Penn-Central Transportation Co., No. 50 (the Admiral) between Chicago and New York and No. 53 (the Fort Pitt) between Pittsburgh and Chicago. (Petition for reconsideration Nov. 7, 1968.)	Mar. 18, 1968	Apr. 21, 1968	Apr. 9, 1968	Aug. 20, 1968	May 20 to June 6, 1968.	2	Denied Aug. 15, 1968 (9 mos.) pet. denied Nov. 18, 1968.

EXHIBIT 1—Continued

F.D. No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
25028	Penn-Central Transportation Co., Nos. 94 and 95 (the Kentuckian) between Logansport, Ind., and Louisville, Ky.	Mar. 20, 1968	Apr. 21, 1968	No			2	Granted Apr. 8, 1968.
25041	Seaboard Coast Line RR. Co., Nos. 3 and 4, between Richmond, Va., and Atlanta, Ga. (Petition for reconsideration, Oct. 7, 1968).	Mar. 29, 1968	Apr. 30, 1968	No			2	Granted Apr. 17, 1968.
25047	Louisville & Nashville RR. Co., Nos. 6 & 7 between New Orleans, La. and Cincinnati, Ohio (Hummingbird). (Civil Action 68C1666 U.S.D. Ct. for N.D. of Ill., Eastern Div. issued restraining order Sept. 21, 1968 ordering trains continued). Pet. denied Oct. 31, 1968.	Apr. 3, 1968	May 8, 1968	Apr. 24, 1968	Sept. 7, 1968	June 17–26, 1968	2	Granted Sept. 3, 1968.
25052	Pennsylvania N.Y. Central Transp. Co., Nos. 70 and 71 (Nos. 66 and 65 after Apr. 27) bet. Chicago, Ill., and Cincinnati, Ohio. (Pet. for Recons. Oct. 11, 1968, Feb. 18, 1969 continuance required for 6 mos. rather than 1 year fr. Sept. 11, 1968.)	Apr. 11, 1968	May 12, 1968	Apr. 29, 1968	Sept. 11, 1968	June 24–28, 1968	2	Denied Sept. 9, 1968.
25074	Pennsylvania New York Central Transportation Co., No. 3 (the Penn Texas) and No. 30 (the Spirit of St. Louis) between New York, N.Y., and St. Louis, Mo.	Apr. 26, 1968	May 29, 1968	May 16, 1968	Sept. 28, 1968	July 8–25, 1968	2	Denied Sept. 24, 1968.
	Petition for reconsideration			Oct. 28, 1968		Mar. 3, 1969		Petition denied.
25075	Seaboard Coast Line RR. Co., Nos. 9 and 10 (Palmland) between Columbia, S.C., and Miami, Fla.	Apr. 30, 1968	May 31, 1968	No			2	Granted May 17, 1968.
25097	Atchison, Topeka & Santa Fe Ry. Co., change in service Nos. 1 and 2 between Chicago, Ill., and San Francisco, Calif., and Nos. 15 and 16 between Chicago, Ill., and Houston, Tex.	May 13, 1968	June 15, 1968	No			4	Granted, June 3, 1968.
25107	Penn-Central Co. (Twilight Limited), No. 357 from Detroit, Mich. to Chicago, Ill. (Petition for reconstruction. Nov. 15, 1968 (G–fr. Ann Arbor-Chi-D fr. Detroit-Ann Arbor.)	May 17, 1968	June 18, 1968	June 6, 1968	Oct. 17, 1968	July 29–Aug. 6, 1968	1	Denied in part, Oct. 15, 1968. Petition denied Jan. 24, 1969.
25118	Southern Pacific Co., Nos. 1 and 2 between Los Angeles, Calif. and New Orleans, La. (Sunset).	May 24, 1968	June 24, 1968	June 4, 1968	Oct. 23, 1968	July 15–Aug. 15, 1968.	2	Denied, Oct. 17, 1968.
25120	Seaboard Coast Line R. R. Co. Nos. 15 and 16 between Hamlet, N.C., and Birmingham, Ala.	May 27, 1968	June 28, 1968	No			2	Rejected, June 17, 1968.
25129	Illinois Central RR. Co., change in service Nos. 3 and 4 between Chicago and Memphis. (Involved the elimination of 7 or 25 points served and rescheduling of trains.)	May 29, 1968	June 30, 1968	June 18, 1968, re stop at Gilman, Ill., only.	Oct. 29, 1968	Aug. 5, 1968	2	Oct. 25, 1968; No. 3 denied, No. 4 granted
25130	Chesapeake & Ohio RR. Co. Rescheduling train No. 46 between Detroit, Mich., and Ashland, Ky. Petition for reconsideration, June 25, 1968.	May 31, 1968	June 30, 1968	No			1	Granted June 17, 1968. Petition denied June 27, 1968.
25136	Missouri Pacific RR. Co. and Texas & Pacific Ry. Co. Nos. 3 and 4 between St. Louis, Mo. and Fort Worth, Tex.	June 5, 1968	July 10, 1968	June 27, 1968	Nov. 9, 1968	Aug. 5–12, 1968	2	Granted Oct. 31, 1968.
25143	Illinois Central RR. Co. Nos. 9 and 10 discontinued between Carbondale, Ill., and Birmingham, Ala. Change in service between Chicago and Carbondale (Seminole). (Petition for reconsideration Dec. 16, 1968.)	June 13, 1968	July 15, 1968	July 2, 1968	Oct. 14, 1968	Aug. 12–27, 1968	2	Nov. 12, 1968, granted train 10 stop at Gilman Depot. Petition denied Feb. 3, 1969.
25145	Baltimore & Ohio RR. Co., change in service Nos. 9 and 10 between Cumberland, Md., and Washington, D.C.; discontinued between Cumberland and Pittsburgh and change in service Nos. 5, 6, 7, and 8 between Cumberland and Pittsburgh.	June 14, 1968	July 15, 1968	No			2	Granted July 2, 1968.
25150	Seaboard Coast Line RR. Co. Nos. 17 and 18 (Seminole) between Jacksonville, Fla., and Albany, Ga. (Petition for reconsideration.)	do	July 16, 1968	July 2, 1968	Nov. 15, 1968	Aug. 12 to 27, 1968	2	Granted Nov. 12, 1968. Petition denied Feb. 3, 1969.
25151	Central of Georgia Ry. Co. Nos. 10–9 and 10–9 (Seminole) between Birmingham, Ala., and Albany, Ga. (Petition for reconsideration.)	do	July 15, 1968	do	Nov. 14, 1968	do	2	Granted Nov. 12, 1968. Petition denied Feb. 3, 1969.
25158	Seaboard Coast Line RR. Co. Nos. 15 and 16 between Hamlet, N.C., and Birmingham, Ala.	June 21, 1968	July 21, 1968	No			2	Granted July 10, 1968.
25162	Norfolk & Western Ry. Co. discontinuance of Nos. 121 and 124 between St. Louis, Mo., and Chicago, Ill.	June 26, 1968	July 26, 1968	July 12, 1968	Nov. 25, 1968	Sept. 9 to 12, 1968	2	Denied Nov. 20, 1968.
25209	Southern Pacific Co. Nos. 11 and 12 (Cascade) between Portland, Oreg., and Oakland, Calif.	July 22, 1968	Aug. 22, 1968	Aug. 8, 1968	Dec. 20, 1968	Sept. 16 to Oct. 4, 1968.	2	Denied Dec. 16, 1968.
25221	Chicago, Burlington & Quincy RR. Co. Change in service No. 23 between Chicago, Ill., and St. Paul, Minn.	Aug. 1, 1968	Aug. 31, 1968	Aug. 19, 1968	Dec. 30, 1968		1	Withdrawn Sept. 19, 1968.
25230	Chicago, Burlington & Quincy RR. Co. discontinued Nos. 42 and 43 between Omaha, Nebr., and Billings, Mont. Petition for reconsideration jurisdictional denied Apr. 2, 1969; GTI filed Apr. 21, 1969 and denied May 1, 1969).	Aug. 6, 1968	Sept. 7, 1968	Aug. 23, 1968	Jan. 6, 1969	Oct. 7–18, 1968 Railroad agreed to continue trains to Jan. 13, 1969.	2	Granted Jan. 3, 1969.
25234	Seaboard Coast Line RR. Co. (Sunland) No. 7 from Hamlet, N.C. to Jacksonville, Fla., and No. 8 from Jacksonville to Richmond, Va.	Aug. 7, 1968	Sept. 9, 1968	No			2	Granted Aug. 28, 1968.
25235	Seaborad Coast Line RR. Co. (Dixie Flyer), Nos. 95 and 96, between Jacksonville, Fla., and Atlanta, Ga.	Aug. 7, 1968	Sept. 9, 1968	Aug. 28, 1968	Jan. 8, 1969	Oct. 21–25, 1968	2	Granted Jan. 3, 1969.
25236	Richmond, Fredericksburg & Potomac RR. Co., No. 8, from Richmond, Va., to Washington, D.C.	do	do	No			1	Granted Aug. 28 1968.
25244	Baltimore & Ohio RR. Co., Nos. 11 and 13 (Metropolitan), between Cincinnati, Ohio, and St. Louis, Mo. (petition for reconsideration).	Aug. 12, 1968	Sept. 12, 1968	No			2	Granted Aug. 29, 1968. Reconsideration denied Sept. 11, 1968.

EXHIBIT 1—Continued

F.D. No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
25264	Chicago, Burlington & Quincy RR. Co., discontinued Nos. 11 and 12 between Galesburg, Ill., and Lincoln, Nebr. (Feb. 12, 1969, petition for reconsideration, denied Apr. 14, 1969).	Aug. 21, 1969	Sept. 21, 1968	Sept. 9, 1968	Jan. 20, 1969	Oct. 21, 1968	2	Jan. 13, 1969, granted between Omaha and Lincoln and denied between Galesburg and Omaha.
25288	Baltimore & Ohio RR. Co. discontinuance of consolidated trains 37–51 and 52–40 between Cumberland, Md. and Washington, D.C.	Sept. 6, 1968	Oct. 7, 1968	Sept. 25, 1968			2	Granted Dec. 18 1968.
25308	Penn Central Co., discontinuance of trains Nos. 570 and 571 between Harrisburg, Pa. and Baltimore, Md. (Petition for reconsideration Oct. 10, 1968. Petition denied Oct. 16, 1968.)	Sept. 19, 1968	Oct. 20, 1968	No			2	Granted Oct. 8 1968.
25314	Richmond, Fredericksburg & Potomac RR. Co. No. 15 from Washington, D.C., to Richmond, Va.	Sept. 24, 1968	Oct. 26, 1968	No			1	Granted Oct. 15 1968.
25315	Seaboard Coast Line RR. Co. No. 15 from Richmond, Va, to Hamlet, N.C.	Sept. 25, 1968	Oct. 26, 1968	No			1	Granted Oct. 15, 1968.
25346	Kansas City Southern Ry. Co. & Louisiana & Arkansas Ry. Co. Nos. 1 and 2—Southern Belle between Kansas City, Mo. and New Orleans, La.	Oct. 14, 1968	Nov. 15, 1968	Nov. 1, 1968	Mar. 14, 1969		2	Jan. 3, 1969, withdrawn; dismissed.
25371	Chesapeake & Ohio Ry. Co. Nos. 7 and 10 between Grand Rapids, Mich., and Chicago, Ill.	Nov. 1, 1968	Dec. 2, 1968	No			2	Granted Nov. 20, 1968.
25373	Penn Central Co., Nos. 574 and 575 between Buffalo, N.Y., and Harrisburg, Pa.	Nov. 4, 1968	Dec. 8, 1968	Nov. 26, 1968	Apr. 7, 1969	Jan. 8, 17, 1969	2	Denied Mar. 20, 1969 Required trains to be continued on alternate days.
25374	Baltimore & Ohio RR. Co., Nos. 107 and 112 between Washington, D.C. and Baltimore, Md.	do	Dec. 4, 1968	No			2	Granted Nov. 21, 1968.
25377	Southern Railway Co., Nos. 28 and 27 between Oakdale, Tenn. and Columbia, S.C.	Nov. 1, 1968	Dec. 6, 1968	do			2	Granted Nov. 22, 1968.
25384	Seaboard Coast Line RR. Co., Nos. 51 and 52 between Florence, S.C. and Augusta, Ga. (Champion). (Petition for reconstruction, May 8, 1969.)	Nov. 8, 1968	Dec. 9, 1968	Nov. 27, 1968	Apr. 8, 1969		2	Denied, Apr. 4, 1969.
25395	Chicago, Milwaukee, St. Paul & Pacific RR. Co., Nos. 15 and 16 between Minneapolis, Minn. and Aberdeen, S. Dak.	Nov. 15, 1968	Dec. 16, 1968	Dec. 4, 1968	Apr. 15, 1969		2	Granted Apr. 10, 1969.
25414	Penn-Central Co., Nos. 67 and 68 between Chicago, Ill. and Cincinnati, Ohio. (Petition for reconstruction Feb. 27, 1969. Denied Mar. 5, 1969.)	Dec. 4, 1968	Jan. 5, 1969	Dec. 23, 1968 (Jurisdictional)	May 4, 1969		2	Investigation vacated, Feb. 14, 1969.
25415	New York, New Haven & Hartford RR. Co., discontinuance of passenger service between New York, N.Y. and New Haven, Conn., Boston, Mass., and Springfield, Mass. (Petition Dec. 30, 1968.) 40 trains retained after restructuring as of Feb. 2, 1969, 22 between New York City and Springfield and 18 between Boston and New York City. See Bureau of Operations field report Apr. 16, 1969.	Dec. 5, 1968	Jan. 6, 1969	Dec. 23, 1968	May 5, 1969		91	Jan. 21, 1969 hearing portion of Dec. 2, order vacated investigation to be continued, granted.
25419	Penn Central Co. and Illinois Central RR. Co. Nos. 302 and 305 between Chicago, Ill., and Indianapolis, Ind.	Dec. 9, 1968	Jan. 10, 1969	Dec. 26, 1968 (decided). No.			2	Granted Dec. 26, 1968.
25420	Baltimore & Ohio RR. Co. Nos. 132 and 133–135 between Baltimore, Md., and Washington, D.C.	do	Jan. 9, 1969	do			3	Do.
25421	Baltimore & Ohio RR. Co. No. 131 from Baltimore, Md., to Washington, D.C.	do	Jan. 11, 1968	No			1	Granted Dec. 30, 1968.
25435	Seaboard Coast Line RR. Co., Nos. 33 and 34, between Birmingham, Ala., and Atlanta, Ga.	Dec. 17, 1968	Jan. 18, 1969	No			2	Granted Jan. 6, 1969.
25517	Norfolk & Western Railway Co., Nos. 301 and 302 (Wabash Cannon Ball) between St. Louis, Mo., and Detroit, Mich.	Jan. 31, 1969	Mar. 3, 1969	Feb. 19, 1969	July 2, 1969	Mar. 24–Apr. 7, 1969	2	
25543	Penn Central Co., No. 3 (Penn Texas) and No. 30 (Spirit of St. Louis) between New York and St. Louis, Mo. (Pet for recons of order of Mar. 6 denied Apr. 4, 1969.)	Feb. 18, 1969	Mar. 20, 1969	Mar. 6, 1969			2	
25550	B. & O.-C. & O. Nos. 19–45 and 48–20 between Willard, Ohio and Detroit, Mich. (Petition for reconsideraton denied Mar. 25, 1969.) St. Louis, Mo. (Petition for reconsideration of order of Mar. 6 denied Apr. 4, 1969.)	Feb. 24, 1969	Mar. 27, 1969	No			4	Granted Mar. 13, 1969.
25567	Louisville & Nashville, Nos. 11 and 12, between Flomaton, Ala., and Chattahoochee, Fla.	Mar. 3, 1969	Apr. 6, 1969	Mar. 25, 1969			2	
25580	Chicago, Milwaukee, St. Paul & Pacific RR. Co., Nos. 55 and 58, between Chicago, Ill., and Minneapolis, Minn.	Mar. 7, 1969	Apr. 7, 1969	Mar. 26, 1969			2	
25585	Penn Central Co., Nos. 404 and 405, between Albany, N.Y., and Boston, Mass.	Mar. 14, 1969	Apr. 13, 1969	Apr. 1, 1969			2	
25596	Baltimore & Ohio RR. Co., Nos. 31 and 32, between Cumberland, Md., and Parkersburg, W. Va.	Mar. 24, 1969	Apr. 24, 1969	Apr. 10, 1969			2	
25620	Richmond, Fredericksburg & Potomac RR. Co, Nos. 33 and 34, between Washington, D.C. and Richmond, Va.	Apr. 7, 1969	May 8, 1969	No			2	Granted Apr. 24, 1969.
25635	Northern Pacific Ry. Co., Nos. 124–13 and 14–123, between Fargo, N. Dak. and Pembina, N. Dak., via Manitoba Junction, Minn.	Apr 16, 1969	May 25, 1969	No			4	Granted May 13, 1969.
25636	Northern Pacific Ry. Co., Nos. 57 and 58, between Duluth and Staples, Minn. via Superior, Wis.	do	do	No			2	Do.
25645	Norfolk & Western Ry. Co. Nos. 15–25 and 16–26 between Norfolk, Va., and Cincinnati, Ohio. (petition for reconsideration May 14, 1969; reconsideration granted May 21, 1969; investigation instituted.)	Apr. 22, 1969	May 23 1969	No			2	Granted May 8, 1969.
25649	Illinois Central RR. Co., Nos. 11 and 12, change in schedule between Chicago and Dubuque, Iowa, discontinued between Dubuque and Sioux City, Iowa.	Apr. 24, 1969	May 27 1969	May 15, 1969			2	

EXHIBIT 1—Continued

F.D. No.	Railroad and points served	Filed	Effective date	Investigation ordered	4-month date	Hearing date	Number of trains	Action
25672	Alabama Great Southern RR., Nos. 41 and 42 (Pelican) between Chattanooga, Tenn., and York, Ala.	May 12, 1969	June 12, 1969	No			2	Granted May 29, 1969.
25676	Seabord Coast Line RR. Co., Nos. 33 and 34 between Richmond, Va., and Atlanta, Ga. (Silver Comet).	May 15, 1969	June 15, 1969	June 2, 1969			2	
25679	Atchison, Topeka & Santa Fe Ry. Co., Nos. 211 and 212 between Kansas City, Mo., and Tulsa, Okla. (Tulsan).	May 15, 1969	do	do			2	
25675	Denver & Rio Grande Western RR. Co., Nos. 17 and 18 (California Zephyr) between Denver, Colo., and Salt Lake City, Utah.	May 12, 1969	June 16, 1969	May 23, 1969			2	
25704	Union Pacific RR., Co., Nos. 5 and 6 between Omaha, Nebr., and Los Angeles, Calif.	May 27, 1969	June 30, 1969				2	
25705	Southern Pacific Co., Nos. 101 and 102 (city of San Francisco) between Ogden, Utah, and Oakland, Calif.	May 27, 1969	July 18, 1969				2	
25711	Illinois Central RR. Co., Nos. 105 and 106 between St. Louis, No., and Carbondale, Ill.	May 28, 1969	July 1, 1969				2	
25716	Kansas City Southern and Louisiana Arkansas Co., Nos. 1 and 2, New Orleans, La., and Kansas City.	June 2, 1969	July 3, 1969				2	
25718	Northern Pacific, Trains 1 and 2, Seattle and St. Paul.	June 4, 1969	July 13, 1969				2	

Mr. COOPER. Mr. President, I am very happy to have the opportunity to be a cosponsor of the concurrent resolution submitted today by the distinguished senior Senator from Colorado (Mr. ALLOTT). I was a cosponsor of a similar resolution introduced by him in the 90th Congress, Senate Concurrent Resolution 25.

I congratulate my colleague, Senator ALLOTT, on the thorough work he has done on this subject and his efforts to meet this growing national problem.

The resolution offered today would direct the Department of Transportation to make a thorough study into rail passenger service facilities and would require the Department to report on:

First. The establishment of high-speed rail passenger service;

Second. The feasibility of Government assistance to furnish a pool of rail passenger equipment and modern terminal facilities;

Third. The feasibility of Government assistance for experiments in rail passenger service;

Fourth. The use of rail passenger service for high-speed mail operations; and

Fifth. Changes in work rules which could lead to greater use of rail passenger service to be worked out in consultation with both labor and management.

I wish to note the emphasis that the author of this resolution has placed upon the time he feels is required by the Transportation Department to make this study and report its findings to the Congress. I agree with him that the Department of Transportation should be able to complete its study and make its recommendations within a period of 6 months. We should be able to proceed without a time consuming delay.

Mr. President, passenger train cars on class 1 railroads in this Nation have decreased from 43,352 in 1950 to less than 22,000 at the present time. Passenger train miles have been reduced from 357.5 million in 1950 to less than 160 million at present.

In my own State of Kentucky, the discontinuance of passenger service in the past few years has accelerated. For example, the Chesapeake & Ohio in 1968 received authorization to discontinue four trains—trains Nos. 3 and 4 and 46 and 47. Trains Nos. 3 and 4 operate between Washington and Cincinnati and trains 46 and 47 between Ashland, Ky., and Detroit.

In 1968 the Southern Railway received permission to discontinue passenger trains Nos. 1–28 and 27–2 operating between Cincinnati, and Kentucky towns of Ludlow, Georgetown, Lexington, Wilmore, Danville, Somerset, Burnside, Stearns, with connections to Atlanta and Columbia, S.C.

Again in 1968 the Louisville and Nashbille Railway was also granted permission to discontinue trains Nos. 6 and 7 operating between New Orleans and Cincinnati. This train was well known as the "Hummingbird" and was a chief link between Kentucky cities and the South.

In each of the above situations in which the railroad requested discontinuance of the particular passenger service, I requested local hearings by the ICC and notified the elected officials of the communities involved, the business and corporate interests that would be affected, chambers of commerce, educational institutions, and other civic organizations. In each of these individual situations, however, the ICC granted the railroads' application for discontinuance.

I believe that a serious problem arises from deteriorating passenger service which makes rail service less attractive to the public with the result that fewer members of the public travel by train. One solution, in my view, is to make passenger service fast and on time and passenger facilities comfortable and attractive so that the public would return once more to rail service.

In my view, the Nation's railroads must make greater efforts to serve the traveling public. At the same time, I do not feel that Congress and the legislative arm of the Congress, the ICC, can insist that the railroads operate their passenger service at everincreasing financial losses. New solutions must be found for these problems. Departmental recommendations in this matter are not only desirable, they are long overdue and are needed by the Congress.

Speaking as the ranking minority member of the Senate Public Works Committee, I know that the Department of Transportation is equipped to look into this matter, will do a thorough job and will give its best advise and recommendations to the Congress for needed legislation.

It is my hope that both Houses of the Congress will take favorable action on this resolution in the near future.

A QUESTION OF PROPRIETY

Mr. FANNIN. Mr. President, the U.S. Senate is a deliberative body widely revered and greatly respected. Statesmen of great stature have been numbered among its members. Debates emanating from this Chamber are given perhaps the widest circulation and scrutiny on a regular basis than any other forum in the world. For these, and other reasons, Mr. President, I believe the charges, or questions of propriety, which are brought to the attention of this body should be of the most carefully considered, and carefully documented nature. That is why, Mr. President, I have thought long and hard about the speech which I have decided to make today. It has been quite some time in preparation, and even though I feel quite strongly about the issues involved, I am endeavoring to present what I have to say today in the calmest, most dispassionate way I know how.

The question I wish to deal with is the matter of a standard of ethics which I believe the American people have a right to expect of those who serve on the bench of the highest Court in the land—the Supreme Court of the United States. It will come as no great surprise to many to know that I refer specifically to the extrajudicial activities of Associate Justice William O. Douglas.

Let me quickly set down some preliminary explanations. First, I am not setting myself up as a judge of Justice Douglas' activities. My attempt will be simply to set forth the record as basically as possible so that my colleagues and others who may be interested may decide for themselves and form their own opinions against the backdrop of commonly accepted judicial ethics.

Second, I want to make it perfectly and unmistakably clear that at this time I am not questioning Mr. Justice Douglas' integrity. That body of facts is under

the greater control of the Justice himself and until such time as he chooses to make a more thorough disclosure than he has chosen to make thus far, or until other facts come to light of themselves, I think Mr. Justice Douglas' integrity is a subject best set aside and declared out of bounds for this time. I am not suited to the role of investigator; I feel the Court and the judiciary will be served far better should Justice Douglas choose to exercise his own initiative in this regard rather than see the Court suffer by clouds of suspicion or uncertainty arising from an attack upon the integrity of one of its members.

The question I wish to specifically address myself to is one of propriety. I think it is quite proper and well within the role of the Senate to consider the actions of Supreme Court Justice William O. Douglas, over a period of years, in the light of the canons of judicial ethics, as set forth by the American Bar Association, as well as from the standpoint of what a prudent man might be expected to do.

I am aware, Mr. President, that some will charge I am simply rehashing old facts and outworn assertions. No doubt Mr. President, there will be those who assume I have some ax to grind in this matter. I can only say that I would far prefer that the recitation of this record did not have to be made, and that there existed in the land a deep reservoir of good will and respect for the Court. Unfortunately, such is not the case, Mr. President. I need not tell Members of this body that American confidence in the Supreme Court has been on the wane for many years, especially since the Court has embarked upon an "activist" course that has taken it upon wild excursions into the legislative area.

I am sure the Members of this body do not need to be reminded of the long and sometimes bitter debate that raged here last year over the nomination which President Johnson made for a new Chief Justice. Those days are not particularly pleasant for me to remember because a few of us who were absolutely convinced we were right in the matter were castigated and held up to public ridicule as obstructionists—thwarting the will of the majority—pilloried in sections of the prominent press as petty apostles of hatred. Yet, Mr. President, when the house of cards which Mr. Fortas, the man whom we opposed for that high office, began to tumble earlier this year when disclosures and evidence of impropriety began to come to light, one prominent liberal journalist wrote:

> The only way in which Abe Fortas could have done more damage to the Supreme Court would be if he were sitting as Chief Justice.

That is what we avoided by the debate here last year. Those of us who fought that fight did not receive the plaudits of those who had pilloried us previously. We received no thanks from that quarter of the media which had been so quick to criticize before. Indeed, Mr. President, I should have been surprised if we had. It is unfortunate but true that a single standard of news value does not apply to liberals and conservatives today. I say it is unfortunate, Mr. President, not for the trouble or harm it causes me, but I think I have learned to live with that. I say it is unfortunate because the American people, who are much wiser than some of the liberally dominated media give them the credit for, lose faith in their morning newspaper, or the evening news program when they see they are not being told the story "as it is."

So I do not seek to fight that battle all over again, Mr. President. I simply cite those events as evidence that confidence in the Court—or, perhaps more to the point, in particular members of the Court—has been shaken. I would venture to say, although I am not a longtime student of the Supreme Court, that public confidence in the Court reached an all-time low within the past 12 months.

Again, it will come as no particular surprise that I am happy with the President's choice of a new Chief Justice who comes from the ranks of the judiciary and whose expertise and convictions are a matter of record. I have said before that I think his selection of Justice Warren Burger will go a long way toward restoring the eroding public confidence in our independent judiciary.

Mr. President, I was present part of the time on the Senate floor last Monday and followed with particular interest the discussions pertaining to Justice Douglas at which time the senior Senator from Massachusetts (Mr. KENNEDY) posed several questions concerning the Justice. I had hoped that the Senator from Massachusetts would be present at this time. I did not enter the colloquy at that time because I wanted to read the RECORD and see just exactly what information the Senator from Massachusetts was seeking.

In going over the RECORD, I find he was apparently asking for instances in which Mr. Justice Douglas has had to disqualify himself because of his associations or his extrajudicial activities.

I believe I can supply the Senator with such an instance—not past, but present—in which this question of disqualification arises, and I would be happy to discuss that point with the Senator from Massachusetts at the conclusion of my remarks. But I believe he was being a bit facetious in limiting his question to past cases in which Justice Douglas had to disqualify himself because of certain outside activities. Since the Senator from Massachusetts is a lawyer, and I am not, he undoubtedly knows better than I that reasons for a Justice disqualifying himself are seldom given. Records of Justices disqualifying themselves are not kept in a centralized manner, only noted on the cases themselves; and given Justice Douglas' extreme reticence to give the reason why he takes any particular action, I am sure the Senator from Massachusetts must have realized he was asking for information which probably did not exist.

Mr. President, I wish now to recite the chronology of Mr. Justice Douglas' association with the Albert Parvin Foundation. First I would like to call the Senate's attention to canon No. 4 of the American Bar Association's canons of judicial ethics—sometimes called the "Caesar's wife" canon:

> A judge's official conduct should be free from impropriety and the appearance of impropriety.

Mr. President, I quoted this same language to the Senate last year in the Fortas debate. I had the expert legal assistance of one of the finest lawyers of the Nation who assisted me in the preparation of a presentation matching the conduct of Mr. Abe Fortas with those ABA canons. Since that time we have had the resignation of Mr. Fortas for the extreme "appearance of impropriety." The resignation of Mr. Fortas and the continued association of Justice Douglas with these questionable interests from whom he receives considerable sums of money, caused one well-known, and widely read journalist from a national paper who visits in my office from time to time to remark:

> The only difference between Douglas and Fortas is that Douglas kept the money.

I might add that this newspaperman is not of my ideological persuasion, and I believe, as I think he does also, that there are some additional differences in the two cases. However, the manner in which Justice Douglas refuses to clarify the record makes those differences extremely hard to point out.

Mr. President, I ask unanimous consent that the complete canons of judicial ethics, to which I have referred, along with the text of the Judicial Conference standards of behavior for Federal judges released on Tuesday, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibits 1 and 2.)

Mr. FANNIN. Mr. President, the Los Angeles Times reported in an article on October 6, 1966, written by Ronald J. Ostrow, that Justice Douglas joined a foundation "established in 1960 by Albert Parvin with 75 percent of the proceeds he realized from the 1959 sale of the Hotel Flamingo."

The hotel is in Las Vegas and was acquired by Parvin after it failed to meet payments on a loan he had advanced from the hotel furnishing firm which he heads—Parvin-Dohrmann. Mr. Parvin is quoted as saying he found himself with $2.5 million and no need for the money.

He is quoted as saying:

> I felt I wanted to do something to pay a vote of thanks for the good fortune I had.

So Parvin established a foundation with Mr. Justice Douglas heading it, along with some others—notably Harry Ashmore who became famous for his articles on Little Rock, Ark., during the Eisenhower years. Justice Douglas along about 1962 arranged to draw a $12,000 salary each year from the foundation, to cover the expenses of his travel, and presumably to buy postage stamps and stationery for his foundation correspondence. The major asset of the foundation was, until recently, a mortgage on the Flamingo which provided some $28,000 per month income.

Mr. President, this article goes on to state, and I quote exactly:

> Douglas recalled that when he agreed to head the organization he knew its assets included the Flamingo investment. He stressed that the Flamingo is a legitimate enterprise.

Mr. President, I ask unanimous consent that the article to which I refer be printed as exhibit 3 at the conclusion of my remarks.

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

(See exhibit 3.)

Mr. FANNIN. Up to this point, Mr. President, one can find but a few points of question. I can understand a person of Justice Douglas' philosophy thinking that this kind of activity would be helpful. Since he came to the Court in 1939 from the Securities and Exchange Commission, I hardly think he could be considered a neophyte in investments. I think he possibly could have a more sophisticated view of Las Vegas hotel casino property as a "legitimate" investment, but it is not inconceivable to me that an innocent and nonsuspecting man could be drawn into such an arrangement almost without knowing it.

However, Mr. President, his early indication that something was wrong should have come to his attention when several people who were associated with the Parvin business interests were also hailed into court as business partners and cohorts of Robert G. "Bobby" Baker.

Ed Levinson, who was employed by Parvin-Dohrmann and who had business dealings with Bobby Baker, appeared before the Senate Rules Committee on Monday, March 2, 1964, and acknowledged he was being investigated by agencies in the executive branch, but said he would not testify. He refused to say if he even knew Bobby Baker, or if he was an officer or partner in Baker's Serv-U Corp. Levinson later pleaded no contest to helping file false income tax returns and paid a $5,000 fine. He said only to the Senate committee that he had an office in the Fremont Hotel.

Mr. President, there were other connections at this time, too, between Parvin-Dohrmann, the Parvin Foundation and people whose cases might have to come before the Supreme Court. Edward Torres presently is reported to own 63,000 of Parvin shares. He, too, took the fifth amendment before the Senate Rules Committee.

I know the Justice does a lot of mountain climbing, and hiking down wilderness gorges and canal towpaths; but it seems incredible to me that at this time—3 or 4 years after he had joined the foundation, and after getting parts of the salary arrangement—he would not have realized what a "shady" position he was in and do the honorable thing and get out.

But he did not. He continued drawing that $12,000 even though he must have had some questions of propriety raised. What would have happened if Mr. Torres or Levinson had appealed to the Supreme Court?

Would not a prudent man have dissolved his connection at this point?

In 1965 the Parvin-Dohrmann Co. purchased another casino, the Fremont, in Las Vegas. Some of the shares of this investment show up as part of the portfolio of the Parvin Foundation. Part of the agreement under which this purchase was made stipulated that Ed Levinson and Edward Torres, both of whom had been involved in the Bobby Baker litigation, would continue to run the new property and be paid $100,000 per year for the next 5 years. Could not Justice Douglas discern the possible problems of his connection with these men through his foundation ties? When Newsweek magazine recently wrote an article on the activities of Mr. Douglas it related that in 1966 he gave every impression of denying that the foundation's income was ever derived from gambling activities. He thought the first mortgage on the Flamingo, which had been the basis of starting the foundation's first donation by Albert Parvin, "was owned for a brief period but disposed of." What about this purchase of still another casino in 1965? Was he unable to tell that this investment produced income derived from gambling activities, too? Is it possible that a former SEC official could be completely unaware of the purchases of this size made by the tax-exempt foundation of which he was the president?

The next event in this chronology that is possibly significant is the fact that the Parvin-Dohrmann Company, and its satellite foundation, found themselves in tax difficulties. To advise them in their difficulty, the P–D interests retained Miss Carolyn Agger—Mrs. Abe Fortas—of the Washington firm of Arnold & Porter in November of 1966. Miss Agger, who uses that name in her practice of law, is widely known as one of the "best connected" tax lawyers in the Nation. One of the members of her firm, Sheldon Cohen, became Commissioner of Internal Revenue; another, Mitchell Rogovin, who has now returned to the practice of law with the Arnold & Porter firm, was Chief Counsel of the Internal Revenue Service at that time and I understand privately admits he gained this very important and highly sensitive position primarily through the recommendation of Miss Agger.

Once more, it seems to me that if Justice Douglas were a prudent man—one who was genuinely concerned with the welfare of the institution of which he is an officer, the Supreme Court—he would have realized the questionable nature of his association and dissolved the connection.

Still another example where Justice Douglas was placed on notice:

In Life magazine during September 1967, Sandy Smith wrote a comprehensive article including this practice called "Mobsters in the Marketplace." In that article, Mr. Smith says:

> The biggest skim yet discovered . . . Some $12 million a year was skimmed for gangsters in just six Las Vegas casinos: the Fremont, the Sands, the Flamingo, the Horseshoe, the Desert Inn and the Stardust.

Mr. President, I ask unanimous consent that the article to which I refer be printed as exhibit 4 at the conclusion of my remarks.

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

(See exhibit 4.)

Mr. FANNIN. I call to the Senate's attention, Mr. President, that at least three of these casinos have been publicly associated with the P–D Co. and the Parvin Foundation at one time or another: the Fremont, the Flamingo, and the Stardust. Some of the associations, as in the case of the Fremont, were made after the alleged skimming took place; some of the connections—such as the Flamingo—were in effect while the skimming was going on and during the time the property was owned primarily by P–D and the Parvin Foundation. This, Mr. President, is a matter of record. I cite these facts, Mr. President, not to assert that Mr. Justice Douglas necessarily had anything to do with the gambling operations, or their revenues; but I point it out because the record is public knowledge and the associations of these men so widely known, that I cannot help but think Mr. Justice Douglas was aware of the extremely questionable nature of his association and the possible damage it could do to the Court.

Ed Levinson's name pops up here again in the article, and he is relating the problems of reconciling the interests of a casino's owners of record—such as the Parvin Foundation or the P–D Co. might be regarded—and the secret gangster owners, hungrily awaiting their skimming dividends. Levinson, chief of the Fremont Casino, says:

> How can you steal money and pay dividends? You can't steal $100,000 a month and pay dividends. If you steal $50,000? Well, maybe . . .

Clark Mollenhoff, Pulitzer Prize winning journalist of the Des Moines Register wrote in the June 4 issue investigative reports prepared by the Treasury Department, SEC, Justice Department, and the FBI dealing with the questionable activities of Albert Parvin:

> At least one of these reports relayed information identifying Parvin . . . as a frequent associate of such important syndicate hoodlums as Meyer Lansky, Frank Costello and the late Benjamin "Bugsy" Siegel.

Mr. President, just to sum up to this point, Mr. Justice Douglas headed the Parvin Foundation in 1960. He made arrangements to accept a salary in 1962 of $12,000 per year. Despite repeated indications in 1964, 1965, and 1966 that there were questionable activities in financial connection with the foundation, Mr. Justive Douglas continued to maintain his association and receive the $12,000 per year.

In addition, in 1962 it was disclosed that Justice Douglas—along with other officials—had received lecture fees and expense money from the Fund for the Republic, established by the Ford Foundation. This is another questionable association which I shall take up separately.

In September of 1967, the Life magazine article to which I have referred appeared, and Mr. Douglas received yet another notice that his associations were bringing problems upon the Court.

Now, I realize that Mr. Douglas is an active man, Mr. President. He is often away from Washington. His travels and lectures take him from Goosprairie, Wash., to Brazil, to the U.S.S.R., and back. But I cannot imagine, Mr. President, that each signal of impropriety escaped the attention of Mr. Douglas, or his staff. Somebody had to inform him of the problems his indiscretion might create. At that point, Mr. President, Mr. Douglas had to use his judgment. He had to decide either to continue his association with Parvin and with these other organizations, or he had to decide to

stop. The record shows he decided to continue.

Not only did he decide, apparently, to continue with this association, Mr. President, but the previously mentioned Fund for the Republic, which Mr. Justice Douglas heads as chairman of the board, was the recipient of some $70,000 from the Parvin Foundation between the years 1965 and 1967. Tax returns show the Justice receiving $4,104 for 1962 and 1963, and about $4,000 from the Center for the Study of Democratic Institutions, a project wholly financed by the Fund for the Republic.

Even this association brings up another question of propriety, Mr. President. These organizations have taken definite positions on matters relating to selective service and our foreign policy. The Senator from Massachusetts seemed to be most anxious last Monday to discover how these organizations might conceivably come before the Supreme Court. The Senator seemed most interested in the kinds of students and the opinions they expressed in regard to the United States. May I supply the Senator with a specific instance.

The Center for the Study of Democratic Institutions published a booklet in December of 1967 summarizing a 3-day conference held in late August 1967. Mr. Devereaux Kennedy, president of the student body of Washington University, participated in the program.

Now I realize, Mr. President, that an organization may hold a seminar, or discussion for the free exchange of ideas and not be necessarily responsible for or agree with everything expressed in that conference. However, I would like to quote from the edited version of the second session, page 21. Mr. Devereaux Kennedy is speaking in a discussion and says he wants to make exactly clear what he means when he says "revolution":

KENNEDY. I'm going to say loudly and explicitly what I mean by revolution. What I mean by revolution is overthrowing the American government and American imperialism and installing some sort of decentralized power in this country. I'll tell you the steps that I think will be needed. First of all, starting up fifty Vietnams in Third World countries. This is going to come about by black rebellions in our cities joined by some white people. People in universities can do a number of things to help it. They have access to money and they can give people guns, which I think they should do. They can engage in acts of terrorism and sabotage outside the ghetto. Negro people have trouble getting out because they cordon those areas off, but white activists can go outside, and they can blow things up and I think they should.

Mr. President, that is almost an entire paragraph put out under the sponsorship of the Fund for the Republic, of which Mr. Justice Douglas is the chairman of the board. Of course, I understand that this may be some student hothead blowing off steam to hear himself talk—but why no disclaimer from the Justice? The foreword to this publication says these people are the leading edge of opinion in this Nation. I can understand how a college professor or dean might tolerate this sort of thing under his sponsorship as what students are "really thinking," but I cannot understand how a Supreme Court Justice, who may have to decide cases pertaining to treason, high crimes, draft evasion, and a host of other related matters, can allow his name to be used in such a way. I cannot understand how a man who is sworn to "defend and uphold the Constitution of the United States from all enemies domestic and foreign," is living up to his oath of office with this permissiveness.

Mr. President, now we come to the last, and what I consider the most damning indictment relating to Mr. Justice Douglas' judgment of impropriety.

Mr. President, during a recent trip to Arizona, one of my constituents, a lady from one of the most respected families in Arizona, came to me with a magazine. The magazine was Avant Garde, a publication of Ralph Ginzburg, which had been sent to a friend of hers through the mails unsolicited. She asked me to take the magazine—which can only be described as hard-core pornography, despicable, and tasteless—to the President to see if something could be done to take this kind of material out of the mail. She said she wished to get it out of her house before her grandchildren could accidentally find it. I told her I would do what I could about the matter.

When I examined the contents, particularly the textual contents of this magazine, Mr. President, I can only say that it is a most loathsome collection of nauseous, revolting, and repugnant material. This reaction of revulsion has been practically universal among those who have read the material; even, I might say, members of the press who are hardened to these materials.

I issued a statement, Mr. President, on May 28, citing the pertinent facts on this matter, which I ask unanimous consent to have printed in the RECORD as exhibit 5 at the conclusion of my remarks.

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

(See exhibit 5.)

Mr. FANNIN. I would like to briefly summarize the events leading to that statement.

The Supreme Court on March 21, 1966, by a 5-to-4 decision, upheld Ginzburg's conviction on 28 counts of a Federal obscenity statute—18 U.S.C. 1461. The majority decision said:

There was abundant evidence to show that each of the accused publications was originated or sold as stock in trade of the sordid business of pandering. . . . The "leer of the sensualist" also permeates the advertising for the three publications.

The three publications thus cited were Eros magazine, Liaison Newsletter, and "The Housewife's Handbook of Selective Promiscuity." The Court held that while there might be some question of obscenity in regard to the publications themselves, the manner in which they were promoted, advertised, and distributed put them over the boundary into obscenity.

May 24, the New York Times carried a full-page ad on Avant Garde promoting "Picasso's Erotic Engravings" and listed William O. Douglas as one of the renowned contributing writers to the magazine.

The article is entitled, "The Appeal of Folksinging: A Landmark Opinion," by William O. Douglas, Associate Justice, U.S. Supreme Court. The article is described by publisher Ginzburg in a statement issued the same day as "a short, soulful piece telling about the influence of folksongs on Mr. Justice Douglas' life."

Mr. President, I had an inquiry made to Mr. Justice Douglas' office to ascertain if he had indeed written the article, and if so, how much he was paid for it. This response came through an aide:

The Justice declines to reveal what he received for the article and considers it his private business.

Not many hours after receiving this information my administrative assistant received a call from Mr. Ginzburg saying he understood I was going to put out a statement about him and what did it say. He was referred to my press secretary, who informed him that we were still deciding what should be said, but that essentially I was questioning the propriety of a sitting Justice of the Supreme Court writing for a convicted pornographer in whose decision he had participated.

Of course, I am not aware of the degree of closeness between Mr. Douglas and Ginzburg; however, it seems remarkable that he should initiate an inquiry to my office while I was still attempting to assemble the facts of the case. I also note that the next full page ad, carried in the June 1, Sunday edition of the New York Times promoting Avant Garde, was identical to the first in every respect but one. The advertiser had dropped the name of William O. Douglas from the list of "renowned" contributors. Whether this was done at the direction of Mr. Douglas himself or upon Ginzburg's own initiative, I am unable to tell.

Ginzburg rushed into print with a statement calling me a "mediocre character" and characterizing Mr. Justice Douglas as "a shining example of everything noble and beautiful about America, an inspiration to every open hearted, open minded American, the one pure soul who stands as a shining example of all that is noble and lofty in American life, a rugged individual, a colorful character, in short a real man."

Mr. President, I ask unanimous consent that this complete statement of Ralph Ginzburg issued from his office on May 28, 1969, in defense of Justice William O. Douglas, be printed in the RECORD at the conclusion of my remarks as exhibit 6.

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

(See exhibit 6.)

Mr. FANNIN. Mr. President, Ginzburg in his statement says the "mere pittance" of $350 was paid Mr. Douglas for the article. Mr. Douglas, on his part "refuses to reveal what he received for the article." The point which seemed to be missed by some of our leading newsmagazines and newspapers in writing about this case is that the amount of money is not particularly relevant. I have not suggested that Mr. Douglas would compromise his integrity for $35, $350 or $35,000. The question, as I have repeatedly tried to point out is one of propriety. Is it proper for a Supreme Court Justice, who has voted to overturn the conviction of a defendant on pornography charges, to turn about and, while the appeal of "too harsh a sentence" is being heard in lower Federal courts, write an

article, accept a fee of any size, or otherwise associate himself with the defendant. I would like to point out to my friend, the Senator from Massachusetts, that Mr. Douglas actually took part in the decision. He did not disqualify himself. He wrote a dissenting opinion in favor of the defendant. He later accepted a fee for writing an article for a questionable publication for that defendant. What is he to do when the case comes to the Court again? He participated in the decision out of which the appeal arises, and has accepted money from the defendant—how can simple disqualification suffice in this instance?

Based on the facts at hand, which Mr. Justice Douglas has chosen to reveal, or not to reveal, I am hoping the Senator from Massachusetts can tell me just what he would do if he were Justice Douglas and the case came before the Court again.

If any Member of the Senate is unaware of the companion materials to Justice Douglas' article, I hope they will examine this March issue of Avant Garde.

On the matter of the magazine—I know it is obscene. I have personally carried my constituent's complaint to the Postmaster General and he has assured me that an investigation as to whether this is mailable material will be undertaken. But irrespective of that, Mr. Douglas can only be described as ignorant, naive, or contemptuous of the consequences of his actions. Being unable to ascribe ignorance or naivete to the Justice, I am left with the overwhelming evidence of his contempt for the judicial ethics of his profession.

Mr. President, I have cited the evidence of nearly a 10-year pattern of disregard and disrespect for the Court on which Mr. Douglas serves. It is time for the Justice himself to take action. He has, over the years, entangled himself in these matters that bring maculation to the Court. Now it is time for him to take steps to reverse the process.

His inattention and disregard to his judicial duties are illustrated, I believe, Mr. President, by his actions in regard to these numerous associations and his voluminous outpouring of written matter.

During the last 5 years, Mr. Justice Douglas has written over 20 articles for publications ranging from the Ladies Home Journal to Avant Garde, which I suppose, can be described as covering the spectrum. In addition to the bibliography of articles, which I have asked the Library of Congress to prepare and ask unanimous consent to insert in the RECORD as exhibit 7, he has written at least three articles for Playboy—which is not an indexed periodical—and the article for Avant Garde.

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

(See exhibit 7.)

Mr. FANNIN. Mr. President, since he came on the Court in 1939, he has published 33 books and pamphlets. I ask unanimous consent to insert this bibliography in the RECORD as exhibit 8.

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

(See exhibit 8.)

Mr. FANNIN. Mr. President, some of these are short works of less than 100 pages; some are collections of speeches; but the majority are full-length hardbound books, unrelated to the work of the Court. I recognize that Ralph Ginzburg has described the Justice as a "rugged individual, a real man" but I hardly see how he can produce this quantity of writing and still tend to his judicial duties, much less the many other extrajudicial activities in which he has involved himself. And his activities continue.

The New York Times reported on Wednesday, June 11, that Mr. Justice Douglas' lecture agent said:

> The Justice had not told him to stop booking lectures.

Mr. President, it seems clear to me that Justice William O. Douglas has clearly, and repeatedly stepped outside the bounds of accepted judicial conduct. Because of his silence on the matters in question he leaves no other interpretation possible. Indeed in the matter of his letter to the Parvin Foundation advising them that their tax troubles were a "manufactured case" aimed at forcing him to leave the Court, the chairman of the House Judiciary Committee, Representative EMANUEL CELLER, said:

> If I were in Justice Douglas' shoes, I would have never written that letter.

This is a difficult case, Mr. President. It ranges over many years and many seemingly unrelated matters. But I believe a pattern is clear: a pattern of repeated, regular violation of the fourth canon of the ABA's "Canons of Judicial Ethics"; possible violation of title 28, section 454, United States Code, prohibiting the practice of law by a U.S. judge or Justice; and extremely questionable practice and possible violation of title 28, section 455 of the United States Code pertaining to judicial disqualification.

I offer portions of these three items pertaining to judicial conduct and a question of propriety as exhibit 9 and ask that they also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 9.)

Mr. FANNIN. The record is clear, Mr. President, we must have an end to this impropriety.

EXHIBIT 1

CANONS OF JUDICIAL ETHICS[1]

ANCIENT PRECEDENTS

"And I charged your judges at that time, saying Hear the causes between your brethren, and judge righteously between every man and his brother, and the stranger that is with him.

"Ye shall not respect persons in judgment; but ye shall hear the small as well as the great; ye shall not be afraid of the face of man; for the judgment is God's; and the cause that is too hard for you, bring it unto me, and I will hear it."—*Deuteronomy*, I, 16–17.

"Thou shalt not wrest judgment; thou shalt not respect persons, neither take a gift; for a gift doth blind the eyes of the wise, and pervert the words of the righteous."—*Deuternomy*, XVI, 19.

"We will not make any justiciaries, constables, sheriffs or bailiffs, but from those who understand the law of the realm and are well disposed to observe it."—*Magna Charta*, XLV.

"Judges ought to remember that their office is *jus dicere* not *jus dare;* to interpret law, and not to make law, or give law." . . .

"Judges ought to be more learned than witty; more reverend than plausible; and more advised than confident. Above all things, integrity is their portion and proper virtue." . . .

"Patience and gravity of hearing is an essential part of justice; and an over speaking judge is no well-tuned cymbal. It is no grace to a judge first to find that which he might have heard in due time from the Bar, or to show quickness of conceit in cutting off evidence or counsel too short; or to prevent information by questions through pertinent."

"The place of justice is a hollowed place; and therefore not only the Bench, but the foot pace and precincts and purprise thereof ought to be preserved without scandal and corruption." . . . —*Bacon's Essay "Of Judicature."*

PREAMBLE

In addition to the Canons for Professional Conduct of Lawyers which it has formulated and adopted, the American Bar Association, mindful that the character and conduct of a judge should never be objects of indifference, and that declared ethical standards tend to become habits of life, deems it desirable to set forth its views respecting those principles which should govern the personal practice of members of the judiciary in the administration of their office. The Association accordingly adopts the following Canons, the spirit of which it suggests as a proper guide and reminder for judges, and as indicating what the people have a right to expect from them.

1. Relations of the Judiciary: The assumption of the office of judge casts upon the incumbent duties in respect to his personal conduct which concern his relation to the state and its inhabitants, the litigants before him, the principles of law, the practitioners of law in his court, and the witnesses, jurors and attendants who aid him in the administration of its functions.

2. The Public Interest: Courts exist to promote justice, and thus to serve the public interest. Their administration should be speedy and careful. Every judge should at all times be alert in his rulings and in the conduct of the business of the court, so far as he can, to make it useful to litigants and to the community. He should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts instead of the courts for the litigants.

3. Constitutional Obligations: It is the duty of all judges in the United States to support the federal Constitution and that of the state whose laws they administer; in so doing, they should fearlessly observe and apply fundamental limitations and guarantees.

4. Avoidance of Impropriety: A judge's offi-

[1] These Canons, to and including Canon 34, were adopted by the American Bar Association at its Forty-Seventh Annual Meeting, at Philadelphia, Pennsylvania, on July 9, 1924. The Committee of the Association which prepared the Canons was appointed in 1922, and composed of the following: William H. Taft, District of Columbia, Chairman; Leslie C. Cornish, Maine; Robert von Moschzisker, Pennsylvania; Charles A. Boston, New York; and Garret W. McEnerney, California. George Sutherland, of Utah, originally a member of the Committee, retired and was succeeded by Mr. McEnerney. In 1923, Frank M. Angelliotti, of California, took the place of Mr. McEnerney.

Canons 23 and 30 were amended at the Fifty-Sixth Annual Meeting, Grand Rapids, Michigan, August 30–September 1, 1933. Canon 28 was further amended at the Seventy-Third Annual Meeting, Washington, D.C., September 20, 1950. Canons 35 and 36 were adopted at the Sixtieth Annual Meeting, at Kansas City, Missouri, September 30, 1937. Canon 35 was amended at San Francisco, Calif., Sept. 1952.

cial conduct should be free from impropriety and the appearance of impropriety; he should avoid infractions of law; and his personal behavior, not only upon the Bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach.

5. Essential Conduct: A judge should be temperate, attentive, patient, impartial, and, since he is to administer the law and apply it to the facts, he should be studious of the principles of the law and diligent in endeavoring to ascertain the facts.

6. Industry: A judge should exhibit an industry and application commensurate with the duties imposed upon him.

7. Promptness: A judge should be prompt in the performance of his judicial duties, recognizing that the time of litigants, jurors and attorneys is of value and that habitual lack of punctuality on his part justifies dissatisfaction with the administration of the business of the court.

8. Court Organization: A judge should organize the court with a view to the prompt and convenient dispatch of its business and he should not tolerate abuses and neglect by clerks, and other assistants who are sometimes prone to presume too much upon his good natured acquiescence by reason of friendly association with him.

It is desirable too, where the judicial system permits, that he should cooperate with other judges of the same court, and in other courts, as members of a single judicial system, to promote the more satisfactory administration of justice.

9. Consideration for Jurors and Others: A judge should be considerate of jurors, witnesses and others in attendance upon the court.

10. Courtesy and Civility: A judge should be courteous to counsel, especially to those who are young and inexperienced, and also to all others appearing or concerned in the administration of justice in the court.

He should also require, and, so far as his power extends, enforce on the part of clerks, court officers and counsel civility and courtesy to the court and to jurors, witnesses, litigants and others having business in the court.

11. Unprofessional Conduct of Attorneys and Counsel: A judge should utilize his opportunities to criticise and correct unprofessional conduct of attorneys and counsellors, brought to his attention; and, if adverse comment is not a sufficient corrective, should send the matter at once to the proper investigating and disciplinary authorities.

12. Appointees of the Judiciary and Their Compensation: Trustees, receivers, masters, referees, guardians and other persons appointed by a judge to aid in the administration of justice should have the strictest probity and impartiality and should be selected with a view solely to their character and fitness. The power of making such appointments should not be exercised by him for personal or partisan advantage. He should not permit his appointments to be controlled by others than himself. He should also avoid nepotism and undue favoritism in his appointments.

While not hesitating to fix or approve just amounts, he should be most scrupulous in granting or approving compensation for the services or charges of such appointees to avoid excessive allowances, whether or not excepted to or complained of. He cannot rid himself of this responsibility by the consent of counsel.

13. Kinship or Influence: A judge should not act in a controversy where a near relative is a party; he should not suffer his conduct to justify the impression that any person can improperly influence him or unduly enjoy his favor, or that he is affected by the kinship, rank, position or influence of any party or other person.

14. Independence: A judge should not be swayed by partisan demands, public clamor or considerations of personal popularity or notoriety, nor be apprehensive of unjust criticism.

15. Interference in Conduct of Trial: A judge may properly intervene in a trial of a case to promote expedition, and prevent unnecessary waste of time, or to clear up some obscurity, but he should bear in mind that his undue interference, impatience, or participation in the examination of witnesses, or a severe attitude on his part toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial, may tend to prevent the proper presentation of the cause, or the ascertainment of the truth in respect thereto.

Conversation between the judge and counsel in court is often necessary, but the judge should be studious to avoid controversies which are apt to obscure the merits of the dispute between litigants and lead to its unjust disposition. In addressing counsel, litigants, or witnesses, he should avoid a controversial manner or tone.

He should avoid interruptions of counsel in their arguments except to clarify his mind as to their positions, and he should not be tempted to the unnecessary display of learning or a premature judgment.

16. Ex parte Applications: A judge should discourage ex parte hearings of applications for injunctions and receiverships where the order may work detriment to absent parties; he should act upon such *ex parte* applications only where the necessity for quick action is clearly shown: if this be demonstrated, then he should endeavor to counteract the effect of the absence of opposing counsel by a scrupulous cross-examination and investigation as to the facts and the principles of law on which the application is based, granting relief only when fully satisfied that the law permits it and the emergency demands it. He should remember that an injunction is a limitation upon the freedom of action of defendants and should not be granted lightly or inadvisedly. One applying for such relief must sustain the burden of showing clearly its necessity and this burden is increased in the absence of the party whose freedom of action is sought to be restrained even though only temporarily.

17. Ex parte Communications: A judge should not permit private interviews, arguments or communications designed to influence his judicial action, where interests to be affected thereby are not represented before him, except in cases where provision is made by law for *ex parte* application.

While the conditions under which briefs of argument are to be received are largely matters of local rule or practice, he should not permit the contents of such brief presented to him to be concealed from opposing counsel. Ordinarily all communications of counsel to the judge intended or calculated to influence action should be made known to opposing counsel.

18. Continuances: Delay in the administration of justice is a common cause of complaint, counsel are frequently responsible for this delay. A judge, without being arbitrary or forcing cases unreasonably or unjustly to trial when unprepared, to the detriment of parties, may well endeavor to hold counsel to a proper appreciation of their duties to the public interest, to their own clients, and to the adverse party and, his counsel, so as to enforce due diligence in the dispatch of business before the court.

19. Judicial Opinions: In disposing of controverted cases, a judge should indicate the reasons for his action in an opinion showing that he has not disregarded or overlooked serious arguments of counsel. He thus shows his full understanding of the case, avoids the suspicion of arbitrary conclusion, promotes confidence in his intellectual integrity and may contribute useful precedent to the growth of the law.

It is desirable that Courts of Appeals in reversing cases and granting new trials should so indicate their views on questions of law argued before them and necessarily arising in the controversy that upon the new trial counsel may be aided to avoid the repetition of erroneous positions of law and and shall not be left in doubt by the failure of the court to decide such questions.

But the volume of reported decisions is such and is so rapidly increasing that in writing opinions which are to be published judges may well take this fact into consideration, and curtail them accordingly, without substantially departing from the principles stated above.

It is of high importance that judges constituting a court of last resort should use effort and self-restraint to promote solidarity of conclusion and the consequent influence of judicial decision. A judge should not yield to pride of opinion or value more highly his individual reputation than that of the court to which he should be loyal. Except in case of conscientious difference of opinion on fundamental principle, dissenting opinions should be discouraged in courts of last resort.

20. Influence of Decisions Upon the Development of the Law: A judge should be mindful that his duty is the application of general law to particular instances, that ours is a government of law and not of men, and that he violates his duty as a minister of justice under such a system if he seeks to do what he may personally consider substantial justice in a particular case and disregards the general law as he knows it to be binding on him. Such action may become a precedent unsettling accepted principles and may have detrimental consequences beyond the immediate controversy. He should administer his office with a due regard to the integrity of the system of the law itself, remembering that he is not a depositary of arbitrary power, but a judge under the sanction of law.

21. Idiosyncrasies and Inconsistencies. Justice should not be moulded by the individual idiosyncrasies of those who administer it. A judge should adopt the usual and expected method of doing justice, and not seek to be extreme or peculiar in his judgments, or spectacular or sensational in the conduct of the court. Though vested with discretion in the imposition of mild or severe sentences he should not compel persons brought before him to submit to some humiliating act or discipline of his own devising, without authority of law, because he thinks it will have a beneficial corrective influence.

In imposing sentence he should endeavor to conform to a reasonable standard of punishment and should not seek popularity or publicity either by exceptional severity or undue leniency.

22. Review: In order that a litigant may secure the full benefit of the right of review accorded to him by law, a trial judge should scrupulously grant to the defeated party opportunity to present the questions arising upon the trial exactly as they arose, were presented, and decided, by full and fair bill of exceptions or otherwise; any failure in this regard on the part of the judge is peculiarly worthy of condemnation because the wrong done may be irremediable.

23. Legislation: A judge has exceptional opportunity to observe the operation of statutes, especially those relating to practice, and to ascertain whether they tend to impede the just disposition of controversies; and he may well contribute to the public interest by advising those having authority to remedy defects of procedure, of the result of his observation and experience.

24. Inconsistent Obligations: A judge should not accept inconsistent duties; nor incur obligations, pecuniary or otherwise, which will in any way interfere or appear to interfere with his devotion to the expeditious and proper administration of his official functions.

25. Business Promotions and Solicitations

for Charity: A judge should avoid giving ground for any reasonable suspicion that he is utilizing the power or prestige of his office to persuade or coerce others to patronize or contribute, either to the success of private business ventures, or to charitable enterprises. He should, therefore, not enter into such private business, or pursue such a course of conduct, as would justify such suspicion, nor use the power of his office or the influence of his name to promote the business interests of others; he should not solicit for charities, nor should he enter into any business relation which, in the normal course of events reasonably to be expected, might bring his personal interest into conflict with the impartial performance of his official duties.

26. Personal Investments and Relations: A judge should abstain from making personal investments in enterprises which are apt to be involved in litigation in the court; and, after his accession to the Bench, he should not retain such investments previously made, longer than a period sufficient to enable him to dispose of them without serious loss. It is desirable that he should, so far as reasonably possible, refrain from all relations which would normally tend to arouse the suspicion that such relations warp or bias his judgment, or prevent his impartial attitude of mind in the administration of his judicial duties.

He should not utilize information coming to him in a judicial capacity for purposes of speculation; and it detracts from the public confidence in his integrity and the soundness of his judicial judgment for him at any time to become a speculative investor upon the hazard of a margin.

27. Executorships and Trusteeships: While a judge is not disqualified from holding executorships or trusteeships, he should not accept or continue to hold any fiduciary or other position if the holding of it would interfere or seem to interfere with the proper performance of his judicial duties, or if the business interests of those represented require investments in enterprises that are apt to come before him judicially, or to be involved in questions of law to be determined by him.

28. Partisan Politics: [2] While entitled to entertain his personal views of political questions, and while not required to surrender his rights or opinions as a citizen, it is inevitable that suspicion of being warped by political bias will attach to a judge who becomes the active promoter of the interests of one political party as against another. He should avoid making political speeches, making or soliciting payment of assessments or contributions to party funds, the public endorsement of candidates for political office and participation in party conventions.

He should neither accept nor retain a place on any party committee nor act as party leader, nor engage generally in partisan activities.

Where, however, it is necessary for judges to be nominated and elected as candidates of a political party, nothing herein contained shall prevent the judge from attending or speaking at political gatherings, or from making contributions to the campaign funds of the party that has nominated him and seeks his election or re-election.

29. Self-Interest: A judge should abstain from performing or taking part in any judicial act in which his personal interests are involved. If he has personal litigation in the court of which he is judge, he need not resign his judgeship on that account, but he should, of course, refrain from any judicial act in such a controversy.

30. Candidacy for Office: [3] A candidate for judicial position should not make or suffer others to make for him, promises of conduct in office which appeal to the cupidity or prejudices of the appointing or electing power; he should not announce in advance his conclusions of law on disputed issues to secure class support, and he should do nothing while a candidate to create the impression that if chosen, he will administer his office with bias, partiality or improper discrimination.

While holding a judicial position he should not become an active candidate either at a party primary or at a general election for any office other than a judicial office. If a judge should decide to become a candidate for any office not judicial, he should resign in order that it cannot be said that he is using the power or prestige of his judicial position to promote his own candidacy or the success of his party.

If a judge becomes a candidate for any judicial office, he should refrain from all conduct which might tend to arouse reasonable suspicion that he is using the power or prestige of his judicial position to promote his candidacy or the success of his party.

He should not permit others to do anything in behalf of his candidacy which would reasonably lead to such suspicion.

31. Private Law Practice: In many states the practice of law by one holding judicial position is forbidden. In superior courts of general jurisdiction, it should never be permitted. In inferior courts in some states, it is permitted because the county or municipality is not able to pay adequate living compensation for a competent judge. In such cases one who practises law is in a position of great delicacy and must be scrupulously careful to avoid conduct in his practice whereby he utilizes or seems to utilize his judicial position to further his professional success.

He should not practise in the court in which he is a judge, even when presided over by another judge, or appear therein for himself in any controversy.

If forbidden to practise law, he should refrain from accepting any professional employment while in office.

He may properly act as arbitrator or lecture upon or instruct in law, or write upon the subject, and accept compensation therefor, if such course does not interfere with the due performance of his judicial duties, and is not forbidden by some positive provision of law.

32. Gifts and Favors: A judge should not accept any presents or favors from litigants, or from lawyers practising before him or from others whose interests are likely to be submitted to him for judgment.

33. Social Relations: It is not necessary to the proper performance of judicial duty that a judge should live in retirement or seclusion; it is desirable that, so far as reasonable attention to the completion of his work will permit, he continue to mingle in social intercourse, and that he should not discontinue his interest in or appearance at meetings of members of the Bar. He should, however, in pending or prospective litigation before him be particularly careful to avoid such action as may reasonably tend to awaken the suspicion that his social or business relations or friendships constitute an element in influencing his judicial conduct.

34. A Summary of Judicial Obligation: In every particular his conduct should be above reproach. He should be conscientious, studios, thorough, courteous, patient, punctual, just, impartial, fearless of public clamor, regardless of public praise, and indifferent to private political or partisan influences; he should administer justice according to law, and deal with his appointments as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.

35. Improper Publicizing of Court Proceedings: [4] Proceedings in court should be conducted with fitting dignity and decorum. The taking of photographs in the court room, during sessions of the court or recesses between sessions, and the broadcasting or televising of court proceedings detract from the essential dignity of the proceedings, distract participants and witnesses in giving testimony, and create misconceptions with respect thereto in the mind of the public and should not be permitted.

Provided that this restriction shall not apply to the broadcasting or televising, under the supervision of the court, of such portions of naturalization proceedings (other than the interrogation of applicants) as are designed and carried out exclusively as a ceremony for the purpose of publicly demonstrating in an impressive manner the essential dignity and the serious nature of naturalization.

36. Conduct of Court Proceedings: [5] Proceedings in court should be so conducted as to reflect the importance and seriousness of the inquiry to ascertain the truth.

The oath should be administered to witnesses in a manner calculated to impress them with the importance and solemnity of their promise to adhere to the truth. Each witness should be sworn separately and impressively at the bar or the court, and the clerk should be required to make a formal record of the administration of the oath, including the name of the witness.

EXHIBIT 2

RESOLUTIONS ON JUDGES ADOPTED BY A SPECIAL SESSION OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, June 10, 1969.—A judge in regular active service shall not accept compensation of any kind, whether in the form of loans, gifts, gratuities, honoraria or otherwise, for services hereafter performed or to be performed by him except that provided by law for the performance of his judicial duties.

Provided however, the Judicial Council of the Circuit (or in the case of courts not part of a circuit, the judges of the court in active service) may upon application of a judge approve the acceptance of compensation for the performance of services other than his judicial duties upon a determination that the services are in the public interest or are justified by exceptional circumstances and that the services will not interfere with his judicial duties. Both the services to be performed and the compensation to be paid shall be made a matter of public record and reported to the Judicial Conference of the United States.

Each judge shall file annually (commencing May 15, 1970 for the preceding calendar year) with the Judicial Conference of the United States, on forms to be approved by the Judicial Conference, a statement of his investments and other assets held by him at any time during the year as well as a statement of income, including gifts and bequests, from any source, identifying the source, and a statement of liabilities.

The statements shall be kept on file with the Judicial Conference and available for such use as the conference and the Judicial Councils of the circuits may require, as well as for public disclosure as determined by the Judicial Conference to be in the public interest pursuant to regulations promulgated by the conference.

The Committee on Court Administration shall submit to the Judicial Conference of the United States at its Setpember, 1969, session a progress report on the preparation of forms and regulations necessary to implement this resolution.

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[2] As amended August 31, 1933 and September 20, 1950.

[3] As amended August 31, 1933.

[4] Adopted September 30, 1937; amended September 15, 1952 and February 5, 1963.

[5] Adopted September 30, 1937.

The Committee on Court Administration shall submit to the Judicial Conference of the United States at its September, 1969, session a progress report on the formulation of standards of judicial conduct for Federal judges.

The Committee on Court Administration is directed to draft proposed legislation to submit to the Judicial Conference at its September meeting that would ensure the conference being able to enforce the motions we have today passed.

EXHIBIT 3

"LOS ANGELES TIMES" ARTICLE

(NOTE.—Following is full text of "The Los Angeles Times" article of October 16, written by reporter Ronald J. Ostrow.)

WASHINGTON.—An unusual situation involving Supreme Court Justice William O. Douglas has come to light bearing upon the broad issue of a judge's sources of income and his outside activity. The uncontested facts are these:

Douglas receives $12,000 a year from the tax-exempt Albert Parvin Foundation that derives much of its income from a mortgage on a Las Vegas hotel and gambling casino.

A principal asset of the foundation is an interest in the first mortgage on the Hotel Flamingo. Albert B. Parvin, chief benefactor of the foundation, has an interest in three other Las Vegas gambling casinos.

Based in Los Angeles, the foundation supports fellowship programs for students from underdeveloped nations to study at Princeton University and UCLA an a means of promoting international understanding.

The foundation's board of directors includes two of the nation's best-known educators—Robert M. Hutchins and Robert F. Goheen. Hutchins, former president of the University of Chicago, now heads the Center for the Study of Democratic Institutions in Santa Barbara (Calif.), Goheen is president of Princeton.

Douglas, however, according to the foundation's tax returns, is the only official of the organization to receive regular compensation.

Douglas, in an interview, said the $12,000 a year is assigned to him "largely as an expense account" for trips in connection with foundation work. He said drawing the funds, almost one third of his annual $39,500 salary as a Justice, raises no ethical question in his mind.

Douglas has been with the foundation, which he serves as president, since its formation in 1960. But the allowance did not begin until about 1962. It was instituted over Douglas's strenuous objections, according to Parvin, a Los Angeles businessman.

Douglas said that expenses he incurs in serving the foundation are "pretty close" to the $12,000. According to Parvin, the foundation asks no itemized account of Douglas's expenses and the justice submits none.

In addition to the income it derives from the Hotel Flamingo mortgage, the foundation has another less-direct link with Las Vegas—stock in Parvin-Dohrmann Company, which was donated by Parvin and other individuals.

Parvin is president and chief executive officer of Parvin-Dohrmann, a Los Angeles concern that specializes in furnishing restaurant and hotels. Its top clients include major hotels on the Las Vegas strip.

Last July, the company, after nearly a year of intense negotiations, acquired the Fremont Hotel and gambling casino in Las Vegas.

Purchase terms provided five-year employment contracts for two officers of the Fremont—Edward Levinson and Edward Torres. Their salaries are $100,000 a year each.

Levinson invoked his Fifth Amendment privilege against possible self-incrimination in 1964 and raised other objections in refusing to answer questions of the Senate Rules Committee probing the dealings of Bobby Baker, former secretary to Senate Democrats.

Regardless of the Las Vegas connection, Douglas's expense account would appear to raise an ethical question which is not clearly answered by the American Bar Association's Canons of Judicial Ethics. Many observers regard the 36 canons as far from definitive.

The Fourth Canon, for example, known as the "Caesar's wife" doctrine, says that "a judge's official conduct should be free from impropriety and the appearance of impropriety."

The canons, moreover, lack sharp enforcement teeth.

While more precise, the law on off-the-bench interests and activities of federal judges is very limited.

Federal judges are not required to disclose their financial holdings, outside income or activities under present law. Partly because of this, information on the resources of other Justices and judges is sparse.

Under existing statutes, federal judges cannot practice law, and they are required to disqualify themselves from ruling on cases in which they have an interest. But assessing personal involvement or interest is left up to the individual judge. His determination, according to a 1945 appeals-court decision, is irreversible unless it can be shown he acted arbitrarily.

Supreme Court Justices frequently disqualify themselves from considering matters in which they have an interest.

Douglas cited this power as a safeguard against conflicts of interest which may arise from any Justice's outside activities. He noted that no case involving a company in which the Parvin Foundation has an interest has been before the Court. Competent authorities on the nation's judicial system privately expressed concern over details of Douglas's relationship with the foundation.

"On the principle of Caesar's wife," said one, "this is mildly distasteful. But it's one of those muddy areas."

None of these authorities, however, was willing to speak for the record.

"While I don't think this is entirely proper," said one student of the Supreme Court, "I don't want to say anything that will detract from the popularity of the Court and give ammunition to the 'know-nothings.' The problem with criticizing Justice Douglas is that he's attacked by the wrong people for the wrong reasons."

To understand what is troubling some observers, an examination of the foundation's history is helpful.

It was established in 1960 by Parvin with 75 percent of the proceeds he realized from the 1959 sale of the Hotel Flamingo. The foundation's share amounted to between 1.5 million dollars and 2 million dollars, he estimated.

Parvin put together a group to buy the Flamingo in 1954 when the hotel ran into problems in meeting its payments to the furnishing firm that Parvin heads.

The purchase price was 8 million dollars. The group sold the facilities for 10 million dollars in 1959, after realizing sufficient income during the five-year span to reduce bank loans by between 2.5 million dollars and 3 million dollars. Thus, the net profit totaled between 4.5 million dollars and 5 million dollars, Parvin recalled.

In addition to a down payment, the group took back a first mortgage on the property which was deposited with a trust managed by the Bank of America.

It is the major part of his interest in the trust that Parvin donated to the foundation.

The 10-year mortgage has four years remaining, Parvin said, and payments have been prompt.

Remaining payments total 2.5 million dollars, he said, of which the foundation's share is $900,000.

The foundation currently receives about $28,000 a month from its share of the mortgage. The foundation also holds stock in various companies.

Parvin recounted how the Flamingo sale led to establishing the foundation. He said he found himself with 2.5 million dollars and no need for the money.

"I felt I wanted to do something to pay a vote of thanks for the good fortune I had," he said.

On the strength of reading Douglas's books, particularly the volume "America Challenged," Parvin wrote the Justice and told him of his desire to teach people of emerging countries about the American way of life.

Douglas responded; he and Parvin met to discuss plans and select directors, and the foundation was launched

In addition to Douglas, Hutchins, Goheen and Parvin, the foundation's board includes Judge William J. Campbell and Harry Ashmore. Campbell is chief judge of the U.S. District Court in northern Illinois, and Ashmore is a Pulitzer Prizewinning journalist now with the Center for the Study of Democratic Institutions.

Douglas recalled that when he agreed to head the organization he knew its assets included the Flamingo investment. He stressed that the Flamingo is a legitimate enterprise.

But Douglas, who has 27 years on the High Court and was once Chairman of the Securities and Exchange Commission, said he thought the interest in the Flamingo "was owned for a brief period but disposed of by the (foundation's) finance committee." He explained that he does not serve on the finance committee, which handles all investments and reinvestments.

The foundation, Douglas said, seeks "to bring to this country for education promising men from 25 to 35 years of age for leadership training in the fields of government, education, newspaper work—in all aspects of public service."

Known as Parvin Fellows, the recipients attend Woodrow Wilson School at Princeton. Most come from Africa, the Middle East and Asia, Douglas said. The foundation sponsors a similar program at UCLA for Latin Americans.

"We're very proud of what the foundation has done, though we operate in a very small way" (seven to 10 students annually at Princeton and five to six at UCLA), Douglas said.

The foundation's tax returns on file with the Internal Revenue Service provide some gauge of its size. Gross income of the foundation in 1963 was reported to total $137,257.

For 1964, the tax return estimated the fair market value of the foundation's interest in the trust that held the Flamingo mortgage to be $1,113,507. This represented a significant part of the organization's assets. At the end of 1963, they totaled $1,900,723, according to the IRS filing.

Parvin said the Princeton fellowship program ran approximately $80,000 annually in its first two years, which subsequently has been reduced to $55,000 or $60,000. The UCLA program, he estimated, runs around $25,000 to $30,000 a year.

The two universities select the fellowship recipients. Douglas travels to the campuses to advise the fellows, to bring them to Washington, and to make appointments for them with Government officials. When they visit Washington, he entertains them.

"These are very difficult projects to work out," Douglas said, and sometimes involve "personnel problems of considerable complexity."

In addition to this work, Douglas also serves as "a sort of clearinghouse" for the foundation board in assessing requests for funds.

Proposals for as many as 24 to 36 different projects flow into the foundation each week, Douglas said.

Douglas traveled to the Dominican Republic on a project that was aborted by the coup d'etat in 1963 that overthrew the Juan Bosch Government. He said that Bosch, a long-time

friend of his, had come to Washington and proposed that the foundation help improve literacy in the Caribbean nation.

In collaboration with the National Association of Broadcasters, the foundation produced 80 half-hour films for use on Dominican television to increase adult literacy. But the coup occurred just as the films were completed, and they have never been used.

As Parvin recalls, it was after Douglas returned from a trip to South America on foundation business that the $12,000 first was provided. The foundation's board was meeting in Santa Barbara, and Hutchins suggested providing the funds, Parvin said. Despite Douglas' objections, the board voted the money.

Parvin said Douglas makes at least six trips to Princeton annually and also travels to UCLA. Douglas said he tries to co-ordinate his UCLA trips with meetings in Santa Barbara of the Center for the Study of Democratic Institutions, which he serves as chairman.

There also are travels for the foundation to South America and elsewhere, Parvin said.

What about years when he doesn't make as many trips?

"Even forget about the traveling and just evaluate the time he spends," Parvin said. He told of visiting Douglas at his vacation retreat in the Gooseprairie area of Washington State and finding the Justice "burning the midnight oil, writing people in the Philippines, China and East Africa" on foundation matters.

"How can you buy this kind of talent?" Parvin said. "He does 10 times what a full-time, fully paid president would."

The suggestion that there may be something improper about a High Court Justice serving a foundation with Las Vegas assets drew a heated response from Parvin.

"It's a very sad state of affairs when newspapers try to make a big deal out of something like this," he said.

Any suggestion of "a big deal" centers in part in the clashes between federal law authorities and some Las Vegas gambling figures, such as Levinson, who now is employed by Parvin-Dohrmann.

Levinson, who had business dealings with Bobby Baker, has a suit for damages pending against the FBI in a Nevada court, charging that the FBI's bugging of his office invaded his privacy.

The FBI and the Justice Department have been embarrassed by disclosures that the FBI employed electronic eavesdropping devices in Las Vegas hotels and casinos several years ago during an investigation of organized crime.

Baker, who also invoked the Fifth Amendment before the Senate Committee, has raised the bugging issue in seeking dismissal of a federal indictment charging him with tax evasion, theft and conspiracy. That issue is now before a federal district court in Washington.

Baker and Levinson were associated in various business deals. Federal officials privately concede the probability that at least the Levinson portions of long-distance phone conversations with Baker from Levinson's office were monitored by the FBI.

The bugging issue already is before the Supreme Court in the appeal of Fred B. Black, Jr., a Baker associate who has been convicted of income tax evasion. Long after Black's conviction and soon after the Supreme Court turned down Black's first appeal, the Justice Department discovered the FBI had bugged Black's Washington hotel suite and so advised the Court. The Government said, however, the bugging was in no way related to the tax case.

The Court later requested additional information from the Department and is now weighing Black's contention that the tax case was tainted by the bugging and that the Justices should grant him a hearing.

Black also maintained in his petition to the Court that he telephoned his lawyer from various sites in Las Vegas including the Fremont Hotel. He alleges that FBI agents may have monitored some of these conversations.

Two Supreme Court Justices—Abe Fortas and Byron R. White—have not participated in the Court's action on the Black case. Fortas at one time was Baker's lawyer. White was Deputy Attorney General during the period of at least some of the FBI bugging.

If cases involving Parvin's Las Vegas interests or such matters as Levinson's suit against the FBI ever reach the High Court, and Douglas feels some involvement, he could, of course, disqualify himself.

This would satisfy the present statutory requirement.

EXHIBIT 4

[From Life magazine, Sept. 8, 1967]

MOBSTERS IN THE MARKETPLACE: MONEY, MUSCLE, MURDER

(By Sandy Smith)

Since Cosa Nostra sells no shares and files no annual reports, no one can say for sure just what its legitimate investments amount to—indeed, the way the Mob operates, it is difficult to distinguish "straight" money from crooked. The best hint came from gangland's own financial wizard—Meyer Lansky himself—who made a modest appraisal of the Mob's private holding.

"We're bigger than U.S. Steel," said Lansky.

Even though U.S. Steel's assets are $5,642,379,942 and its 1966 profits came to $249,238,569, Lansky's boast strikes Federal investigative agencies as conservative. The gangsters are in almost everything, foreign and domestic. Their holdings range from Big Board securities to diaper services.

But if mobsters turn "legit," some people will say, isn't that all to the good? The answer is no. Over the last decade, government investigations have proved that a lawful enterprise doesn't remain legitimate once the gangsters get into it. Thievery is their way. Their executive are extortionists. Some of their salesmen are killers. A huge national food chain found this out, to the general horror of its personnel and customers, as will be detailed later in this article.

The Cost Nostra establishment in legitimate business is international and astonishingly intricate. It has employed—in addition to the predictable crew of sharpshooting accountants, gamblers and union officials—figures as diverse and improbable as a United Nations delegate and bankers with diplomatic passports from Iron Curtain countries.

As highly sophisticated forms of theft have gained favor in Cosa Nostra, the old-fashioned shakedown has become almost as rare as the white hat. It is regarded as unnecessarily risky. Three mobsters in the Gambino Family—Willie Dara, Tony Esperti and Nick Farinella—tried it the old way in Miami this year: a bold attempt to squeeze $25,000 out of a Miami store owner, John Maloney, "for the people up north." Maloney simply called the FBI, which made the case. The three hoods, convicted of extortion on Maloney's testimony, face prison terms up to 40 years. Such throwbacks to the old days of the "protection" racket get one response from a majority of today's hoodlums. Stupid.

It's safer by far to make a buck the way a Genovese Family *capo*, Nicolas Ratteni, does it—hauling garbage in the New York suburb of Yonkers. Ratteni simply squeezed out other firms until he had 95% of the garbage collection business. Though he is still a gangster, at least he appears to be serving his customers as opposed to shaking them down. Woe, certainly, to would-be competitors—but most of them can be dealt with through the Fix, somewhere short of violence.

The true bonanza the Mob has struck in legitimate business is "skimming"—diverting a portion of cash receipts off the top to avoid taxes. Chiefly for this reason the tycoons of Cosa Nostra tend to flock to any enterprise that has a heavy flow of cash—vending machine companies, jukebox firms, cigarette machine routes, some box offices and ticket agencies (the scalping of sports and theater tickets is a form of skim), and, of course, licensed gambling casinos. Then they proceed to steal large sums before they can be entered on the books and come under the eye of the IRS.

It follows that the money derived from the skim is ideal for greasing the wheels of organized crime. It pays off politicians, crooked cops and killers. It is also used as tax-free bonuses to persons with no gang connections at all—only greed. One well-known film star, for example, received $4,000 under the table in addition to his one-week contract price of $20,000.

A single jukebox or cigarette machine business may yield thousands in skim. FBI agents in Chicago discovered that Eddie Vogel in a period of a few months skimmed $130,000 from his music and vending machines. He and Momo Giancana actually counted it up amid the linens and tomato paste in a back room of an Italian restaurant, the Armory Lounge.

The biggest skim yet discovered took place in the legalized gambling casinos of Las Vegas from 1960 to 1965; many details of it are being disclosed here for the first time. Its breakup by federal agencies has sent the Mob scurrying all over the world—to places like England, the Caribbean, Latin America and the Middle East—in search of a bonanza to replace its profits. Some $12 million a year was skimmed for gangsters in just six Las Vegas casinos: the Fremont, the Sands, the Flamingo, the Horseshoe, the Desert Inn and the Stardust.

One notable example of a skimming transaction concerned $75,000 owed to the Fremont and Desert Inn by Alexander Guterma, a celebrated swindler. The money was collected, but never reached casino ledgers. It was conveyed as skim through Panama branches of Swiss banks by Eusebio Antonio Morales, at that time Panama's alternate delegate to the United Nations. (Currently Morales is Panamanian ambassador to the United Kingdom.)

Las Vegas is one of the so-called "open" territories agreed upon by the Mob, where all Cosa Nostra families are relatively free to operate and invest. The carving up of the gambling skim among various Cosa Nostra leaders follows a ratio determined by each mobster's secret interests in the casinos. Each hidden share of a casino was priced in underworld markets at $52,500. The dividend on each share was $2,000 a month—or about 45% annual return.

During the lush years of 1960–65, Gerardo (Jerry) Catena's gang in New Jersey split up some $50,000 a month. Meyer Lansky and Vincent Alo, the Cosa Nostra shadow assigned to keep Lansky honest with the brotherhood, picked off some $80,000 a month. The Catena-Alo-Lansky money came from four of the six casinos—the Fremont, Sands, Flamingo and Horseshoe. Momo Giancana's stake, from the Desert Inn and the Stardust, exceeded $65,000 a month. From the same two casinos, the Cleveland gang chief, John Scalish, received another $52,000 a month.

Skimming in Las Vegas, from casino counting room to Swiss bank, has always been overseen by Lansky, the Cosa Nostra Commission's most important non-member—always with the Cosa Nostra heavies peering over *his* shoulder. As cashier and den father of deliverymen, Lansky has remained the indispensable man.

A recurrent problem for Lansky's Las Vegas front men and accountants has been

the reconciliation of the interests of a casino's owners-of-record, who hoped to profit, and its secret gangster owners, hungrily awaiting their skimming dividends. "How can you steal money and pay dividends?" Ed Levinson, chief of the Fremont Casino, once besought one of his partners." "You can't steal $100,000 a month and pay dividends. If you steal $50,000? Well, maybe . . ."

Each month, when the skim was running smoothly, the bagmen shuttled between Los Vegas and Miami with satchels of cash. The couriers also brought the skim from Bahamian casinos to Miami. There Lansky counted it all, took his own cut and then parceled out the rest to the couriers who were to carry it to the designated Cosa Nostra hoods, or to the Swiss banks where they have their accounts.

Lansky's bagmen have been a diverse and colorful lot. Among his all-stars from 1960 to 1965:

Benjamin Sigelbaum, 64, business partner of Robert G. (Bobby) Baker when Baker was secretary of the Democratic majority in the U.S. Senate. Sigelbaum is a man with general affinity for political connections. Back in 1936, he was convicted in Camden, N.J., and given a suspended sentence for concealing assets in bankruptcy. By 1958, he was given a full and unconditional pardon by President Dwight D. Eisenhower.

John Pullman, 66, a banker in Switzerland and the Bahamas who once served a prison term for violating U.S. liquor laws. Pullman gave up his American citizenship in 1954 to become a Canadian. He now lives in Switzerland.

Sylvain Ferdmann, 32, a Swiss citizen who is an international banker and economist. U.S. authorities have marked Ferdmann a fugitive; he is accused of interfering with the federal inquiries into the skimming racket. In 1963, when Teamster boss Jimmy Hoffa needed to raise money for union officials' surety bonds, he dickered with Ferdmann.

Ida Devine, 45, the only woman to carry the satchel for Lansky. She is the wife of Irving "Niggy" Devine, a ubiquitous Las Vegas racketeer.

Sigelbaum and Mrs. Devine traveled from Las Vegas to Miami; Ferdmann from the Bahamas casinos to Miami; Ferdmann and and Pullman from Miami to the numbered-account banks in the Bahamas and Switzerland.

The Mob's skimming cash flow was a remarkable study in itself. It generally moved first through two Bahama banks—the Bank of World Commerce and the Atlas Bank—and then on to the International Credit Bank in Switzerland.

As of 1965, the boards of directors and staffs of all three banks were studded with both skimmers and couriers. The president of the International Credit Bank was Tibor Rosenbaum, a man who travels on a diplomatic passport from Albania. On the board were Ed Levinson, operator of the Fremont Casino, and Pullman. Ferdmann was listed as a staff "economic counselor," and it was he who organized the Atlas Bank in the Bahamas, as a subsidiary of the I.C.B.

The directors of the Bank of World Commerce, also in the Bahamas, included Pullman (for a time he was its president); Levinson; Sigelbaum, and, once again, Niggy Devine, Ida's husband.

Sigelbaum holds the overland record for bag-toters. For more than two years, he jetted between Las Vegas and Miami two or three times a month, carrying an average of $100,000 each trip.

When investigative heat neutralized Sigelbaum as a courier, Lansky brought on the "lady in mink," Ida Devine. The list of people and places on one remarkably devious trip she made to Miami is a fascinating vignette in the annals of bag-toting.

It took her from Las Vegas to Los Angeles, thence by train (she hates flying) to Chicago, Hot Springs, Ark., back to Chicago, then to Miami—hanging on all the way to a bag containing $105,650 in skim money. On her first Chicago stop she was met by Mrs. George Bieber, wife of an attorney who represents gangsters. On her second arrival in Chicago, she was met by Bieber's partner, Michael Brodkin, whose Mob clients are even more numerous. The money ultimately was split up in Miami by Sigelbaum and Pullman: $63,150 for Lansky, $42,500 for Jerry Catena in New Jersey.

At the time, Pullman was toting the skimming money from Miami to the Bank of World Commerce in the Bahamas. But a few months later he, like Sigelbaum, was forced to relinquish the bag—this time to Sylvain Ferdmann.

Ferdmann took over both the transcontinental and transatlantic bag routes for most of the next two years. His contacts in this country were bizarre, including functionaries and members of the Communist party in New York, and a man who had big financial dealings with the Czech delegation to the United Nations. The conclusion drawn by investigators—from Ferdmann's contracts, from the fact that the International Credit Bank has strong ties with Communist countries and from the fact that his bag was stuffed with money both going and coming—was that there was a flow of Communist money coming back thorugh the skimming conduit.

Ferdmann made one bad blunder in all this. On March 19, 1965, as he was loading his satchels into the trunk of an auto at Miami airport, he dropped a piece of paper from one of his pockets. It was found by a parking attendant, who turned it over to authorities. It was a note on the letterhead of the International Credit Bank:

"This is to acknowledge this 28th day of December 1964, the receipt of Three Hundred and Fifty Thousand ($350,000) Dollars, in American bank notes for deposit to the account of Maral 2812 with the International Credit Bank, Geneva, the said sum being turned over to me in the presence of the named signed below."

John Pullman was listed as a witness on the note. Under his own signature, the cautious Ferdmann had added this postscript:

"The above is subject to the notes being genuine American banknotes." Here for the first time was a document proving not only the receipt of the Mob's skimming money by the Swiss bank, but also providing the account number.

Inevitably, America's stock market fever over the last two decades caught the eyes of Cosa Nostra and led to the establishment of a highly lucrative new subsidiary racket—traffic in stolen securities. To handle everything smoothly the Mob put together yet another international network of couriers, shady financiers and banks. This apparatus began functioning two years ago during a series of Wall Street robberies that authorities traced to the Brooklyn gang of Cosa Nostra Commissioner Joe Colombo. Colombo seems to fancy the world of finance. He often stuffs a copy of the *Wall Street Journal* in his pocket, an affectation looked upon as ostentatious by those acquainted with his comic-book reading habits.

Since 1962, in just six thefts in Manhattan, Colombo's men are believed to have made off with securities valued at $8 million. The latest score attributed to the Colombo thieves—one which received virtually no publicity—was the brazen looting last May 14 of safes in the Manhattan borough surrogate's office. The safes contained securities and other assets of estates handled by the surrogate's office. It was announced at that time that the amount of the loss was undetermined. Investigators have since determined that the thieves grabbed at least $500,000 worth of securities. That much of the loot was transported to Belgium by a courier who dropped it into a Brussels bank. The Belgian bankers then were somehow induced to send the stolen securities back to this country for sale.

Other securities from other robberies are known to have been sold by the Colombo Mob to banks in West Germany, France and Africa. Arrangements for many of the sales were made by a London fence—another improbable character: Alan Cooper, 36, an ex-GI who served a prison term for a bank robbery in Germany.

Colombo's gangsters manage even bigger profits—though at greater risk—when they can induce a U.S. banker to accept stolen stocks as collateral for a loan. The mobsters then put the money borrowed on the hot securities into quick-profit loan-sharking, which enables the Mob to pay back the banks so soon as to cost practically nothing in interest. The gangsters retrieve the stolen stocks and bonds, and then—if all works well—post the hot securities for a second loan from yet *another* bank. All the time this is going on, shylocking fees are still piling up from hapless borrowers who got money from the original loans. Colombo has been known to double his money in less than two months through this repeated cycle. The key, of course, is a banker devious enough to accept the stolen collateral. Federal officials have identified a dozen such bankers in the New York area who have issued loans to Colombo's men on stolen securities. All of them are "hooked" by the Mob in some way, through physical fear or blackmail.

The foremost internationalist among all Costa Nostra entrepreneurs is neither skimmer nor stock swindler, but old Bayonne Joe Zicarelli—the Hudson County hustler of goods and politicians. "Joe Z's" extensive line includes military aircraft parts, munitions and murder contracts.

Although Zicarelli, at 55, isn't a top-notcher in the Mob, the international operations he has conducted from the Manhattan offices of the Latamer Shipping Co. show how well an enterprising Cosa Nostra second-stringer can make out if he hustles.

Zicarelli and the former Dominican Republic dictator, Rafael Trujillo, were fast friends. Trujillo shelled out more than $1 million to Joe for machine guns, bazookas, etc. With Trujillo's assassination, Zicarelli quickly proved he is without political bias: early this year, the U.S. State Department found that Joe's emissaries were dickering with present Dominican leaders to take over an airline.

Another friend was erstwhile Venezuela President Pérez Jiménez, during whose dictatorship Zicarelli landed a $380,000 contract to supply aircraft parts to Venezuela. Profit: some $280,000.

This was by no means the extent of Joe Z's Common Market. In the 1950s, when his deals with Venezuela were cooking, Zicarelli staunchly volunteered to officials of that country to arrange the assassination of the exiled Venezuelan political leader Romulo Betancourt. The plot bogged down in unseemly haggling over Zicarelli's fee: $600,000.

There is no measure of how much money Zicarelli made from Trujillo. But in the past two years federal investigators have discovered that he did a lot of work, whatever the price. Details of just *how* much he did have never been disclosed until now. One of his little favors for Trujillo: the 1952 execution of Andres Requena, an anti-Trujillo exile. Zicarelli gunmen shot Requena in Manhattan.

Next on Trujillo's list was another exile, Jesus de Galindez, a teacher at Columbia University. Joe Z arranged that one, too. In a famous case, De Galindez was kidnaped in Manhattan on March 12, 1956. At a Long Island airport, he was loaded aboard a private plane and flown by an American pilot, Gerald Murphy, to the Dominican Republic. Both De Galindez and Murphy vanished and are presumed to have been slain.

The plane used by De Galindez' abductors

was chartered at the Linden, N.J., airport on March 5, 1956. Federal authorities have learned that the aircraft was chartered by Joe Zicarelli.

On his home ground in Bayonne, Joe Z has performed similar services for prominent people. For example, in the fall of 1962, the body of a Bayonne gambler was hauled by Zicarelli's men from the home of a Hudson County political figure—placing the politician more than slightly in Zicarelli's debt.

It wasn't one of Tony Anastasio's good days. In the fall of 1957, everything seemed to be going against him. Once upon a time, the Cosa Nostra power of his brother Albert, the old Lord High Executioner of Murder, Inc. fame, had made Tony boss of the biggest local of the International Longshoremen's Association (ILA). But Albert had been murdered in a Manhattan hotel barber chair, and now Tony—"Tough Tony," as the press had taken to calling him—was a union boss in name only.

The brooding Anastasio was flying to Miami for a few days in the sun. In the seat beside him, as it happened, was an official of a federal law enforcement agency. They knew each other. After about three drinks, Tony began to share his troubles with the official, who was notably sympathetic.

They talked of what had happened to Albert, and suddenly Tony blurted: "They *gave* me to Gambino!"

"I got to answer to Carlo," he moaned to his astonished companion. "Joe Colozzo told me I'm nothing but a soldier."

"They," of course, were the Cosa Nostra Commissioners, who had put Anastasio—not to mention his 14,000 union members—under the control of Carlo Gambino, who had taken over the slain Albert's Cosa Nostra Family.

Until now, Joe Colozzo had been just another of Tony Anastasio's gangsters in the Brooklyn longshoremen's union. Now he was Gambino's strongman—and Tony was suddenly nothing.

That was the way it was in the Brooklyn ILA in 1957. That, according to the experts, is still the way it is today—regardless of recurrent publicity about a "new look" on the seamy waterfront. Though the public was understandably eager to interpret the waning of Anastasio's power on the docks as a sign of a real clean-up of Mob control, such was not the case. After Tony's death in 1963, and despite some reforms instituted by the New York-New Jersey Waterfront Commission, it was still business as usual for the Mob.

FBI Director J. Edgar Hoover told a congressional subcommittee that the gangsters are so powerful on the docks that ". . . ultimate control . . . of the New York port, including New Jersey facilities, rests with the leadership of the Vito Genovese and Carlo Gambino 'families' of La Cosa Nostra." Hoover's statement was echoed by Henry Peterson, chief of the Organized Crime Division of the Department of Justice. Peterson, in fact, went a bit further. He told a crime control conference of the "more than effective liaison between the ILA, the Cosa Nostra, and the Teamsters [union]."

The Mob's power over the nation's biggest port and its rackets—shakedowns, shylocking and thievery—stems from its grip on ILA locals. The Gambino gang today dominates the unions on the Brooklyn piers. On the docks of Manhattan and in New Jersey ports, the Vito Genovese gang is rigidly in control.

The most outspoken exponent of the waterfront's "new image"—and its most vociferous gainsayer of claims about the ILA ties with Cosa Nostra—is Tony Anastasio's son-in-law, Anthony Scotto. The death of Anastasio left his ILA local 1814 in the hands of Scotto, a handsome, remarkably self-assured young man who says he is "disturbed no end" to hear statements such as Hoover's and Peterson's. By that, one interviewer asked, was Scotto implying that there is no Cosa Nostra? Scotto dropped his voice.

"Between you and me, I *know* there is," he said. "But I'm not going to talk about it. I don't want to fight the whole world. I've got to drive home every night and back to work again in the morning."

What about the view, expressed in some parts of the law enforcement establishment, that Scotto is actually a member of Cosa Nostra?

"Pure, unadulterated——," replied Scotto.

The talk turned to the gangster Colozzo, whose privileged status in the ILA headquarters in Brooklyn almost surpasses Scotto's. "I know everything you could tell me about Colozzo," said Scotto. "He is supposed to be telling me what to do. *No* one tells me what to do." He is equally airy about Cosa Nostra Commissioner Gambino: "I've met him once of twice—you know, at funerals."

Now and then, nevertheless, he goes to a lot of trouble to assist Gambino's kin. Last year, Scotto dispatched one of his union aides, Natale Arcamona, to Vietnam to speed up the unloading of Army cargo at Vietnamese ports. While Arcamona was there he received a very special assignment from Scotto: do what you can to get a comparatively safe post on the docks for a soldier—that is to say a U.S. soldier—who incidentally is a relative of Gambino.

Asked about the incident, Scotto quickly dismissed it. "I must have sent a couple of dozen of those telegrams for one guy or another," he said. "This is the first time I knew one of the fellows is related to Gambino. My name goes on a lot of things around the union. Sometimes you write a recommendation and then you regret it."

If Scotto is the prototype of the "new" ILA, it would have to be called an improvement—at least from outward appearances. He lectures at Harvard. He visits the White House. He attends international labor conferences. He is an officer of the recently founded American Italian Anti-Defamation League, Inc. (So is Dr. Thomas J. Sinatra, an ILA physician who happens to be Gambino's son-in-law. So, for that matter is Frank Sinatra—no relation.)

Unlike most ILA bosses, Scotto is chummy with public officials. At political gatherings, whenever he can, he seeks out and chats with U.S. Senator Robert F. Kennedy of New York. He lists public prosecutors as character references.

There is no question that when he's out in front doing the talking, Scotto is a polished, persuasive spokesman for the Brooklyn longshoremen. But behind him in the locals, the gangsters and their pals seem to be doing as well as ever.

Colozzo, for example, still brings Gambino's word to the ILA locals and acts as if *he*, not Scotto, were the boss of the Brooklyn piers. While Scotto bustles about the docks, Colozzo lazes in his union office. Barbers and manicurists come to *him*.

The expenditures of some ILA locals are under constant federal scrutiny, and one of them, currently is Scotto's Local 1814. Particularly intriguing to federal officials are the fees paid in 1965 by the union to an accounting firm, the bulk of which were passed along by the firm to pay for a pad for Scotto's girlfriend. The firm, Farber & Landis, handles the books of Colozzo's and Scotto's locals and another ILA local, and also does the accounting for the ILA medical clinic fund in Brooklyn, and five businesses operated by Scotto and members of his family. In 1965, the fees from Scotto's local to Farber & Landis jumped from the $2,000 paid in 1964 to $7,000 or an increase of 250%.

Scotto insists that the firm got more money that year because it did more work. It was a coincidence, he said, that the accounting firm got the extra $5,000 at the very time that it incurred an additional expense—the $280 monthly rental paid by Farber & Landis for Penthouse K at 210 E. 58th Street in Manhattan.

The tenant in Penthouse K was Francine Huff, an auburn-haired fashion model and a warm friend of Scotto as well as of E. Richard Landis, the accountant, and Louis Pernice, an official of Local 1814. A federal grand jury has been looking into Penthouse K.

"The grand jury tried to establish that the rental was paid with union funds," said Scotto. "That's not so. It was just a coincidence. The accounting firm paid the rent. We [he, Landis and Pernice] had a pad—it may have been immoral, but it was not illegal."

Union expenditures for such purposes would be misapplication of membership funds, a criminal offense under federal statutes.

According to Scotto, the grand jury called Miss Huff, Landis and Pernice. Miss Huff, he said, had invoked the Fifth Amendment.

Across the Hudson, in New Jersey, Catena's tight personal control of ILA locals has made Port Newark a flat Cosa Nostra concession. Caten's men in the Port Newark longshoremen's unions are John Leonardis, an ILA vice president, and Anthony Ferrara—known as "Ray Rats"—a business agent of Local 1235.

By Catena edict, New York officials of the ILA are forbidden to set foot on Port Newark docks without Leonardis'—*i.e.*, Catena's—O.K. The order was strictly enforced. An early violator was George Barone, a Manhattan ILA boss. Barone ventured over, without a Leonardis visa, to round up business for a ship maintenance company. A Catena warning—"Nobody spits in Port Newark unless we say O.K."—promptly chased him back to Manhattan. From there, Barone apologized, pleading ignorance.

For a price, or a piece of the action, however, Jerry Catena does permit gangsters from other Cosa Nostra Families to set up shop in Port Newark. A Lucchese gang leader, John Dioguardi, for one, gave Catena an interest in an Emerson, N.J., gambling operation, and in return controls a union that organized Port Newark cigarworkers.

Of all the malevolent things the Mob has perpetrated or tried to perpetrate on legitimate business and an unsuspecting public, nothing ever topped the Catena detergent caper. Indeed, it stands as a textbook example of what Cosa Nostra brings to the marketplace.

In the spring of 1964, Jerry Catena and his brother Gene wangled a contract from a manufacturer to wholesale an offbrand of detergent in the New Jersey area. Forthwith they began to push their "Brand X," as we'll call it here, through one of their front outfits, the Best Sales Co. of Newark. Best Sales has salesmen aplenty, of a sort—some 600 members of the gang that Jerry was running for Vito Genovese, plus others, such as representatives of the Amalgamated Meat Cutters and Butcher Workmen, and the Teamsters. Both had organized workers in food chain stores in New Jersey.

To move the Best Sales detergent, Catena eventually pulled all the stops of Cosa Nostra power.

First, butchers' union agents began pointedly dropping word in food marts that the Best Sales product was a good thing. "Good people in that company," store managers were told, "particular friends of ours." Most of them got the message—and laid in a supply of the detergent, dutifully priced at 70¢ per box.

Early in 1964, the Catenas began thinking big, drawing a bead on the huge A & P chain. If the A & P could be "persuaded" to sell the product, or maybe even to push it over the big-name brands, the Catena boys would surely end up as soap czars.

There was no objection by A & P to testing the Catena detergent—indeed, it seemed for

a few days that the Best Sales product was being favorably considered.

In April, however, A & P consumer tests disclosed that Catena's product didn't measure up to other brands—no sale. Within a few days, to add insult to injury, word reached Gene Catena that his detergent had been rejected *because A & P had learned that the Catenas were selling it.*

Gene, in a fury, promised to "knock A & P's brains out." And he tried.

On a May night in 1964, a fire bomb was tossed into an A & P store in Yonkers, N.Y. The store burned to the ground.

A month later, another Molotov cocktail touched off a fire that destroyed an A & P store in Peekskill, N.Y. In August, an A & P store on First Avenue in Manhattan was gutted, and in December, an A & P store in the Bronx.

Even then, though thoroughly frightened, executives of the chain did not connect the incendiary fires with their rejection of the detergent. The Catenas tried again to spell it out, in a more pointed way.

On the night of January 23, 1965, Manager James B. Walsh closed a Brooklyn A & P store and got into his auto to go home. A few blocks from the store, one of his tires seemed flat, and he got out to fix it. A car pulled up and four men got out. They killed Walsh with three pistol shots.

About two weeks later, on the evening of February 5, store manager John P. Mossner drove home to Elmont, N.Y. from his A & P supermarket in the Bronx. As he got out of his car in his driveway, a lone gunman stepped out of the shadows and shot him dead.

Two months after Mossner's murder, one more A & P store burned in the Bronx. The blaze had been started with a fire bomb.

Meanwhile, the butchers' union had begun negotiations on a new labor contract with A & P. The company's contract offers were rejected. The union made counterproposals which A & P considered outrageous. The butchers threatened to strike, and the Teamsters let it be known they would not cross the picket lines.

The A & P officials were growing frantic in the face of the apparently motiveless murders and fire-bombings and the deadlocked union negotiations. In desperation they appealed to the federal government for assistance of some kind.

It took about a month for government informants to link the terrorism with the Catena detergent sales campaign. But proving that connection by producing the informants in a courtroom was out of the question. Accordingly, U.S. District Attorney Robert Morgenthau brought Jerry Catena himself before a federal grand jury. On his way into the jury room the puzzled gangster asked a government official why he had been called.

"We want to know about your marketing procedures," the official said.

"Marketing of what?" asked Catena.

"Detergent."

Ah, *detergent!* As of that moment, the A & P's terror ended. Catena appeared briefly before the grand jury and hurried from the courthouse. At their very next negotiating session, the strike-theatening butchers signed the A & P contract they had rejected weeks before.

A few days later, a federal investigator ran into one Gerardo Catena in lower Manhattan and asked pointedly how things were going in the detergent business. Catena's muttered answer was close to pleading.

"I'm sorry," he said. "I'm getting out of detergent."

And that was all. To try to muscle a mob-backed product onto A & P shelves, Catena or thugs in his employ had burned out five supermarkets and had murdered two innocent store managers in cold blood. And yet, because the government could not jeopardize its own informants by bringing them into court, Catena suffered only the minor inconvenience of a grand jury appearance and the failure of his detergent scheme. Gene Catena died a month ago, of natural causes. Jerry Catena, the hoodlum boss, and his bomb throwers and murderers continue to walk around free.

The bloody case is a measure of what the country is up against with the Mob and what the law is up against in bringing the mobsters to justice. On the editorial page of this issue Life states what it believes can and should be done to put an end to this disgraceful state of affairs.

EXHIBIT 5

FROM THE OFFICE OF SENATOR PAUL FANNIN
WASHINGTON, D.C., MAY 28, 1969

Mr. Justice Douglas has written an article for the March 1969 issue of Avant Garde—a magazine published by Ralph Ginzburg. Ginzburg's conviction on 28 counts of violation of a federal obscenity statute (18 U.S.C. 1461) was upheld in March 1966 by the Supreme Court. The majority decision stated "there was abundant evidence to show that each of the accused publications was originated or sold as stock in trade of the sordid business of pandering . . . The 'leer of the sensualist' also permeates the advertising for the three publications."

Last Saturday's edition of the New York Times carried a full page back page ad promoting this Avant Garde publication of Ginzburg and lists Supreme Court Justice William O. Douglas as a contributor.

Mr. Douglas' response to an inquiry as to whether he received payment for this March article came through an aide who said, "The Justice declines to reveal what he received for the article and considers it his private business."

It seems to me that a substantial and continuing question of judgment is raised on connection with these and other writings and actions of Mr. Douglas. I cannot believe him to be ignorant or naive of the consequences of these actions. The only other conclusion is arrogance and a disregard for the respect of the Court.

Ginzburg presently has an appeal on a second issue arising out of this case pending in a lower court in Philadelphia, and I find it extremely difficult to understand why Justice Douglas cannot discern the impropriety—or at least the appearance of impropriety—in his writing for a publication put out by a man convicted of violating federal obscenity laws.

The question of whether he received a fee for these and other writings is not nearly so important as his contemptuous scoffing at the canons of judicial ethics and his scornful disdain of the respect Americans have a right to expect of their Supreme Court Judges.

EXHIBIT 6

RALPH GINZBURG STATEMENT, NEW YORK CITY, MAY 28, 1969

William O. Douglas is a shining example of everything noble and beautiful about America. With his physical fitness, intellectual power, and down-to-earth folksiness, despite the majesty of his office—he has been an inspiration to every open hearted, open minded American.

For a mediocre character like Senator Fannin to try and cast a shadow on Mr. Justice Douglas' light is a national disgrace, and I hope it will receive the contempt it deserves.

Mr. Justice Douglas' article, for the March issue of *Avant Garde,* was on folksinging—nothing more and nothing less. It was a short, soulful piece telling about the influence of folksongs on Mr. Justice Douglas' life. He was paid a mere pittance for the article—$350—and he knew in advance how much, or rather, how little the payment would be. His motive could hardly be called mercenary.

To try to put this joyful, beautiful article on folksinging into the same character as bribe-taking and self aggrandizement is absurd. Positively ludicrous.

It's ironic what with all the corruption in the government, Fannin and his ilk should be picking on the one pure soul who stands as a shining example of all that is noble and lofty in American life.

There are many things about Mr. Justice Douglas that narrow minded people don't like. He's a rugged individual; he leads a real and rich personal life; he's a colorful character and he's by no means a bureaucrat. In short, he's a real man, and many small minded people—perhaps including Senator Fannin—are terrified by him.

Mr. Justice Douglas' writing follows in the grand tradition of the non-judicial writings of such great jurists as Felix Frankfurter, Learned Hand, and Oliver Wendell Holmes. William O. Douglas—as much as any man alive—has consistently defended freedom of expression. I certainly think he is entitled to enjoy a measure of it himself.

EXHIBIT 7

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Douglas. *Wash. Law Review,* 40:227, June 1965. "Law reviews and full disclosure."

——— *Revista del Colegio Abogados de Puerto Rico,* 27:485, Aug. 1967. "Discurso."

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——— *Bulletin of Atomic Scientists,* 21:11, May 1965. "North River, town of Norwell, Plymouth County, Mass."

——— *Holiday,* 38:171–4, Oct. '65. "Land Despoiled."

——— *New York Times Magazine,* 34–5 March 21, 1965. "Animalman needs to hike."

——— *Audubon Magazine.* 68:85, March 1966. "Our wilderness rights are missing; excerpt from a Wilderness bill of rights; edited by R. D. Butcher.

——— *Juvenile Court Judge Journal,* 19:9, Spring 1968. "Juvenile courts and due process of law."

——— *Ladies Home Journal,* 81: 37–41+ July 1964. "America's vanishing wilderness."

——— *Saturday Review,* 47:59, Nov. 14, 1964. "Archeologist on Oriental journal."

——— *National Geographic.* 125:702–35, May 1964. "Banks Island: Eskimo life on the Polar Sea."

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——— *Field and Stream,* 68: 24–9, July 1963. "Why we must save the Allagash."

——— *Columbia Law Review,* 64: 1371, Dec. 1964. "In honor of Adolph A. Berle, Dedication."

EXHIBIT 8

JUNE 11, 1969.

To: The Honorable PAUL J. FANNIN.
Attn: Jack Buttram.
From: Congressional Reference Division.
Subject: Bibliography of books by Justice William Orville Douglas.

An Almanac of liberty. Doubleday, 1954. 409 P. LAW.

America challenged. Princeton U. Press, 1960. 74 p. E169.1.D69.

The anatomy of liberty. Trident Press, 1963. 194 p. LAW.

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Beyond the high Himalayas. Doubleday, 1952. 352 p. DS485.H6D66.

The Bible and the schools. Little, Brown, 1966. 65 p. LC111.D78.

Democracy and finance. [addresses and public statements of Wm. O. Douglas as member and chairman of SEC] Edited by James Allen. Yale U. Press, 1940. 301 p. HG181.D6.

Democracy's manifesto. Doubleday, 1962. 48 p. E744.D68.

Douglas and the Supreme Court. [selection of opinions, edited by Vern Countryman]. Doubleday, 1959. 401 p. LAW.

Exploring the Himalaya. Random House, 1958. 177 p. DS485.H6D67.

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Lectures, Feb. 18–19, 1949. Los Angeles, Occidental College, 1949. 28 p. LC1091.D68.

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Mr. Lincoln and the negroes. Antheneum, 1963. 237p. E457.2.D7

Muir of the mountains. Houghton Mifflin, 1961. 183p. QH31.M9D6

My wilderness: the pacific west. Doubleday, 1960. 206p. QH104.5.W4D6

My wilderness: east to katahdin. Doubleday, 1961. 290p. QH104.D68

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Strange lands and friendly people. Harper, 1951. 336p. DS49.5.D6

Towards a global federalism. New York University Press, 1968, 177p. JX311o. D6T6.

Vagrancy and arrest on suspicion. University of New Mexico, School of Law, 1960. 21p. LAW

Washington and manifest destiny. [address] Library of Congress, 1953. 35p. F891.D66

We the judges. Doubleday, 1958. 480p. LAW

West of the Indus. Doubleday, 1958. 513p. DS49.5.D62

A wilderness bill of rights. Little, Brown, 1965. 192p. LAW

The mind and faith of A. Powell Davies. [edited by Wm. O. Douglas]. Doubleday, 1959. 334p. BX9815.D3

The above list was compiled from the Library of Congress main catalog. It includes several collections of speeches and opinions and several pamphlets.

EXHIBIT 9

JUDICIAL CONDUCT

Two federal laws and a canon of the American Bar Association deal with the question of judicial conduct. They provide:

"Any justice or judge appointed under the authority of the United States who engages in the practice of law is guilty of a high misdemeanor." (Title 28, section 454, United States Code Annotated.)

"Any justice or judge of the United States shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper in his opinion, for him to sit on the trial, appeal, or other proceeding therein." (Title 28, section 455, United States Code Annotated.)

"A judge's official conduct should be free from impropriety and the appearance of impropriety." (Fourth Canon of the American Bar Association's Canons of Judicial Ethics.)

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. FANNIN. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I commend the able Senator from Arizona for the magnificent address he has made this afternoon which is informative and I am sure it will be very helpful to Senators in their consideration of this matter.

Mr. President, I wish to propound this question to the able Senator. There is some point raised that Justice Douglas has not had to disqualify himself at any time in the past. Does the Senator feel that is the test, or does he feel the test is his impropriety in participating in matters on which he may have to act later as a Justice of the Supreme Court?

Mr. FANNIN. I feel that the latter is the test. I have cited instances where this test might be applicable in the case of Justice Douglas.

It may be that there is a need to research the record with reference to cases in which he has disqualified himself. As you know this is not a matter of ready reference and each individual case would have to be researched. But, as I said, I have given this one, specific case in which he has already participated and I am positive that he would certainly need to disqualify himself in this instance.

Mr. THURMOND. I believe the record shows that Justice Douglas was an officer of the Parvin Foundation, that he was an officer of the Center for the Study of Democratic Institutions, and that he was an officer, or director, I believe, of the Inter-American Center for Economic and Social Research.

Are not these organizations, which possibly some day might have some question concerning tax exemption, or some other matter, capable of developing cases that could ultimately reach the Supreme Court?

Mr. FANNIN. Yes, it certainly is logical to expect that they might.

Mr. THURMOND. In view of that, would it seem proper for any Supreme Court Justice to be an officer, for compensation, of any organization of any kind, anywhere, that might, some day, have a matter coming before the Supreme Court of which the Justice is a member?

Mr. FANNIN. There may well be instances in which it would be improper.

Mr. THURMOND. In view of Justice Douglas' participation, active participation—not just casual, but active—as an officer in these various organizations, not only in which he was an officer but also in which he received compensation—I believe from the Parvin Foundation over a period of about 6 years he received from them $85,000 to $95,000, and I believe from the Center for the Study of Democratic Institutions he received about $500 a day, and then the other Inter-American Center, all of these he has been actively connected with and has received compensation from. Also, he has written articles for magazines. I believe the distinguished Senator referred to one magazine here, Avant Garde, that has considerable pornographic material in it—I have seen it myself and at least I consider it pornographic, and I presume the Senator does?

Mr. FANNIN. I certainly do.

Mr. THURMOND. In all of these matters, is not Justice Douglas placing himself in a position where he could be seriously embarrassed by matters with which he has been actively connected with organizations and from which he has received compensation if, later, such cases came to the Supreme Court?

Mr. FANNIN. Yes. I certainly agree that there is a question of judgment involved. Not only would it embarrass the Court, but certainly it would embarrass the American people.

Mr. THURMOND. I wish again to commend the able Senator from Arizona for the magnificent address he has made on this subject.

Mr. FANNIN. I thank the distinguished Senator.

RE-REFERRAL OF S. 1298 TO COMMITTEE ON COMMERCE

Mr. MAGNUSON. Mr. President, S. 1298, a bill to promote the domestic and foreign commerce of the United States by modernizing practices of the Federal Government relating to the inspection of persons, merchandise, and conveyances moving into, through, and out of the United States, and for other purposes, which Senator JACKSON and I have cosponsored, has been referred to the Committee on Finance.

S. 1298 is identical to S. 1537 of the 90th Congress and other similar bills touching upon this subject matter, all of which were referred to the Senate Committee on Commerce. The Committee on Commerce has previously held hearings on similar legislation and reported to the Senate thereon.

I am appreciative of the interest of the Senate Committee on Finance in any legislation which may have an impact upon revenue measures, and the distinguished chairman of the Senate Committee on Finance has advised that he would not object to this bill being referred by unanimous consent at this time to the Senate Committee on Commerce, with the understanding that in the event the Committee on Commerce should report the bill that the Committee on Finance would be given an opportunity to review the measure, if it so desired. Accordingly with that understanding, I ask unanimous consent that S. 1298 be referred to the Committee on Commerce.

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

CHARLES LUCE—NAMED BUSINESS CITIZEN OF THE YEAR

Mr. MAGNUSON. Mr. President, the man I am about to refer to needs little,

if any introduction to the Members of the Senate. Charles Luce distinguished himself in the service of his Nation, as the administrator of the Bonneville Power Administration and later as Under Secretary of the Interior. For nearly 2 years now, Mr. Luce has been serving in the capacity of chairman of the Consolidated Edison Co. of New York.

Two weeks ago, Charles Luce was named "Business Citizen of the Year" by the National Businessmen's Council—an honor of considerable magnitude.

An article in the Walla Walla Union-Bulletin on June 6 describes Mr. Luce's accomplishments more fully—and 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:

CHARLES LUCE BUSINESS CITIZEN OF THE YEAR

NEW YORK.—Charles F. Luce, chairman of the Consolidated Edison Company of New York, has been named "business citizen of the year" by the National Businessmen's Council, it was announced Thursday by Eugene M. Lang, NBMC chairman and president of Resources and Facilities Corporation.

Chosen from more than 100 nominees by a distinguished panel of judges, Luce was cited for his outstanding contributions and those of his company to the pressing social issues affecting urban society.

Among them:

Significant gains in minority employment at Con Ed and, in his role as chairman of Coalition Jobs, helping increase minority employment in other companies.

Recruiting in the ghetto areas of New York City and on-the-job training programs, coupled with academic study for underprivileged and "hard-core" unemployed.

Active community relations programs exposing hundreds of thousands of New York youngsters to sports events at Yankee and Shea Stadiums, and sponsorship of baseball clinics and sandlot activities.

Highly effective programs to curb air pollution and to enhance the beauty of New York City.

Sponsorship of television programs to help educate, provide job leads and generally to show interest in and develop pride among the disadvantaged, especially those who are members of minority groups.

Luce will be honored by his fellow businessmen at a dinner June 25, at the New York Hilton. Chairman of the dinner program is Melvin L. Milligan, Trans World Airlines vice president and general counsel.

The Business Citizen of the Year Award is symbolized by a bronze statuette, designed by Neil Fujita, connoting the direct involvement of business in the social problems of the community as a basic obligation.

Luce came to Con Edison as chairman and chief executive officer August 1, 1967, from the post of undersecretary of the Interior. From early 1961 to late 1966, he had served as Administrator of the Bonneville Power Administration, and for 15 years prior to that he practiced law in Walla Walla.

Luce was born in Platteville, Wis. He received his LLB degree at the University of Wisconsin Law School and studied for one year as a Sterling Fellow at the Yale Law School. He served as an attorney for the Board of Economic Warfare in Washington, and as a law clerk to Supreme Court Justice Hugo L. Black.

Luce is also chairman of the National Water Commission and a member of the boards of trustees of Columbia University, the New York Urban Coalition, the Edison Electric Institute, the New York Botanical Garden and Resources for the Future.

THE AUTHORITY OF REASON—AN ADDRESS BY SENATOR JACKSON

Mr. MAGNUSON. Mr. President, my colleague from Washington, Mr. JACKSON, delivered the commencement address last Sunday at Washington State University. His address was thought provoking, and deserving of the perusal of the Members of the Senate. I, therefore, ask unanimous consent that the text of Senator JACKSON's remarks be printed in the RECORD.

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

THE AUTHORITY OF REASON

(By Senator HENRY M. JACKSON)

Dr. Terrell, President Dederer and Members of the Board of Regents, Faculty, Graduating Class, Parents, Ladies and Gentlemen:

I am delighted to have this chance to participate in your commencement ceremony.

I

To some people it is discouraging when so much of the public discussion these days is devoted to the problem areas of our nation abroad and at home. Yet the attention we give to our problems should be a source of strength. Any people that can be as aware of the challenges as we are cannot be all bad!

Look at some of the challenges that confront us:

Abroad, a fresh crisis arrives as regularly as the morning paper. Contrary to the reassuring view of some people, I do not know how to assess the Soviet Union except as an opportunistic, unpredictable, dangerous opponent—with rapidly expanding military capabilities. We cannot be confident that a Soviet Union that invades Czechoslovakia—a communist ally—will not use military force to achieve its purposes on other fronts, when it thinks this can be done without running unacceptable risks.

In a world where the fire alarms are ringing, it makes good sense to keep our fire-fighting forces in first class shape. And, obviously, the only safe way to negotiate with the Soviet Union is to have strong positions to bargain from. And work with friends and allies we must—for our *combined* efforts are needed to manage international conflict and keep it within bounds. But working with proud and self-reliant nations is easier said than done.

At home, we are up against prodigious problems. We have yet to discover how to meet our need for public services. We build cars faster than roads, shopping centers faster than schools, factories to produce patent medicines faster than hospitals. Science has taught us how to prolong life, but all too often the elderly live in poverty and loneliness. We have an economy which produces wealth beyond the dreams of past societies, but millions of Americans are left out of the benefits. One of our most booming growth industries is crime, which takes its greatest toll from the poor and the deprived.

As our population goes up, more and more of our people will be urban dwellers with all the problems that can bring, such as blight in our cities and choked systems of transportation in our metropolitan areas. Our natural resources are going to be under tremendous pressure. We have plenty of polluted water, fouled air, and desecrated land right now.

II

It is of particular concern that our nation is now plagued with an extremist right and an extremist left that hold the same destructive view—namely, that wrongs can be righted by taking the law into one's own hands.

Governor Wallace standing in the schoolhouse door in Alabama finds his natural counterpart in Mark Rudd standing in the university door at Columbia. The "burn and bomb the system" contingent has its counterpart in the "bomb the enemy back into the Stone Age" contingent.

The threat of the extremist goes to the very heart of democracy. What they propose is *tyranny of the minority.*

Impatient with the democratic process, the extremists are out to thwart the will of the majority expressed through duly constituted democratic institutions. Some of the more extreme even say that there is no majority because the majority has no right to have views that they disagree with!

Both the extreme right and the extreme left deny the central principle of a democratic government—the right of the majority to work its will—while not overriding the rights of the minority, or infringing individual rights and liberties.

Historically, since the days of Magna Carta, we have worked to establish democratic institutions to safeguard against a *tyranny of the majority.* We have devised constitutions, check and balance systems, periodic free elections, the due process of law in order to set certain limits on government and to protect the freedoms and rights of minorities. Now, we're up against a situation where the great majority of the country needs protection against small extremist minorities on the left and right who are determined to thwart the will of the majority expressed through orderly democratic processes.

No fancy-Dan playing with words can make extremism into a virtue, for let us be perfectly clear what an extremist is: *an extremist is a person who takes the law into his own hands.*

When it is out of power, extremism leads to anarchy, inviting the mob to rule; in power, it is autocratic, denying the civil liberties which are the bulwark of freedom. In power or out extremism is incompatible with civilized life, which must reject anarchy and autocracy for a middle ground of responsibility—where men can reach agreements without compulsion and can still disagree without recourse to violence.

III

Take the problem on university campuses across the nation.

When I speak critcially of these problems, let me emphasize that I am not talking about Washington State Univesity. This University stands in a progressive tradition of student participation in the common life of the campus. When differences on issues have arisen here, and they have been minor, they have been amicably adjudicated—thanks to the University Administration, faculty, and students. My highest praise to President Terrell, the Board of Regents, the faculty and the students for the reasoned way in which problems have been resolved.

Some young people are, I know, sharply critical of their education. Fine. It isn't as good as it ought to be. Fortunately, however, it is also a lot better than it used to be. The transmission of knowledge has been dramatically improved and accelerated in the past few generations, so that today's high school graduate is better educated in many fields than the college graduate a few years ago, and today's college graduate better than the Ph. D. a generation back.

Most colleges and universities should do more to listen to the constructive suggestions of students. Obviously, there should be clearly available means so that student opinions can be heard and understood and properly responded to by faculties and administrations.

Furthermore, most colleges and universities should do more to make the curriculum and the teaching more meaningful in terms of today's problems at home and abroad. On this, students often make wise and very useful suggestions.

But some young people are not just constructively critical of their education. Let's be frank about it, some of them have been caught up in a wave of anti-intellectualism and they aim at nothing less than the destruction of the life of reason.

Today, some student and professor activists inside some universities, and certain outside ideological groups, no longer believe that truth and the authority of reason must be the essential consideration in the college and university community. Both the extreme right and the extreme left hold the same low view of reasoned discourse. They are essentially political activists who see universities as pawns in a bigger game and who are willing to subordinate the universities and the integrity of the educational process to external political ends.

IV

Part of the anti-intellectualism is a contempt for the rights of others. So we have forceful takeover of buildings, college officials held prisoner, files rifled and documents stolen, and classes forcefully disrupted.

What should be done when members of a university community use force or violence to disrupt and cripple the university? I believe its administrators have no alternative but to take the proper legal steps to stop them. Capitulation to force leads only to further demands backed up by further force, and where the mob rules, the rights and freedoms of students to learn and teachers to teach disappear.

Furthermore, the university is not a sanctuary where civil crimes should be forgiven and the authority of civil law eroded.

As Thurgood Marshall, the first Negro Justice of the U.S. Supreme Court, said just last month:

"It does not take leadership or courage to stand in the back of the crowd and throw rocks or bombs. Nothing will be settled with guns, fire bombs or rocks. The country can't survive if the perpetrators go unpunished."

"Anarchy is anarchy," Thurgood Marshall added, "and it makes no difference who practices it—it is bad, it is punishable, and it should be punished."

V

Education, of course, is not a guarantee of wisdom but it helps, and I will bet on the wisdom of a democracy that values education to understand that the path to a decent future leads by the many small steps we call *reform* and not by a leap into the darkness of extremism, whether it is called *reaction* or *revolution*.

Our survival in freedom and our chance to leave to our children a better America in a better world depend on enough of us being sensible, clear-thinking, and sufficiently hard-headed to know that extremism provides no answers—and prepared to stand up and be counted when the easy course is to sit on our hands. The task of all of us is to call for obedience to the law—and to denounce mob action.

At a recent graduation exercise Bob Hope's advice to the young people going out into the world was: Don't go! But that choice is not available—attractive as it sometimes seems.

If this university has served you well, and I trust it has, you know enough to understand that there is much more to know, and that is the beginning of wisdom. It is also an excellent preparation for getting on with the world's work.

Go on, now; there is plenty of work to be done.

NEW BOOK: "ROBERT R. YOUNG—THE POPULIST OF WALL STREET"

Mr. MAGNUSON. Mr. President, I invite your attention to a recent book which focuses on a sector of American business which should be of interest to every Member of the Senate.

"Robert R. Young—The Populist of Wall Street," by Joseph Borkin, provides a revealing and documented account of one of the great business battles of our times—the struggle for control of the New York Central Railroad.

This book contains a rare blend of drama and scholarship capable of holding the reader in its grip to the last sentence. It may well be considered one of the more important contributions to American business history.

DR. HAROLD S. DIEHL ON SMOKING AND ITS HEALTH HAZARDS

Mr. MAGNUSON. Mr. President, Dr. Harold S. Diehl is one of our most distinguished authorities on the subject of smoking and its health hazards. Upon retiring from the University of Minnesota, where he had held the position of dean of medical sciences and professor of public health for 23 years, Dr. Diehl joined the American Cancer Society as senior vice president for research and medical affairs. He has devoted much time to the study of smoking and its relation to disease and has worked long and hard to increase the public's awareness of this relationship. His most recent addition to the body of knowledge on this subject is his book, "Tobacco and Your Health: The Smoking Controversy," a lucid dissertation of the research done to date on smoking and health.

In trying to understand an issue so complex as the relationship of smoking and disease, we are very fortunate to have at hand the conclusions of a physician as wise and articulate as Dr. Diehl.

I ask unanimous consent that the review of his book in Medical World News be printed in the RECORD.

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

TOBACCO AND YOUR HEALTH: THE SMOKING CONTROVERSY, BY HAROLD S. DIEHL, M.D.

(Reviewed by Luther L. Terry, M.D., vice president for medical affairs, University of Pennsylvania)

More than 40% of the total American adult population are regular cigarette smokers. And more than half of these people have tried to quit smoking at least once. To reinforce their motivation and to make it possible for them to quit smoking, they need encouragement from their personal physicians. Since office counseling is frequently brief, the physician can choose no better course than to refer his patient to this book.

Every day, about 3,500 teen-agers and young adults try their first cigarette. The fortunate ones do not repeat the experiment. Many others, however, continue smoking until they develop cigarette dependency. Many of these young people will find a factual talk with their family physician about general health habits—including the smoking question—sufficient to swing them back to the ranks of nonsmokers. To supplement what the physician may say to these younger patients, this new volume is valuable in its scope, authenticity, and readability.

During the past ten years, Dr. Diehl, who is emeritus dean of the medical sciences at the University of Minnesota and former vice president for research and medical affairs of the American Cancer Society, has worked to increase public awareness of the health hazards of cigarette smoking. His efforts, both within the medical community and among the American public, come into even sharper focus in his book.

The volume opens with statements by national and internationally famed scientific experts—statements that unequivocally indict cigarettes as a cause of lung cancer and as a principal factor in either causing or exacerbating various other respiratory and cardiovascular diseases. Says Dr. Diehl: "In spite of such total agreement among health and medical organizations, spokesmen for the tobacco interests keep saying, 'There is no scientific proof that cigarette smoking causes any human disease or in any way impairs human health.' " And in support of this theme, the advertisements of the cigarette industry "imply that smoking is associated with robust health, vigor, charm, and romance."

This book has a provocative message for both the smoker and the nonsmoker. To challenge the habituated smoker into questioning his cigarette dependency, the author outlines such factual aspects as the history of tobacco usage; reasons why people smoke; the degree of risk of cigarette, cigar, and pipe smoking; and what is being done or can be done by the tobacco industry, by voluntary health, educational, and civic organizations, and by government to reduce the health hazard of cigarette smoking.

Specific chapters deal with general death rates, as well as the comparative incidences of illness and disability among smokers and nonsmokers. Other chapters discuss the relationships between tobacco usage and cancer incidence; tobacco and cardiovascular disease; and tobacco and chronic bronchitis, emphysema, and certain other diseases. Well over 90% of the book's content has been gleaned from material in the scientific press or U.S. government sources. The latter include the 1964 report of the advisory committee to the Surgeon General of the Public Health Service, the 1967 and 1968 supplements to this document, and the report of the National Center for Health Statistics entitled *Cigarette Smoking and Health Characteristics*. These references as well as others are fully annotated in the appendix and supplemented by footnotes.

Other highlights include information on who smokes and why, the personal decisions involved for the person who decides to give up smoking, and where he can go for assistance. The book reports the counterattacks of the tobacco industry and its supporters to distort or suppress the facts about smoking-induced disability, disease, and death. There is also discussion of government responsibility to protect the health of the nation from what—to this reviewer, among others—is our No. 1 public and personal health problem. A helpful glossary of terms is given in the appendix.

At the present time, 250,000 to 300,000 lives are lost yearly in the U.S. because of smoking-related disease. A considerable portion of medical practice is devoted to alleviating the needless disability and disease caused by long-term habituation to cigarette smoking. Much more can be done to reduce this unnecessary and wasteful toll, if practicing physicians will take the initiative and pursue a more aggressive role in counseling patients against smoking.

This book will serve the practitioner well as a reference and as a reminder of his responsibility to answer personally to a vital need of his patients and their families. And if he is not one of the more than 100,000 physicians who have either quit smoking or never started, he ought to heed the book's very special message.

THE WORK OF THE NATIONAL COMMISSION ON PRODUCT SAFETY

Mr. MAGNUSON. Mr. President, last week, I placed in the RECORD an article describing the work of the National Commission on Product Safety which appeared in the Washington Post. On Mon-

day, June 2, 1969, the Washington Post published a letter, responding to the article, by Mr. John W. Heiney who is president of the Indiana Gas Co., first vice president and director of the American Gas Association, and chairman of the association's special committee on consumer affairs.

Through its laboratories in Cleveland, Ohio, the American Gas Association maintains one of the best voluntary industrial standard programs in private industry. Prototypes of gas appliances and accessories must meet safety standards developed by the United States of America Standards Institute before the appliances are entitled to bear the laboratories' certification seal—the blue star. But the laboratories' work does not stop with the certification. AGA inspection engineers make periodic checks to see that the products manufactured continue to conform to the design which was originally tested.

Mr. Heiney's letter tells of the steps the association's appliance testing laboratories are taking to eliminate the burn hazard which has been found to be associated with gas-fired floor register floor furnaces. The letter is indicative of the sincere constructive approach the American Gas Association has to consumer problems and AGA and its laboratories are certainly to be commended for their efforts to meet their responsibilities in this area. AGA should be commended, as well, for its forthright support of the work of the National Commission on Product Safety.

Mr. President, I ask unanimous consent that the letter from Mr. Heiney be printed in the RECORD.

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

NEW YORK, N.Y.

GAS SAFETY MEASURES

In your article, "Product Safety Gains Impetus," in the May 12 edition of *The Washington Post*, reference was made to gas-fired floor register floor furnaces.

The American Gas Association is in complete agreement with the National Commission on Product Safety that ways must be found to eliminate the burn hazard from the grate which has been revealed as associated with the use of these furnaces. To that end, the gas industry has initiated the following actions:

1. The Association's Appliance Testing Laboratories have suspended testing and certification of new models of floor register floor furnaces.

2. Manufacturers of certified floor furnaces will provide prominent warning labels and clearer operating and installation instructions.

3. Manufacturers have outlined to our laboratories a comprehensive and cooperative research program which they are launching to find ways of reducing the temperature of the floor furnace grate.

4. Officials of our appliance testing laboratories are exploring with representatives of government, consulting experts and standards-making bodies a wide spectrum of possible solutions to this problem. None of these has yet been proved out, including those of Weiner Associates referred to in your article.

The above action demonstrates that our industry is not standing still in its efforts to help provide the consumer with the safest products possible. The American Gas Association is constantly seeking methods to strengthen and improve its testing and certification program to provide high quality and high performance gas appliances. In this connection we have been cooperating closely with the National Commission on Product Safety.

The tens of thousands of models of appliances which have been tested and certified during the 44 years of AGA's testing and certification program, and the millions of gas appliances which have been built in accordance with these certified models and used safely by consumers, attest to the fact that a voluntary standards-making system can and does work.

J. W. HEINEY,
Chairman, Special Committee on Consumer Affairs, American Gas Association.

TRIBUTE TO LEON HERMAN, DISTINGUISHED PUBLIC SERVANT

Mr. MAGNUSON. Mr. President, I rise today to pay tribute to a gentle scholar who labored tirelessly to lead us into a clearer understanding of the complexities of the cold war.

When Leon Herman died unexpectedly at his home on the last day of May, we lost one of our most knowledgeable and experienced students of the Soviet economy. Since 1942, Mr. Herman had served his Government truly and well, first as Chief of the U.S.S.R. Section of the Department of Commerce, and then, for the last 12 years as the Senior Specialist in the Soviet Economy at the Library of Congress.

He provided insightful analyses for many of us, wrote definitive reports on the evolution of the Soviet economy and often served as a guide and traveling expert for Government officials visiting the Soviet Union.

Throughout his career, Leon Herman sought to cut through the political myths of the cold war and to concentrate instead on the economic realities which he saw moulding Soviet policy. He possessed a brilliant mind, crammed with facts and figures and ideas. But he was always humble, eager to talk to anyone who sought his advice. At times his small office in the Library of Congress would be crowded to overflowing as students, legislators, and administrators sought his advice.

For Leon Herman believed in sharing his knowledge. A Polish immigrant, he saw clearly the responsibility of a free people to keep informed and devoted his life to informing others.

In many ways, he was the epitome of the intellectual in government service. His presence on Capitol Hill enriched the Nation's performance; but, at the same time, he enriched also the scholar's world: for, more than just acting as a conduit of ideas flowing into the Government, Leon Herman was a source of ideas flowing through the universities and the colleges of the West.

Even in these troubled times, Leon Herman remained an optimist. Despite the cruelties he had witnessed in his life, he saw mankind moving to a better state, where all men might transcend their intellectual differences and live in peace.

Just 4 days before he died, Mr. President, I presented Leon Herman's last work to this distinguished body as supplemental information to my proposed East-West Trade Relations Act of 1969. As I read through it again, I became even more conscious of the Nation's loss; Leon Herman was a gifted scholar of surpassing insight.

I ask unanimous consent to have printed in the RECORD the article eulogizing Leon Herman contributed by Joseph G. Whelan.

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

LEON HERMAN, A REMEMBRANCE, JUNE 3, 1969

(By Joseph G. Whelan)

It is very difficult for me, as it is for you, to say all that is in one's heart this afternoon—the sadness, the warmth, the love, the deep sense of loss that binds us all together in sharing this burden of sorrow.

We, the family and friends of Leon, must measure for ourselves what this man has meant for each one of us; and in taking that measure, we alone can know the full weight of our grief.

For Augusta, Leon was a man of unbounded affection, of tenderness, of love; a thoroughly good man, he was, who shared with her a lifetime of joy and happiness.

For Gene and Paul, Leon was a model father who imparted, among other things, perhaps the greatest of all human values, a love for the intellectual life, a love for the pursuit of learning.

And for us his friends, Leon was whatever was lacking in ourselves; for, through his infinite generosity, his total giving of self to others, he gave strength to those in emotional distress, wisdom to those exhausted in their own intellectual resources, and confidence to those suffering from a loss of will or of purpose.

He was this, and much more—this, we all know.

For, in all he did, Leon excelled; he accomplished many things, although in his quiet self-effacing way he sought to minimize these achievements. But we all know that by these achievements he had won the respect and admiration of professional men in Government, of leaders in our national Legislature, of the scholarly community, and of men in the business world. Yet, despite this eminent and deserved recognition of worth, he remained as he had always been a genuinely humble man who deplored false pride and false prestige and commanded the esteem of his peers by the weight of his knowledge and the excellence of his professional performance.

For Leon was the complete professional man, thoroughly grounded in the disciplines of economics, Soviet affairs, and international relations; and he was gifted with a power of insight, analysis and articulation that enabled him to make a profound impact not only within the narrower sphere of Government service but far beyond in the many worlds of scholarship, education, and business.

Leon's professional activities as a specialist in Soviet economics and a long-time student of international trade and world affairs are recorded in a vast bibliography of published and unpublished writings, compiled during years of public service in the Department of Commerce and the Library of Congress. They are recorded, too, in an impressive record of active participation, often as one of the principal generating forces, in professional organizations whose purposes were to advance the study of Soviet affairs and the study of economics. And, they are recorded in his commitment to teaching in the School of International Service at American University and in the ever-lengthening list of lectures and panel participation in meetings of specialized groups too numerous to mention.

As a truly professional man, Leon moved

with an uncommon grace and ease within the Government service and between it and the worlds of scholarship and business; and wherever he went, those with whom he was closely associated could not fail to feel the impress of the power of his intellect, the depth and breadth of his wisdom, and the vast dimension of his human understanding.

In this way Leon epitomized the finest of what the intellectual should be in the Government service. He should be, as Arthur M. Schlesinger, Jr. once said during the Kennedy years, a conduit between the intellectual world outside and the Government, a sort of vital connection for tapping an essential, life-sustaining natural resource.

This Leon was; but he was more: by his own unique professional abilities and personal qualities, his presence not only enriched the Government service, but, in a reverse way, enriched also the scholarly world; for more than just acting as a conduit of ideas flowing into the Government, Leon himself was a seminal source of influence, generating ideas throughout the nation's scholarly community itself.

Of all the publications in both private journals and public documents for which Leon bore either direct or indirect responsibility, perhaps none illustrates this point better than the studies prepared for the Joint Economic Committee of Congress under Leon's direction. First published in 1962 and followed by numerous succeeding volumes, these studies have drawn widely upon the expertise of specialists in the Soviet economy within the Government and within the nation's scholarly community.

Besides assuming the directorial and editorial responsibilities, Leon also contributed chapters on Soviet trade.

Recognized immediately as work of extraordinary merit, these studies have become a standard source for the study of the Soviet economy in our nation's colleges and universities and in other centers of Soviet studies throughout the West.

Thus, in this case alone (for there are many more) Leon was able to exert his energies and apply his extraordinary gifts not only for the benefit of Congress but for the good of scholars everywhere and for the advancement of knowledge.

But this is what Leon was: A person imbued with the finest spirit of intellectualism, and dedicated to the service of others. For Leon's was a life devoted to the achievement of these greatest of all human values.

Intellectually, he was a totally committed person. His interests ranged far beyond his professional concerns, to the theater, to literature, to history; indeed, he was the universal man who found infinite pleasure in contemplating and discussing the whole of the human experience. A chance telephone conversation, a casual "walk around the block" after a noon-day lunch, table-talk at dinner before a meeting of the local AAASS chapter—these could be, and more often were, occasions for a stirring intellectual engagement on the politics of the day, the social unrest in the country, the state of the theater and the arts, or an analysis of the latest developments in East-West relations.

But Leon's intellectualism was not something self-centered and self-contained: it was always placed in the service of others. This was probably his most distinguishing personal characteristic; for, as a totally involved human being, he willingly and unsparingly shared with others himself, his energy, his many gifts and talents.

In this sense Leon was a genuine humanist. As a compassionate man, he loved humanity for its better qualities; and despite the cruelties that he had seen in his own lifetime, he could not take a tragic view of life or of history. For him, the history of modern man represented the accumulated values of all civilization, and civilization for all its faults and frailties was moving to a higher plane of social betterment for all mankind.

An optimist, he was ever hopeful, ever-expecting better things, although by no means was he unmindful of the odds that mankind faced. An essentially untragic man living in a potentially tragic world, he could look beyond the overt weaknesses and shortcomings of our country, and see its many strengths, and assessing its possibilities for achieving a greater good in this world, could cast his vision to more distant horizons and give hope and confidence, indeed faith, to those more pessimistic.

This was Leon; and one should not have expected less of so fine and sensitive a man; for, as we all know, he was the kindest of men who had a nobility of spirit that touched us all.

SUPPLEMENTAL APPROPRIATIONS 1969—PROGRAM

Mr. KENNEDY. Mr. President, it is not possible to have disposition of S. 1708 today, and probably not in the very near future.

In accordance with the previously announced schedule of business by the leadership, I move that the Senate proceed to the consideration of Calendar No. 218, H.R. 11400, the Supplemental Appropriations Act. No action will be taken on this measure until Monday next. I wish to emphasize the previously announced schedule that Senate Resolution 85, the so-called commitments resolution, will be the next order of business in the Senate, immediately after disposition of the supplemental appropriation bill.

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

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 11400) making supplemental appropriations for the fiscal year ending June 30, 1969, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to; and the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments.

Mr. PROXMIRE. Mr. President, I want to thank the acting majority leader for this action. I think it is wise. I understand it has been taken with the full concurrence of the distinguished Senator from Washington (Mr. JACKSON), who is the author of the bill. I hope that before the bill again comes before the Senate, Senators will have an opportunity to consider it and will have an opportunity to consider the objections which Senator Wayne Morse made to it. He was the author of the Morse formula. He sent me a letter, which I read into the RECORD a few minutes ago. I hope Senators will consider carefully what S. 1708 would do as a giveway, and the bad precedent which it would set.

THE MILITARY BUDGET AND NATIONAL PRIORITIES

Mr. PROXMIRE. Mr. President, on Tuesday, June 10, 1969, the Senator from Arizona (Mr. GOLDWATER) presented testimony to the Subcommittee on Economy in Government, which is holding hearings on "The Military Budget and National Economic Priorities."

Senator GOLDWATER made an excellent presentation of an important viewpoint with regard to military spending. Although I do not entirely agree with all aspects of this viewpoint, there are a number of areas of common agreement between Senator GOLDWATER and myself.

Both of us, I believe, are concerned about waste and inefficiency in the Defense Department. Both of us support a strong defense program.

I agree with Senator GOLDWATER that "the American people have had enough of secrecy and distortion from the Pentagon." I agree that the American people have had enough of "false information about low bids, efficiency performances, procurement practices."

I also agree with Senator GOLDWATER that "the American people have had enough from the Pentagon that sounds like cost-effectiveness and which was really waste and inefficiency."

The subcommittee was particularly pleased that Senator GOLDWATER could participate in the present inquiry because of his extensive knowledge and experience with military spending problems as a result of his membership on the Senate Armed Services Committee over the past many years.

I ask unanimous consent, therefore, to have printed in the RECORD the full text of Senator GOLDWATER's statement to the Subcommittee on Economy in Government, Joint Economic Committee, June 10, 1969.

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

STATEMENT BY SENATOR BARRY GOLDWATER

Mr. Chairman and Members of the Subcommittee, I wish to thank you for inviting me here today to testify on this very important question of the military budget and national economic priorities. I believe, Mr. Chairman, that my career and my public statements over the years have qualified me to some extent to add my voice to any discussion which has to do with military expenditures in today's world.

Now, when I was first asked to testify at these hearings, I declined. My feeling was that the members of this subcommittee may already have made up their minds as to where the military budget should fit in any overall consideration of national spending priorities. In addition to that, I was concerned that the subcommittee's revelations on waste and inefficiency in defense procurement would become a controlling factor in any recommendations it might make on spending priorities.

This feeling, I must say, stemmed primarily from the news release which was attached to the Chairman's letter to me in which it was announced that there are clear signs that the Federal Government is spending too much money on military programs. This was a direct quote from that press release which went on to say that the hearings of this subcommittee on the C–5A cargo plane illustrated that the Pentagon was unable to effectively control the cost of its weapons system.

Mr. Chairman, I have no quarrel with the whole idea of coming to grips with waste and inefficiency and the expenditure of too much money in defense procurement. However, I do not believe that this should be a ruling factor in any decision on spending priorities.

As I say, this was my feeling. I must say that it hasn't been entirely dispelled. However, since declining the committee's first invitation to appear and testify, I have had several conversations with Chairman Proxmire which clarified certain points in my mind. In addition to that, President Nixon

has subsequently clarified the administration's viewpoints on some of these questions.

Consequently, I am here today in the hope that I may be of some assistance in these deliberations.

At the outset, let me make it very clear that I did not come here today to debate military strategy or to criticize or evaluate American policy in Vietnam or other areas of the world. Nor did I come here to suggest any panaceas for the situations that confront us.

For example, I am not about to come up with any easy-sounding solution such as the nationalization of defense industries doing more than 75 per cent of their total business with the government. I have no desire, believe me, to extend the bureaucratic arm of this government, especially into the field of private enterprise. I ask you to consider how long it might take us to receive delivery on a new plane if Lockheed or North American Aviation or Boeing or any of the other defense contractors were being operated with that marvelous bureaucratic efficiency with which our Post Office is run.

In the Chairman's invitation for me to appear, he spoke of a dialogue on the important questions involved in the military budget and national economic priorities. I sincerely hope that such a dialogue will be possible, but I must, in truth, say that so far from what I have read in the papers, these hearings have seemed to be more of a sounding board for those who want to criticize various facets of our military establishment or our foreign policy than it has a serious dialogue on where the defense of this nation should stand in any list of priorities.

For example, everytime that Secretary Laird tries to explain the necessity of a system like the ABM, the hue and cry immediately is raised that he is attempting to frighten the American people.

Mr. Chairman, in stating the problems that face this nation on a worldwide basis from a militant, aggressive Communist nation like Soviet Russia, I do not believe the Secretary is engaging in a deliberate effort to frighten the American people. If the truth is frightening, so help me that's the way it's going to have to be. Because the American people have had enough of secrecy and distortion from the Pentagon, whether they be called justifiable lying in the name of national security, such as we used to hear from gentlemen like Assistant Defense Secretary Arthus Sylvester or whether they are in the form of false information about low bids, efficiency performances, procurement practices, the American people have had enough from the Pentagon that sounds like cost-effectiveness and which was really waste and inefficiency.

I am convinced that the American people want the truth about their government and about the challenges which face us as a nation. If the truth is frightening, if it gives us cause for concern, I am convinced that the American people will be able to cope. I don't want anyone in this administration, particularly in the Defense Department, glossing over the true situation that confronts the American taxpayers and their collective security.

We are faced with a challenge, and let me say that it is not Secretary Laird nor President Nixon who is arranging the formidable military buildup in the Soviet Union. Nor do we know the facts of this buildup from their information alone. Many independent sources, including the British Institute for Strategic Studies have also laid out the cold, hard facts of a Soviet armaments buildup.

The plain fact is the Soviet Union is building up all facets of its military capacity. Its nuclear capabilities are being extended. Its navy is being enlarged. All of its conventional arms are on the increase. The SS–9 missile is on an increased production schedule. They are spending a growing portion of their national income on military hardware.

These items are not related as a scare tactic; they are reported because they are facts. And I believe this nation and this subcommittee have got to face these facts and the overall fact of a worldwide challenge to the United States in deciding about the disposition of military expenditures.

I do *not* mean by this that there should be any condoning of or acquiescing in waste and inefficiency and extravagance in the military establishment. I believe that we must do everything in our power to eliminate waste and inefficiency and extravagance in the Pentagon and in all other departments of this sprawling, hard-to-manage federal system.

And I should like to emphasize that President Nixon shares this view. In fact, in his speech at the U.S. Air Force Academy, he urged the graduates to be "in the vanguard of the movement" to eliminate waste and inefficiency and demand clear answers on procurement policy.

Your own subcommittee, in its previous report, has outlined this problem in great and admirable detail. The Defense Department over the past eight years has loaded the taxpayers of this country with billions of dollars that were unnecessarily spent. I want to congratulate this subcommittee on its work in bringing the full magnitude of this situation to public attention.

I do believe, however, that when this subcommittee and this Congress begin to investigate and report on billions of dollars of the taxpayers' money lost, they are, to some degree reporting on their own delinquency.

I think we have to remember that no one forced the Congress to approve these funds. These huge defense budgets over the past eight years were subject to Congressional inquiry. Nobody actually jammed them down our throats.

Now, Mr. Chairman, I have not been here for the last four years, but I have a pretty fair idea of what went on in the matter of defense expenditures prior to that time. And I want to say that is was no mystery to well informed and inquiring people that things were terribly wrong at the Pentagon and in its procurement procedures.

As a matter of fact, the TFX fighter bomber case alone was sufficient to point us in that direction. I say again, there was no mystery. Many stories were written about the investigative efforts of Senators McClellan, Jackson, Curtis, and Mundt, directed at cutting away some of the confusion and some of the misinformation that was being used to cover up a very, very bad piece of procurement by the Pentagon.

Now this was a big case. It involved billions of dollars. And it was a case where a multi-billion dollar contract was awarded to the highest bidder for a plane over the advice of practically every expert in the military services affected.

As I say, there was no mystery about all this. Books were written on the subject. I have read a book called "The Pentagon" written by Washington correspondent Clark Mollenhoff in 1967 and another volume by the same author called "The Despoilers of Democracy." Both of these books told a frightening story of waste and inefficiency, extravagance and favoritism in the Department of Defense.

Now these were not generalities. Mr. Mollenhoff and reporters like him dealt with specific facts about the waste and inefficiency and squandering of the taxpayers' money in the Department of Defense. But I don't recall any great hue and cry being raised at that time. I don't recall any outpouring of criticism aimed at the so-called military-industrial complex. I don't recall any efforts to take a more than customary look at every facet of the defense budget. I don't recall either any strenuous attempt by any group in Congress to establish a system of priorities for this nation's critical needs.

Perhaps we failed in this respect because of the public relations ability of former Defense Secretary Robert McNamara.

As the *Washington Post*, in an article by Richard Hardwood and Laurence Stern, observed on June 4.

"McNamara became a liberal hero despite the Bay of Pigs, the Dominican intervention and the war in Vietnam and despite the steadily rising costs of the military estabment (from $47 billion in 1961 to more than $80 billion today)."

I believe we must remember that it was McNamara, and not Laird, who presided over the Defense Department when all the waste and inefficiency and cost overruns were being piled up. He is the man I suspect who should have been called as a witness in your prior hearings on waste and inefficiency in defense procurement. And I believe he ought to be heard in these current hearings. The Congress certainly ought to know what the man who decided the destinies of this huge undertaking for so long a period of time has to say about the mess that the incoming administration found when it took over the Pentagon.

So much for past history. Now I believe it is time for this committee to direct its attention to how best it can come to grips with the current problem.

Let me be very clear. I am interested in your deliberations and I am very desirous that some recommendation will come forth which will take into account not only the huge burden which our present defense needs place on the American taxpayers, but also will take into account the continued security of the American people and the continued welfare of the free world. I am as much concerned as you are over the high cost of defense. It worries me greatly, but at the same time I recognize that the kind of emphasis which currently is being placed on this problem could result in a dangerous lowering of our overall needed defense outlays.

I want you gentlemen to know that I firmly believe in a system of priorities for the spending of federal money. I have long advocated this and believe it should be as important a part of the process of spending in government as it is in the operation of a business or spending in our private lives. I believe such a system of priorities should not be confined to broad subjects such as welfare, housing, urban problems and military spending and decisions as to which should come first, second, third or fourth. I believe it must be extended into every detail of these structures. I have, for example, asked the various services to project their needs ahead on the basis of a continuing war in Vietnam and, secondly, on the hope that this war will be ended shortly. In either case, the services will need to consider how many bases might be needed to maintain and train a force necessary for our defense requirements.

If we could get some kind of a projection, I think it would bring about a more orderly system for construction and maintenance of military bases and would also give the communities affected an idea of what to expect. We need to ease the hardship that comes to the economy of communities when military establishments are closed down without advance warning.

In the case of the Navy, I have asked what a long-range program to put the Navy back into first class shape might look like in light of the Soviet naval buildup.

I have asked similar questions of the other services. For I believe that only through long-range, detailed planning can we avoid periods of frantic effort to catch up with the activities of our potential enemies. The cost of such effort is prohibitive and that is what we are experiencing today.

I should think that this committee would certainly have a role to fill in overseeing this kind of long-range planning and priority. However, I really believe that to have it performed properly there should be a joint effort involving the Joint Economic Committee, the Appropriations Committee and the Armed Services Committee. In fact, I think it might be advisable to establish

an overall Priority Committee to work for an orderly system of federal spending.

I believe there is no excuse for waste and inefficiency in any area of government, whether it is in the procedures and practices which have grown up in the Pentagon over the past eight years or in the expenditures for antipoverty projects such as the Job Corps, or in expenditures for highways, schools and hospitals.

But the mere existence of waste and cost overruns and similar problems in military procurement must not be allowed to blind this country to the need for keeping its defenses strong. Nor should the inflated cost of military hardware become the overriding consideration in determining our level of defense expenditures.

Now on the question of inflated costs, it stands to reason that rising prices are not peculiar to defense projects alone. I say that this is an important factor which must be considered carefully.

We must recognize, for example, that testimony before the Armed Services Committee indicates that perhaps as much as $500 million of the growing cost of the C–5A cargo plane is attributable to inflation. But at the same time if the C–5A is considered essential to the defense of this nation, we must grit our teeth and accept the burden.

For if we permit rising costs to become the sole determining factor in deciding whether an essential program is to be developed, then we must automatically call into question such projects as the International Highway System, and programs for building new schools, new hospitals and additional housing. In this connection, the Department of Transportation reports that in less than eight years the cost of the Federal Interstate Highway System has increased by an estimated $15 billion and no extra miles are involved.

A study in Montgomery County, Maryland, shows that an elementary school which cost $347,772 in 1959 costs $666,200 to build in 1969. A high school in that same county which cost $2.3 million in 1959 is priced at $3.4 million today. The same skyrocketing price structure runs throughout all government as well as private costs. This is the price we are now paying for a period of uncontrolled public spending. And here, too, the Congress must assume its share of the blame.

But we still come back to the basic premise which led President Nixon to say that he has no choice in his defense decisions "but to come down on the side of security." In other words, regardless of inflation and other factors, the security of 200 million Americans is non-negotiable.

In all discussions of military expenditures in the context of the debate going on today, sooner or later it gets around to former President Eisenhower's warning against the possibility of unwarranted influence being acquired by the military-industrial complex.

Everytime I hear this claim, I am reminded that the General had other important points to make in that farewell address. Because I believe they cannot be heard too often let me quote them again for you here:

"We face a hostile ideology—global in scope, atheistic in character, ruthless in purpose and insidious in method. Unhappily the danger it poses promises to be of indefinite duration. To meet it successfully, there is call for, not so much the emotion and transitory sacrifices of crisis, but rather those which enable us to carry forward steadily, surely, and without complaint the burdens of a prolonged and complex struggle—with liberty the stake. Only thus shall we remain, despite every provocation, on our charted course toward permanent peace and human betterment . . .

"A vital element in keeping the peace is our military establishment. Our arms must be mighty, ready for instant action, so that no potential aggressor may be tempted to risk his own destruction."

Mr. Chairman, last Sunday, the *Washington Star* had an excellent editorial which asked the question: "How much defense spending is enough?"

This, I think, gets to the heart of the matter that engages us in the dialogue that we find ourselves in here today. And in this connection, I want to point out that Chairman John Stennis of the Senate Armed Services Committee this year took a very important step towards obtaining an intelligent and expert answer to this question. He assigned every member of this full committee to a subcommittee which is looking into some aspect of the military budget.

For example, I serve on the Tactical Air Subcommittee which is charged with the responsibility of determining the actual needs of tactical air in the Army, Navy, Marine Corps and Air Force. When the budget comes to the floor, the members of our subcommittee will be in a position to discuss with their colleagues all questions that might be brought up when new equipment is sought or new purchases of old equipment are asked for.

Even though the able Chairman of our full committee and the extremely able and competent former Chairman, Senator Richard Russell, have been able to explain past budgets on the floor in a highly competent manner, this year they will be backed up by in-depth study and long subcommittee hearings covering every point in the total budget.

When we consider that the military budget before Korea was $13 billion and before the Vietnam buildup was $50 billion and now has reached the level of $80 billion, I think it is high time that the Armed Services Committee, the Appropriations Committee and this subcommittee look into the costs more closely than ever before.

I also feel the same type of observation study is needed throughout the entire budget submitted by the President. We might expand the *Washington Star's* editorial question of "How much defense spending is enough?" and make it read "How much spending is enough?"

Very frankly, Mr. Chairman, I believe we have reached that point in our history where money to cover government spending is going to be extremely difficult to obtain. In my humble opinion, if the war in Vietnam came to a complete halt this afternoon, we would not be able to make extreme cuts in defense spending for approximately five to seven years, as we will be forced to replenish the diminished stock of our military hardware.

Of course, if we could be relieved of our responsibility to the countries with whom we have made mutual security agreements, and if we could look forward to immediate talks with the Soviets on arms reduction, this statement might not be true. I sincerely hope along with all of you and all of our colleagues and all of the American people that in the very near future we can sit down with the Russians and discuss the whole problem of armament buildup.

This would be highly desirable, but I believe it would be disastrous for us to proceed in a way which would disarm the United States while its potential enemies in the world continue to build up their armed forces.

I thank you for the opportunity of visiting with you today, and if the members have any questions, I will be very glad to answer them for you.

Mr. PROXMIRE. Mr. President, I yield the floor.

CAMPUS UNREST

Mr. PELL. Mr. President, in the past weeks we have read and heard much about the current unrest on our Nation's college campuses. Here in the Senate our mail reflects a very real constituent concern about student unrest.

At this time I think it particularly important that there be as much rational discussion as possible of what is going on in our Nation's campuses. Often we find that this discussion has not been triggered by the most recent events, but has been on the minds of our leaders in education for many years. I was particularly struck by an article "Barnaby Keeney Talks About the Revolt on Campus," which appeared in the Providence Sunday Journal, April 27, 1969. Dr. Keeney is not only the past president of Brown University, but is ably now serving as chairman of the National Endowment for the Humanities. I think his comments are most lucid and ask unanimous consent that they appear at this point in the RECORD.

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

BARNABY KEENEY TALKS ABOUT THE REVOLT ON CAMPUS

(NOTE.—When Barnaby C. Keeney retired after 10 years as president of Brown University, he made it a rule not to comment on Brown affairs and to restrain himself from second-guessing former fellow presidents. Journal-Bulletin Washington bureau chief Lewis W. Wolfson found the chairman of the National Endowment for the Humanities reasonably true to his word as he reflected on the revolt in the universities. He spoke not as a government official, but as an old hand at university crises. This interview, from which these excerpts were taken, was tape recorded in Mr. Keeney's office in Washington last Monday.)

Q. How much student dissent is good for a university?

A. I think it is good for a university if students think of what's going on that concerns them and if they make their point of view clear—and discuss it—and this is inevitably going to result in different points of view.

The physical dissent that is going on now is quite a different matter, and I don't think that is tolerable to a university, although it is being tolerated. I don't think a university can exist under those circumstances.

Q. What is and what isn't tolerable?

A. Well, interference with the operation of the institution isn't tolerable.

Q. A sit-in in a meeting?

A. I think that depends on whether or not it stops the meeting. If it stops the meeting then I don't think it can be allowed. If it merely results in the presence of people other than the members of the group who are meeting, I think that's a little different matter.

Q. How do you treat with this situation of occupying meeting rooms or a building?

A. I think it should be treated in advance. If you don't you are in very bad trouble. In every university there's quite a complicated decision making process and this is one of the difficulties. For example, in some universities the deans have the disciplinary power. In others the faculty has it, and in others it's distributed among the administrative officers, the faculty and the students.

Now obviously when you have a situation that requires either quick action or no action, you cannot very well try people who are occupying the building, because, in the first place, you're not sure who they are. But you can agree in advance that you'll take certain actions in case people physically occupy buildings, just as you used to agree that generally speaking you'd take certain actions in case student or faculty committed offenses that were generally thought to be intolerable.

If the disciplinary apparatus of an institu-

tion is in agreement in advance as to the course of action that will be taken if a building is occupied, the executive or administrative authority can then carry out that action, and deal with the individual cases later.

POLICE ON CAMPUS

Q. Can you get that kind of decision in advance—when you've got the kind of situation now where everybody wants a voice in the decision-making?

A. That's the problem, I think, and that's where the thing is breaking down because it's very difficult to get a decision in advance on this sort of thing. But I don't think it's really been tried—I've not seen a case where there's been a statement that the faculty, administration, and student government agreed that if a building is occupied, the following things will happen. I don't know of a case—and I might be quite wrong on this—where it has ever really been tried. It's very easy to talk about these things, when you are not personally involved, but when you are it is quite a different matter.

Q. What is your feeling about the general idea of bringing police on the campus?

A. The traditional absence of police on the campus is the result of a long process that began in the 12th century. The members of the faculty and the students were either clergymen or so-called assimilated to the clergy. Thus, they were treated as clergymen, even if they hadn't taken orders. At that time clergymen were tried in separate courts from the lay courts so that in the 13th century—in most countries—the local authorities could not legally try or even arrest a cleric. Well, that developed into a sort of unspoken understanding that the police would stay off campuses if the institution could handle the situation itself.

I think in this situation you have to treat the police in much the same way as the firemen. The firemen are not infrequently called on campus simply because the institution doesn't have a fire department and can't handle fires.

Educational institutions have not called the police on campuses because the students did not create situations that the insitutions itself could not handle. As soon as they do, that inhibition is gone. And as soon as students create a situation that the institution can't handle, in my mind, they forfeit their immunity.

In most college cities or towns or neighborhoods, the police and students have known decades of friction. There are very rarely large numbers of policemen who are sympathetic to students. For that reason I think it's extremely important that the administration of an institution—well in advance of any need for police—begin to work with them to develop appropriate methods of evicting people. There are different ways of evicting people. One is to wade in and bang them over the head; another is to do it in a less violent manner. I'm told that at the University of Michigan—I may have the wrong university—the relationship between the university administration and the police was excellent in part because the former police chief was the university security officer. He had worked with the force for quite a while. When they had need to evict some people, he let the force in. Then, he addressed the occupying students, and said 'Now, ladies and gentlemen, we've been asked to arrest you. Those of you who would like to be arrested peacefully please stand up, go out and get in the paddy wagon.' Most of them did. Then he said to the others 'Now please sit down so that we can carry you gently out.' They did, so there was no violence at all.

ADVANCE NOTICE

Q. Are you saying you don't really quarrel with bringing a police force onto a campus if you judge the situation demands it?

A. I think that you've got to know in advance what you're going to do, and it's got to be known to the students in advance what you're going to do. You can't extemporize in a situation like this, because things move too rapidly.

Q. Why haven't college administrators done this?

A. I think some of them have—and some of them haven't. A university is a very hard place to get an agreement, and if you want agreement on an important question you have to start well in advance. You can't start getting an agreement during the night hours after somebody has occupied a building. Ad hoc decisions made under those conditions are very rarely good decisions, particularly if they are made late in the day. And, once you make a really bum decision, it's very hard to make a good one.

Q. It seems almost academic that if there is a possibility that are going to call the police, they make some sort of advance battle plan—if not necessarily the decision as to when to invoke it.

Now, why haven't they done that? Is it because they don't anticipate it?

A. I don't know. I know cases where it was perfectly obvious what was going to happen two weeks before it happened. The people who were in authority in the institution said, it can't happen here. But it did.

Q. Why is that so?

A. Well, if it's never happened there before, it's hard for people to believe that things are going to change.

Q. Is this true of a majority of university administrators? Are they living in this kind of a world, where they really can't believe it can happen here?

A. No. Most of them are living in a world where they move from one crisis to another, and this isn't conducive to very thoughtful behavior.,

Q. When you say crisis, do you mean the kind of crisis we're talking about now?

A. No. This is only one of the kinds of crises that university presidents are always in. It's a very rough job, you know, even in the best of times. I was very fortunate, I got in when things were moving up rapidly, and I got out just about when they stopped.

Q. Moving up rapidly?

A. I mean the level of expectation for education, the level of availability of the means to improve educational arrangements, the availability of excellent students, and the increasing belief that education was one of the most important things we had to do.

LESS U.S. MONEY

Q. What has happened now?

A. Federal funding has leveled off—and the availability of private money, while it's very great, isn't great enough to take up the slack. In order to keep federal funding level in its effect, there actually has to be a fair sized increase every year.

Then there's the black student question. All of the private colleges, or most of the private colleges, have said for generations that they were open to anyone, and theoretically they were. But they weren't very aggressively open and the number of Negro students in most of them was minuscule. In fact, it's still quite small. Black students were admitted increasingly, and many of them are very intelligent, but inadequately prepared. This doesn't make them very happy and increases disorder. They are also very lonesome because in none of the private colleges is there a sufficient mass of Negroes so that the Negro ceases to be conspicuous.

Q. People have said take away the war and you take away the overall pressure—that these problems could be worked out if it weren't for the massive pressure of the war.

A. Well, you'd certainly ease the situation, unless we found something else to do with our money—and some other way to irritate people. But the students have some very fundamental, and basically correct complaints. And if you took away the war, I don't think you'd eliminate those complaints.

UNPOPULAR WAR

Q. If you took away the war—wouldn't you have gotten a rise in federal spending for education?

A. I don't think there would have been a dropoff in federal spending for education, but I don't necessarily think you will get an increase in spending when and if the war ends.

Q. Why not?

A. Well, it could go into cities, for example. It could go into renovating the research and development in the military and into the manufacture of newer weapons. It could go into all sorts of things.

Q. Do you think the same complaints would have arisen about defense contracts in the universities without the war?

A. I'm inclined to doubt it. And, if the war had been a popular war, the complaints might have arisen, but I doubt if they would have had any effect.

Q. What is it, fundamentally, that troubles the students beyond the war?

A. If you take, on the one hand, the aspirations of our society and its stated creed as described in the Declaration of Independence and the Constitution, and, on the other hand, the state of our society, there's a disparity. During the last two decades that disparity has been considerably lessened. There has been more progress toward the goals of this country made in the last two decades than there has in any comparable period, perhaps in the whole of history. Particularly in equality before the law.

But, it's a truism of history that when things are getting better in a society you're in the greatest danger of revolution. You don't get revolutions when people are terribly depressed and poverty stricken and have no hope. You get revolutions when people are in a rising condition of expectation and when they're relatively prosperous, and are moving up socially. And that's the situation today.

In every educational institution you get certain declarations made about the educational aims of those institutions and I don't know any educational institutions that have achieved their aims. But they talk as if they have. Of course, I've done this many times. This develops a certain cynicism on the part of the students. And since the people who declare these aspirations as if they were fact know very well that they aren't so, they have less will to resist than they otherwise would.

It is interesting, you know, that the majority of student complaints, even now, are about the food and living conditions, and the rules for conduct in dormitories if you take the whole spectrum of educational institutions.

MEDICAL ANALOGY

Q. What are the justified student complaints?

A. If you take the competence of the universities today to do a good educational job, the job they do is enormously better than it was 20 years ago, and considerably better than it was 10 years ago. But a good many people on the faculties of colleges and universities are rather less concerned with educating people at the undergraduate level than they are with their own research and with their graduate students. This is quite a legitimate complaint.

Another is that proclamation you usually get about the beginning of a college term that this is a community of scholars. Well, it isn't a community of scholars. It's an administration, a faculty, and some students. Community of scholars means that everyone is pursuing learning together. And you get some people who are pursuing learning on the one hand, and teaching it on the other, and when they're teaching, they aren't always pursuing—they're telling you.

Then, there's the humanities. Most instruction is oriented to the past rather than toward the future, despite the fact that most of the wisdom of mankind is contained

somewhere or other in the humanities. But humanists don't like to apply this to contemporary or future affairs, and this annoys the students. The humanist stands here today and he looks backward instead of forward. He could perfectly well stand in the past and bring what has happened in the past to bear upon what's happening today, and most situations are explained by their past.

Q. Can you give me an example?

A. The obvious analogy, of course, is that you never find a doctor operating without taking a medical history. You find all sorts of judgments being made in political and foreign affairs without ever taking the history. For example, in most countries there's a serious overpopulation problem, and it's getting worse. So we go around giving away contraceptives, and inter-uterine devices, and telling people they ought to have less children without considering the sociology of the society in which we're operating. The critical point in whether or not a program of birth control is going to be effective is the attitude of the society involved toward the family and toward procreation. We have a set of attitudes in this country—in fact, we have more than one set of attitudes in this country—and we make the assumption that the attitudes of people in other countries are going to be closely similar. Now, the attitude toward the family in Central America is quite different from the attitude toward the family in India, and in India it's quite different from the family in Pakistan, and we don't use the knowledge—much of which is available—of the past development of the family in those countries to guide us in our present operations.

Q. What legitimate complaints does the student have about governing of the university?

A. They have a pretty legitimate complaint about having their voice in the affairs. Most students if you press them hard will admit they aren't in a very good position to run a place. But they know more about instruction than any single person in the faculty or administration does. But they're rarely consulted about evaluating the quality of instruction.

They ought to be quite capable of handling most disciplinary problems. One of the things I tried to do at Brown was to get the students to take this over, but they weren't ready yet. They were not willing to take it over. In most places, they aren't consulted and they weren't consulted on it when I was at Brown because they weren't willing to take it over. I think most do want to do it now. I think they'd probably do a pretty good job though they'd probably be too severe at first.

Take the things students are attacking. They're attacking ROTC right now. They're attacking defense-related research. They're attacking association with the intelligence apparatus. They're attacking investments in companies or countries that they consider unjust. They attack investments in Dow Chemical because they make napalm. They attack investments in the Chase Manhattan Bank because the Chase Manhattan Bank has interests in South Africa.

Well, you can look on this two ways: that this is a reaction against things in our own society of which the students disapprove, or, if you want to put another interpretation on it, you can look upon many of these attacks as efforts to weaken the power of the country.

ORGANIZED EFFORT

Q. How much of an effort do you think there is—an organized effort—to weaken the power of the country and how successful will it be?

A. If ROTC is driven out of the better colleges, it will result in the recruitment of officers of the army from colleges that produce a less well-educated, less thoughtful, probably much more conservative person, and that'll change the present trends in the military. About 80 percent of officers with a rank of major and above in the services now come from outside of the service academies; that is, they're either ROTC or OCS graduates, and the percentage in the lower ranks is greater. This is the percentage that is selected for the Naval War College—about 80 percent non-Annapolis and 20 percent Annapolis. If you change the character of that group, you change the character of the service, and I think you change it for the worse. It looks as if ROTC is going to be driven out of the better colleges, and they'll cut off that tap.

I think there's an organized effort to weaken the power of the country to operate as it has. I don't think it has any great connection with the Communists. It's another movement entirely and it's going on in other countries—including some Communist countries—with about the same purpose. Part of the hard core group is composed of people who wish to weaken the power of the country, and part of it is composed of people who just want to make it a better country. Part of it is composed of people who want to tear everything down, and haven't quite figured out what to put in its place, and part of it is people who just go along because it's exciting.

Q. How much do you think they can accomplish?

A. Well, if you can deprive the universities of the power to control themselves they've hit at a very strong sector of our society, and I expect they'll move on to others.

Q. Are you personally fearful that what militant student groups are trying to accomplish that's destructive can spread?

A. Oh, sure. But I don't know that it will. Let's say, I'm apprehensive rather than fearful. I'm even more fearful of any violent reaction, and there are considerable signs that that's building up.

Q. Do you think we could get a witch hunt in the country?

A. You are getting a buildup of it now. You're getting donors refusing to contribute. You're getting Congress thinking seriously of making laws that require universities that are in a receipt of federal funds to proceed more vigorously than they have, and it will only take a little bit more to cause the conservative elements of society to move in.

Q. Will they react against all students? When you're talking about a witch hunt you're talking about a tarring of everybody.

A. No, you tar the witches, but you're never very careful to find out who's a witch.

M'CARTHY ERA?

Q. Do you think there would be another McCarthy era?

A. Oh, yes. The potential always exists in this society.

Q. Are we close to it?

A. We're in danger of it. You know how you tell who's a witch, don't you. I'll tell you how you found out in the 13th century. You tied a rope around her and threw her into a pond, and you blessed the waters ahead of time so that they were holy. If the water threw her out—if she floated—she was a witch. But if the water didn't throw her out she was innocent. But she drowned.

Q. How can the universities cope with this crisis?

A. I don't like to prescribe for people who are doing things that I am not. But I think that unless the universities can reach an agreement—that is, each university within itself—on what it's going to do and what it's not going to do, and this agreement involves the faculty, corporation, the board, the administration and the majority of the students, I don't think they will be able to cope with it themselves.

Now, if an external force, such as the government, comes in and begins coping with it, you don't have a university any more because it isn't free any more. Therefore, the only way I can see to deal with it is for the universities themselves to.

Q. Aren't you already bringing the government in when you bring the police in?

A. Yes. But if you bring in the police at the request of the institution, it's a different thing from the government setting rules for conduct in institutions, and the government's getting pretty close to that.

Q. How is that?

A. Legislation is being considered, quite understandably, to bar people from receiving federal funds if they do certain things, and the next step to that is to bar universities from receiving federal funds if they don't do certain things.

Q. Who is going to protect individuals and the universities if the weight of public opinion starts to really turn against them?

A. The universities. That's the only way they can do it. But they will have to call in external force to carry out their decisions.

Q. To carry what kind of decision?

A. A decision to take legal action against a person who's interfering with the operation of the university.

Q. I take it, that though you don't want to pass judgment on particular cases, you don't approve of general amnesty?

A. I don't even understand the conception. I can't understand the justification for an agreement not to take action against a person who has already very seriously injured you—"you" meaning the university and all the other people in it.

STRONG STAND

Q. Isn't bringing police into a university such an anathema to the students that it destroys what you can accomplish later on?

A. Particularly if the cops yield to the provocations that are inevitably thrown at them, particularly if they want to yield. But I think if an agreement were reached ahead of time this would be the procedure in the case of occupations, you would have a rather different situation. You might not even have the occupation. You see, what's been lost here is the act of allegiance of the majority of the student body.

Q. Can you mobilize this large middle group of students under circumstances such as you now have at a school like Harvard?

A. You can't do it after the event. I know that. But I think it's quite possible that you can do it before the event.

Q. What is going to happen to universities that have suffered disruption?

A. The university is a very weak and very durable institution, and I suspect it will survive, with change. Possibly, the thing will go so far that in self-defense the moderate people will mobilize in favor of the university. Possibly, it will take some other form—the universities will change so much that there isn't anything left to protest against. I doubt this very much. You'll just get another direction for the protest.

Q. What happens when these students go into society?

A. Ordinarily, when radical students go into society they become less radical fairly quickly, and that may happen. It may not. I think you'll just have to wait and see on that.

Q. Would you make an overall judgment on the student generation?

A. In the places were serious trouble has occurred the students as a whole have been better prepared, and quite a lot brighter than they have been before. The students involved—aside from the black students—have been the children of people with advanced education who are themselves rather critical of society, and rather permissive with their children. The students today, by and large—not just the activist students—are far more concerned with the things outside their own immediate experience than students habitually have been.

They have also been brought up in a period when we went so far in resisting such insti-

tutions as segregation that people who are ordinarily quite law-abiding encouraged disobedience to laws which they felt were unjust. This had the effect of breaking down respect for law in general. The end result of that is that everybody decides for himself which laws he is going to obey and which he isn't. Many of us who supported the movement and the tactics used in the movement were aware of the danger of this at the time—or a few of us were—and I think one of the principal sources of the present difficulty is the development of the habit of disobeying laws that are considered unjust. This, of course, can be tremendously destructive of society if it's made general, and it has been.

The other thing that's happened, of course, is that every society is based upon a set of assumptions and these assumptions are stated in various ways. Many of the assumptions upon which our society is based are demonstrably untrue now. Yet, we have not discarded the assumptions overtly. But a part of the population has. So you get one part of the population acting as if the assumptions were the gospel truth and another part ignoring them. This dislocates society.

Q. What assumptions?

A. Assumptions such as that all men are created free and equal. That takes considerable sophistry to defend over the past 200 years of American history. Assumptions such as that persons who engage in premarital relations will either become pregnant or diseased, or both. That's no longer so, but it's still assumed.

The assumption that the shortest distance between two points is a straight line. That's been disproved for quite a few years. The assumption that what goes up must come down. We shoot a rocket into space and it never comes down.

WAIT AND SEE

Q. Do you really think we could get a McCarthy-like period?

A. Sure. We could get that or we could get a revolution—or both.

Q. What would a revolution look like?

A. It would look like hell.

Q. You mean a revolution organized on a nationwide basis?

A. Sure.

Q. What form would it take?

A. It would take the form, I think, of destroying all the so-called corrupt elements of society without much thought of what you're going to put in their place. It would be thoroughly destructive.

Q. Are the institutions so unresponsive that they could be toppled by a revolution?

A. This is the real question, you know. You get revolutions in societies that have lost sufficient of their elasticity so that they can't absorb their innovative force. It comes to a conflict, and either the innovative force breaks, or the society breaks. That is the question today. Have we lost sufficient social elasticity so that we can't change fast enough to accommodate the new ideas?

Q. What do you think?

A. I honestly don't know. If I did know I could make quite a lot of money out of the knowledge. Of course, then I'd lose it in the revolution.

Q. Which way would you bet on this?

A. I tend to be an optimist, but I'd rather wait and see how this comes out.

Mr. PELL. Mr. President, in speaking about this interview with Dr. Keeney, we touched upon a subject which has long concerned me. I am speaking of the job of the college president. It is one which has evolved from that of chief scholar to the present-day fund raiser and administrator of a vast complex. Perhaps it is time to study the office and decide what is the position of a university president and, most important, what should it be. The job calls for many talents: Not only those of a scholar, an administrator, and a fund raiser, but today a leader and a mediator. Some have discussed dividing the job so that a single individual could zero in on a specific area. Two recent articles in the New York Times discussed the problems faced by the university president, and also looked at the requirements needed to fill this difficult post. I ask unanimous consent that these articles 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 New York Times, May 18, 1969]

"NEW BREED" OF COLLEGE CHIEF HUNTED

(By Martin Arnold)

Student unrest has made the running of the university a task so burdensome that trustees on nearly 300 campuses across the nation are looking for what many vaguely define as a "new breed" of man to fill presidencies.

In describing this ideal "new breed," Dr. John Caffrey of the American Council on Education said that what was needed was "a man who gets along with the police, has a thick skin and lives in a fort."

Wry though the comment was, it reflected rather accurately the fact that the requirements of the job of college president in 1969 are startling. Just two years ago the ideal college president was the traditional fund raiser or the noted academic.

Now the college president, experts say, is a mediator, a politician, an interpreter—a man who can interpret the young to the old, the university to the state legislature, the teacher to the administration, the students to the trustees.

The figure of 300 vacancies is not as meaningful as one might think. There has always been a shortage of college presidents.

There are 2,400 colleges and universities in the country, including about 1,000 junior colleges. Of the four-year institutions, 80 to 100, including some of the most prestigious, are searching for new presidents.

The main factor that has swollen the number of colleges looking for presidents is the fact that in the 12-month period ending this month, 253 new colleges were founded in the United States. Many have not yet found new presidents.

Still, campus disorders have taken their toll, most dramatically. There was a clear cause and effect between last spring's disorder at Columbia and Columbia's current search for a new president.

At City College, Dr. Buell G. Gallagher's announced intention to retire was hastened by student disruptions.

Dr. Robert D. Cross resigned as president of Hunter College to become president of Swarthmore, a vacancy created by the death of Courtney Smith, who suffered a heart attask during student demonstrations.

Brooklyn College also has a vacancy, created by the illness of its president. The four major institutions in New York City, where the urban crisis is perhaps the greatest in the country, are strangely enough searching for new presidents who are academics, as opposed to the national trend away from the scholar president.

This is true even at Columbia, although Columbia's first choice for a new president was John W. Gardner, chairman of the Urban Coalition in Washington, who is a former Secretary of Health, Education and Welfare.

STRAIN OF THE JOB

William Miller, managing editor of the Chronicle of Higher Education, a biweekly newspaper for college and university administrators and faculty members, said, "Quite a number of presidents are resigning these days because of the unrest on the campuses."

"The strain of the job, the pressures are so great, the pressures are not worth it," he said. "A man can have a nice tenured post on a faculty. There's a lot more money these days in teaching. The salaries are higher. There's foundation money available. It's a life with good money and a lot less tension."

And speaking Thursday night, in Brunswick, Me., Dr. Roger Howell Jr., president of Bowdoin College, which has been trouble-free, said:

"College administrators are being boxed in—by students, by faculties, by governing boards and by public opinion—to the point at which they can no longer function effectively."

DISAGREEABLE AND DIFFICULT

"It is no accident that so many college presidencies are vacant. The truth is that under the present circumstances it is becoming a disagreeable and almost impossibly difficult job," he said.

Dr. Howell is speaking from experience going back no farther than January, when he became president of the 930-student college.

"There will come a time when the supply of able academics willing to risk heartache and personal abuse for the sake of education at large will diminish to the vanishing point," he concluded.

A more meaningful statistic than the vacancy rate is the average tenure of college presidents.

"I took a casual survey of several hundred college presidents last year, which showed an average tenure of six years in the job," Dr. Caffrey said. The average tenure was eight years in 1963–64 and 10 years in 1960, he found.

"Most quit one college to become president of another college or university or to go back to the faculty," Dr. Caffrey said.

DANGER IS NOTED

Campus revolutions, as they affect this turnover in college executives, present a danger that is often overlooked, Dr. Caffrey feels.

"Maybe we're beginning in this country to get the feeling now that we need the cold-blooded military outlook on the campus," he said. "One college trustee wanted 'a man who is not afraid to stand up to the students.'"

"There's always a man willing to take a job that nobody else wants," he said. "No matter how tough it gets, no matter how much of a bastard a job is, there's always some people willing to come in and bash heads, to serve injunctions, to spend half their lives in courts fighting students.

Many educators believe that the student in revolt is only the outward manifestation of a more subtle campus problem for the college president—the abdication of authority by college faculties.

One nationally known educational expert, who wished to be anonymous, put it this way: "Faculties, despite their yelling in public for more authority, are dishonest. They egg the kids on to fight the president."

"But no one is stopping the faculty from teaching more, from being more relevant in the classroom," he said. "The faculty, not the president, sets the curriculum. If a college or university is having problems with the surrounding community, why isn't the sociology departments doing something about this, for example?"

His thoughts were echoed by many college administrators.

What kind of man can mediate all these conflicting forces?

Douglas Knight, who recently announced he was leaving Duke, said, "These days in colleges and universities you have a reflection of the world at large, the same polarization. And one can honestly get to the spot where he's at the crossroads and there are five herds of buffalo coming down and you're in the middle."

LIST OF QUALIFICATIONS

One college board of trustees, in turning to the American Council on Education for help in finding a president, listed these qualifications:

A man of integrity who is a distinguished scholar in his field, who is an educational statesman and who is aware of the mission of teaching, research and science.

A man who has previous executive experience and demonstrated executive ability, and who is not only able to head a million-dollar corporation, but who also has the political awareness to be able to work with Senators, Congressmen and state legislators.

A man who has a sense for public relations combined with social skills and good health and who is between 30 and 55 years old.

"You can't find many men like that," Dr. Caffrey said. "They go into industry."

There was no specific mention of a man able to handle the youth revolution, but the trustees said they were looking for a man "of today to fill tomorrow's needs."

CALLING CLARK KENT

Such a list, calling for a Clark Kent rather than a Clark Kerr, is not uncommon, Dr. Caffrey said, although most lists place a heavier emphasis on understanding youth.

Morris B. Abram, the president of Brandeis, talks about his job this way:

"You have to keep five estates going at once—faculty, students, alumni, trustees and administration. Each estate has a claim on your time and responsibility."

"The students make claims—legitimate ones—but do not have the responsibility for the university in the future, for raising funds, or for holding the university together in the present," he said in a recent interview:

"The faculty has its claims. The math department here, for example, feels it is the queen of the university," he said. "They expect to have excellent salaries and small classes so they can be allowed the time for research. But that has to be balanced with the teaching requirements."

"The president is the chief executive of the trustees, the chief academic officer and the leader of the faculty. There's constant tension between what the president can do as executive officer and what he would like to do as academic officer," Mr. Abram said.

To meet this responsibility, Mr. Abram, who came to the job last September from the posts of president of the American Jewish Committee and senior adviser to the United States mission at the United Nations, often spends 14 hours a day on the campus of the 20-year-old university.

Finding him was not an easy job for Brandeis, although the selection process was somewhat typical of the one all major colleges and universities undertake when trying to find a president.

Clarence Q. Berger, executive vice-president of Brandeis and secretary of its Committee to Select a President, said the process started in September, 1967, with a general call for suggestions to the trustees, the faculty, the students and the alumni.

Out of a list of 140 suggested names, the committee ranked the possible candidates under the headings of "promising," "possible," and "unlikely." After a give-and-take process, a list of 17 first choices was selected. Mr. Abram was suggested by five different persons.

APPRAISALS SOUGHT

"We had to then get appraisals of our first choices, without the word getting around that so and so was under consideration, and then we had to find out if the prospects were willing to take the job, without actually offering them the job," Mr. Berger said. "Some times the first choice list changed daily, for one reason or another. There was often a lot of arguing, but in the end everybody agreed on Morris."

A similar process is now going on at colleges and universities, great and small, across the country.

At Dartmouth there are two committees. One is a Presidential Analysis Committee composed of faculty, students and alumni who are working to determine what the qualifications for the college's new president should be. The other committee is seeking the man to meet the qualifications.

Perhaps for the first time in a presidential hunt, Dartmouth is considering setting a definite term in office for the president making the job, in short, one that is not man-killing.

"What we need is a superman," said Prof. Walter H. Stockmayer, a member of the analysis committee.

Thousands of miles away, at the University of Hawaii, the difficulty of finding a suitable president for a modern university is again underscored.

School officials are reluctant even to make public their views on the qualifications of their new president, Harlan Cleveland, former United States representative to the North Atlantic Treaty Organization, for fear it might touch off new outbursts by student activists and their faculty supporters. It took the university 16 months to find Mr. Cleveland.

[From the New York Times, June 8, 1969]

THE COLLEGE PRESIDENT: DAMNED IF HE DOES, DAMNED IF HE DOESN'T

(By Fred M. Hechinger)

Louis T. Benezet, president of the Claremont University Center in California, last week sketched this picture of the university president in these times of campus upheaval:

"The president has been too lax; he has been too firm and unyielding; he has not listened to his faculty; he has indulged his faculty or his students; he has acted too fast; he has waited too long to act; he has called in the police; he hasn't called in the police. Whatever it is he should have done, he didn't do it; whatever he shouldn't have done, he foolishly did."

A caricature? Not in the eyes and the experience of James A. Perkins of Cornell who last week asked his trustees to seek a successor after a vocal minority among his faculty accused him of being soft on the demands of radical black and white students. Although many other professors—probably the majority—did not support the attacks on Mr. Perkins, neither did they rally to his support—until he had made up his mind that he had had enough.

Nor is the Benezet sketch a caricature in the eyes of many of Mr. Perkin's present and former colleagues.

Buell G. Gallagher of City College of New York, who was also charged with being soft on demands by black students, resigned recently because of that issue and because of what he considered political irresponsibility in cutting the budget by the state and city.

Nathan M. Pusey of Harvard, after he called the police to dislodge the occupiers of University Hall, was blamed for being too tough—and the faculty responded by condemning both the student uprising and the presidential reaction.

Currently Roger Heyns, newly embattled as chancellor of the University of California at Berkeley, is being attacked by faculty liberals for being too punitive at the very time when Mr. Perkins was being criticized by other faculty members for not being punitive enough.

The situation is different in every case. University administrators, in addition to being fallible, do often give in to the wrong pressures at the wrong time, merely to buy peace. But apart from differences in local issues and personal competence, the fundamental problem is in the fatal contradiction that has grown out of the campus turmoil—a contradiction between the myth and the reality of power.

The dissident students' rhetoric has created the image of the university administration as a powerful establishment with the president as its ruler. Yet, in virtually every campus crisis, the very opposite has been found to be the reality: the president is a paper tiger, with extremely limited powers and options.

"Those who asked—even some trustees—why I didn't take disciplinary action against some student violators never bothered to find out that I have no power to do so," Dr. Perkins said. That power, he added, rests at Cornell with the faculty under the university's present by-laws.

In ultimate confrontations, if the police are called, the presidents have little, if any power, to assure that the action is nonviolent. They have—as was shown at Harvard, Columbia and Berkeley—no way of preventing either police riots or deliberate provocation of the police by radicals who want to create a police riot.

Indeed, even presidents who do not want police intervention may be impotent to ward it off, if the institution overlaps with public land or thoroughfares, as happened at Berkeley (where the Regents and the Governor pressed hard behind the scenes).

In the final anaylsis, the drain on the president's will to remain in the job results from two conditions:

(1) The sheer weariness that comes from either the acrimony or the boredom of continuing confrontations. Thus, Ray Heffner of Brown University, even though he successfully survived a series of skirmishes and was able to approve of a major curriculum reform, decided that he would rather go back to teaching.

Elvis Stahr, after a half a dozen years as president of Indiana University, said he finally asked himself how much longer he wanted to spend endless hours talking seriously about many demands which were serious only because not wasting time on them might be dangerous. He left to head the Audubon Society of America.

(2) Negotiating, moreover, becomes more difficult either because of amorphous groups are unrepresentative of any larger constituency or because negotiations themselves become a president-baiting device. Lincoln Gordon, president of Johns Hopkins University, said: "It is a strange concept of the nature of a university community to suppose that any anonymous group has a prescriptive right to require my presence on short notice at a place and time of their choosing . . ."

COPRESIDENTS SUGGESTED

It is increasingly being suggested that the presidency be split in two—with one executive dealing with the internal and academic problems and the other with the external issues as well as financing.

In fact, this is probably wishful thinking. The big issues on and off campus require the attention of the top man, and to suggest that copresidents could be equals is to prescribe divided authority, never a happy situation.

This does not mean that presidents do not need a better and stronger staff system, with effective delegation of important functions and powers. But this does not go to the heart of the problem.

Nor is the answer likely to be found in the European pattern of faculty-elected presidents. This might lead to a solidarity that is now lacking, but it would be solidarity in the faculty's interests only, and the neglect of students in Europe is flagrant enough to spark an uprising of undreamed-of dimensions here.

The basic question is whether faculties, trustees and students can act as constituent bodies to assume their share of campus government, to spell out what they want and

to give the president the power to lead in that direction.

The nature of the crisis can be gauged from the fact that, although Mr. Perkins has been attacked by faculty members for being too permissive and Mr. Heyns for not being permissive enough, both diagnose their trouble in the same terms: lack of a constituency that is willing to offer a continuity of support, even when it disagrees on occasional specific decisions; and unwillingness on the part of the faculty—and, to varying degrees, trustees and students—either to assume consistent governing powers or to abandon the claim to such powers.

Without the creation of both a constituency and a definition of powers and responsibilities, Mr. Heyns saw the president's options increasingly narrowed by the two-front onslaught of radical students and faculty on campus and the reactionary public and legislative forces off campus. He said: "As a contribution to institutional theory, it might be a good idea for some faculty somewhere, at a time of acute crisis, to try . . . giving an administrator some support, some running room and some protection from coercion."

Mr. Perkins suggested that, in the absence of a supportive constituency, university presidents would eventually have to be recruited among those who have experience of dealing with large groups, as in the armed forces or in government. This would introduce men with the minds of bookkeepers and the hearts of drill sergeants. It would hardly lead to the kind of university reforms which radical students and professors say they seek, and liberals could live with. The American campus as a free and self-governing community thus would be in jeopardy.

Mr. PELL. Finally, Mr. President, I truly believe that the situation is not quite as dark as many people believe. For example, the recent article by Ernest Cuneo, "Student Moderates Strive To Close Generation Gap" discusses with a certain novel twist the change in point of view by campus moderates. It also translates for us what the young are trying to say, and to me this is the most important point. What has happened is past. To study the outbursts themselves is tiresome and fruitless. We must try and understand the causes of this unrest. We must listen to what our children are trying to tell us. I ask unanimous consent that Mr. Cuneo's article be printed in the RECORD.

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

STUDENT MODERATES STRIVE TO CLOSE GENERATION GAP

(By Ernest Cuneo)

WASHINGTON, June 3 (NANA).—There is a considerable optimism that the militant student disorders have lost them the campuses. The polls reveal that the vast student majority do not support violence, and believe that the breaking of the law should result in expulsion.

Actually, expulsion carries a heavy penalty because a college degree is a passport to preferred employment and an absolute condition to entrance to the professions.

More importantly, the generation gap appears to have narrowed. The moderate students position, as presently advanced, is unique and makes for a plausible and even powerful new order of human life.

Basically, it holds that the great industrial and scientific revolutions are not the enemies of man. They are like fire, which in classical terms is described as a wonderful servant but a fearful master.

SLAVES NUMBER 1,500

The moderate American student wishes the mechanical machines and computers held in their proper perspective as servants.

Since it is estimated that the present range of products, services and energies, ranging from motor cars to electric heating placed at the disposition of an average American of average income is the equivalent standard of service of a patrician with 1,500 slaves in the Roman empire, the moderates suggest a more full distribution of these available services.

They concede that machines have doubled and redoubled production while lessening the work week from 72 to 35 hours. They see in this the objective of reducing it to a 20 or a 15 hour week, maximum, leaving the individual the largest part of his time to develop his personal interests.

They point out that in past centuries only the patrician and the artists he patronized lived fully free lives, and that such freedom was possible because droves of slaves did the daily work. Now, they argue, since the work is being done by machines, why shouldn't all be free to explore the universe themselves in their leisure time.

ESTHETES AND WORKERS

They scoff at the idea that idleness is the devil's workshop, and indeed, describe leisure as the time of heaviest creative activity.

As examples, they cite Sir Walter Scott, whose life was in his writing, nevertheless earning his living at first as a court clerk. Charles Lamb and Herman Melville did the same; so did Walt Whitman. It adds up to a present life such as led by Eric Hoffer, the Californian who lives as a poet but works as a longshoreman.

This, obviously, sets forth a whole new set of values. It was expressed in a passing jest of Thomas Reed Powell, Harvard University's great professor of constitutional law. In bidding a graduation class farewell, Prof. Powell whimsically added that he hoped as attorneys they would always earn enough to keep body and soul apart.

While the observation of Prof. Powell is not the source of the new approach, it goes a considerable way to explaining the position of the moderates.

USES OF LEISURE

In a way, it adds a new dimension: time. As one 20-year-old college student expressed it, allowing him his three score and ten years, he had 50 years to live. These 50 years amount to only 600 months, which in turn amount to only 2,400 weeks. The youngster raised the question that if, thanks to machines, he could pay his way by working two days a week, what was immoral about him spending the freedom gained thereby simply to study?

This appears to be a most respectable argument. However, it connotes a whole rearrangement of current American values.

More specifically, the moderates appear to be adapting a modification of Thoreau. As expressed by the 20-year-old, he wanted a means of transportation. He could easily earn enough for a small car, but he had no intention of using the only time he had on this earth trying to accumulate enough for a Rolls Royce.

He said he would no more like to be head of a large bank than he would like to be a streetcleaner, because that isn't the way he wanted to spend the only asset he had, his time on this earth.

CURSE OF THE ELDERS

Asked if he did not think that work was man's salvation, and that the devil found work for idle hands to do, his answer was that the curse of the older generation was that they were afraid of full liberty for every man, including themselves, because for all their piety, the older generation refused to believe that humanity was fundamentally good.

He said that man does not live by bread alone, his body merely dies without it; and his generation was going to solve the problem of bread, so every man would come into his patrician soul.

If, indeed, our children are bitterly charging that we are neither idealistic, moral nor imaginative enough to create a new world, never did indictment fall on happier parental ears.

Who knows? Perhaps the younger generation will in turn discover that there never lived a father who felt he had hit a two-bagger who didn't hope his son would hit a home-run.

TURBOTRAIN PROBLEMS

Mr. PELL. Mr. President, I want to express my deep concern at evidence of an increasing incidence of vandalism involving passenger trains along the Boston to New York right of way.

The turbotrains being used for demonstrations under the High Speed Ground Transportation Act of 1965 have not been the exclusive or even the primary target of this vandalism, but it is nonetheless distressing for that. Bricks and stones have been dropped or thrown from overpasses, debris has been piled on the tracks, and recently a railroad tie was placed across the tracks in the path of the turbotrain. The placing of such an obstruction on railroad tracks, incidentally, may well go beyond vandalism to an attempt to derail a train, which is a Federal offense.

These irresponsible actions pose an obvious threat to public safety, as well as imposing on rail passenger service an additional cost burden for repairs to windows and equipment. I earnestly hope that law enforcement officials will at all levels redouble their efforts to prevent this increasing vandalism. The safety record of rail passenger service is excellent, and we should make every effort to keep it so.

I would like to take this opportunity also to call to the attention of my colleagues two recent developments involving the Turboservice demonstration being conducted by the Penn Central Company in cooperation with the Department of Transportation.

Several weeks ago I reported to the Senate that I had recently ridden the turbotrain on a regularly scheduled run and that I had found the experience thoroughly enjoyable. At the same time, I urged the Penn Central to take several steps to improve the demonstration.

Since that time, the Penn Central and the Department of Transportation have announced a reduction of 16 minutes in the travel time between Boston and New York, and last week there appeared in major newspapers along the Penn Central's shoreline route the first advertising to inform the public of the availability of the service and the time schedule.

I am deeply gratified at these steps toward a more vigorous and valid demonstration of the turbotrain service. I want to commend Penn Central and the Department of Transportation for pressing ahead with these improvements. Particularly, I want to congratulate Mr. Stuart Saunders, board chairman of the Penn Central, who has shown such per-

sonal interest in both the Metroliner demonstration between Washington and New York and the turboservice.

I think that everyone involved in the turboservice demonstration would agree that much remains to be done to achieve a full demonstration. I well realize there are differences of opinion regarding engineering problems involved in further time reductions, but I do not believe the problems are either major or insuperable and hope that both the Department of Transportation and Penn Central will move ahead aggressively to resolve them.

And I regret that to date no action has been taken to increase the number of round trips each day in the demonstration. Again, I think everyone recognizes that increased daily runs are a necessity for any meaningful test of public response, and hope we will see some diligent efforts by the Penn Central to put these trains to work carrying passengers.

THE INTERNATIONAL WEAPONS TRADE

Mr. PELL. Mr. President, we have been so engaged—and rightly so—in recent weeks arguing the most fateful questions of nuclear weaponry, in trying to assess the best deterrent to nuclear confrontation, that we are again in danger of neglecting another perilous course of Pentagon policy; namely, the tangled web of international traffic in so-called conventional armaments. Yet, this is a daily dealing in death, a trade largely unseen and unchecked, a trade which involves virtually every country in the world and which is an important source of revenue not only to cynical private suppliers but to some 15 major nations. It is a trade which is constantly slipping beyond the purview of what little control exists; control which at best is more a guideline than a check.

There are many and shocking statistics to dramatize the past damage and present dangers of this trade in the tools of war. But I shall begin with an uncontentious statement taken from testimony given the Foreign Relations Committee on June 20, 1968. As a result of questioning by Senator AIKEN, our Department of Defense—certainly somewhat euphemistically named in this case—provided the following official figures:

> For the period 1955–1967 U.S. military exports, including grant aid as well as commerical and government sales, totalled $28,111,000,000. For the same period it is estimated that USSR exports of combined grant and sales articles totalled about $14,320,000,000.
>
> If USSR aid to Warsaw Pact members and U.S. sales to NATO countries plus Australia and New Zealand were excluded, U.S. and USSR military exports over the past four years would be on a 1-to-1 ratio.

In other words, in just the most recent dozen of the 23 years since the end of World War II the United States and the Soviet Union between them exported almost $42.5 billion of military commodities, of which two-thirds come from the United States and one-third from the Soviet Union. In the past quarter century something over $60 billion worth of arms have been traded on the world's markets. I would emphasize that this huge figure does not include what the great powers have created and employed domestically for their own defense purposes—although such armaments, when obsolescent, start to find their way into the international weapons market. In short, this is a route without end, given the continuing obsolescence of weapons systems, and it is a route of ever increasing danger as each new generation of technology spews forth into the marketplace ever more sophisticated weaponry to reach unknown hands for unseen and unseemly ends.

Any full-scale review of this traffic in arms necessarily involves policy assumptions and commitments both major and minor—to our alliances and bases abroad, to our aid and assistance in all corners of the world. Such a review is long overdue. It will be forthcoming when the new Senate Subcommittee on U.S. Security Agreements and Commitments Abroad makes its report. I address myself today to only one aspect of this trade; but one which particularly concerns me because attention is so often focused elsewhere. It is the continued flow of conventional military supplies into the underdeveloped countries. In our deep and abiding concern to avoid nuclear war and to control nuclear weapons, we too often overlook the fact that since 1945 there have been no less than 55 armed conflicts around the world which properly may be classified as wars. All of these wars have been fought with what are glibly known as "conventional" arms—ranging from so-called "small arms" all the way to jet aircraft strewing napalm and high explosive bombs.

Clearly, the most profoundly disturbing and tragic result of these clashes over two decades and more has been the loss of many millions of lives among military and civilian populations alike. But also disturbing in its implication for the future effects of arms traffic is the fact that all but two of those 55 wars have been fought in the less developed areas of the world—primarily in the Middle East, Southeast Asia, and in Africa—and that the largest number of the weapons used in those conflicts originated in the United States. While it is true that a majority of the nearly $50 billion worth of U.S. arms materiel pumped into the world's markets since 1945 has gone to our NATO allies and other relatively affluent countries, a very significant amount has gone to the underdeveloped countries. The plain and distasteful fact is that we really do not know the exact percentage. The arms sales office in the Pentagon, by some intricate definitions of underdevelopment, talks of less than 10 percent; other informal—but informed—estimates, taking account of the Korean and Vietnam wars and presumably of transshipments, run up at least to 45 percent.

And what do these cold figures in total U.S. arms sales and grants mean in the hardware of war? They mean some 9,300 jet fighter aircraft; 8,340 other aircraft; 2,496 naval vessels of all types, from aircraft carriers to submarines; nearly 20,000 combat tanks; approximately 448,000—almost half a million—other combat vehicles; 1,400,000 carbines; 2,200,000 rifles; over 71,000 machineguns; nearly 31,000 mortars, and another 31,000 missiles of all types. And these figures are probably understated. To this frightful numbers game must then be added billions of rounds of ammunition, explosives, supporting systems, computers and military training of foreign personnel.

For these and other figures, I am now drawing upon the advance copy of a new book sent to me on this overall topic. I wish to call the attention of my colleagues to the new work entitled "The War Business," written by George Thayer, which has been just published. Mr. Thayer has spent 4 years researching the postwar international arms trade; and I gather his task has been accomplished in the face of considerable difficulties going well beyond normal bureaucratic and other roadblocks. I might add that I believe it to be the first book since 1934 to give a thorough examination to arms trafficking around the world.

While I do not propose to undertake a review of this work or to speak at length today on the general subject, I would like to cite some of Mr. Thayer's points which may well serve as a renewed stimulus to all of us not to underestimate the catastrophic potential in so-called conventional arms.

Although the armed clash between India and Pakistan in 1965 and its consequences have been thoroughly explored in many quarters, Mr. Thayer highlights one often forgotten aspect in saying:

> The world was presented with the curious spectacle of Pakistanis in American *Patton* tanks fighting Indians in American *Sherman* tanks, and Pakistanis being transported to the front in C–130B *Hercules* to fight Indians who had be transported to the front in both C–119's and C–47's, all American built.

As he also notes, there were plenty of British and French arms, among others, employed in the brief war. And since then, while the Soviet Union was able to accrue some international credit for their role in the tenuous Tashkent settlement, the Soviets at the same time managed to get themselves into the same old shell game of now supplying arms to both sides. There may be those who derive some macabre satisfaction from the Soviet Union's current semiwar with China. Actually, this is not all to the good, especially when one considers that the 1965 India-Pakistan conflict merely led, in the last analysis, to an intensified arms race between the countries involved, and that the losers in such a game are not confined to the players on the field.

Mr. Thayer well describes, too, the continentwide consequences which flowed from the U.S. agreement to sell jet planes to Argentina in 1965 and which are continuing to confound our policymakers in their efforts to assist economic, social, and political advances in Latin America. To illustrate the evidence that the United States is by no means alone in playing this dangerous game, the author presents a telling picture of the 6-day Arab-Israeli War of 1967, which saw the weapons of most of the major armaments suppliers in action, some-

times at cross-purposes with the political policies of the supplying nations. Israelis flew French jets in combat against Egyptians flying Soviet Migs and Jordanians flying British fighter-bombers. Israelis in American tanks fought Egyptians and Syrians in Soviet tanks as well as Jordanians in American Pattons and British Centurions. Israelis firing Belgian rifles fought Egyptians firing Swedish, Czech, and Soviet weapons and Jordanians using British and American weapons.

I do not intend here to engage in further description of the peculiarities of the international arms market and their past impact on special situations. I think it far more important to turn to some future considerations which are potentially even more frightening. We could read in the New York Times a few weeks ago of game poachers in Zambia who employ 80-year-old weapons left by Arab slavers and still in usable condition. Every once in a while we hear of someone being killed by a mine or some other implement left as part of the lethal rubbish of World War II. But what will happen in the not-so-distant future as a result of the armaments competition now going on, with perhaps 30 countries either producing in a major way or trying to get in on the act?

As the advanced countries find their weaponry approaching obsolescence, is it really necessary that they try to cut their financial losses by selling their weapons to the less-developed countries when the risk of greater loss in lives and political upheaval is so immeasurable? There is no question that West Germany not long ago sold 90 American F–86 jets to Iran, which we subsequently learned was acting as an intermediary for Pakistan, on whom we had placed an embargo following the 1965 war.

And we have once again been placed in the unconscionable position of having haggled over how many and what kind of lethal equipment we would supply to the Franco Government of Spain as the price of maintaining bases which many military experts consider obsolete and unnecessary.

But, Mr. President, our arms traffic is not confined to circumstances, real or imaginary, affecting our national security. We are now in the business of arms sales for the sole purpose of making money. As my colleagues here are well aware, there is now before the Congress a proposal to subsidize one aerospace manufacturer to the extent of $62 million to produce supersonic fighter planes to compete in the international arms market for a profit. Nor is this an undertaking which the manufacturer of the planes considers a legitimate business investment. It is, in plain English, a proposal to use the taxpayers' money to subsidize the production of planes, to be sold into unknown hands, for the profit of the manufacturer. What the taxpayer is supposed to get from this is unclear to me.

It strikes me as more than passing strange, Mr. President, that many of those who support such subsidies for the manufacture of weapons in an industry which is hardly at a loss for funds are the same people who see the downfall of the Republic at the suggestion of Government subsidization of foods for the hungry in our own country.

Those who put forth the arguments of dollar earnings are apparently oblivious to the potential greater cost of the indiscriminate distribution of arms in a world already overendowed with peril. Despite some efforts at control, we are still a long way from being able to determine the ultimate destination of the arms we sell around the world. And should the devoutly desired end of the Vietnam war come about, there will be a vast new reservoir of still usable and still salable equipment. It would appear to me elementary good sense that the major countries of the world should begin to pay attention to this growing problem and try to find multinational means of controlling the proliferation of conventional as well as nuclear armaments.

Fortunately, the Senate Committee on Foreign Relations has made a beginning in stemming and controlling the flow of U.S. arms around the world. In January of 1967 a committee staff study found that, since 1962, there had been a basic change in U.S. military assistance from grants to sales of arms and that the higher echelons of Government, both in Congress and downtown, had not fully appreciated the significance of this change. It noted that:

> In Europe, American arms salesmanship has often been zealous to the point of irritation, and overpowering to the point of encouraging Europeans to compete more aggressively for the arms markets in the underdeveloped regions of the world. In some underdeveloped regions of the world—notably Latin America and the Middle East—where there are no significant balance of payment incentives, the United States, when faced with tough decisions as in Iran and Argentina, seems to be drifting into a policy of pre-emptive selling rather than the more difficult alternative of arms denial.

The committee in large measure acted upon the recommendations of the study during 1968, especially in creating separate military sales legislation, in restricting the financing activities of the Export-Import Bank—which, incidentally, will be involved in the supply of arms to Spain—and in trying to strengthen the role of the Arms Control and Disarmament Agency. However, no one should have any illusions about the fact that we have done little more than deal with the visible part of the iceberg. So long as the balance-of-payments factor is expiated so successfully by the Pentagon when it comes to arms sales, so long as the United States can extend military aid to a usurping and harsh Greek dictatorship, so long as minor eruptions from one end of the globe to the other are used as justifications for saber peddling, we cannot afford to reduce our vigilance over official armaments policies.

Mr. President, perhaps I have been giving undue emphasis to the arms sales aspect of the war business as described by Mr. Thayer; but he certainly confirms the findings of the Foreign Relations Committee. There are, as I mentioned earlier, many difficult aspects of the arms trade which involve an assessment of policies which themselves take on a life of their own—and tend to endure beyond their useful life. We still hear all the 20-year-old arguments for military assistance of all kinds, in all kinds of places, and for all purposes. We still have aid programs in a number of countries, such as Thailand, where military considerations have virtually taken over. And, in those few instances where we have successfully cut back, we still maintain military assistance advisory groups in countries where we have no military aid program. One suspects that many of the people in these MAAG's—currently with some 4,000 personnel—now act as arms salesmen instead of advisers. Most importantly, we have done virtually nothing as yet to give effect to the broadly held view in this country that the power of the United States has become sorely overextended abroad and that it may well be further extended, not by design but by the irreversible consequences of just such blind adventures.

Fortunately, once again, our Foreign Relations Committee has taken the initiative in a field which can be ignored only at the Nation's peril. Moreover, the newly established Subcommittee on United States Security Agreements and Commitments Abroad, under the able chairmanship of the singularly experienced and qualified senior Senator from Missouri, the only Member of the Senate who sits on both the Foreign Relations and Armed Services Committees, is presently examining these problems. I have complete confidence that this subcommittee will perform a great and vital service to the country in the area which it will investigate.

Mr. President, if there is one inescapable conclusion from this dreary record of war and strife and civil disorder—if there is to be any hope that we may preserve our earth from destruction while we endeavor to bring it peace—then surely we make it more difficult to preserve and nourish the frail rays of tranquility if we continue massively exporting the weapons of war. We should not seek to balance an accounting sheet to the endangerment of human lives.

And, if economy is our goal, I believe we should search for other ways in which our defense establishment might improve its cost efficiency without adding to the means for the eruption and waging of war around our globe.

Mr. President, an excellent review of Mr. Thayer's book, by Mr. Bernard D. Nossiter, appeared in the Washington Post of June 10. I ask unanimous consent that the review be printed in the RECORD.

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

CALL TO ARMS: "THE WAR BUSINESS: THE INTERNATIONAL TRADE IN ARMAMENTS"

(By George Thayer)

(NOTE.—Reviewed by Bernard D. Nossiter. Nossiter is a member of the National staff of the Washington Post. He frequently reports on military and industrial affairs.)

During the Civil War, George Thayer reminds us, J. P. Morgan bought 5000 defective carbines for $3.50 each and sold them to the Union Army for $22. Although the weapons shot off the thumbs of many of their users, Morgan, of course, was paid in full.

One hundred years later, the Government's energetic arms salesmen, from the Pentagon and State Department, persuaded Bonn to buy 250 Lockheed Starfighters, nicknamed the "Widow Maker" in Germany. Well before

the 91st crash, the docile, pro-Washington Erhard Government had fallen, leaving Lockheed free to go on to other triumphs with its Cheyenne helicopter and C–5A Galaxy.

Thanks to technology and bureaucratic rationalization, as Thayer makes abundantly clear, the modern arms trade can produce interesting political as well as physical repercussions. At about the same time as the unfortunate Germans were being touted on Lockheed, Britain was persuaded to buy the American Skybolt missile for its deterrent. When the program was abruptly halted, it not only helped bring down the friendly Macmillan Government, it also convinced Gen. de Gaulle that the British were little more than an American satellite and unfit for membership in the Common Market.

Thayer credits the computerized efficiency of Defense Secretary Robert McNamara, McGeorge Bundy and a few other high priests of the Kennedy-Johnson era with lifting the world arms trade to a new level of intensity. Thanks to their legacy, the United States is systematically spreading around the world $2 billion a year in "conventional" arms.

Perhaps $500 to $600 million annually feeds the swollen armories of Argentina, Liberia, Saudi Arabia, Thailand and the other so-called developing nations whose appetite for weapons is insatiable. Indeed, as Thayer suggests, without the endless supply of weapons from the United States, its followers in the West and its Soviet-bloc imitators, it is unlikely that India and Pakistan would have gone to war in 1965 and that Israel and her Arab neighbors would be at each other's throats for a fourth round. There is a mordant symmetry in all this.

Just as the world's most affluent democracy dominates the Government trade in arms, so too it boasts the leading "private" weapons merchant, the ubiquitous Samuel Cummings of Interarms. With good reason, Thayer doubts that Interarms is all that distinct from the CIA and concludes that there is at least a remarkable degree of cooperation. It was Cummings' agents who tipped off Washington that the Czechs were about to sell arms to President Arbenz of Guatemala, a discovery that prompted the CIA to overthrow that worthy with weapons supplied by Cummings.

Thayer, a political scientist by training and a journalist, in the best sense of the word, by inclination, wrote an earlier book on the lunatic fringes of American politics. Here, he examines, in loving detail, the lunatic center with side glimpses into the smaller, but equally intensive efforts mounted in Britain, France, the Soviet Union and other up-to-date nations. Combined, they sell $5 billion a year around the world, arming Portugal and her Angolan rebels, Castro and anti-Castroites, Arabs and Israelis, Nigerians and Biafrans, Pakistanis and Indians with equal indiscriminacy.

The trade, Thayer concludes, encourages arms races among nations that have more pressing needs and ensures that political conflicts will be transformed into wars. Thanks to modern exigencies, the old-fashioned merchants of death have become extinct. "We now have detached, cold-blooded mistakes made by bureaucrats."

The chief responsibility for this state of affairs, Thayer demonstrates, lies with the United States and its arms aid program. His suggestions for a more modest, controlled approach hardly measure up to the dimensions of the entrenched system he has described. But then it is not recorded that Hercules was required to do more than clean out the Augean stables.

Thayer has written a lucid, entertaining and well-documented study on a theme of some importance. Unhappily, its information and its conclusions are so devastating to all Governments everywhere, "responsible" people have no choice but to ignore it. This is a pity. In a less well organized world, Thayer's work would deserve that overworked description, a book of great importance.

COMMENCEMENT ADDRESS BY FORMER AMBASSADOR ANGIER BIDDLE DUKE AT DUKE UNIVERSITY

Mr. PELL. Mr. President, former Ambassador Angier Biddle Duke recently gave a most interesting and wise commencement address at Duke University, Durham, N.C.

Ambassador Duke who was, I believe, the youngest ambassador in our Nation's history when he was appointed to El Salvador in 1951, has had a long and distinguished record in public service, both working directly for our Government as a chief of mission or serving various voluntary causes or when he was president of the International Rescue Committee.

I thought his speech particularly telling and I ask unanimous consent to have it printed in the RECORD.

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

OBSERVATIONS ON MILITARY POWER AND FOREIGN POLICY

(By the Honorable Angier Biddle Duke)

This is for a special moment. This University was named for my great grandfather, Washington Duke. Both my father and my son graduated from here. It is to my lifelong regret that I never made the attempt. Receiving today the Honorary Degree of Doctor of Laws has helped to dull the pain of self reproach. At the very least, I can console myself with the thought that I am in the honorary company of the President of the United States as a graduate of the Law School where he received the "real thing."

My mind goes back today over other days, other milestones, other graduations reminiscent of this one. Two years ago, I was invited to make the commencement address at a preparatory school in Connecticut. I found it somewhat dispiriting to have to tell the graduates, on that lovely spring day, that when I recalled my own graduation X years before, I could not remember the name, the face nor a trace of the remarks made by the commencement speaker of the day. His mark upon my memory was as unblemished as I am sure mine will be upon yours some years hence.

Therefore knowing that this message may be soon forgotten, I feel I can speak with candor and thus speak more boldly particularly since I am now no longer a member of our national government.

Government service in Latin America in the early 1950's was a quite different experience from duty in the White House, the State Department and in Europe during this decade. Duties and events seemed simpler then. Our world and our country's own problems have become so complex that the government's responsibility has had to adjust itself to a state of continuous crisis. I found that difference in eras to be most marked during my service in Iberia and Scandinavia. Yet through the perils and problems of the 1950's and 1960's one common thread wove itself through all these experiences—that of the presence seen and felt of our defense establishment. It was often the most visible aspect of the United States around the world.

But I do not report this recollection critically or reassuringly but rather factually. I sincerely believe that a great power's credibility in the area of foreign policy rests upon the twin pillars of military and domestic strength. In this context professional military competence and strength are essential and useful. The defense establishment is an integral arm of our democratic society and deserves our attention and respect for its ability to protect our free and developing institutions. I think we only have reason to be concerned when the brawn of our society tends towards becoming its brain.

We need, at such a time, to redefine and reassess the role of the military and its effect upon the direction of national policy. The influence of the defense establishment is a matter to which a good deal of attention is being drawn these days. In terms of my own experience, I found reason to be concerned about the hand upon the sword.

I hold no brief for those far-out theories that the Pentagon is going to take over our Society. That is nonsense. But I do want to discuss with you what I believe is a matter of concern as our military establishment assumes increasing importance in its effect in foreign affairs. I am sure that the Soviet Union has a comparable situation within their own establishment, if not to a much more acute degree. And with the extirpation of public dissent—it augurs even greater perils. Surely one of the reasons for cancelling the traditional Red Square military parade this year, on May Day, must have been to redefine the role of the military in public life and more importantly, in the public eye at home and abroad. The Russians must have felt this change to be necessary at this time in the light of the world reaction to their role in Czechoslovakia.

But I confess a feeling of regret that such a comparison is even faintly possible. Our example to the world should be far ahead and far more enlightening.

In our time, no more fascinating and penetrating account of the military's part in the presidential decision-making process has ever been told than in Robert F. Kennedy's account of the "Thirteen Days" during the Cuban Missile crisis. The precise chronology and yet poignant words depict quite clearly the anguish of Presidential power. It also points to the imperative need for selective discernment of military counsel. That advice was consistent and wrong in all cases noted in Kennedy's book. This brilliant chronicle of Robert Kennedy documents is an epic experience of a President struggling to find a candid opinion from a committee of civilian and military advisors. One comes to the inescapable conclusion that if President Kennedy had accepted any of the proffered military recommendations, the most terrible tragedy would have inexorably ensued. I cannot help equate to a far lesser degree the picture of our Chief Executive sorting out the views of the National Security Council with that of one of his Ambassadors consulting with his own country team. It was my fortunate experience to have been one of those representatives in three countries under widely varying conditions.

In Spain, for example I served for three years as we were approaching the end of our fifteen year executive agreement to maintain four naval and air bases on Spanish soil. I arrived in March 1965 and shortly afterwards was invited to Wiesbaden to attend a top security briefing at the headquarters of the U.S. Air Forces in Europe. It was well done and most persuasive. Pertinent to my mission in Madrid, emphasis in the briefing session was placed on the decision to phase out our Air Force base in Zaragoza during that year. My first reaction to the compelling presentation was for a reversal or modification of that decision. But since I was new in my assignment, I felt I should let it stand. By January 1966 the base was closed down and put on a standby basis. A year later when I asked for a review of the consequences of this cut-back I was told to

my surprise that the effect had been negligible. This experience did not exactly make me an automatic convert to Air Force judgments from that time on.

Our relationship with the Spanish during the lifetime of the base agreements (since 1953) has been good. Several complicating factors however became evident during my tour of duty. On the Spanish side, the economy had taken enormous strides in that time, the gross national product having multiplied from 5 to 25 billion dollars. The American economic assistance program had therefore been terminated and the impact of the four bases on the economy became less and less important. The effect of our military presence amounted to less than 40 millions of dollars per year, while in 1968 Spain took in from European tourism alone over a billion dollars.

And then on January 17, 1966 a tragic accident occurred off the coast of Southeastern Spain which did much to change the political atmosphere surrounding our base policy. A Strategic Air Force B52 bomber released four hydrogen bombs following an explosion during an in-flight refuelling operation. Two of the three that fell on land near the village of Palomares were quickly recovered; the third broke open and it was subsequently found that a limited area of surrounding farmland had been contaminated by escaping plutonium. The fourth fell into the sea and was not recovered for nearly three months. The decontamination process around the third H-Bomb and the agonizing underwater search for the fourth, while an epic success story in itself, could not fail to effect Spanish attitudes towards the presence of American military forces in their country.

On our side there had been developments too. The role of the bases had changed over the years. No longer was it necessary to base strategic aircraft on Spanish soil; the SAC requirements were cut back to merely a refueling operation. It is true that tactical aircraft were deployed there from time to time, but basically as a convenience. Perhaps more importantly it came to be realized that with the advent of the ICBM's and the Polaris submarines, the Spanish bases might well be approaching obsolescence. With the addition of one more of such submarines, for example, the base at Rota, we were told, would not be required.

Under such circumstances it might be thought that there would have been good reason on both sides to consider it an appropriate time to reduce or phase out the 15 year relationship which had met the crisis of the past so successfully. There is nothing like saying goodbye when you can leave lasting friendships behind.

There are other factors too outside the purely military, factors within the Spanish situation, which also should be subject to consideration, but which would be inappropriate for me to discuss today. Suffice to say as Plato did "Powerful indeed is the empire of habit." And the negotiations for another five year extension of the base agreements go on. They have been conducted not by the President's diplomatic representative or by the State Department but by the Chairman of the Joint Chiefs of Staff, the eminent General Earle Wheeler.

The point of this rather full account is to give an example of the importance of military policy in the relationship between our country and our friends overseas. I am fully mindful of the Presidential directive that places the responsibility on the Ambassador for all activities of American entities on his shoulders. But when I think of my Foreign Service Staff in the Embassy in Spain and their relationship to their colleagues in our Military establishment there, I am mindful of Canadian Prime Minister Trudeau's comment on his last visit to the United States. "Living next to you is in some ways like sleeping with an elephant; no matter how friendly and even tempered is the beast, one is affected by every twitch and grunt."

The thread of experience now winds itself through Northern Europe where the American presence is increasingly pervasive in all of its myriad manifestations. One of the principal concerns of the chief of a diplomatic mission in any Western country today is the necessity to interpret that presence, to explain it, to justify it if you will, in terms of the shared interests and goals of the whole Atlantic community. It is my contention that we are finding it increasingly difficult to find the right language to explain our role in working in the common interest.

I find to my dismay that too often we are still using the words and rhetoric which were apt and applicable for another day. American cooperation during the European postwar reconstruction and recovery period is of continuing interest to historians; the North Atlantic Treaty Organization, born in fear twenty years ago, met the needs of its time. The rationale of our policies today however need a good deal of redefinition in the eyes of many thoughtful Europeans.

How do they form their attitudes about us? A recent Congressional report concludes that "foreign opinion is to a surprisingly large extent the product of our national mood and of what we say and write about ourselves. For example vocal division over U.S. Policy in Vietnam finds an immediate reflection in public attitudes abroad. So do American opinions on most other issues.

According to an expert witness "foreign correspondents derive some 80 percent of their information and impressions about the United States from what American reporters write in our papers and say on our television networks".

With our absorption in Vietnam abroad and in our grave urban and racial crises at home, being reported in pitiless detail Europeans tend to turn over in their minds our qualifications for leadership.

One of the satisfactions of serving in Europe and of heading the American mission in a nation like Denmark is the knowledge that you are dealing not only with bilateral situations between the governments of Washington and Copenhagen, but with problems that are symptomatic of much of the Continent. The Danish multi-party state is a microcosm in varying degree of any democratic western society. Attitudes and ideas among the Danes find reflection in all countries where there is a free press. That is why it is of absorbing interest to observe with attention and sympathy their efforts to form a more meaningful regional association with their Scandinavian neighbors, to join in the larger area of economic cooperation as a member of the common market, and to assess their future as a partner in NATO's mutual security arrangements. It is to the latter area that there has been a good deal of serious consideration given.

I arrived in Denmark after the Soviet occupation of Czechoslovakia last August. At first it was thought that the spasm of alarm that this act occasioned would revive and strengthen the military alliance. This has not turned out to be so. Leaders of Danish public opinion, like their counterparts around Europe, do not believe that Russia, with its awesome combat strength now moved up to its most Western point along the German frontier, is any nearer to taking the fateful step across what is still the Iron Curtain. They feel that the real barrier, their real protection remains in the nuclear deterrent and that therefore their own country's contributions to the Alliance, and NATO itself, are not very meaningful. Accordingly the Danish government has recently cut the term of conscription from fourteen months to twelve, while Britain this year starts the removal of its Army of the Rhine, and the Canadians have announced their intention to withdraw their troops from Germany. There are strong signs that Belgium and Holland are planning imminent cuts in their commitments to NATO. France of course had ordered all NATO and U.S. installations from French soil in 1966.

It is now apparent that leading circles in Western Europe have become resigned to the hard realities of the Brezhnev Doctrine of Soviet power preeminence within its orbit. Once again our allies beguile themselves with dreams of a creeping detente with the Russians. These dreams are disturbed by the ever recurring theme that NATO has been changing from a mutually advantageous defense arrangement to an outright instrument of American Foreign Policy.

Public statements by American military leaders of NATO have the ring about them of having been made ten years ago. Rightly or wrongly the leadership in most European countries is in no mood to accept U.S. military definition of their own defense needs.

Nor will they accept without question our Defense Department's evaluation of the Soviet Union's military intentions. Our allies are not in the most receptive mood to respond to the all too familiar exhortation about burden sharing.

As Hanson Baldwin has put it: "The NATO Alliance is no longer a part of European life as it was when it was formed. There is today no heroic Eisenhower image to personify the Alliance. There is more apathy than excitement and as much questioning of its policies as support for them. NATO is too much form and too little substance."

Outdated or even at times hypocritical platitudes from our side about the common danger simply will not be adequate in the face of new stirrings in Europe towards more unity, the restless urge for new formulas.

I find there are elements in this attitude of increased self-assertion which should give comfort to policy makers on our side of the Atlantic. We need no longer be sensitive to charges of growing isolationism. Instead, as European self-reliance grows, we should be responsive to their attitudes, encouraging them to define for themselves their own group security requirements and arrangements. It would seem logical to adjust our military presence in Europe down to the level desired by the Europeans. As I see it all our Atlantic allies, with the single exception of Germany, would actually be relieved at some reduction of our military presence. Certainly such is the tenor of the European press today.

In Germany too, one may discern the outlines of a changing feeling towards continuing dependence on U.S. military support. In a speech last month at a meeting of the Atlantic group in the House of Commons, West German Finance Minister, Franz Josef Strauss, stated that a European Defense Organization "is the only chance Western Europe has of becoming a potentially equal and autonomous military partner of the United States within NATO in the foreseeable future." He went on to say that the first step would be for Great Britain and France to pool their nuclear arms, creating the core of a nuclear force to which the other European countries could make appropriate contributions." The eventual aim, Mr. Strauss explained, would be to transfer nuclear control to a central community government and the executive of a European federation.

That was the voice of a European talking in London among the fellow members of his own community. If beginnings can be made along such lines, our country can be more flexible and creative in our relationships with our restive friends. Let me repeat, if the Europeans, as they presently indicate, profess to see no major present threat to themselves from the East to warrant even a continuance of the present level of their defense commitments, then I would suggest we respect their views with a corresponding reduction in our military presence among

them. There could of course be no apprehension on their side that the nation which so unreservedly responded to the needs of the Atlantic community twice in this century, would not again be responsive should our partners' views of the situation subsequently change.

One step in the direction indicated by Minister Strauss might well be the consideration of a European for the post of Supreme Allied Commander for NATO. I do not make this as a theoretical but rather as a specific proposal. When General Goodpaster, who takes over that post on July 1st, approaches the end of his tour of duty in Brussels, I would truly hope that there would be consultation among the allies as to his successor. If after all due deliberation the choice of the majority is an American once again, that selection would be much more meaningful than the semi-automatic renomination process which has evidently been the rule heretofore.

The very size of our defense establishment in Europe cannot but affect the style of our diplomacy. The large *MAG* (Military Assistance Group) missions are comparable in number to embassy staffs. My Embassy in Copenhagen also had attached to it high ranking and competent officers as air, naval and army attaches. Sale of American arms in Europe has contributed what little there is to the desired standardization and interchangeability of weaponry. All these elements plus our combat forces and our leadership in NATO make our diplomatic effort appear to be the handmaiden of our military policies.

The basic question, of course, remains the interplay of the State and Defense Departments in Foreign Policy implementation. Succeeding Presidents have time and time again endeavored to stress the primacy of the Secretary of State in foreign affairs. But again and again we have seen military decisions seriously affect policy abroad in areas far afield from Defense.

I am in no position, nor is it my purpose today, to propose correctives. Gratefully I am aware of corrective forces at work such as the efforts of the Senate Foreign Relations Committee, particularly through its subcommittee study of our national commitments and U.S. Security Agreements overseas. It is timely and salutary to review our foreign policy assumptions and obligations in critical areas of the world and to have it done under the knowledgeable leadership of the former Secretary of the Air Force, Senator Stuart Symington. Much that will come out of that study, I am sure, will help to illuminate the imbalance between the two departments. We are all well aware of Senator Fulbright's concern about the executive branch's concentration in the hands of the President of virtually unlimited authority over matters of war and peace. Many of us welcome his concern, and the concerned interest of his full committee, in sorting out the overlap between State and Defense.

I am deeply grateful at your giving me this opportunity to share these observations with you today. I appreciate the significance of this occasion and I choose it to express my sense of satisfaction, even of fulfillment to have been the representative of our government and people under three administrations. It was of absorbing interest to me personally, as I told Danish University students last February, to represent our pluralistic society, our ever-renewing one, skeptical of dogma and stale ideologies, one which never really accepts the status quo as a permanent condition, a society which is always seeking and striving for something better, a better life, a better vision for mankind. Now I return to take my place in that society, hoping to be useful to it in the future.

A final word about being both useful and enjoying life. "Happiness", said John F. Kennedy, "is self-fulfillment along lines of excellence." Self-fulfillment is a marvelous word, rich with many superb connotations, all susceptible here at this great University to a wide variety of translations into actuality.

And so, in the spirit of this splendid movement, warm with good will and the fellowship of the future, I say with a full heart—go forth and fulfill yourself.

S. 2399—INTRODUCTION OF A BILL TO APPORTION HIGHWAY SAFETY FUNDS FOR FISCAL YEAR 1970

Mr. COOPER. Mr. President, as the ranking minority member of the Committee on Public Works, I am today introducing for appropriate referral, the administration's recently transmitted proposed bill to apportion under section 403 of title 23 of the United States Code highway safety funds for fiscal year 1970 and thereafter. This bill and other highway safety matters will be the subject of hearings before the Public Works Committee later this month.

I ask unanimous consent that a letter from the Honorable James M. Beggs, Acting Secretary of the Department of Transportation explaining the purposes and provisions of this bill be printed in the RECORD.

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

The bill (S. 2399), to provide a formula for apportionment of State and community highways funds for fiscal year 1970 and thereafter, introduced by Mr. COOPER, was received, read twice by its title, and referred to the Committee on Public Works.

The letter presented by Mr. COOPER follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., June 4, 1969.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: As a part of the legislative program for the 91st Congress, 1st Session, the Department of Transportation has prepared and submits with this letter a draft of a proposed bill: "To provide a formula for apportionment of State and community highway safety funds for fiscal year 1970 and thereafter."

In January of this year, responding to the Congressional direction in section 101 of the Highway Safety Act of 1966 (23 U.S.C. 402(c)), former Secretary Boyd recommended to Congress a formula for apportioning funds to carry out the Act's State and community highway safety programs for fiscal year 1970 and succeeding fiscal years. That recommendation contemplated the division of those funds among the States in the ratio of traffic accident deaths in each State over a three year period to the nationwide total of such deaths in that period. No State, however, would receive less than one quarter of one percent of the funds apportioned each year.

It was stated that a formula based on fatalities would result in an allocation of funds to each State proportional to the magnitude of the most severe aspect of that State's highway safety problem. This formula also assumed that total fatalities reflect the magnitude of serious injuries and correlated approximately with minor injuries and property damage.

However, since that death rate formula was recommended, it has been seriously criticized as being subject to negative interpretations, in effect rewarding a State with a poor record while penalizing a State with a successful program. Under that formula, the States most successful in bringing down their traffic death rates would in effect be "penalized" for their efforts by a reduction in the Federal funds allocated to them. Yet it is very likely that those States will have a continuing need for such assistance if they are to maintain a high degree of highway safety. We think this serious practical defect is inherent in the formula previously recommended.

Although the fatalities-based approach has some precedents in other areas relating to public health and social welfare, we believe that the negative interpretations would offset the advantages and would act to the overall detriment of the achievement of program goals. For this reason we are recommending an extension of the current population-based nondiscretionary formula in the following fashion.

In lieu of the traffic death rate formula, we recommend apportionment of the funds in question on the basis of population. This is, of course, the distribution method initially selected by Congress itself with respect to 75 percent of each year's apportionment for fiscal years 1967 through 1969. (See 23 U.S.C. 402(c).) We have given careful consideration to a large number of alternative suggestions including land area, road mileage, motor vehicle registrations, traffic injuries, highway accidents, motor fuel consumption, and various combinations of these factors. We rejected each of these alternatives in turn for absence of adequate and reliable data, or lack of close correlation to the goals of the program, or both. In our view when all factors were considered none of the alternative proposals bore a clearer relationship to the problem at hand than an apportionment based on population, which has several obvious advantages. It is easily understood, rests on the most reliable data available, and can be implemented immediately.

On the long view, all of us are more or less equally exposed to the various hazards of modern highway traffic. In our judgment, therefore, the Highway Safety Program funds are most equitably apportioned on the basis of population.

We do, however, concur in the recommendation for a minimum apportionment for each State. Regardless of population, there are certain minimum expenditures which every State must meet in administrative and overhead costs to insure a basically sound program. For this reason we propose that each State be allowed a minimum of one quarter of one percent of the total monies apportioned for these programs annually.

We have attached for the convenience of the Congress an appropriate draft bill the enactment of which would accomplish our recommendations.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this draft legislation to the Congress.

Sincerely,

JAMES M. BEGGS,
Acting Secretary.

S. 2400—INTRODUCTION OF A BILL TO REVISE THE QUOTA CONTROL SYSTEM ON THE IMPORTATION OF CERTAIN MEAT AND MEAT PRODUCTS

Mr. HRUSKA. Mr. President. I introduce, for appropriate reference, a bill which is designed to revise the quota control system on the importation of certain meat and meat products, which sys-

tem was enacted into law in 1964 as Public Law 88–482.

Mr. President, 5 years ago when the present law was enacted, it was admittedly the result of a compromise agreed to under conditions of some haste and a good deal of pressure. At the time, many of us, while expressing our support for it as the best that could be secured at that time, expressed the determination to review it periodically in the light of subsequent experience.

The time has come for that review. It is hoped that full hearings on this problem may be possible and will be had at a very early date.

The existing law limiting the quantity of foreign meat to be imported into this country was enacted in 1964 as the result of a most costly and painful experience with unrestricted imports of meat. For a number of years prior to that time, the volume of meat imports had been increasing steadily. By 1962 and 1963, this volume of foreign meat coming into this country had reached flood proportions. Domestic meat production was also rising gradually, but not so fast as imports. Our markets could not stand the strain. Our price structure collapsed; during an 18-month period cattle prices fell as much as 30 percent, dealing the livestock industry the worst blow it had suffered in many years.

The 1964 act was a long step in the right direction, but compromises had to be accepted in order to get the law passed. The then Secretary of Agriculture Secretary Freeman, was originally a bitter opponent of any import quota legislation on meat at all. As finally passed, the law set a basic quota on 725.4 million pounds as the limit on the quantity of fresh, chilled, or frozen beef, veal, or mutton to be imported in any one year. However, the law also permitted a so-called "growth factor," that is, an annual increase in the quota so that foreign producers could share in supplying any increase in the size of our domestic market, along with domestic producers. Furthermore, it permitted an automatic overrun of 10 percent in quantity of imports before the quotas could actually be imposed.

As a result, imports have been permitted to exceed the original base quota in almost every year. In 1968, imports were over 1 billion pounds; thus far, in 1969, they have been running at a heavier rate than last year. It is high time to review the existing law, and to revise it where necessary to close up the loopholes.

SUMMARY OF CHANGES

Principal changes in existing law, Public Law 88–482—passed in 1964—sought by the bill introduced today are of two general classes.

First, the changes of procedural nature are listed as follows:

(1) Elimination of the so-called "override" provision, by which estimated imports of foreign meat into the United States were permitted to exceed the statutory quota by as much as ten percent before quotas on further shipments were imposed.

(2) Elimination of the machinery by which quotas could actually be imposed only upon the basis of an estimate by the Secretary of Agriculture of threatened imports, this bill would impose quotas by the terms of the law itself.

(3) Placement of the quotas on a quarterly rather than an annual basis, to spread out the shipment of meat more evenly through the year.

(4) A provision that offshore procurements of meat from foreign sources (by the armed forces, etc.) would be charged against the applicable import quotas.

Second, the changes of substantive nature:

(1) It is proposed to use the years 1965 through 1967 as the representative historical period upon which to base the calculation of quotas henceforth, instead of 1959 through 1963 as provided in the present law. It is desirable to modernize the quota base, and particularly to eliminate from the base the record-high years of 1962 and 1963 which result in the establishment of unreasonably high quotas to a degree that is harmful to the domestic industry.

(2) In this year's bill, it is proposed to include fresh, chilled or frozen lamb within the quota along with fresh, chilled, or frozen beef, veal, mutton and goat. In 1968 imports of fresh, chilled, and frozen lamb amounted to 22.9 million pounds, the all-time record volume of imports for lamb meat and nearly double the previous year.

(3) It is also proposed to include "beef and veal, prepared or preserved," of which the principal category is canned beef. Such imports have not yet increased greatly, but it is believed that during periods when quotas on fresh, chilled, or frozen imported meats are effective, it is necessary also to restrain imports of canned beef to prevent a major loophole from opening up.

(4) In the calculation of the growth of imports to be permitted to foreign suppliers, it is proposed to use the quantity of "average domestic production," instead of "average domestic commercial production." This revision is made necessary by a change in the definition of "domestic commercial production" made by the Department of Agriculture in 1966 which had the effect of increasing somewhat the quotas permitted to foreign suppliers.

(5) The net effect of items (1), (2), (3), and (4) is that the gross quota is not greatly changed; for 1969, for example, it would become 965.9 million pounds, compared with 988.0 million pounds as set by present law. However, lamb and canned or prepared beef and veal would be contained within the new quota, and the trigger point arrangement would be eliminated.

Another most important change is the creation of discretionary authority to impose quotas on types of meat other than those expressly specified in the law. This would be done by adopting language authorizing quotas on additional types of meat, so as to make sure this authority can and will be used when necessary to effectuate the purpose of stabilizing the price of meat. During the past 2 years experience with imports of dairy products has taught us that when quotas are imposed on one product, it may tempt some elements in the trade to search out loopholes in the quota system through which foreign surpluses can be dumped. Thus, when the quota on imports of foreign butter was filled, some importers were able to get around the quota restrictions by bringing in butterfat-sugar mixtures usable in the manufacture of ice cream. When quotas were imposed on this product also, imports began to climb of a mixture of cream and cocoa called "chocolate crumb." It is desirable to have, written firmly into the law, sufficient authority to enable our authorities to move promptly to prevent any increase in imports of meat in any form which might destabilize our markets.

Mr. President, at a proper time, I shall discuss in greater detail the reasons and the background which call for early hearings and consideration of this bill. Upon making that presentation I shall advise my colleagues so that they may again cosponsor this measure, as many of them did a couple of years ago when a similar bill was introduced. On that occasion a total of 39 Senators joined in the effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

The bill (S. 2400), to revise the quota-control system on the importation of certain meat and meat products, introduced by Mr. HRUSKA, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 2400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) it is the policy of the Congress that the aggregate quantity of the articles specified in item 106.10 (relating to fresh, chilled, or frozen cattle meat), item 106.20 (relating to fresh, chilled, or frozen meat of goats and sheep (except lambs)), item 106.30 (relating to fresh, chilled, or frozen lamb meat) and items 107.40, 107.45, 107.50, 107.55, and 107.60 (relating to beef and veal, prepared or preserved (except sausages)) of the Tariff Schedules of the United States which may be imported into the United States in any calendar year beginning after December 31, 1969, should not exceed the average aggregate quantity of such articles imported during the calendar years 1965, 1966, and 1967; except that this quantity shall be increased or decreased for any calendar year by the same percentage that estimated average annual domestic production of such articles in that calendar year and the two preceding calendar years increases or decreases in comparison with the average annual domestic production of such articles during the calendar years 1965, 1966, and 1967.

(b) Before the beginning of each calendar year after 1969, the Secretary of Agriculture shall estimate and publish the aggregate quantity prescribed for such calendar year by subsection (a).

(c)(1) The President shall by proclamation limit the total quantity of the articles described in subsection (a) which may be entered, or withdrawn from warehouse, for consumption during each quarter of any calendar year to one-fourth the aggregate quantity estimated for such calendar year by the Secretary of Agriculture pursuant to subsection (b).

(2) The Secretary of Agriculture shall allocate the total quantity proclaimed under paragraph (1), and any increase in such quantity pursuant to subsection (d), among supplying countries on the basis of the shares such countries supplied to the United States market during a representative period of the articles described in subsection (a), except that due account may be given to special factors which have affected or may affect the trade in such articles. The Secretary of Agriculture shall certify such allocations to the Secretary of the Treasury.

(d) The President may suspend any proc-

lamation made under subsection (c), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that—

(1) such action is required by overriding economic or national security interest of the United States, giving special weight to the importance to the Nation of the economic well-being of the domestic livestock industry;

(2) the supply of articles of the kind described in subsection (a) will be inadequate to meet domestic demand at reasonable prices; or

(3) trade agreements entered into after the date of the enactment of this Act insure that the policy set forth in subsection (a) will be carried out.

Any such suspension shall be for such period, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection.

(e) The Secretary of Agriculture shall issue such regulations as he determines to be necessary to prevent circumvention of the purposes of this section.

SEC. 2. (a) Whenever the Secretary of Agriculture has reason to believe that any article enumerated in subpart B of part 2 of schedule 1 of the Tariff Schedules of the United States (relating to meats other than bird meat), other than the articles specified in the item numbers enumerated in section 1 hereof, are being or are practically certain to be imported into the United States under such conditions and in such quantities as to depress or tend to depress the price of meat or meat products, or to reduce substantially the amount of any product processed in the United States from domestic livestock, he shall so advise the President, and, if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give the same precedence to investigations under this section to determine such facts as applies to investigations under section 22 of the Agricultural Adjustment Act of 1933. Such investigation shall be made after due notice and opportunity for hearing to interested parties, and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such quantitative limitations on such article which may be entered, or withdrawn from warehouse, for consumption as he finds and declares shown by such investigation to be necessary in order that the entry of such article will not depress or tend to depress the price of meat or meat products, or to reduce substantially the amount of any product processed in the United States from domestic livestock. No proclamation under this section shall impose any limitation on the total quantity of any article which may be entered, or withdrawn from warehouse, for consumption which reduces such permissible total quantity to proportionately less than 50 percent of the total quantity of such article entered, or withdrawn from warehouse for consumption during a representative period as determined by the President.

(c) In any case in which the Secretary of Agriculture determines and reports to the President with regard to any article that a condition exists requiring emergency treatment, the President may take immediate action under this section without awaiting the recommendations of the Tariff Commission, such action to continue in effect pending the report and recommendations of the Tariff Commission and action thereon by the President.

(d) The quantitative limitations imposed by the President by proclamation under this section and any revocation, suspension, or modification thereof, shall be effective on such date as shall be specified in such proclamation.

(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b), any proclamation or any provision of a proclamation of the President under this section may be suspended or terminated by the President whenever he finds and proclaims that the circumstances requiring the proclamation or provision thereof no longer exists, or may be modified by the President whenever he finds and proclaims that changed circumstances require such modification to carry out the purposes of this section.

(f) Any decision of the President as to facts under this section shall be final.

(g) No trade agreement or other international agreement heretofore or hereafter entered into by the United States shall be applied in a manner inconsistent with the requirements of this section.

SEC. 3. Prior to the beginning of each calendar quarter, the Secretary of Defense shall certify to the Secretary of Agriculture an estimate of the quantity of any article, with respect to which a quota on imports is in effect under the provisions of this Act, which is to be procured with appropriated funds by the Department of Defense from foreign sources and is to be accepted for delivery during such quarter. The quota established under this Act for such article shall be reduced by the quantity so certified by the Secretary of Defense.

SEC. 4. All determinations by the President, the Secretary of Defense, and the Secretary of Agriculture under this Act shall be final.

SEC. 5. Effective January 1, 1970, section 2 of the Act entitled, "An Act to provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products," approved August 22, 1964 (Public Law 88-482), is repealed.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

S. 2405—INTRODUCTION OF BILL TO IMPROVE HEALTH AND SAFETY CONDITIONS IN THE COAL MINES OF THE UNITED STATES

Mr. JAVITS. Mr. President, I introduce for appropriate reference a bill to improve health and safety conditions in the coal mines of the United States and ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD at the conclusion of the Senator's remarks.

Mr. JAVITS. Mr. President, the Subcommittee on Labor has completed extensive hearings on the need for revising and strengthening our existing coal mine safety laws. As the ranking minority member of the subcommittee and the sponsor of the administration's bill, S. 1300, I have participated in the hearings and studied the record closely. The record of the hearings leaves no room for doubt that the existing law should be abandoned and a new and up-to-date law must be enacted quickly to strengthen the Federal Government's hand in protecting the health and safety of coal miners throughout the country.

Clearly the time is long past for us to do all that it is in our power to do to prevent repetitions of the recent disaster which took the lives of 78 miners in Farmington, W. Va., last November, and other accidents which year in and year out have resulted in the death of hundreds of miners and injuries to thousands more. We must also utilize all available technology to bring down the level of respirable coal dust in the mines so as to minimize and, hopefully, eventually completely eliminate coal workers' pneumoconiosis, the horrible disease more commonly known as "black lung."

The bill I introduce today incorporates many changes which I believe significantly strengthen the administration's original bill, S. 1300. The changes are the product of close study of the record developed at the hearings and consideration of recently completed studies by the Public Health Service and the Bureau of Mines. I have also been in constant touch with the administration concerning these changes and many of them have been approved by the administration.

Mr. President, I wish to make it clear that the changes are all designed to strengthen, fortify, and build up the safeguards, rather than in any way to reduce them either in quality or in quantity.

Second, I am informed that only two days ago a mine in West Virginia which has been classed as non-gassy since 1966 had an ignition which resulted in the burning of five miners out of a shift of 25 men. Fortunately, these men were not killed.

This unfortunate incident, however, serves to dramatize even more the importance of abandoning the distinction between gassy and nongassy mines—a distinction which has been aptly termed as "artificial." My bill would provide the means to accomplish this.

Rather than offer each of the changes for consideration of the Subcommittee on Labor at the markup sessions. I believe that it would facilitate matters if they were incorporated in a clean bill. I am, of course, continuing to study the record and the various other bills which have been introduced concerning coal mine health and safety to see if further improvements in my bill can be made. I am reviewing further other items mentioned in some of these bills, such as penalties on the miners, user fees for research, and compensation benefits for those disabled by pneumoconiosis. I also am reviewing the various and complex problems associated with the establishment of a proper initial dust standard and the need for a transition period relative to requiring very expensive face equipment to be permissible. The records of the Bureau of Mines indicate that none of the 52 ignitions which have occurred in nongassy mines during the past 16 years have been caused by this equipment.

I have had prepared a memorandum explaining the principal differences between the bill I introduce today and the original administration bill, S. 1300, and ask unanimous consent that the memorandum be printed at the conclusion of my remarks.

I believe two features of this bill should be emphasized.

First, testimony before the subcommittee clearly indicates that the lowest dust standard possible should be established from the standpoint of the health of coal miners. The Public Health Service in December 1968, proposed a standard of 3.0 miligrams per cubic meter. British data indicates that we should ultimately strive for a standard of 2.0 or lower if we are really to rid ourselves of the scourge of black lung once and for all. Unfortunately, however, the Bureau of Mines has advised me, on the basis of a study recently completed by them, that it will not be possible using existing technology for many U.S. mines to meet a 3.0 standard within 6 months from the date of the act. The same study did indicate that almost all U.S. mines should be able to meet a 4.5 standard utilizing existing technology. The Bureau of Mines has also advised me that it would probably take between 2 and 3 years to improve existing technology to the point where most U.S. mines can meet a 3.0 standard.

In view of these facts and considering the necessity for acting as quickly as possible to lower the coal dust levels in our mines, my bill provides that where existing technology permits, mines should be required to meet the 3.0 standard within 6 months after the effective date of the act, but that where existing technology does not permit this standard to be met, the Secretary may prescribe a level which can be achieved with existing technology, but in no event more than 4.5 milligrams per cubic foot for a period not exceeding 3 years. Applications for this special treatment may be granted by the Secretary of the Interior only if the operator demonstrates that he has diligently attempted to meet the 3.0 standard. Furthermore, as soon as existing technology is developed, the operator must comply with the 3.0 standard.

I wish to emphasize that nothing in the bill relates to any effort to save money or to apologize for any condition in the industry. We cannot afford, even if it means closing mines, to run undue risks. At the same time, we cannot require standards which result unnecessarily in closing a great many mines and bringing about serious unemployment in the industry.

Undoubtedly, certain risks must be taken. Miners have taken them for years. They are among the outstanding heroes among industrial workers and industrial development in the United States. So some risks will continue to be taken. But everything I shall do in the bill, and the present form of it, as I see it, does so, will be designed to minimize that risk and not for one moment tip the balance against safety, but, rather, in its favor at all times and at all costs, bearing in mind the fact that production and employment are vitally dependent on what we do here in respect of law.

Mr. President, I have prepared a memorandum explaining the principal differences between the bill I introduce today and the original administration bill, S. 1300. I ask unanimous consent that the memorandum be printed at the conclusion of my remarks.

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

The bill (S. 2405), to improve the health and safety conditions of persons working in the coal mining industry of the United States, introduced by Mr. JAVITS, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 2405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Coal Mine Health and Safety Act of 1969".

FINDINGS

SEC. 2. Congress declares that—

(a) the first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the miner;

(b) the occupationally caused death or injury of a miner causes grief and suffering, and is a serious impediment to the future growth of this industry;

(c) there is an urgent need to provide more effective means and measures for improving the working conditions and practices in the Nation's coal mines in order to prevent death and serious physical harm, and in order to control the causes of occupational diseases originating in such mines;

(d) the existence of unsafe and unhealthful conditions and practices in such mines cannot be tolerated;

(e) the operators of such mines with the assistance of the miners have the primary responsibility to prevent the existence of such conditions and practices in such mines;

(f) the disruption of production and the loss of income to operators and miners as a result of a coal mine accident or occupationally caused disease unduly impedes and burdens commerce; and

(g) it is therefore the purpose of this Act (1) to provide for the establishment of mandatory health and safety standards for coal mines; (2) to require that the operators and the miners of such mines comply with such standards in carrying out their responsibilities; (3) to cooperate with and provide assistance to, the States in the development and enforcement of effective State coal mine health and safety programs; and (4) to improve and expand, in cooperation with the States and the coal mining industry, research and development and training programs aimed at preventing coal mine accidents and controlling the causes of occupational diseases in the industry.

MINES SUBJECT TO ACT

SEC. 3. Each coal mine the products of which enter commerce, or the operations of which affect commerce, shall be subject to this Act, and each operator of such mine and every person working in such mine shall comply with the provisions of this Act and the applicable regulations of the Secretary promulgated under this Act.

DEFINITIONS

SEC. 4. For the purpose of this Act, the term—

(a) "Secretary" means the Secretary of the Interior or his delegate;

(b) "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a place in any State and any place outside thereof, or within the District of Columbia or a possession of the United States, or between points in the same State but through a point outside thereof;

(c) "State" includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam;

(d) "operator" means a person operating a coal mine;

(e) "agent" means any person charged with responsibility for the operation of all or part of a coal mine and the supervision of the employees in a coal mine;

(f) "person" means any individual, partnership, association, corporation, firm, subsidiary of a corporation, or other agency or organization;

(g) "miner" means any individual working in a coal mine and includes the agent of the operator;

(h) "coal mine" means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities;

(i) "work of preparing the coal" means the breaking, crushing, sizing, cleaning, washing, drying, mixing, storing, and loading of bituminous coal, lignite, or anthracite, and such other work of preparing such coal as is usually done by the operator of the coal mine;

(j) "imminent danger" means the existence of any condition or practice in a coal mine which would reasonably be expected to cause death or serious physical harm before such condition or practice can be abated;

(k) "accident" includes a mine explosion, mine ignition, mine fire, or mine inundation, or injury to, or death of, any person; and

(l) "Board" means the Federal Coal Mine Health and Safety Board of Review established by this Act.

TITLE I—GENERAL HEALTH AND SAFETY STANDARDS; REVIEW

SEC. 101. (a) The Secretary shall, in accordance with the procedures set forth in this section, develop, promulgate, and revise as may be appropriate, mandatory health and safety standards for the protection of life and the prevention of injuries and occupational diseases in a coal mine.

(b) In the development of such standards, the Secretary shall consult with other interested Federal agencies, representatives of States, appropriate representatives of the coal mine operators and miners, other interested persons and organizations, and such advisory committees as he may appoint, and he may hold such public hearings as he deems appropriate. In addition to the attainment of the highest degree of health and safety protection for the miner, other considerations shall be the latest available scientific data in the field, the technical and economic feasibility of the standards, and experience gained under this and other health and safety statutes.

(c) Mandatory health standards proposed by the Secretary shall be based upon criteria developed and furnished to the Secretary by the Secretary of Health, Education, and Welfare on the basis of research, demonstrations, experiments, and such other

information as may be appropriate and in consultation with appropriate representatives of the operators and miners, other interested persons, the States, advisory committees, and where appropriate, foreign countries.

(d) The Secretary shall from time to time publish proposed mandatory health and safety standards in the *Federal Register* and shall afford interested persons a period of not less than thirty days after publication to submit written data or comments. Except as provided in subsection (e) of this section, the Secretary may, upon the expiration of such period and after consideration of all relevant matter presented, promulgate such standards with such modifications as he may deem appropriate. Proposed mandatory safety standards for surface coal mines shall be developed and published by the Secretary not later than twelve months after the enactment of this Act.

(e) On or before the last day of any period fixed for the submission of written data or comments under subsection (d) of this section, any interested person may file with the Secretary written objections to a proposed standard, stating the grounds therefor and requesting a public hearing by the Board on such objections. As soon as practicable after the period for filing such objections has expired, the Secretary shall publish in the Federal Register a notice specifying the proposed standards to which objections have been filed and a hearing requested, and shall refer such standards and objections to the Board for review in accordance with subsection (f) of this section.

(f) Promptly after any matter is referred to the Board by the Secretary under subsection (e) of this section, the Board shall issue notice of, and hold a public hearing for, the purpose of receiving relevant evidence. Within 60 days after the completion of the hearing, the Board shall make proposed findings of fact on such objections and shall file with the Secretary a report incorporating such findings together with its recommendations and with the record on which such findings are based and shall make such report public. Upon receipt thereof, the Secretary, upon consideration of the Board's findings of fact and recommendations, may by decision adopt the Board's recommendations or make new findings of fact and promulgate the mandatory standards with such modifications as he deems appropriate, or take such other action as he deems appropriate. All such findings shall be made public.

(g) Any aggrieved person may, within 30 days after promulgation in the *Federal Register* of any mandatory health or safety standards which were referred to the Board under subsection (e) of this section, file with the United States Court of Appeals for the District of Columbia a petition praying that such standards be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the Secretary, and thereupon the Secretary shall certify and file in such court the record upon which the Secretary made his decision, as provided in section 2112, title 28, United States Code. The court shall hear such appeal on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or remand the proceedings to the Secretary for such further action as it directs. The review provided by this subsection shall be the exclusive review available to such person of any such standard and such standards shall not be the subject of any review during any procedure to enforce such standards by the Secretary in the Board or the court. The filing of a petition under this subsection shall not stay the application of the standards complained of, unless the court so orders, upon finding that there is a substantial likelihood that the Secretary's findings are erroneous, and that irreparable injury will result without such a stay.

(h) Any mandatory standard promulgated under this section shall be effective 30 days after publication in the *Federal Register* unless the Secretary specifies a later date.

ADVISORY COMMITTEES

SEC. 102. (a) The Secretary may appoint one or more advisory committees to advise him in carrying out the provisions of this Act. The Secretary shall designate the chairman of such committee.

(b) Advisory committee members, other than employees of Federal, State, or local governments, while performing committee business shall be entitled to receive compensation at rates fixed by the Secretary but not exceeding $100 per day, including travel time. While so serving away from their homes or regular places of business, members may be paid travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons intermittently employed.

INSPECTIONS AND INVESTIGATIONS

SEC. 103. (a) Authorized representatives of the Secretary shall make frequent inspections and investigations in coal mines each year for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines, (2) developing health and safety standards, (3) determining whether an imminent danger exists in a coal mine, and (4) determining whether or not there is compliance with the mandatory health and safety standards promulgated by the Secretary under this Act or with any notice or order issued under this Act. In carrying out the requirements of clauses (3) and (4) of this subsection in each underground coal mine, such representatives shall make inspections of the entire mine at least three times a year.

(b) For the purpose of making any inspection or investigation under this Act, the Secretary or any authorized representative of the Secretary shall have a right of entry to, upon, or through, any coal mine.

(c) For the purpose of carrying out his responsibilities under this Act, including the enforcement thereof, the Secretary may by agreement utilize with or without reimbursement the services, personnel, and facilities of any Federal or State agency.

(d) For the purpose of making any investigation of any accident or other occurrence relating to health or safety in a coal mine, the Secretary may, after notice, hold public hearings, and may sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) In the event of any accident occurring in a coal mine, the operator shall notify the Secretary thereof and shall take appropriate measures to prevent, to the greatest extent possible, the destruction of any evidence which would assist in investigating the cause or causes thereof. In the event of any accident occurring in a coal mine where rescue and recovery work is necessary, the Secretary or any authorized representative of the Secretary shall take whatever action he deems appropriate to protect the health or safety of any person, and he may, if he deems appropriate, supervise and direct the rescue and recovery activity in such mine.

(f) In the event of any accident occurring in a coal mine, an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to insure the safety of any person in the coal mine, and the operator of such mine shall obtain the approval of such representative, in consultation with appropriate State representatives, of any plan to recover any person in the mine or to recover the mine or to return affected areas of the mine to normal.

(g) Whenever a miner or an authorized representative, if any, of the miners, has reason to believe that a violation of a mandatory health or safety standard promulgated by the Secretary exists, or an imminent danger exists, in a mine, such miner or representative may notify the Secretary or his authorized representative of such violation or danger. Within twenty-four hours of receipt of such notification, a special inspection shall be made to determine if such violation or danger exists in accordance with the provisions of this title.

STATE PLANS

SEC. 104. (a) In order to assist the States where coal mining takes place in developing and enforcing effective health and safety laws and regulations applicable to such mines consistent with the provisions of section 405 of this Act and to promote Federal-State coordination and cooperation in improving the health and safety conditions in the Nation's coal mines, the Secretary shall approve any plan submitted under this section by such State, through its official coal mine inspection or safety agency, which—

(1) designates such State coal mine inspection or safety agency as the sole agency responsible for administering the plan throughout the State and contains satisfactory evidence that such agency will have the authority to carry out the plan;

(2) gives assurances that such agency has or will employ an adequate and competent staff of trained inspectors qualified under the laws of such State to make mine inspections within such State;

(3) sets forth the plans, policies, and methods to be followed in carrying out the plan;

(4) provides for the extension and improvement of the State program for the improvement of coal mine health and safety in the State, and that no advance notice of an inspection will be provided any operator of a coal mine;

(5) provides such fiscal control and fund accounting procedures as may be appropriate to assure proper disbursement and accounting of grants made to the State under this section;

(6) provides that the designated agency will make such reports to the Secretary, in such form and containing such information, as the Secretary may from time to time require; and

(7) meets any additional conditions which the Secretary may prescribe by rule in furtherance of the purposes of this section.

(b) The Secretary shall approve any State plan or any modification thereof which complies with the provisions of subsection (a) of this section. He shall not finally disapprove any State plan or modification thereof without first affording the State agency reasonable notice and opportunity to present comments.

(c) Whenever the Secretary, after reasonable notice and opportunity for the State agency to present its comments, finds that in the administration of an approved State plan there is (1) a failure to comply sub-

stantially with any provision of the State plan, or (2) a failure to afford reasonable cooperation in administering the provisions of this title, the Secretary shall by decision incorporating his findings therein notify such State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect.

(d) If any State is dissatisfied with the Secretary's decision under subsection (c) of this section, it may file within 30 days from the date of such decision with the United States Court of Appeals for the District of Columbia a petition praying that such action be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the Secretary, and thereupon the Secretary shall certify and file in such court the record upon which the Secretary made his decision, as provided in section 2112, title 28, United States Code. The court shall hear such appeal on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or remand the proceedings to the Secretary for such further action as it directs. The filing of a petition under this subsection shall not stay the application of the Secretary's decision, unless the court so orders.

(e) The Secretary is authorized to make grants to any State where there is an approved State plan (1) to carry out the plan, including the cost of training State inspectors; (2) to conduct research and planning studies and to develop and carry out plans designed to improve State workmen's compensation and occupational disease laws and programs, as they relate to compensation for pneumoconiosis and injury and death to miners, except that such grants shall not be available to pay compensation claims in whole or in part; and (3) to assist the States in planning and implementing other programs for the advancement of health and safety in coal mines. Such grants shall be designed to supplement, not supplant, State funds in these areas. The Secretary shall cooperate with such State in carrying out the plan and shall, as appropriate, develop facilities for, and finance a program of, training of Federal and State inspectors jointly. The Secretary shall also cooperate with such State in establishing a system by which State and Federal inspection reports of coal mines located in the State are exchanged for the purpose of improving health and safety conditions in such mines.

(f) The amount granted to any State for a fiscal year under this section shall not exceed 80 per centum of the sum expended by such State in such year for carrying out the State coal mine health and safety enforcement program.

(g) There is authorized to be appropriated for fiscal year 1970 and each succeeding fiscal year thereafter such sums as may be necessary to carry out the provisions of this section which shall remain available until expended. The Secretary shall provide for an equitable distribution of sums appropriated to the States where there is an approved plan. The Secretary shall coordinate with the Secretaries of Labor and Health, Education, and Welfare in making grants under this section.

FINDINGS, NOTICES, AND ORDERS

SEC. 105. (a) If, upon any inspection of a coal mine, an authorized representative of the Secretary finds that an imminent danger exists, such representative shall determine the area throughout which such danger exists, and thereupon shall issue an order requiring the operator of the mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such imminent danger no longer exists.

(b) If, upon any inspection of a coal mine, an authorized representative of the Secretary finds that there has been a violation of any mandatory health or safety standard promulgated under this title, but the violation has not created an imminent danger, he shall find what would be a reasonable period of time within which the violation should be totally abated and thereupon issue a notice fixing a reasonable time for the abatement of the violation. If, upon the expiration of the period of time as originally fixed or subsequently extended, an authorized representative of the Secretary finds that the violation has not been totally abated, and if he also finds that the period of time should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that the violation has been abated.

(c) (1) If, upon the inspection of a coal mine, an authorized representative of the Secretary finds that any mandatory health or safety standard established by, or promulgated pursuant to this Act is being violated, and if he also finds that, while the conditions created by such violation do not cause imminent danger, such violation is of such nature as could significantly and substantially contribute to the cause and effect of a mine hazard, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with such mandatory health or safety standards, he shall include such finding in the notice given to the operator under subsection (b) of this section. If, during the same inspection or any subsequent inspection of such mine within 90 days after the issuance of such notice, a representative of the Secretary finds a violation of any such mandatory health or safety standard and finds such violation to be caused by an unwarrantable failure of such operator to so comply, he shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (d) of this section, to be withdrawn from, and to be debarred from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

(2) If a withdrawal order with respect to any area in a mine has been issued pursuant to paragraph (1) of this subsection, thereafter a withdrawal order shall promptly be issued by a duly authorized representative of the Secretary who finds upon any inspection the existence in such mine of violations similar to those that resulted in the issuance of the withdrawal order under paragraph (1) of this subsection until such time as an inspection of such mine discloses no similar violations. Following an inspection of such mine which discloses no similar violations, the provisions of paragraph (1) of this subsection shall again be applicable to that mine.

(d) The following persons shall not be required to be withdrawn from, or prohibited from entering, any area of the coal mine subject to an order issued under this section:

(1) Any person whose presence in such area is necessary, in the judgment of the operator, to eliminate the condition described in the order;

(2) Any public official whose official duties require him to enter such area; and

(3) Any consultant or any representative of the employees of such mine who is, in the judgment of the operator, qualified to make coal mine examinations or who is accompanied by such a person and whose presence in such area is necessary for the investigation of the conditions described in the order.

(e) Notices and orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger or a violation of any mandatory health or safety standard promulgated under this Act and, where appropriate, a description of the area of the coal mine from which persons must be withdrawn and prohibited from entering.

(f) Each notice or order issued under this section shall be given promptly to the operator of the coal mine or his agent by an authorized representative of the Secretary issuing such notice or order, and all such notices and orders shall be in writing and shall be signed by such representative.

(g) A notice or order issued pursuant to this section may be modified or terminated by an authorized representative of the Secretary. For the purpose of determining whether a violation of a mandatory health or safety standard has been abated, or whether an imminent danger no longer exists, an authorized representative of the Secretary shall promptly make a special inspection: (1) upon the expiration of the time originally fixed or as extended pursuant to any notice issued under this section, or (2) upon request of an operator of a mine for which an order or notice has been issued under this section, except that the Secretary may establish procedures to avoid unnecessary or repetitive inspections.

(h) (1) If, upon any inspection of a coal mine, an authorized representative of the Secretary finds (A) that conditions exist therein which have not yet resulted in an imminent danger, (B) that such conditions cannot be effectively abated through the use of existing technology, and (C) that reasonable assurance cannot be provided that the continuance of mining operations under such conditions will not result in an imminent danger, he shall determine the area throughout which such conditions exist, and thereupon issue a notice to the operator of the mine or his agent of such conditions, and shall file a copy thereof incorporating his findings therein with the Secretary and with the representative, if any, of the miners of such mine. Upon receipt of such notice, the Secretary shall cause such further investigation to be made as he deems appropriate, including an opportunity for the operator or a representative of the miners, if any, to present information relating to such notice.

(2) Upon the conclusion of such investigation, the Secretary shall make findings of fact, and shall file a petition together with such facts with the Board requesting that either the notice issued under this subsection be cancelled or that an order be issued requiring the operator to cause all persons in the area affected, except those persons referred to in subsection (d) of this section, to be withdrawn from, and be debarred from entering, such area until the Board, after a hearing affording all interested persons an opportunity to present their views, determines that such conditions have been abated. The petition shall designate the operator of such mine as the respondent. The Secretary shall send a copy of such petition by registered or certified mail to the operator of such mine and to the representative, if any, of the miners of the affected mine.

(i) If any order is issued pursuant to this section affecting a mine, the authorized representative of the Secretary who issued the order shall notify the appropriate State agency immediately, but not later than twenty-four hours after the issuance of such order, that such order has been issued.

REVIEW BY SECRETARY

SEC. 106. (a) An operator notified of an order issued pursuant to section 105 of this title may apply to the Secretary for the re-

view of the order within 30 days of receipt thereof. The operator shall send a copy of such application to the Secretary and to the representative, if any, of miners in the affected mine. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. If the applicant or a representative, if any, of the miners in such mine so request, such investigation shall afford the applicant and the representative the opportunity to present information relating to the issuance and continuance of such order.

(b) Upon reecipt of a report of such investigation, the Secretary shall make findings of fact and issue a written decision vacating, affirming, modifying, or terminating the order complained of and incorporate his findings therein.

FEDERAL COAL MINE HEALTH AND SAFETY BOARD OF REVIEW

SEC. 107. (a) There is hereby established a Federal Coal Mine Health and Safety Board of Review which shall be an independent agency. In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department of the Interior.

(b) The Board shall consist of five members to be appointed by the President with the advice and consent of the Senate. No more than three members of the Board shall be of the same political party. Members of Board shall be appointed with due regard to their fitness for the efficient discharge of the functions, powers, and duties invested in, and imposed upon, the Board, and two members shall have a background, either by reason of previous training, education, or experience in coal mining technology, one member shall have a background either by reason of previous training, education, or experience in public health, and two members shall be drawn from the public generally. All such members shall not have had any interest in, or hold any office in, or connection with, the coal mining industry or any organization representing the coal miners for at least one year prior to their appointment and during the term of their appointment. Pending the appointment by the President of members of this Board, the members of the Federal Coal Mine Safety Board of Review, established by the Federal Coal Mine Safety Act, as amended, shall continue as members of the Board in accordance with the provisions of that Act regarding their appointment until they are replaced or reappointed under this section.

(c) Members of the Board shall be appointed for terms of five 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 only for the remainder of such term and (2) the five members first appointed shall serve for terms, designated by the President at the time of appointment, ending on the last day of the first, second, third, fourth, and fifth calendar years beginning after 1969. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified.

(d) The Chairman of the Board shall be entitled to receive compensation at a rate equal to that provided for in level IV of the Executive Schedule and section 5316 of title 5, United States Code. The other members of the Board shall receive compensation at a rate equal to that provided for in level V of the Executive Schedule.

(e) The principal office of the Board shall be in the District of Columbia. Whenever the Board deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place. At the request of an operator of a mine or the representative, if any, of the miners working in the mine, the Board shall hold hearings or conduct other proceedings under this title, at the county seat of the county in which the mine is located or at any place mutually agreed to by the Chairman of the Board and the operator or representative involved in the proceeding. The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the Secretary of the Board.

(f) The President shall designate from time to time one of the members of the Board as Chairman. The Board shall, without regard to the civil service laws, appoint such legal counsel and hire consultants as it deems necessary. The Chairman shall be the chief executive and administrative officer of the Board and shall, subject to the policies and decisions of the Board, exercise the responsibility of the Board with respect to (1) the appointment and supervision of personnel employed by the Board; (2) the distribution of business among the Board's personnel; and (3) the use and expenditure of funds. Subject to the civil service laws, the Board shall appoint such other employees as it deems necessary in exercising its powers and duties. The compensation of all employees appointed by the Board shall be fixed in accordance with chapter 53 of title 5, United States Code.

(g) For the purpose of carrying out its functions under this title, three members of the Board shall constitute a quorum, and official action can be taken only on the affirmative vote of at least three members. A special panel composed of one or more members, upon order of the Board, shall conduct any hearing provided for in this title and submit the transcript of such hearing to the entire Board for its action thereon. Such transcript shall be made available to the parties prior to any final action of the Board. An opportunity to appear before the Board shall be afforded the parties prior to any final action and the Board may afford the parties an opportunity to submit additional evidence as may be required for a full and true disclosure of the facts.

(h) Every official act of the Board shall be entered of record, and its hearings and records thereof shall be open to the public. The Board shall not make or cause to be made any inspection of a coal mine for the purpose of determining any pending application.

(i) The Board is authorized to make such rules as are necessary for the orderly transaction of its proceedings, which shall provide for adequate notice of hearings to all parties. The existing rules of the Federal Coal Mine Safety Board of Review shall constitute the rules of the Board until superseded or modified by the Board.

(j) Any members of the Board may sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(k) The Board may order testimony to be taken by deposition in any proceeding pending before it at any stage of such proceeding. Reasonable notice must first be given in writing by the party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as provided in subsection (j) of this section. Witnesses whose depositions are taken under this subsection, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the United States.

(l) In the case of contumacy by, or refusal to obey a subpena served upon, any person under this section, the Federal district court for any district in which such person is found or resides or transacts business, upon application by the United States, and, after notice to such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Board or to appear and produce documents before the Board, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

REVIEW BY BOARD

SEC. 108. (a)(1) Within thirty days after receipt of an order made pursuant to subsection (a), (b), or (c) of section 105 or of a decision made pursuant to section 106 of this title, as the case may be, an operator or the representative, if any, of the miners of the affected mine may apply to the Board for review of such order or decision.

(2) The operator or the representative, as appropriate, shall be designated as the applicant in such proceeding, and the application filed by him shall recite the order complained of and other facts sufficient to advise the parties of the nature of the proceeding. The Secretary shall be the respondent in such proceeding, and the applicant shall send a copy of such application by registered or certified mail to the respondent and to the operator or the representative, if any, of the miners of the affected mine, as appropriate. Immediately upon the filing of such application, the Board shall fix the time for a prompt hearing thereof.

(3) The facts found by an authorized representative of the Secretary and recited or set forth in an order issued pursuant to subsections (a), (b), or (c) of section 105 or in a decision issued by the Secretary pursuant to section 106 of this title, as the case may be, shall be prima facie evidence of such facts and the burden of rebutting such prima facie case shall be upon the applicant, but either party may adduce additional evidence.

(4) Upon conclusion of the hearing, the Board shall make findings of fact, and shall issue a written decision incorporating such findings therein affirming, vacating, modifying, or terminating the order issued under subsections (a), (b), or (c) of section 105 or the decision issued under section 106 of this title, as the case may be.

(5) In the case of an application by an operator for review of an order or decision of the Secretary, the representative, if any, of the miners of the affected mine shall be permitted to intervene in the proceeding. In the case of an application by a representative, if any, of the miners of the affected mine for review of an order or decision of the Secretary, the operator shall be permitted to intervene in the proceeding. An operator or representative permitted to intervene shall have the same rights as any other party.

(b)(1) Upon receipt of a petition filed by the Secretary pursuant to subsection (h) of section 105 of this title or a petition filed by the Secretary pursuant to section 113 of this title the Board shall immediately fix the time for a prompt hearing thereof.

(2) The facts found by the Secretary and recited or set forth in said order or petition shall be prima facie evidence of such facts and the burden of rebutting such prima facie case shall be upon the operator, but either party may adduce additional evidence.

(3) Upon conclusion of the hearing, the Board shall make findings of fact, and shall issue a decision incorporating such finding therein and granting with such modifications as it deems appropriate or denying the petition.

(4) In the event of a petition filed by the Secretary pursuant to subsection (h) of section 105 of this title, the Board shall permit

the representative of the miners, if any, of the affected mine to intervene in proceedings and such representative shall have the same rights as any other party.

(c) The Board may permit any interested person to intervene in any proceeding and such person shall have the some rights as any other party, unless the Board otherwise orders.

(d) Each decision made by the Board shall show the date on which it is made, and shall bear the signatures of the members of the Board who concur therein. Upon issuance of a decision under this section, the Board shall cause a true copy thereof to be sent by registered or certified mail to all parties and their attorneys of record and to the representative, if any, of the miners of the affected mine or other interested person. The Board shall cause each decision to be entered on its official record, together with any written opinion prepared by any members in support of, or dissenting from, any such decision.

(e) The Board shall establish procedures to provide for the consolidation of hearings under this section whenever appropriate.

(f) Pending the hearing required by this section for review of said order or decision, the applicant before the Board may file with the Board a written request for the Board to grant temporary relief with such conditions as it may prescribe from the order or decision, together with a detailed statement giving reasons for granting such relief. The Board, after a hearing in which all parties and the representative, if any, of the miners of the affected mine are given an opportunity to be heard, may grant relief upon a finding that (1) there is a substantial likelihood that the order under review was erroneously issued, (2) the granting of the relief will not adversely affect the health or safety of the miners of the affected mine, and (3) failure to grant the relief will result in serious and irreparable injury.

(g) In view of the urgent need for prompt decision of matters submitted to the Board under this section, all actions which the Board takes under this section shall be taken as promptly as practicable, consistent with adequate consideration of the issues involved.

JUDICIAL REVIEW

SEC. 109. (a) Any decision issued by the Board under section 108 of this title shall be subject to judicial review by the United States court of appeals for the circuit in which the affected mine is located, upon the filing in such court within thirty days from the date of such decision of a petition by the Secretary or by the operator or representative of the miners, if any, of the mine affected by the decision praying that the action of the Board be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the other party and to the Board, and thereupon the Board shall certify and file in such court the record upon which the decision complained of was issued, as provided in section 2112, title 28, United States Code.

(b) The court shall hear such appeal on the record made before the Board. The findings of the Board, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any decision or may remand the proceedings to the Board for such further action as it directs.

(c) Pending final determination of an appeal under this section, the operator may file with the court request to grant temporary relief with such conditions as it may prescribe from any decision, together with a detailed statement giving reasons for granting such relief. The court, after a hearing in which all parties and the representative, if any, of the miners of the affected mine are given an opportunity to be heard, may grant relief upon finding that (1) there is a substantial likelihood that the decision under appeal was erroneous, (2) the granting of the relief will not adversely affect the health or safety of the miners of the affected mine, and (3) failure to grant the relief will result in serious and irreparable injury.

(d) The judgment of the court shall be subject only to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(3) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the Board's decision.

POSTING OF NOTICES AND ORDERS

SEC. 110. (a) At each coal mine there shall be maintained an office with a conspicuous sign designating it as the office of the mine and a bulletin board at such office or at some conspicuous place near an entrance of the mine, in such manner that notices required by law or regulation to be posted on the mine bulletin board may be posted thereon, be easily visible to all persons desiring to read them, and be protected against damage by weather and against unauthorized removal. A copy of any notice or order required by this title to be given to an operator shall be delivered to the office of the affected mine, and a copy shall be immediately posted on the bulletin board of such mine by the operator or his agent.

(b) The Secretary shall cause a copy of any notice or order required by this title to be given to an operator to be mailed immediately, to a duly designated representative of persons working in the affected mine, and to the public official or agency of the State charged with administering State laws, if any, relating to health or safety in such mine.

(c) In order to insure prompt compliance with any notice or order issued under section 105 of this title, the authorized representative of the Secretary may deliver such notice or order to an agent of the operator and such agent shall immediately take appropriate measures to insure compliance with such notice or order.

RECORDS

SEC. 111. Every operator of a coal mine and his agent shall establish and maintain such records, including records of any accident occurring in the mine, make such reports, and provide such information as the Secretary may reasonably require from time to time to enable him to perform his functions under this Act, shall upon request of any person authorized by the Secretary, permit such person at reasonable times to have access to and copy such records, and the Secretary may compile, analyze, and publish, either in summary or detailed form, the information obtained. All information, reports, findings, notices, orders, or decisions issued under this Act may be published from time to time and released to any interested person and shall be made available for public inspection.

INJUNCTIONS

SEC. 112. The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, in the district court of the United States for the district in which a coal mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent (a) violates or fails or refuses to comply with any order issued under section 105 of this title or decision issued under this title, or (b) interferes with, hinders, or delays the Secretary or his authorized representative in carrying out the provisions of this Act, or (c) refuses to admit such representative to the mine, or (d) refuses to permit the inspection of the mine, or an accident, injury, or occupational disease occurring in, or connected with, such mine, or (e) refuses to furnish any information or report requested by the Secretary, or (f) refuses to permit access to, and copying of, records. Each court shall have jurisdiction to provide such relief as may be appropriate.

PENALTIES

SEC. 113. (a)(1) The operator of a coal mine in which a violation occurs of a mandatory health or safety standard promulgated under this title or who violates any other provision of this Act, may be assessed a civil penalty, in accordance with the provisions of this subsection, of not more than $10,000 for each occurrence of such violation. Each occurrence of a violation of a health or safety standard may constitute a separate offense. The Secretary may compromise any penalty assessed.

(2) Upon a notification of a violation of any such mandatory health or safety standard in a coal mine from an authorized representative of the Secretary, the Secretary shall cause such further investigation to be made as he deems appropriate, including an opportunity for the operator or representative of the miners, if any, to present information relating to the issuance of such notice and to the amount of such penalty. Upon the conclusion of such investigation the Secretary shall make findings of fact. If he finds that a civil penalty should be assessed, he shall issue an order incorporating such findings therein assessing the penalty. If the operator fails to pay the penalty within the time prescribed in the order, the Secretary shall file a petition together with a copy of such order with the Board requesting that the Board order the payment of such penalty. The petition shall designate the operator of such mine as the respondent. The Secretary shall send a copy of such petition by registered or certified mail to the operator of such mine and to the representative, if any, of the miners of the affected mine.

(3) In determining the amount of any penalty under this subsection, the operator's history of previous violations of health or safety standards, whether or not the violation was willful, the size of the business of the operator charged, the effect on the operator's ability to continue in business, the gravity of the violation of the health or safety standard, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation of a health or safety standard, shall be considered.

(4) In any case where the Board grants the petition filed by the Secretary under this subsection affirming the order of the Secretary as issued or as modified and the operator fails to comply with such order within the time prescribed by the Board therein, the Federal district court for any district in which the operator is found or resides or transacts business, upon application by the United States, and after notice to such operator, shall have jurisdiction to enter a final judgment on such order requiring payment thereon, except that no such judgment shall be entered during the pendency of an appeal from such order pursuant to section 109 of this title. The decision of the Board granting such petition and the order shall not be reviewable by such court.

(b) Whoever knowingly violates or fails or refuses to comply with any order issued under section 105 of this title or any final decision issued under this title shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both, except that if the conviction is for a violation committed after the first conviction of such person, punishment shall be by a fine of not more than $20,000 or by imprisonment for not more than one year, or both.

(c) Whoever knowingly makes any false statements in any records, reports, or other documents required to be maintained under this Act or any mandatory health or safety standard promulgated thereunder or in con-

nection with the violation of any such standard or any order issued under this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 6 months, or both.

TITLE II—INTERIM MANDATORY HEALTH STANDARDS FOR CONTROLLING DUST AT UNDERGROUND MINES

SCOPE OF COVERAGE

SEC. 201. (a) The provisions of this title shall be interim mandatory health standards applicable to all underground mines until superseded in whole or in part by mandatory health standards promulgated by the Secretary for such mines to become effective after the effective date of section 202(a) of this title, and shall be enforced in the same manner and to the same extent as any mandatory health standard promulgated under title I of this Act. Any orders issued in the enforcement of the provisions of this title shall be subject to review as provided in sections 106, 108, and 109 of title I of this Act.

(b) Among other things, it is the purpose of this title to provide, to the greatest extent possible, that the working conditions of an underground coal mine are sufficiently free of dust concentrations in the atmosphere to permit each miner the opportunity to work underground for his entire adult working life without incurring any disability from pneumoconiosis during or at the end of such period.

DUST STANDARD AND RESPIRATORS

SEC. 202. (a) Except as provided in subsection (c) of this section, effective sixty days after the operative date of this title—

(1) Each operator shall take samples of the mine atmosphere to determine the atmospheric concentrations of respirable dust. Such samples shall be taken by any device approved by the Secretary and in accordance with the methods at locations, at intervals, and in a manner prescribed by him. Such samples shall be transmitted to the Secretary, in a manner prescribed by him, and analyzed and recorded by him in such a manner as to provide a method for assuring that the prescribed dust levels are not exceeded.

(2) Each operator shall continuously maintain the concentrations of respirable dust in the mine atmosphere in any active working place at or below 30 milligrams of dust per cubic meter of air if measured with an MRE instrument or at or below an equivalent amount of dust if measured with another device approved by the Secretary, and shall take corrective action immediately when the concentrations of respirable dust in such place are found by an authorized representative of the Secretary to be in excess of such limit. When the concentrations of respirable dust in such place are found by an authorized representative of the Secretary to be in excess of 45 milligrams of dust per cubic meter of air if measured with an MRE instrument or in excess of an equivalent amount of dust if measured with another device approved by the Secretary, all persons, other than those whose presence is required to take corrective measures, shall be withdrawn from, and prohibited from entering, such place, until such representative finds that effective corrective action has been taken to maintain the concentrations at or below the limit prescribed in the first sentence of this paragraph.

(3) Respirators approved by the Secretary shall be worn for protection against exposures to concentrations of dust in excess of 3.0 milligrams of dust per cubic meter of air if measured with an MRE instrument or in excess of an equivalent amount of dust if measured with another device approved by the Secretary. Only miners, whose presence is required to take the corrective measures referred to in paragraph (2) of this subsection and wearing such a respirator, shall enter or be exposed to concentrations in excess of 4.5 milligrams of dust per cubic meter. Use of respirators shall not be substituted for environmental control measures, unless such use is approved by the Secretary. Each underground mine shall maintain a supply of approved respirators adequate to deal with occurrences of concentrations of respirable dust in the mine atmosphere in excess of the limit prescribed in this subsection.

(4) As used in this section, the term "MRE instrument" means the gravimetric dust sampler with four channel horizontal elutriator developed by the Mining Research Establishment of the National Coal Board, London, England.

(b) The Secretary shall, as soon as possible, after the effective date of the 3.0 standard required by this section, establish a standard of 2.0 milligrams of dust per cubic meter of air or lower for all underground mines.

(c) Whenever the Secretary determines, upon application of an operator of an underground coal mine, that the application of the dust standard prescribed under this title within the time prescribed is not feasible from the standpoint of available engineering technology applicable to such mine, he may permit under such conditions as he may prescribe and for a period not in excess of three years, that the operator of such mine shall continuously maintain the concentrations of respirable dust in the mine atmosphere in any active working place in such mine at such level as existing technology will permit, but in no event more than 4.5 milligrams of dust per cubic meter of air if measured with an MRE instrument or at or below an equivalent amount of dust if measured with another device approved by the Secretary. The Secretary shall grant such application only if he finds that the operator has diligently attempted to meet the standard prescribed under subsection (a)(2) of this section. As soon as existing technology permits such operator shall be required by the Secretary to comply with the provisions of subsection (a)(2) of this section. In any mine where such a permit is granted by the Secretary, if the dust in any active working place is found by an authorized representative of the Secretary to be in excess of 4.5 milligrams of dust per cubic meter of air if measured with an MRE instrument or in excess of an equivalent amount of dust if measured with another device approved by the Secretary, the operator of such mine shall take corrective action immediately, and where such concentrations exceed 5.5 milligrams of dust per cubic meter of air if so measured, all persons, other than those whose presence is required to take corrective measures, shall be withdrawn as prescribed in subsection (a)(2) of this section.

MEDICAL EXAMINATIONS

SEC. 203 (a) The operator of an underground coal mine shall establish a program under which each miner working in an underground coal mine will be given, at least annually, beginning six months after the operative date of this title, a chest roentgenogram and such other tests as may be required by the Surgeon General. The films shall be taken in a manner to be prescribed by the Surgeon General and shall be read and classified by the Surgeon General and the results of each reading on each such person shall be available to the Secretary and, with the consent of the miner, to the miner's physician and other appropriate persons. The Surgeon General may also take such examinations and tests where appropriate. Such operator shall further cooperate with the Surgeon General in making arrangements for any such miner to be given such other medical examinations as the Surgeon General determines necessary. The results of any such examination shall be submitted in the same manner as the aforementioned films. In no case, however, shall any such miner be required to have a chest roentgenogram or examination under this section without his consent.

(b) Any miner who, in the judgment of the United States Public Health Service based upon such reading, shows substantial evidence of the development of pneumoconiosis shall be assigned by the operator, for such period or periods as may be necessary to prevent further development of such disease, to work, at the option of the miner, either (1) in any active working place is a mine where the mine atmosphere contains concentrations of respirable dust of not more than 2 milligrams of dust per cubic meter of air if measured with an MRE instrument or not more than an equivalent amount of dust if measured with another device approved by the Secretary, or (2) in an area of the mine containing more than such 2 milligrams, or equivalent, if the miner wears a respirator approved by the Surgeon General.

DUST FROM DRILLING; FUMES

SEC. 204. The dust resulting from drilling in rock shall be controlled by the use and maintenance of permissible dust collectors or by water or water with a wetting agent. Persons exposed for short periods to inhalation hazards from gas, dusts, fumes, or mist, shall wear permissible respiratory equipment. When the exposure is for prolonged periods, other measures to protect such persons or to reduce the hazard shall be taken.

TITLE III—INTERIM SAFETY STANDARDS FOR UNDERGROUND COAL MINES

COVERAGE

SEC. 301. (a) The provisions of this title shall be the interim mandatory safety standards applicable to all underground coal mines until superseded in whole or in part by mandatory safety standards promulgated by the Secretary, and shall be enforced in the same manner and to the same extent as any mandatory safety standard promulgated under title I of this Act. Any orders issued in the enforcement of the interim standards set forth in this title shall be subject to review as provided in title I of this Act.

(b) The purpose of this title is to provide for the immediate application of mandatory safety standards developed on the basis of long experience and advances in technology and to prevent or eliminate newly created hazards resulting from new technology in coal mining. The Secretary shall immediately initiate studies, investigations, and research to further upgrade such standards and to develop and promulgate new and improved standards promptly that will provide increased protection to the miners, particularly in connection with dangers from trolley and trolley feeder wires, signal wires, the splicing of trailing cables, vulcanizing of electric conductors, improvement in roof control measures, methane drainage in advance of mining, improved methods of measuring methane and oxygen concentrations and other matters where the technology has not advanced as rapidly as similar conditions in other industries.

(c) In any case in which an exception to a standard established by this title is authorized by the provisions thereof, such exception shall be made only upon a finding by the Secretary that it is warranted under the criteria established in the provisions authorizing such exception, and that the granting of the exception would not pose a danger to the safety of miners. Such findings shall be made public and shall be available to a representative, if any, of the miners at the affected mine.

GENERAL STANDARDS

SEC. 302. (a) Telephone service or equivalent two-way communication facilities shall be provided between the surface and each landing of main shafts and slopes and be-

tween the surface and each working section that is more than 100 feet from the mine portal.

(b) Smoking shall be prohibited underground. No person shall carry smoking materials, matches, or lighters underground. Smoking shall be prohibited in or around oil houses, explosives magazines, or other surface areas where such practice may cause a fire or explosion. The operator of a coal mine shall institute a program, approved by the Secretary, at each mine to insure that any person entering the underground portion of the mine does not carry smoking materials, matches, or lighters.

(c) All accidents shall be investigated by the operator or his agent to determine the cause and the means of preventing a recurrence. Records of such accidents and investigations shall be kept and the information shall be made available to the Secretary or his authorized representative and the State.

(d) Arrangements shall be made in advance for obtaining emergency medical assistance and transportation for injured persons. Emergency communications shall be provided to the nearest point of assistance. Selected agents of the operator shall be trained in first aid and first aid training shall be made available to all miners. Each mine shall have an adequate supply of first aid equipment located on the surface, at the bottom of shafts and slopes, and at other strategic locations near the working faces. In fulfilling each of the requirements in this section, the operator shall meet at least minimum standards established by the Surgeon General. Each operator shall file with the Secretary a plan setting forth in such detail as he may require the manner in which he has fulfilled the requirements in this section.

(e) A self-rescue device approved by the Secretary shall be made available to each miner by the operator which shall be adequate to protect such miner for 1 hour or longer. Each operator shall train each miner in the use of such device.

(f) The Secretary or an authorized representative of the Secretary may require in any coal mine that rescue chambers, properly sealed and ventilated, be erected at suitable locations in the mine to which miners could go in case of an emergency for protection against hazards. Such chambers shall be properly equipped with first aid materials, and adequate supply of air, and self contained breathing equipment, and independent communication system to the surface, and proper accommodations for the miners while awaiting rescue. A plan for the erection, maintenance, and revisions of such chambers shall be submitted by the operator to the Secretary for his approval.

(g) The Secretary may prescribe the manner in which all active underground working places in a mine shall be illuminated by permissible lighting while persons are working in such places.

(h) Every operator of a coal mine shall establish a program, approved by the Secretary, of training and retraining of qualified and certified persons needed to carry out functions prescribed in this title.

(i) The Secretary shall prescribe improved methods of assuring that miners are exposed to atmospheres that are not deficient in oxygen.

(j) Each mine shall provide adequate facilities for the miners to change from the clothes worn underground, to provide the storing of such cloths from shift to shift, and to provide sanitary and bathing facilities.

ROOF SUPPORT

SEC. 303. (a) The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof-control plan and revisions thereof suitable to the roof conditions and mining system of each mine and approved by the Secretary shall be adopted and set out in printed form within a reasonable period to be established after the operative date of this title by the Secretary by regulation. The plan shall show the type and spacing of supports approved by the Secretary and such plan shall be reviewed periodically, taking into consideration falls of roof or ribs or inadequacy of support of roof or ribs. No person shall proceed beyond the last permanent support unless adequate temporary support is not required under the approved roof control plan. A copy of the plan shall be furnished the Secretary or his authorized representative and shall be available to the miners or their authorized representative.

(b) The method of mining followed in any mine shall not expose the miner to unusual dangers to roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

(c) The operator shall provide at or near the working face an ample supply of suitable materials of proper size with which to secure the roofs of all working places in a safe manner. Safety posts or jacks or other approved devices shall be used to protect the workmen when roof material is being taken down or crossbars are being installed. Losse roof and overhanging or loose faces and ribs shall be taken down or supported. Supports knocked out accidentally shall be replaced promptly.

(d) When permitted, installed roof bolts shall be tested in accordance with the plan. Roof bolts shall not be recovered where complete extractions of pillars are attempted, or where adjacent to clay veins, nor at the locations of other irregularities whether natural or otherwise that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approval roof control plan, and shall be conducted by experienced miners and only where adequate temporary support is provided.

(e) Where the miner is exposed to danger from falls of roof, face, and ribs the operator shall examine and test the roof, face, and ribs before any work or a machine is started, and as frequently thereafter as may as necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

(f) The operator shall investigate and record all roof falls, whether death or injuries result or not, and make such information available to the Secretary or his authorized representative and the appropriate State agency.

VENTILATION

SEC. 304. (a) All coal mines shall be ventilated by mechanical ventilation equipment installed and operated in a manner approved by the Secretary and such equipment shall be examined daily and a record shall be kept of such examination.

(b) All active underground working places shall be ventilated by a current of air containing not less than 19.5 volume per centum or oxygen not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable or harmful gases and smoke and fumes. The minimum quantity of air in any mine reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms shall be nine thousand cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line shall be nine thousand cubic feet a minute. The Secretary or his authorized representative may require in any coal mine a greater quantity of air when he finds it necessary to protect the safety of miners. In robbing areas of anthracite mines, where the air currents cannot be controlled and measurements of the air cannot be obtained, the air shall have perceptible movement.

(c) (1) Properly installed and adequately maintained line brattice or other suitable devices shall be used from the last open crosscut or an entry or room to provide adequate ventilation for the miners and to remove gases, dust, and explosive fumes, unless the Secretary or his authorized representative permits an exception to this requirement. When damaged by falls or otherwise, they shall be repaired promptly.

(2) The space between the line brattice and the rib shall be large enough to permit the flow of a sufficient volume of air to keep the working face clear of flammable and noxious gases.

(3) Brattice cloth used underground shall be of flame-resistant material.

(d) Within three hours immediately preceding the beginning of a coal-producing shift, and before any workmen in such shift enter the underground areas of the mine, certified persons designated by the operator of the mine shall examine a definite underground area of the mine. Each such examiner shall examine every active underground working place in that area and shall make tests in each such working place for accumulations of methane with means approved by the Secretary for detecting methane and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in the active underground working places and on active roadways and travelways; examine active roadways, travelways, and all belt conveyors on which coal is carried, approaches to abandoned workings, and accessible falls in active sections for hazards; examine by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume; and examine for such other hazards as an authorized representative of the Secretary may from time to time require. Such mine examiner shall place his initials and the date at all places he examines. If such mine examiner finds a condition which constitutes a violation of a mandatory standard or any condition which is hazardous to persons who may enter or be in such area, he shall indicate such hazardous place by posting a "Danger" sign conspicuously at all points which persons entering such hazardous place would be required to pass, and shall notify the operator of the mine. No person, other than an authorized representative of the Secretary or a State mine inspector or persons authorized by the mine operator to enter such place for the purpose of eliminating the hazardous condition therein, shall enter such place while such sign is so posted. Upon completing his examination such mine examiner shall report the results of his examination to a person, designated by the mine operator to receive such reports at a designated station on the surface of the mine or underground, before other persons enter the underground areas of such mine to work in such coal producing shift. Each such mine examiner shall also record the results of his examination with ink or indelible pencil in a book approved by the Secretary kept for such purpose on the surface of the mine at a place designated by the mine operator in order to minimize the possibility of damage. No person (other than certified persons designated under this subsection) shall enter any underground area, except during a coal-producing shift, unless an examination of such area as prescribed in this subsection has been made within eight hours immediately preceding his entrance into such area.

(e) At least once during each coal-producing shift, or more often if necessary for safe-

ty, the active underground working places shall be examined for hazardous conditions by certified persons designated by the mine operator to do so. Such examination shall include tests with means approved by the Secretary for detecting methane and with permissible flame safety lamps or other means approved by the Secretary for detecting oxygen deficiency.

(f) Examinations for hazardous conditions, including tests for methane, shall be made at least once each week, by a certified person designated by the operator of the mine, in the return of each split of air where it enters the main return, on pillar falls, at seals, in the main return, in at least one entry of each intake and return airway in its entirety, at idle workings, and insofar as conditions permit, at abandoned workings. Such weekly examinations need not be made during any week in which the mine is idle for the entire week. The person making such examinations and tests shall place his initials and the date at the places examined, and if hazardous conditions are found, such conditions shall be reported promptly. Any hazardous conditions shall be corrected immediately. If a hazardous condition cannot be corrected immediately, the operator shall withdraw all persons from the area of the mine affected by such conditions, except those persons whose presence is required to correct those conditions. A record of these examinations and tests shall be kept and shall be open for inspection by interested persons.

(g) At least once each week, a qualified person shall measure the volume of air entering the main intakes and leaving the main returns, the volume passing through the last open crosscut in each active entry, the volume being delivered to the intake end of each pillar line, and the volume at the intake and return of each split of air. A record of such measurements shall be kept in a book on the surface, and the record shall be open for inspection by interested persons.

(h) (1) At the start of each coal-producing shift, tests for methane shall be made at the face of each working place immediately before electrically operated equipment is energized. Such tests shall be made by qualified persons. If more than 1.0 volume per centum of methane is detected, electrical equipment shall not be energized, taken into, or operated in, such face workings until such methane content is reduced below 1.0 volume per centum of methane. Examinations for methane shall be made during such operations at intervals of not more than twenty minutes during each shift, unless more frequent examinations are required by an authorized representative of the Secretary. In conducting such tests, such person shall use means approved by the Secretary for detecting methane.

(2) If the air at an underground face working, when tested at a point not less than twelve inches from the roof, face, or rib, contains more than 1.0 volume per centum of methane, changes or adjustments shall be made at once in the ventilation in such mine so that such air shall not contain more than 1.0 volume per centum of methane. While such ventilation improvement is underway and until it has been achieved, power to face equipment located in such place shall be cut off, no other work shall be permitted in such place, and due precautions will be carried out under the direction of the agent of the operator so as not to endanger other working places. If such air, when tested as outlined, above, contains 1.5 volume per centum of methane, all persons shall be withdrawn from the portion of the mine endangered thereby, and all electric power shall be cut off from such portion of the mine, until the air in such face working shall not contain more than 1.0 volume per centum of methane.

(i) If, when tested, a split of air returning from active underground working places contains more than 1.0 volume per centum of methane, changes or adjustments shall be made at once in the ventilation in the mine so that such returning air shall not contain more than 1.0 volume per centum of methane. Such tests shall be made at four hour intervals during each shift by a qualified person designated by the operator of the mine. In making such tests, such person shall use means approved by the Secretary for detecting methane.

(j) If a split of air returning from active underground working places contains 1.5 volume per centum of methane, all persons shall be withdrawn from the portion of the mine endangered thereby, and all electric power shall be cut off from such portion of the mine, until the air in such split shall not contain more than 1.0 volume per centum of methane. In virgin territory, if the quantity of air in a split ventilating the workings in such territory equals or exceeds twice the minimum volume of air prescribed in subsection (b) of this section, and if a certified person designated by the mine operator is continually testing the methane content of the air in such split during mining operations in such workings, it shall be necessary to withdraw all persons and cut off all electric power from the portion of the mine endangered by methane only when the air returning from such workings contains more than 2.0 volume per centum.

(k) Air which has passed by an opening in any abandoned area shall not be used to ventilate any active face area in the mine if such air contains 0.25 volume per centum or more of methane. Examinations of such air shall be made during the pre-shift examination required by subsection (d) of this section. In making such tests, a qualified person designated by the operator of the mine shall use means approved by the Secretary for detecting methane. For the purposes of this subsection, an area within a panel shall not be deemed to be abandoned until such panel is abandoned.

(l) Air that has passed through an abandoned panel or area which is inaccessible or unsafe for inspection shall not be used to ventilate any active face workings in such mine. No air which has been used to ventilate an area from which the pillars have been removed shall be used to ventilate any active face workings in such mine, except that such air, if it does not contain 0.25 volume per centum or more of methane, may be used to ventilate enough advancing working places or rooms immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries.

(m) An authorized representative of the Secretary may require in any coal mine that electric face equipment, operated therein be equipped with a methane monitor approved by the Secretary and kept operative and in operation.

(n) Idle and abandoned areas shall be inspected for methane and for oxygen deficiency and other dangerous conditions by a certified person with means approved by the Secretary as soon as possible, but not more than three hours, before other employees are permitted to enter or work in such places. However, persons, such as pumpmen, who are required regularly to enter such areas in the performance of their duties, and who are trained and qualified in the use of means approved by the Secretary for detecting methane and in the use of a permissible flame safety lamp or other means for detecting oxygen deficiency are authorized to make such examinations for themselves, and each such person shall be properly equipped and shall make such examinations upon entering any such area.

(o) Immediately before an intentional roof fall is made, pillar workings shall be examined by a qualified person designated by the operator to ascertain whether methane is present. Such person shall use means approved by the Secretary for detecting methane. If in such examination methane is found in amounts of more than 1.0 volume per centum, such roof fall shall not be made until changes or adjustments are made in the ventilation so that the air shall not contain more than 1.0 volume per centum of methane.

(p) Within 12 months after the operative date of this title, and thereafter, all areas in all mines in which the pillars have been extracted or areas which have been abandoned for other reasons shall be effectively sealed or shall be effectively ventilated by bleeder entries, or by bleeder systems or an equivalent means. Such sealing or ventilation shall be approved by an authorized representative of the Secretary.

(q) Pillared areas ventilated by means of bleeder entries, or by bleeder systems or an equivalent means, shall have sufficient air coursed through the area so that the return split of air shall not contain more than 2.0 volume per centum of methane before entering another split of air.

(r) Where areas are being pillared on the operative date of this title without bleeder entries, or without bleeder systems or an equivalent means, pillar recovery may be completed in the area to the extent approved by an authorized representative of the Secretary if the edges of pillar lines adjacent to active working places are ventilated with sufficient air to keep the air in open areas along the pillar line below 1.0 volume per centum of methane.

(s) Each mechanized mining section shall be ventilated with a separate split of intake air directed by overcasts, undercasts, or the equivalent, except an extension of time may be permitted by the Secretary, under such conditions as he may prescribe, whenever he determines that this subsection cannot be complied with on the operative date of this title.

(t) Immediately before firing each shot or group of multiple shots and after blasting is completed, examinations for methane shall be made by a qualified person with means approved by the Secretary for detecting methane. If methane is found in amounts of more than 1.0 volume per centum, changes or adjustments shall be made at once in the ventilation so that the air shall not contain more than 1.0 volume per centum of methane. No shots shall be fired until the air contains not more than 1.0 volume per centum of methane.

(u) Each operator of a coal mine shall adopt a plan within sixty days after the operative date of this subsection to be established by the Secretary which shall provide that when any mine fan stops immediate action shall be taken by the operator or his agent (1) to withdraw all persons from the face workings, (2) to cut off the power in the mine in a timely manner, (3) to provide for restoration of power and resumption of work if ventilation is restored within a reasonable period as set forth in the plan after the face workings and other places where methane is likely to accumulate are re-examined by a certified person to determine if methane in amounts of more than 1.0 volume per centum exists therein, and (4) to provide for withdrawal of all persons from the mine if ventilation cannot be restored within such reasonable time. The plan and revisions thereof approved by the Secretary shall be set out in printed form and a copy shall be furnished to the Secretary or his authorized representative.

(v) Changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the coal mine shall be made only when the mine is idle. Only those persons engaged in making such changes shall be permitted in the mine during the change. Power shall be removed from the areas affected by the change before work starts to

make the change and shall not be restored until the effect of the change has been ascertained and the affected areas determined to be safe by a certified person.

(w) The mine foreman shall read and countersign promptly the daily reports of the pre-shift examiner and assistant mine foreman, and he shall read and countersign promptly the weekly report covering the examinations for hazardous conditions. The mine superintendent or assistant superintendent of the mine shall also read and countersign the daily and weekly reports of such persons.

(x) Each day, the mine foreman and each of his assistants shall enter plainly and sign with ink or indelible pencil in a book provided for that purpose a report of the condition of the mine or portion thereof under his supervision which report shall state clearly the location and nature of any hazardous condition observed by them or reported to them during the day and what action was taken to remedy such condition.

(y) Before a mine is reopened after having been abandoned, the Secretary shall be notified and an inspection made of the entire mine by an authorized representative of the Secretary before mining operations commence.

COMBUSTIBLE MATERIALS AND ROCK DUSTING

SEC. 305. (a) Coal dust, including float coal dust deposited on rock-dusted surfaces, loose coal, and other combustible materials, shall not be permitted to accumulate in active underground working places or on electrical equipment therein.

(b) Where underground mining operations create or raise excessive amounts of dust, water or water with a wetting agent added to it, or other effective methods, shall be used to abate such dust. In face areas, particularly in distances less than 40 feet from the face, water, with or without a wetting agent, shall be applied to coal dust on the rib, roof and floor to reduce dispersability and to minimize the explosion hazard.

(c) All areas of a mine, except those areas in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock-dusted to within forty feet of all faces, unless such areas are inaccessible or unsafe to enter or unless an authorized representative of the Secretary permits an exception. All crosscuts that are less than forty feet from a face shall be rock-dusted.

(d) When rock dust is required to be applied, it shall be distributed upon the top, floor, and sides of all open workings and maintained in such quantities that the incombustible contents of the combined coal dust, rock dust, and other dust shall be not less than 65 per centum, but the incombustible content in the return air courses shall be not less than 80 per centum. Where methane is present in any ventilating current, the percent of incombustible content of such combined dusts shall be increased 1.0 and 0.4 per centum for each 0.1 per centum of methane, where 65 and 80 per centum, respectively, of incombustibles are required.

(e) Subsections (b) through (d) of this section shall not apply to underground anthracite mines subject to this Act.

ELECTRICAL EQUIPMENT—GENERAL

SEC. 306. (a) The location and the electrical rating of all stationary electrical apparatus in connection with the mine electrical system, including permanent cables, switch-gear, rectifying substations, transformers, permanent pumps and trolley wires and trolley feeders, and settings of all direct-current circuit breakers protecting underground trolley circuits, shall be shown on a mine map. Any changes made in a location, electrical rating, or setting shall be promptly shown on the map when the change is made.

(b) All power circuits and electrical equipment shall be de-energized before work is done on such circuits and equipment, except, when necessary, a person may repair energized trolley wires if he wears insulated shoes and lineman's gloves. No work shall be performed on high-voltage circuits or equipment except by or under the direct supervision of a competent electrician. Switches shall be locked out and suitable warning signs posted by the persons who are to do the work. Locks shall be removed only by the persons who installed them.

(c) Electrical equipment shall be frequently examined by a competent electrician to assure safe operating conditions. When a potentially dangerous condition is found on electrical equipment, such equipment shall be removed from service until such condition is corrected.

(d) All electrical conductors shall be sufficient in size and have adequate current-carrying capacity and be of such construction that the rise in temperature resulting from normal operation will not damage the insulating materials.

(e) All joints or splices in conductors shall be mechanically and electrically efficient and suitable connectors shall be used. All joints in insulated wire shall be reinsulated at least to the same degree of protection as the remainder of the wireless.

(f) Cables shall enter metal frames of motors, splice boxes and electrical compartments only through proper fittings. When insulated wires other than cables pass through metal frames the holes shall be substantially bushed with insulated bushings.

(g) All power wires (except trailing cables, specially designed cables conducting high-voltage power to underground rectifying equipment or transformers, or bare or insulated ground and return wire) shall be supported on well-insulated insulators and shall not contact combustible material, roof, or ribs.

(h) Except trolley wires, trolley feeder and bare signal wires, power wires and cables installed shall be insulated adequately and fully protected against damage.

(i) Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment and circuits against short circuit and overloads, except on locomotives operating regularly on grades exceeding 5 percent. Three phase motors on all electric equipment shall be provided with overload protection that will de-energize all three phases in the event that any phase is overlooked.

(j) In all main power circuits disconnecting switches shall be installed underground within 500 feet of the bottoms of shafts and boreholes through which main power circuits enter the underground portion of the mine and at all other places where main power circuits enter the underground portion of the mine.

(k) All electric equipment shall be provided with switches or other controls that are safely designed, constructed, and installed.

(l) One year after the operative date of this section—

(1) all electric face equipment used in a coal mine shall be permissible and shall be maintained in a permissible condition, except that the Secretary may permit, under such conditions as he may prescribe, non-permissible electric face equipment in use in any such mine, other than a mine classified gassy prior to the effective date of this Act, on the operative date of this title, to continue in use for such period as he deems appropriate where he finds, upon a showing by the operator made six months prior to the expiration of such year that despite the operator's diligent efforts replacement equipment will not be available, within the prescribed time and files a delivery schedule acceptable to the Secretary; and

(2) only permissible junction or distribution boxes shall be used for making multiple power connections inby the last open crosscut; and

(3) a copy of any permit granted under this subsection shall be mailed immediately to a duly designated representative of the employees of the mine to which it pertains, and to the public official or agency of the State charged with administering State laws relating to coal mine health and safety in such mine. No exception shall be granted in paragraph (1) of this subsection for electric face equipment of 25 HP or less.

(m) Any coal mine which, prior to the operative date of this title, was classed gassy and was required to use permissible electric face equipment and to maintain such equipment in a permissible condition shall continue to use such equipment and to maintain such equipment in such condition.

(n) All power-connection points, except where permissible power connection units are used, out by the last open crosscut shall be in intake air.

(o) No open flame or lights shall be permitted in any underground coal mine except under the provisions of section 312(d) of this title.

(p) Each ungrounded, exposed power conductor that leads underground shall be equipped with lightning arresters of approved type within 100 feet of the point where the circuit enters the mine. Lightning arresters shall be connected to a low resistance grounding medium on the surface medium on the surface which shall be separated from neutral grounds by a distance of not less than 25 feet.

TRAILING CABLES

SEC. 307. (a) Trailing cables used underground shall meet the requirements established by the Secretary for flame-resistant cables.

(b) Short-circuit protection for trailing cables shall be provided by an automatic circuit breaker of adequate current interrupted capacity in each undergrounded conductor. Disconnecting devices used to disconnect power from trailing cables shall be plainly marked and identified and such devices be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

(c) When two or more trailing cables junction to the same distribution center, means shall be provided to assure against connecting a trailing cable to the wrong size circuit breaker.

(d) No more than two temporary splices shall be made in any trailing cable, except that if a third splice is needed during a shift it may be made during such shift, but such cable shall not be used after that shift until a permanent splice is made. No temporary splice shall be made in a trailing cable within 25 feet of the machine, except, the splice inby the straining clamp on cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat or spark under load shall not be used. As used in this subsection, the term "splice" means the mechanical joining of one or more conductors that have been severed.

(e) When permanent splices in trailing cables are made, they shall be:

(1) Mechanically strong with adequate electrical conductivity and flexibility;

(2) Effectively insulated and sealed so as to exclude moisture; and

(3) Vulcanized or otherwise treated with suitable materials to provide flame-resistant qualities and good bonding to the outer jacket.

(f) Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections. Trailing cables shall be ade-

quately protected to prevent damage by mobile machinery.

(g) Trailing cable and power cable connections to junction boxes shall not be made or broken under load.

GROUNDING

SEC. 308. (a) All metallic sheaths, armors, and conduits enclosing power conductors shall be electrically continuous throughout and shall be grounded. Metallic frames, casing, and other enclosures of electric equipment that can become "alive" through failure of insulation or by contact with energized parts shall be grounded effectively.

(b) The frames of all offtrack direct current machines and the enclosures of related detached components shall be effectively grounded or otherwise maintained at safe voltages by methods approved by an authorized representative of the Secretary.

(c) The frames of all high-voltage switchgear, transformers, and other high-voltage equipment shall be grounded to the high-voltage system ground.

(d) High-voltage lines, both on the surface and underground, shall be de-energized and grounded before work is performed on them.

(e) When not in use, power circuits underground shall be de-energized on idle days and idle shifts, except that rectifiers and transformers may remain energized.

UNDERGROUND HIGH-VOLTAGE DISTRIBUTION

SEC. 309. (a) High-voltage circuits entering the underground portion of the mine shall be protected by suitable circuit breakers of adequate interrupting capacity. Such breakers shall be equipped with relaying circuits to protect against overcurrent, ground fault, a loss of ground continuity, short circuit, and undervoltage.

(b) High-voltage circuits extending under ground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit. At the point where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed out by the automatic breaker and such devices shall be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

(c) The grounding resistor shall be of the proper ohmic value to limit the voltage drop in the grounding circuit external to the resistor to not more than 100 volts under fault conditions. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(d) High-voltage systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken.

(e) Underground high-voltage cables shall be equipped with metallic shields around each power conductor. One or more ground conductors shall be provided having a cross-sectional area of not less than one-half the power conductor or capable of carrying twice the maximum fault current. There shall also be provided an insulated conductor not smaller than No. 8 (AWG) for the ground continuity check circuit. Cables shall be adequate for the intended current and voltage. Splices made in the cable shall provide continuity of all components and shall be made in accordance with cable manufacturers' recommendations.

(f) Couplers that are used with high-voltage power circuits shall be of the three-phase type with a full metallic shell, except that the Secretary may permit, under such guidelines as he may prescribe, couplers constructed of materials other than metal. Couplers shall be adequate for the voltage and current expected. All exposed metal on the metallic couplers shall be grounded to the ground conductor in the cable. The coupler shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

(g) Single phase loads such as transformer primaries shall be connected phase to phase.

(h) All underground high-voltage transmission cables shall be located only in regularly inspected airways or haulageways, and shall be covered, buried, or placed so as to afford protection against damage guarded where men regularly work or pass under unless they are six and one-half feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contract with trolley and other low-voltage circuits.

(i) Disconnecting devices shall be installed at the beginning of branch lines in high-voltage circuits and equipped or designed in such manner that it can be determined by visual observation that the circuit is de-energized when the switches are open.

(j) Circuit breakers and disconnecting switches underground shall be marked for identification.

(k) Terminations and splices of high-voltage cable shall be made in accordance with manufacturer's specifications.

(l) Frames, supporting structures, and enclosures of substation or switching station apparatus shall be effectively grounded to the high-voltage ground.

(m) Power centers and portable transformers shall be de-nergized before they are moved from one location to another. High-voltage cables, other than trailing cables, shall not be moved or handled while energized.

UNDERGROUND LOW AND MEDIUM VOLTAGE ALTERNATING CURRENT CIRCUITS

SEC. 310(a) Low and medium voltage power circuits serving three phase alternating current equipment shall be protected by suitable circuit breakers of adequate interrupting capacity. Such breakers shall provide protection for the circuit against overcurrent, ground fault, short circuits, and loss of ground circuit continuity.

(b) Low and medium voltage circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from the circuit. The grounding resistor shall be of the proper ohmic value to limit the ground fault current to 25 amperes. The grounding resistor shall be rated for maximum fault current continuously.

(c) Low and medium voltage circuits shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken.

(d) Disconnecting devices shall be installed in conjunction with the circuit breaker to provide visual evidence that the power is disconnected. Trailing cables for mobile equipment shall contain one or more ground conductors having a cross sectional area of not less than one half the power conductor and an insulated conductor for the ground continuity check circuit. Splices made in the cable shall provide continuity of all components.

(e) Single phase loads shall be connected phase to phase.

(f) Circuit breakers shall be marked for identification.

(g) Portable (trailing) cable for medium voltage circuits shall include grounding conductors, a ground check conductor, and grounded metallic shields around each power conductor or a grounded metallic shield over the assembly; except that on machines employing cable reels, cables without shields may be used if the insulation is rated 2,000 volts or more.

Trolley and trolley feeder wires

SEC. 311. (a) Trolley wires and trolley feeder wires shall be provided with cutout switches at intervals of not more than 2,000 feet and near the beginning of all branch lines.

(b) Trolley wires and trolley feeder wires shall be provided with overcurrent protection.

(c) Trolley and trolley feeder wires, high-voltage cables and transformers shall not be located beyond the last open crosscut and shall be kept at least 150 feet from pillar workings.

(d) Trolley wires, trolley feeder wires, and bare signal wires shall be insulated adequately where they pass through door and stoppins, and where they cross other power wires and cables. Trolley wires and trolley feedder wires shall be guarded adequately (1) at all points where men are required to work or pass regularly under the wires, unless the wires are placed 10 feet or more above the top of the rail; (2) on both sides of all doors and stoppings, and (3) at man-trip stations. The Secretary or his authorized representatives shall specify other lengths of trolley wires and trolley feeder wires that shall be adequately protected to prevent contact by any person, or shall require the use of improved methods to protect such contact. Temporary guards shall be provided where trackmen and other persons work in proximity to trolley wires and trolley feeder wires.

FIRE PROTECTION

SEC. 312. (a) Each coal mine shall be provided with suitable fire-fighting equipment adequate for the size of the mine. The Secretary, by regulation, shall establish minimum standards for the type and quantity of such equipment.

(b) Underground storage places for lubricating oil and grease in excess of two days' supply shall be of fireproof construction. Lubricating oil and grease kept in face regions or other underground working places in a mine shall be in portable, closed metal containers, unless they are in specially prepackaged containers.

(c) Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return.

(d) Welding, cutting, or soldering with arc or flame in other than a fireproof enclosure shall be done under the supervision of a certified person when such work is done in:

(1) the region between the face and a point twenty feet outby the last open crosscut in first mining;

(2) the region between the pillar line and a point one hundred and fifty feet outby; or

(3) the region between the face and gob in longwall mining. Such person shall make a diligent search for fire during and after such operations and shall immediately before and during such operations test for methane with means approved by the Secretary for detecting methane. Welding, cut-

ting, or soldering shall not be conducted in air that contains more than 1.0 volume per centum of methane. Rock dust or suitable fire extinguishers shall be immediately available during such welding, cutting, or soldering.

(e) Fire suppression devices meeting specifications prescribed by the Secretary shall be installed on underground equipment in accordance with a schedule covering a period of not more than one year to be established by the Secretary. In lieu of such devices, fire resistant hydraulic fluids approved by the Secretary may be used in the hydraulic system of unattended equipment.

(f) Deluge-type water sprays or foam generators automatically actuated by rise in temperature, or other effective means approved by the Secretary of controlling fire shall be installed at main and secondary belt-conveyor drives. Where sprays or foam generators are used, they shall supply a sufficient quantity of water or foam to control fires.

(g) Underground belt conveyors shall be equipped with slippage and sequence switches.

(h) After every blasting operation performed on shift, an examination shall be made to determine whether fires have been started.

BLASTING AND EXPLOSIVES

SEC. 313. (a) Black blasting powder shall not be stored or used underground. Mudcaps (adobes) or other unconfined shots shall not be fired underground. In underground anthracite mines open, unconfined shots may be fired, if restricted to battery starting when methane or a fire hazard is not present, and if it is otherwise impracticable to start the battery. In anthracite mines, open, unconfined "shake" shots in working places and other places in pitching veins may be fired, when no methane or a fire hazard is present, if the taking down of loose hanging coal by other means is too hazardous for miners working in such places. In anthracite mines, tests for methane shall be made immediately before such shots are fired and if methane is present when tested in 1.0 volume per centum such shot shall not be made until the methane content is reduced below 1.0 per centum. Except as provided in the next to the last sentence of this subsection, only permissible explosives, electric detonators of proper strength and permissible blasting devices shall be used and all explosives and blasting devices shall be used in a permissible manner. Permissible explosives shall be fired only with permissible shot firing units. Only incombustible materials shall be used for stemming boreholes. The Secretary may, under such safeguards as he may prescribe, permit the firing of more than twenty shots and allow the use of non-permissible explosives in sinking shafts and slopes from the surface in rock. This section shall not prohibit the use of compressed air blasting.

(b) Explosives or detonators carried anywhere underground by any person shall be in containers constructed of nonconductive material, maintained in good condition, and kept closed.

(c) Explosives or detonators shall be transported in special closed containers (1) in cars moved by means of a locomotive or rope, (2) on belts, (3) in shuttle cars, or (4) in equipment designed especially to transport such explosives or detonators.

(d) When supplies of explosives and detonators for use in one or more sections are stored underground, they shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, located at least 25 feet from roadways and power wires, and in a reasonably dry, well rock-dusted location protected from falls of roof, except pitching beds, where it is not possible to comply with the location requirement, such boxes shall be placed in niches cut into the solid coal or rock.

(e) Explosives and detonators stored near the working faces shall be kept in separate closed containers, which shall be located out of the line of blast and not less than fifty feet from the face and fifteen feet from any pipeline, powerline, rail, or conveyor; except that if kept in niches in the rib, the distance from any pipeline, powerline, rail, or conveyor shall be at least five feet. Such explosives and detonators, when stored, shall be separated by a distance of at least five feet.

(f) Explosives and detonators shall be kept in separate containers until immediately before use at the working faces.

HOISTING AND MANTRIPS

SEC. 314. (a) Every hoist used to transport persons at an underground coal mine shall be equipped with overspeed, overwind, and automatic stop controls. Every hoist used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage, or other device used for transporting persons, and with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device for transporting persons, and have a proper margin of safety. Cages, platforms, or other devices which are used to transport persons in vertical shafts shall be equipped with safety catches that act quickly and effectively in an emergency, and the safety catches shall be tested at least once every two months. Hoisting equipment, including automatic elevators, that is used to transport persons shall be examined daily. Where persons are regularly transported into or out of a coal mine by hoists, a qualified hoisting engineer shall be on duty while any person is underground, except that no such engineer shall be required for automatically operated cages, platforms, or elevators.

(b) Safeguards adequate, in the judgment of an authorized representative of the Secretary, to minimize hazards with respect to transportation of men and materials shall be provided.

(c) Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used. An accurate and reliable indicator of the position of the cape, platform, skip, bucket, or cars shall be provided.

(d) There shall be at least two effective approved methods of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube.

MAPS

SEC. 315. (a) The operator of an active working underground coal mine shall have in a location chosen to minimize the danger of destruction by fire or other hazard, an accurate and up-to-date map of such mine drawn on such scale and containing such information as the Secretary by regulation may prescribe. Such map shall show the active workings, all worked out and abandoned areas, excluding those areas which have been worked out or abandoned before the operative date of this subsection which cannot be entered safely and on which no information is available, contour elevations, elevations of all main and cross or side entries, dip of the coalbed, escapeways, adjacent mine workings within one thousand feet, mines above or below, water pools above, and oil and gas wells in such mine. Such map shall be made or certified by a registered engineer or a registered surveyor of the State in which the mine is located. As the Secretary may by regulation require, such map shall be kept up to date by temporary notations, and such map shall be revised and supplemented at intervals on the basis of a survey made or certified by such engineer or surveyor.

(b) The coal mine map and any revision and supplement thereof shall be available for inspection by the Secretary or his authorized representative, by coal mine inspectors of the State in which the mine is located, and by any miner and their authorized representatives and by operators of adjacent coal mines. The operator shall furnish to the Secretary or his authorized representative, upon request, one or more copies of such map and any revision and supplement thereof. Any such map or revision or supplement thereof shall be confidential and its contents shall not be divulged to any person other than those mentioned in this subsection without the consent of the operator of the mine covered by such map, except that such map or revision or supplement thereof may be used by the Secretary to carry out any provision of this Act and in any proceeding, investigation, or hearing conducted pursuant to this Act.

(c) Whenever an operator permanently closes such mine, or temporarily closes such mine for a period of more than 90 days, he shall promptly notify the Secretary of such closure. Within 60 days of the permanent closure of the mine, or, when the mine is temporarily closed, upon the expiration of a period of 90 days from the date of closure, the operator shall file with the Secretary a copy of the mine map revised and supplemented to the date of the closure. Such copy of the mine map shall be certified as true and correct by a registered surveyor or registered engineer of the State in which the mine is located and shall be available for public inspection.

ESCAPEWAYS

SEC. 316. (a) At least two separate and distinct travelable passageways to be designated as escapeways, at least one of which is ventilated with intake air, shall be provided from each mine working section to the surface, and shall be maintained in safe condition and properly marked. Mine openings shall be adequately protected to prevent the entrance into the underground portion of the mine of surface fires, fumes, smoke, and flood water. Adequate facilities approved by the Secretary or his authorized representative shall be provided in each escape shaft or slope to allow persons to escape quickly to the surface in event of emergency.

(b) Not more than twenty miners shall be allowed at any one time in any mine until a connection has been made between the two mine openings, and such work shall be prosecuted with reasonable diligence.

(c) When only one mine opening is available, owing to final mining of pillars, not more than twenty miners shall be allowed in such mine at any one time, except that the distance between the mine opening and working shall not exceed 500 feet.

MISCELLANEOUS

SEC. 317. (a) Each operator of a coal mine shall comply with State laws and regulations meeting at least minimum Federal requirements established by the Secretary in establishing and maintaining barriers around oil and gas wells penetrating coalbeds or underground workings of underground coal mines.

(b) Whenever any working place approaches within fifty feet of abandoned workings in the mine as shown by surveys made and certified by a registered engineer or surveyor, or within two hundred-feet of any other abandoned workings of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within two hundred feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least twenty feet in advance of the face of such working place and shall be continually maintained to a distance of at least ten feet in advance of the advancing solid face. When there is more than one borehole, they shall be drilled sufficiently close to each other to insure that the advancing face will not accidentally hole through into abandoned workings or adjacent mines. Boreholes shall also be drilled not more than eight feet apart in the rib of such working place to a distance of at least twenty feet and at an angle of forty-five degrees. Such rib holes shall be drilled in one or both ribs

of such working place as may be necessary for adequate protection of persons working in such place.

(c) Persons underground shall use only permissible electric lamps for portable illumination.

(d) After the operative date of this section, all structures erected on the surface within one hundred feet of any mine opening shall be of fireproof construction. Unless existing structures located within one hundred feet of any mine opening are of such construction, fire doors shall be erected at effective points in mine openings to prevent smoke or fire from surface sources endangering men working underground. These doors shall be tested at least monthly to insure effective operation. A record of such tests shall be kept and shall be available for inspection by interested persons.

(e) Adequate measures shall be taken to prevent methane and coal dust from accumulating in excessive concentrations in or on surface coal-handling facilities, but in no event shall methane be permitted to accumulate in concentrations in or on surface coal-handling facilities in excess of limits established for methane by the Secretary within one year of the operative date of this section, and coal dust shall not accumulate in excess of limits under title II of this Act. Where coal is dumped at or near air-intake openings, provisions shall be made to prevent the dust from entering the mine.

(f) An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits and the height of the coalbed presents a hazard from roof falls and from rib and face rolls that the face equipment, including shuttle cars, be provided with substantially constructed canopies or cabs to protect the operators of such equipment.

(g) An authorized representative of the Secretary may require in any coal mine that face equipment be provided with devices that will permit the equipment to be deenergized quickly in the event of an emergency.

(h) After the operative date of this title, the openings of all active mines that are abandoned for more than 90 days, shall be sealed in a manner prescribed by the Secretary.

DEFINITIONS

SEC. 318. For the purpose of this title and title III of this Act, the term—

(a) "certified person" means a person certified by the State in which the coal mine is located to perform duties prescribed by such title (provided that the State standards meet at least minimum Federal requirements established by the Secretary); except that, in a State where no such program of certification is provided, such certification shall be by the Secretary;

(b) "qualified person" means an individual deemed qualified by the Secretary to make tests or measurements, as appropriate, required by such titles.

(c) "permissible" as applied to—

(1) equipment used in the operation of a coal mine, means equipment to which an approval plate, label, or other device is attached as authorized by the Secretary and which meets specifications which are prescribed by the Secretary for the construction and maintenance of such equipment and are designed to assure that such equipment will not cause a mine explosion or a mine fire, or to assure that such equipment will afford adequate protection against specific health hazards;

(2) explosives, shot firing units, or blasting devices used in such mines, means explosives, shot firing units, or blasting devices which meet specifications which are prescribed by the Secretary; and

(3) the manner of use of equipment or explosives, shot firing units, and blasting devices, means the manner of use prescribed by the Secretary.

(d) "rock dust" means pulverized limestone, dolomite, gypsum, anhydrite, shale, talc, adobe, or other inert material, preferably light colored, (1) 100 per centum of which will pass through a sieve having 20 meshes per linear inch; and 70 per centum or more of which will pass through a sieve having 200 meshes per linear inch; (2) the particles of which when wetted and dried will not cohere to form a cake which will not be dispersed into separate particles by a light blast of air; and (3) which does not contain more than 5 per centum of combustible matter or more than a total of 5 per centum of free and combined silica (SiO_2).

(e) "coal mine" includes areas of adjoining mines connected underground.

(f) "anthracite" means coals with a volatile ratio equal to .12 or less.

(g) "registered engineer" or "registered surveyor" means an engineer or surveyor registered by the State pusuant to standards established by the State meeting at least minimum Federal requirements established by the Secretary, or if no such standards are in effect, registered by the Secretary;

(h) "low voltage" means up to and including 660 volts; "medium voltage" means voltages from 661 to 1,000 volts; and "high voltage" means more than 1,000 volts.

TITLE IV—ADMINISTRATION

RESEARCH

SEC. 401. The Secretary, in coordination with the Secretary of Health, Education, and Welfare, shall conduct such studies, research, experiments, and demonstrations as may be appropriate—

(a) to improve working conditions and practices, prevent accidents, and control the causes of occupational diseases originating in the coal mining industry;

(b) after an accident, to recover persons in a coal mine and to recover the mine;

(c) to develop new or improved means and methods of communication from the surface to the underground portion of the mine;

(d) to develop new or improved means and methods of reducing concentrations of respirable dust in the mine;

(e) to remove methane in advance of mining;

(f) to develop new and improved methods and controls relative to roof supports, protection of trolley and trolley feeder wires from contact with persons, trailing cable splices, and improved methods for detecting oxygen and methane concentration in mine atmosphere; and

(g) for such other purposes as he deems necessary to carry out the purposes of this Act.

RELATED CONTRACTS AND GRANTS

SEC. 403. In carrying out the provisions of sections 401 and 402, the Secretary may enter into contracts with, and make grants to, public and private agencies and organizations and individuals.

INSPECTORS; QUALIFICATIONS; TRAINING

SEC. 404. The Secretary may, subject to the civil service laws, appoint such employees as he deems requisite for the administration of this Act and prescribe their duties. Persons appointed as authorized representatives of the Secretary shall be qualified by practical experience in the mining of coal or by experience as a practical mining engineer and by education. Such persons shall be adequately trained by the Secretary. The Secretary shall seek to develop programs with educational institutions and operators designed to enable persons to qualify for positions in the administration of this Act. In selecting persons and training and retraining persons to carry out the provisions of this Act, the Secretary shall work with appropriate educational institutions and operators in developing adequate programs for the training of persons, particularly inspectors. Where appropriate, the Secretary shall cooperate with such institutions in carrying out the provisions of this section by providing financial and technical assistance to such institutions.

EFFECT ON STATE LAWS

SEC. 405. (a) No State law in effect upon the effective date of this Act or which may become effective thereafter shall be superseded by any provision of this Act or order issued or standard promulgated thereunder, except insofar as such State law is in conflict with this Act or with any order issued or standard promulgated pursuant to this Act.

(b) The provisions of any State law or regulation in effect upon the effective date of this Act, or which may become effective thereafter, which provide for more stringent mandatory health and safety standards applicable to coal mines, than do the provisions of this Act or any order issued or standard promulgated thereunder shall not thereby be construed or held to be in conflict with this Act. The provisions of any State law or regulation in effect upon the effective date of this Act, or which may become effective thereafter, which provide for health and safety standards applicable to coal mines for which no provision is contained in this Act or any order issued or standard promulgated thereunder, shall not be held to be in conflict with this Act.

(c) Nothing in this Act shall be construed or held to supersede or in any manner affect the workmen's compensation laws of any State, or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under State laws in respect of injuries, occupational or other diseases, or death of employees arising out of, or in the course of, employment.

ADMINISTRATIVE PROCEDURES

SEC. 406. The provisions of sections 551–559 and sections 701–706 of title 5 of the United States Code, shall not apply to the making of any order or decision pursuant to this Act, or to any proceeding for the review thereof.

REGULATIONS

SEC. 407. The Secretary is authorized to issue such administrative regulations as he deems appropriate to carry out any provision of this Act.

OPERATIVE DATE AND REPEAL

SEC. 408. The provisions of titles I through III of this Act shall become operative one hundred and twenty days after enactment. The provisions of the Federal Coal Mine Safety Act, as amended, are repealed on the operative date of those titles, except that such provisions shall continue to apply to any order, notice, or finding issued under that Act prior to such operative date and to any proceedings related to such order, notice, or finding. All other provisions of this Act shall be effective on the date of enactment of this Act.

SEPARABILITY

SEC. 409. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

REPORTS

SEC. 410. Within one hundred and twenty days following the convening of each session of Congress, the Secretary shall submit through the President to the Congress an annual report upon the subject matter of this Act, the progress concerning the achievement of its purposes, the needs and requirements in the field of coal mine health and safety, and any other relevant information, including any recommendations he deems appropriate.

The memorandum presented by Mr. JAVITS is as follows:

MEMORANDUM EXPLAINING THE PRINCIPAL DIFFERENCES BETWEEN S. 2405 AND S. 1300

1. Coal dust standard: S. 1300 provides an interim standard of 4.5 milligrams per cubic meter and directs the Secretary of the Interior to lower the standard to 3.0 milligrams per cubic meter as soon as possible. Under the new bill the coal dust level to be established 60 days after the effective date of the act (the act goes into effect four months after it is signed into law) will be 3.0 milligrams per cubic meter and the Secretary is directed to lower the standard to 2.0 as soon as possible. The new bill also provides, however, that where it is not possible using existing technology for a mine to achieve the 3.0 dust level, the Secretary may permit the mine to operate at the dust level which it can attain with existing technology, not to exceed 4.5 milligrams per cubic meter, for a period of not more than three years. Permission to operate at a dust level higher than 3.0 may only be granted if the operator demonstrates that he has made diligent efforts to attain the 3.0 level. The operator must meet the 3.0 level as soon as technology permits, but in no event will an operator be permitted to operate at a level higher than 3.0 after three years.

Under the new bill, in mines in which the 3.0 standard is applicable, if at any time the level exceeds 3.0, respirators must be worn and corrective action undertaken immediately. If the level exceeds 4.5 all persons except those necessary to take corrective action must be withdrawn from the mine. In mines which are permitted to operate at higher levels the provisions requiring corrective action and respirators go into effect at levels between 4.5 and 5.5 and withdrawal must take place at levels above 5.5 milligrams per cubic meter.

The provisions of the new bill regarding dust standards are based on the testimony given by the Surgeon General, data developed through years of study in Great Britain and the results of a survey of dust levels in 29 typical mines (280 separate working faces) recently completed by the U.S. Bureau of Mines. On the basis of this information we know that coal workers pneumoconiosis is caused by the inhalation of respirable coal dust and that the incidence and severity of the disease are related to the level of dust and the length of time spent in coal mines. Although the Surgeon General testified at the hearings that there did not appear to be any threshold level of coal dust below which there was no danger of pneumoconiosis developing, recent British data indicate that a threshold value of 2.0 milligrams per cubic meter does exist below which there is no significant danger of disease developing. The British data concerning the probability of contracting pneumoconiosis after 35 years of continuous exposure are summarized in the following table:

PROBABILITY OF CONTRACTING PNEUMOCONIOSIS AFTER 35 YEARS OF EXPOSURE

Dust level	ILO category 1 or greater [1]		ILO category 2 or greater [1]	
	Percent	Difference	Percent	Difference
7.0 [2]	36		13	
4.5	15	21	4	9
3.0	5	10	2	2
2.0	2	3	0	2

[1] Very little disability is associated with either ILO category 1 or ILO category 2 of coal workers pneumoconiosis. However once the disease has progressed to the stage of category 2 the probability of further development, to the point of disability, increases substantially.

[2] Present average level of exposure of miners in the face area in U.S. mines.

Based on this information it is clear that a level at least as low as 3.0 milligrams should be established as soon as possible and that ultimately the level should be reduced to 2.0 milligrams or lower. Unfortunately, on the basis of the recent Bureau of Mines survey it appears that a very large number, perhaps a majority, of U.S. coal mines are not now in a position, using existing technology to achieve the 3.0 level. The survey does indicate, however, that most U.S. mines should be able to attain a 4.5 level using existing technology.

Thus, the full survey of 29 mines showed that considering all occupations in the mines tested 60% of the miners working in the surveyed mines were exposed to dust levels greater than 3.0 and 40% to levels greater than 4.5. Furthermore in the case of the six most critical occupations where the dust concentration is greatest (generally near the working face) the percentage of mines not meeting the 3.0 standard was greater. The following table summarizes the results in the six dustiest occupations:

TABLE 2.—FULL SHIFT EQUIVALENT "MRE" DUST LEVELS FOR SPECIFIC MINING OCCUPATIONS

	Percent of shifts meeting a given standard			
	Less than 3.0	3.1–4.5	4.6–5.5	+5.5
Continuous mining machine operator	25	16	11	48
Mining machine helper	29	22	5	44
Cutting machine operator	25	21	11	43
Cutting machine helper	22	13		65
Loading machine operator	18	19	12	51
Coal driller	39	9	8	44

As part of the survey the Bureau of Mines attempted to utilize existing technology to reduce the coal dust level in four mines. Results indicated that existing technology may be adequate to lower the level to 4.5 but is not adequate to reduce the level to 3.0.

On the basis of this information Secretary Hickel stated in a letter, dated May 23, to Senator Williams and myself that:

"Based on present technology, the 3.0 standard is not now generally attainable. We do not, however, consider the 4.5 standard as a floor. Our objective is to move to a lower standard of 3.0 or less as soon as possible. We believe that technology will be available to permit the industry to reach the 3.0 standard within 3 years after the 4.5 standard is effective and would not object to including such a schedule in the bill so long as the flexibility is retained in the Secretary to lower the standard later below 3.0."

My new bill does not exactly follow Secretary Hickel's suggestion that the 4.5 standard be prescribed as a general interim level and a 3.0 standard be prescribed within three years. Rather, it would require the 3.0 standard to be met where it can be and allow the 4.5 to be permitted where existing technology is inadequate to meet the 3.0 standard. I recognize, however, that the approach embodied in my new bill may present insuperable problems of administration. Undoubtedly it will require the prompt processing of many applications from the operators of coal mines throughout the country for permission to operate at levels above 3.0. If that is true, and I have asked the Administration to consider this matter most carefully, it may be necessary to prescribe a 4.5 interim standard generally for a period of time not to exceed three years.

2. Coal Mine Safety Board of Review: Under S. 1300 the existing Coal Mine Safety Board of Review would be continued except that 3 additional members would be added to the Board for the purpose of reviewing proposed mandatory health and safety standards. The existing Board consists of 5 members, four of whom are part-time and represent special interest groups, i.e. large mines, small mines, employees of large mines and employees of small mines.

Under the new bill the Board would be changed to a full-time independent Board of five members, at least two of whom would have to have a background, by reason of previous education, training or experience, in coal mining technology, one member would have to have a background in public health and two members would be drawn from the public generally. No more than three members of the Board may be of the same political party. No member may have had an interest or hold any office in or in connection with the coal mining industry or any organization representing miners for at least one year prior to his appointment and during the term of his appointment.

The new bill will obviously greatly increase the workload of the Coal Mine Safety Board of Review. Not only will it continue to review withdrawal orders issued by mine inspectors, and orders of the Secretary, but it will also be required to hold hearings on proposed health and safety standards and review civil penalties imposed by the Secretary in the case of violations of the health and safety standards. Clearly the increased workload of the Board justifies changing it to a full-time independent Board. Nor, in my view, is there any justification for having Board members represent any special interests. Indeed, since surface mines are covered for the first time under the new bill, if we were to continue with the old Board, we could justifiably be asked to include two additional members representing operators and employees of surface coal mines. The provision of the new bill requiring that members of the Board have no connection with the coal mining industry or any organization representing miners within one year of their appointment, and during their term of office, is self-explanatory.

Finally, Secretary Hickel in his letter of May 23, 1969, specifically endorsed this change.

3. Judicial review of mandatory health and safety standards: S. 1300 is silent as to whether and when mandatory health and safety standards promulgated by the Secretary are subject to judicial review. Given the silence of the bill on this question, under the Administrative Procedure Act and relevant Court decisions construing it, it might be held that either (a) health and safety standards are subject to immediate judicial review in the District's Courts by way of declaratory judgment or injunction proceedings or (b) the propriety of a health and safety standard may be attacked as a defense to an enforcement proceeding, e.g., a proceeding to impose and collect a fine for violation of a health and safety standard. I believe that a better approach than either of these two methods of judicial review, is to allow exclusive review of mandatory health and safety standards in the Court of Appeals for the District of Columbia, by petition filed by any aggrieved within 30 days or after promulgation of standards in the Federal Register, and that is what my new bill provides. The bill also provides that the filing of a petition for review does not automatically operate as a stay in the effectiveness of new standards and that the court may grant a temporary stay only if it finds, after a hearing, that there is a substantial likelihood that the standards are erroneous and that serious and irreparable injury will occur if the stay is not granted.

Under this approach, the availability of judicial review will not be in question; moreover, the validity or invalidity of a mandatory health or safety standard will be established with reasonable promptness, thus removing the uncertainty which might otherwise persist for years under either of the two other approaches to judicial review.

4. State plans and the requirement of joint inspections: Under S. 1300 the provisions of existing law concerning state plans and requiring joint inspection in all but imminent danger cases would be continued,

with a few modifications. Under that approach a withdrawal order could not be issued in a case not involving an imminent danger unless a state inspector concurred in the order or a neutral third party concurred in the order in the event the state inspector disagreed. These provisions do not appear to have stimulated the states to enter into agreements with the federal government, for, until now, only seven states have filed state plans and only one of the states, Virginia, is a major coal-producing state. Furthermore, the provisions of existing law have several distinctly undesirable effects: First, there is some indication the requirement that a state inspection agency be notified of an impending inspection may have resulted in coal mines being notified in advance of the inspections. Second, the requirement of a joint inspection obviously reduces the total amount of inspections that can be made with existing manpower and is thus a wasteful use of the limited manpower resources of federal and state mining agencies. Also, under S. 1300, the Federal Coal Mine Safety Board of Review reopens mines closed by inspection in State plan States, while in all other States the Secretary of the Interior or his delegate performs this administrative function.

S. 1300 also provides grants to the states if they file plans approved by the Secretary, but the plan requirements in this case differ from the plan requirements relating to joint inspections. Finally, under S. 1300 there is no judicial review of a decision by the Secretary to deny approval or terminate approval of a state plan.

Under the new bill, the requirement for joint inspection, concurrence and withdrawal orders is completely eliminated, although the requirement that the state agency be notified in the case of withdrawal orders is continued. In addition, grants may be made only to states which have filed approved state plans demonstrating their commitment to improving mine health and safety, and provision is made for judicial review of decisions by the Secretary denying or terminating approval of any state plan.

Secretary Hickel, in commenting on this change in his letter of May 23, 1969, stated: "We believe that these amendments are highly desirable and an excellent substitute for the existing State plan provisions."

5. Supervision and direction of rescue and recovery operations by the Secretary: Although section 103(f) of S. 1300 provides that the Secretary may issue orders to insure the safety of any person in a coal mine in the event of an accident and may approve plans to recover any person in the mine or recover the mine or affected areas thereof, it does not specifically authorize the Secretary to supervise and direct all rescue operations. The new bill contains provisions designed to give the Secretary this power. Secretary Hickel, in his letter of May 23, 1969, has approved this change.

6. Modifications or terminations of withdrawal orders and reinspections: Section 105 of S. 1300 did not explicitly state when reinspections would occur in the case of any notice or withdrawal order, nor did it specify that the inspector who originally issued the notice or withdrawal order could modify or terminate the notice or order. In the new bill Section 105(g) has been amended to cover these points. It provides for reinspections at the expiration of the time fixed for correction of a violation in any notice and also provides that an operator may request a special inspection upon the expiration of the time fixed or extended in the notice of violation or at any other time the operator believes that the conditions causing the issuance of the notice or the withdrawal order have been corrected. The Secretary is also authorized to establish procedures to avoid unnecessary or repetitive inspections under this section. The Secretary of the Interior in his May 23 letter, has approved this change calling it "highly desirable because it spells out a procedure which we intended to follow administratively."

7. Dangerous conditions not correctable by existing technology.—chronically dangerous mines: S. 1300 does not give the Secretary power to act with respect to what may be characterized, for lack of a better term, as a "chronically dangerous" mine. I refer to a mine in which conditions exist which, while they do not create the problem of imminent danger, are of such serious nature that it is reasonable to assume that an imminent danger will soon result, and where such conditions cannot be satisfactorily corrected and the mine or the portion thereof affected made safe because of a lack of available technology. The new bill provides that—if a mine inspector believes that such conditions exist in a mine, he must notify the operator of the mine and file a copy of his notice, including his findings, with the Secretary and with the representative of the miners, if any, in that mine. On receipt of the notice the Secretary must cause a special investigation to be made (which might include another inspection) and which would include an opportunity for the operator and the miners' representative, if any, to present their views on the problem. Upon completion of the investigation and the Secretary would then make findings of fact and could file a petition with the Board requesting either that the notice issued by the inspector be cancelled or that a withdrawal order be issued applicable to the entire mine or appropriate portion thereof and that such withdrawal order remain in effect until such time that the Board after a hearing determines that the conditions have been abated. The order of the Board would be subject to review in the Court of Appeals as would other orders of the Board.

Secretary Hickel, in his letter of May 23, 1969, commenting on this amendment, stated:

"We recognize that there may be mines or sections thereof where such situations may exist or will exist as mining continues deeper and deeper below the earth's surface. Such deep mining may present considerable hazards for which there is no available technology to overcome them. In such cases or in other situations where special hazards exist, we believe that there should be a procedure established for determining the facts and, where appropriate, closing these mines if we are to insure as safe conditions as possible. We believe the procedure set forth in the amendment is a reasonable one. It provides adequate safeguards to the operators and to the miners. Accordingly, we support this change in the bill."

8. Review of withdrawal orders by the Secretary: Section 106 of S. 1300 continued the optional formal review available before the Secretary in the case of withdrawal orders. Under the new bill, these provisions have been somewhat simplified and the proceeding made slightly less formal (no hearing is now required). In addition, inconformity with the alteration in the provisions relating to state plans, the provision in S. 1300 continuing provisions in existing law precluding review by the Secretary of withdrawal orders involving mines located in states which have approved state plans in effect, has been deleted. Secretary Hickel, in his letter of May 23, 1969, approved this change.

9. Proceedings before the Coal Mine Safety Board of Review: The new bill clarifies and simplifies provisions relating to review of withdrawal orders by the Coal Mine Safety Board of Review. In addition, provisions have been added concerning the Board's role in passing on petitions by the Secretary in the case of chronically dangerous mines, described above, and for the imposition of civil penalties on operators of mines in which violations of the mandatory health and safety standards have been found by inspectors. The new bill also permits either the operator or the representative of the miners, as appropriate, to intervene in a proceeding before the Board with the same rights as any other party. Permissive intervention is allowed for other interested persons, and such other persons, if permitted to intervene are accorded the rights of parties, unless the Board otherwise so orders.

10. Civil penalties: Under S. 1300 the Secretary is given the power to impose a civil penalty in an amount up to $10,000 on an operator of a mine in which violation of a mandatory health or safety standard occurs. No procedure is specified for the Secretary to follow in assessing the penalty; section 113(a) merely lists the factors which the Secretary must take into account in determining the amount of the penalty. Upon written request by an operator within 30 days after receipt of an order assessing a penalty the Board is required to hold a hearing to determine whether a violation of a mandatory health or safety standard did occur and whether the amount of a penalty is warranted or should be compromised. Finally, under S. 1300 upon the failure of an operator to pay a penalty the Secretary could request the Attorney General to institute a civil action in an appropriate district court to collect the penalty. Presumably, although the bill does not cover the point explicitly, the trial before the district court would be a de novo proceeding.

This procedure has been modified under the new bill. It provides that upon notification of a violation of a mandatory health or safety standard the Secretary shall cause such further investigation to be made as he deems appropriate, including the opportunity for the representative of the miners, if any, to present information relating to the issuance of the notice and the amount of the penalty. Upon the conclusion of the investigation the Secretary is required to make findings of fact, and, if he finds that a civil penalty should be imposed, must issue an order assessing the penalty and incorporating his findings therein. If the operator fails to pay the penalty within the time prescribed in the order, the Secretary may file a petition with the Coal Mine Safety Board of Review requesting that the Board order the payment of the penalty. The Secretary's findings constitute prima facie evidence in the proceeding before the Board. In addition, the factor of the willfulness of the violation has been added to the criteria to be considered in determining the amount of the penalty.

Under the new bill, orders of the Board involving penalties are subject to judicial review before an appropriate Court of Appeals, just as are other orders of the Board. In the event that an operator fails to comply with an order of the Board within the time prescribed therein, the appropriate federal district court is given jurisdiction to enter a final judgment requiring payment of the penalty set by the order. Since judicial review of the order is available in the Court of Appeals, the district court does not have the power to review the correctness of the Board's order in any such proceeding.

Secretary Hickel, in his letter of May 23, 1969, approved these changes.

11. Temporary relief from withdrawal orders: S. 1330 continued the provisions of existing law allowing temporary relief to be granted by the Coal Mine Safety Board of Review after a hearing at which all parties are given an opportunity to be heard. Under the new bill, additional conditions must be satisfied before temporary relief may be granted by either the Board or the courts upon judicial review. Those additional conditions are that the applicant for temporary relief must demonstrate that there is a substantial likelihood the withdrawal order was erroneously issued, that he will suffer serious and irreparable harm if the order is not is-

sued, and that the issuance of temporary relief will not adversely affect health and safety of the miners employed in the affected mine.

12. Rights of labor organizations: S. 1300 would continue the provisions of existing law which, in general, require that a representative, if any, of the miners employed at a mine involved in a proceeding be notified of orders, applications for review etc. The new bill considerably strengthens the rights of labor organizations in proceedings under the act. Under section 103(g) of the new bill, whenever any miner or an authorized representative of miners has reason to believe that a violation of a mandatory health or safety standard promulgated by the Secretary exists, or that an imminent danger exists in a mine, the miner or representative may notify the Secretary or his authorized representative and within 24 hours thereafter a special inspection must be made of the mine in question. Under section 108(a)(1) of the new bill the representative, if any, of the miners in an affected mine may apply to the Coal Mine Safety Board of Review for review of a withdrawal order or a decision by the Secretary. Under S. 1300 and existing law only the operator could apply for such review. As noted above, the representatives of miners are also given the right to intervene in proceedings before the Board involving the review of withdrawal orders or petitions by the Secretary involving chronically dangerous mines. In addition, under section 109(a) of the new bill representatives of miners are given the right to seek judicial review of decisions issude by the Board under section 108.

13. Unwarrantable failures to comply with health or safety standards: Under S. 1300 and existing law, a second unwarrantable failure to comply with a mandatory health or safety standard may result in a withdrawal order only if the second unwarrantable failure is found at an inspection subsequent to the one during which the first unwarrantable failure was found. Under the new bill, two or more unwarrantable failures to comply with the same health or safety standard may result in withdrawal orders if found at the same or during any subsequent inspections during a 90-day period.

14. Criminal penalties for keeping false records: The new bill contains a provision not in S. 1300 making it a criminal offense to knowingly falsify records required to be kept under the act.

15. Interim Safety Standards: Section 301 of the bill has been amended to emphasize that the purpose of these standards is to take advantage of long experience and technological advances to provide immediate protection to the miners from safety hazards. Also, the bill directs the Secretary of the Interior to take immediate steps to upgrade those standards as promptly as possible, particularly in connection with dangers associated with trolley and trolley feeder wires, splicing to trailing cables, roof falls, and methane and oxygen testing. Lastly this section would direct that the Secretary not grant exceptions under the prescribed standards unless they are warranted, and unless the granting of the exception will not pose a safety hazard. These provisions were not in S. 1300.

Section 302(a) continues the requirement of telephone service in the mine, but does not require it where the working section is within the portal. The reason for this change is that a person can shout from this distance.

Section 302(e) would require that each miner be equipped with an approved self-rescuer to protect the miner for one hour or more. It is not in S. 1300. This device will enable the miner to protect himself for a reasonable period after an emergency from noxious gas and other hostile fumes and improve his chances of reaching safety.

Section 302(i) directs the Secretary to provide a method for assuring that miners not work in oxygen-deficient atmospheres. This is not in S. 1300.

Section 302(j) requires that the operator have adequate sanitary and bathing facilities for the miners. This is not in S. 1300.

Section 303 includes the improved provisions recommended by Interior on May 23, 1969, relative to roof controls. It also requires that the operator investigate and record all roof falls whether death or injury results. This latter provision should be helpful in improving the technology in controlling roof falls.

Section 304(c) includes the May 23 recommended provisions of the Department.

A number of the provisions relating to ventilation have been strengthened in order to further narrow the hazard to safety.

Section 306(1) has been strengthened to make it clear that all grandfathered nonpermissible face equipment in gassy mines must be made permissible in 16 months after enactment without exception. Also, the basis for granting exceptions in non-gassy mines has been clarified. Face equipment under 25 h.p. and junction boxes must be made permissible within 16 months after enactment.

The record shows that, of the 52 ignitions in non-gassy mines since 1952, twelve were caused by non-permissible equipment of the small h.p. type. Grandfathered non-permissible equipment in gassy mines has been permitted since 1952—a far greater period than it seems Congress really intended at that time. These changes are not in S. 1300.

Section 307(d) limits the number of temporary splices in trailing cables to 2, except that a third may be made during a shift, but then such splices must be made permanent after the shift.

In the past 10 years, there have been 50 ignitions from temporary splices in trailing cables. This is not in S. 1300.

The provisions relative to medium and low voltage alternating current circuits have been greatly improved by the addition of a number of new standards. Interest in the medium type of voltage is growing as larger machines are introduced with higher voltages to attain the lowest costs.

Section 311(d) provides increased protection against dangers from trolley and trolley feeder wires. There were 3 fatalities last year caused by persons contacting such wires.

In addition to these changes, the bill makes a number of other changes in the standards designed to provide better safety.

16. Administration comments on changes incorporated in S. 2405: The following is the text of the letter of May 23, 1969, from Secretary Hickel to Senator Williams and myself commenting on many of the changes incorporated in the new bill. (The text of the amendments has been omitted from the letter):

U.S. DEPARTMENT OF THE INTERIOR, OFFICE OF THE SECRETARY,
Washington, D.C., May 23, 1969.

Hon. HARRISON A. WILLIAMS,
Chairman, Subcommittee on Labor, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN AND SENATOR JAVITS: During the last two weeks, members of my staff have been carefully reviewing the provisions of S. 1300, the Federal Coal Mine Health and Safety Act of 1969, as well as other bills on this subject with Mr. Mittleman and Mr. Blackwell of your professional staff with the view to developing the most effective legislation possible in this area. As part of this effort, these gentlemen requested a series of possible amendments for consideration by the Subcommittee on Labor and the full Committee. These amendments are enclosed. In addition, we are taking this opportunity to express our views on them in order to facilitate the early enactment of the Administration's bill S. 1300. Our comments follow:

AMENDMENT NO. 1

This amendment would revise section 2(g) of S. 1300 by providing a broader statement of the purpose of the bill to include cooperation with the States and to improve research and development programs. S. 1300 now does cover both of these items. We believe this change is more descriptive of the bill's purpose and therefore desirable.

AMENDMENT NO. 2

This amendment is technical.

AMENDMENT NO. 3

This amendment would make it clear that the Secretary could hold hearings in the development of mine health or safety standards. We think the bill authorizes such hearings now, but we welcome the clarification.

AMENDMENT NOS. 4 AND 5

The first of these would revise section 101(f) of S. 1300 and add a new section 101(g). The second is a technical change to correspond with the first.

Section 101(f) of the bill now would establish the procedure for review of the Secretary's proposed health and safety standards by the Board and for the promulgation of such standards by the Secretary after such review. The new section 101(f) would merely clarify this language. We have no objection to this change.

The new section 101(g) would provide for the appeal by an "aggrieved" person of any standard referred to the Board for review by the Court of Appeals for the District of Columbia. The substantial evidence rule would apply in the case of such appeals. Also, the filing of the appeal does not automatically stay the effective date of the standards, unless the court so orders.

We would prefer that such a provision not be included in the bill because of the possible delays that may occur if the court stays the effective date of the appealed standard. We believe that there is an adequate opportunity for review at the time of enforcement.

AMENDMENT NO. 6

This amendment would add a new provision to section 103(c) of the bill authorizing the Secretary, or the inspector, in case of mine accidents, to supervise and direct rescue and recovery operations if necessary. While we have had no difficulty in this area in the past, we would not object to such a provision.

AMENDMENT NO. 7

Section 104 of S. 1300 continues the present State plan provisions of the 1952 Act with two exceptions relating to spot inspections and unavailability of a State inspector.

S. 1300 would direct that the Secretary cooperate with the State and that he approve any State plan submitted by a State that meets certain criteria, including one requiring no advance notice of an inspection to operators and one that would assure that the State would promptly assign inspectors to participate in inspections with the Federal inspectors. The Secretary cannot disapprove a State plan without first affording an opportunity for a hearing to the State. If the Secretary finds that the administration of a plan is not being complied with or that there is a failure of cooperation in its administration, he can, after notice, withdraw his approval. The bill provides that no inspection of a mine by a Federal inspector may be made in a State where there is an approved State plan unless the State inspector participates, except where it is found that an inspection is urgently needed to determine an imminent danger and that the accompaniment of a State inspector would cause delay, or where, after notice, a State inspector is not provided in due time, and

except where a spot inspection is deemed essential by the Federal inspector. The last two exceptions are not found in the 1952 Act.

After discussions with the Committee staff on the State plan provisions of the bill, we have reconsidered the need for, and the desirability of, the State plan provisions of the bill as just outlined. It is now our view that these provisions should not be continued in their present form for the following reasons:

First, the requirement that a State inspector participate in an inspection with a Federal inspector is a wasteful use of precious manpower that could be better put to use to insure more inspections of more mines in that particular State. Since our inspection forces and those of the States are limited in numbers, we believe that these forces should be used to accomplish the greatest degree of health and safety possible through the conduct of as many inspections by these joint forces as possible.

Second, our Federal inspectors are well trained employees who have long experience in connection with coal mine operations. History has shown that both the operators and the miners in those mining States where a joint inspection is not required have a high regard for the Federal inspector. While they may disagree in some instances, they generally agree that his efforts are quite good. The single inspector approach has worked well in those States.

The amendment would provide for the approval of State plans to promote Federal-State coordination and cooperation in improving health and safety conditions in coal mines in accordance with certain criteria. It would also provide for the disapproval of such plans and for the withdrawal of approval thereof. In the latter case, provision is made for review by the Court of Appeals of the District of Columbia of the Secretary's decision to withdraw.

These State plans form a basis for making grants to the State to carry out the plan, including the training of State inspectors, to conduct research and planning studies, to carry out programs designed to improve State workmen's compensation laws relating to pneumonoconiosis and injury and death of miners, and to assist the States in planning and implementing other programs to advance health and safety in coal mines. These grants may not be used to supplant State funds, but only to supplement such funds. The amount of the grant to a State shall not exceed 80 percent of the sum expended by the State for carrying out its enforcement program, and the appropriation authorized for these grants must be distributed to the States on an equitable basis where there is an approved plan.

Finally, this amendment would direct the Secretary to cooperate with the State in carrying out a plan and to develop and finance a program of training Federal and State inspectors jointly. The Secretary would also cooperate with the States in establishing a system of exchanging Federal and State inspection reports for the purposes of improving health and safety conditions in the mines of that State.

We believe that these amendments are highly desirable and an excellent substitute for the existing State plan provisions.

AMENDMENTS NOS. 10, 11, AND 12

The first of these amendments would revise section 105(g) of S. 1300. It would continue the provision that the inspector may modify or terminate any notice or withdrawal order. In addition it would add a provision which is similar to one found in the 1952 Act providing a procedure by which an operator may request a special inspection upon the expiration of a time fixed or extended in a notice of a violation of a standard or at any other time the operator believes that the conditions causing the issuance of the order or notice have been corrected. The Secretary is authorized to establish procedures by regulation to avoid unnecessary or repetitive inspections.

We believe that this change in the bill is highly desirable because it spells out a procedure which we intended to follow administratively.

Another of these amendments would add a new section 105(h) to the bill. This new section would provide that if an inspector finds that conditions exist in a mine which, while they do not create a problem of an imminent danger, are of such serious nature that it is reasonable to assume that an imminent danger will result soon, and that such conditions cannot be satisfactorily corrected and the mine or a portion thereof made safe because of a lack of available technology, he must notify the operator of the mine or his agent of these conditions and file a copy thereof, including his findings, with the Secretary and with the representatives of the miners, if any, in that mine. On receipt of this notice, the Secretary must cause a special investigation to be made which could include another inspection and which would include an opportunity for the operator and the miners' representative to present their views on the problem. Once the investigation is completed, the Secretary then would make findings of fact and file a petition with the Board requesting either that the notice issued by the inspector be cancelled, or that a withdrawal order be issued applicable to the entire mine or the appropriate portion thereof and that such withdrawal continue until such time as the Board, after hearings, determines that the conditions have been abated. The Secretary would send a copy of this petition to the Board. This petition would be subject to review in the Court of Appeals as provided later in the bill.

This provision in the bill is new. It is designated to meet situations that may arise in the future where a particular mine or section of a mine is being operated under conditions that are considered dangerous, but not of the type that would require the issuance of an imminent danger order. We recognize that there may be mines or sections thereof where such situations may exist or will exist as mining continues deeper and deeper below the earth's surface. Such deep mining may present considerable hazards for which there is no available technology to overcome them. In such cases or in other situations where special hazards exist, we believe that there should be a procedure established for determining the facts and, where appropriate, closing these mines if we are to insure as same conditions as possible. We believe the procedure set forth in the amendment is a reasonable one. It provides adequate safeguards to the operators and to the miners. Accordingly, we support this change in the bill.

Another of these amendments would redesignate section 105(h)(1) of the bill as section 105(i) and make some modifications in the language consistent with the changes mentioned above relating to the State plan. As revised, section 105(i) would require that the Federal inspector who issued an order applicable to any mine in which there is an approved State plan shall immediately notify the State agency thereof. Following the issuance of the order, the operator of the mine may request that the State mine inspector inspect the mine. We see no reason for the continuing of this provision, because it provides no remedy once the State inspector acts.

The last of these amendments would delete the remainder of section 105(h) of the bill which relates to the State plan as found in S. 1300 at present. These provisions are no longer necessary.

AMENDMENT NO. 13

Section 106 of S. 1300 would provide an optional formal review procedure by the Secretary of withdrawal orders at the request of the operator. The operator, however, need not appeal to the Secretary but may go directly to the Board.

The new section 106 eliminates this optional review to the Secretary, but provides a quick informal mechanism by which any order may be terminated or affirmed administratively without such formal review. Such a procedure is now available under the 1952 Act and, upon reflection, we believe it should be continued in this bill.

AMENDMENT NO. 14

The 1952 Act, S. 1300, and incidentally S. 355, provide for the review of withdrawal orders by the Board and authorize the Board to terminate and affirm such orders. S. 1300 also provides a review by the Board of proposed mandatory health and safety standards and expand the membership of the Board for this sole purpose. In addition, under the 1952 Act and S. 1300, where there is an approved State plan, a withdrawal order cannot be terminated by the Federal inspector, but must be brought before the Board for termination. In this latter case the Board's action is largely administrative, for in States where there is no approved State plan, the Director of the Bureau of Mines can now terminate a withdrawal order after a 3-man inspection. Under S. 1300 the inspector, in the case of States where there is no approved State plan, may terminate a withdrawal order. The procedure for termination of a withdrawal order by the Board is quite informal due to the fact that there is some considerable urgency to reopen the mine. There is no formal appeal taken. As a matter of fact, the whole matter is handled by a series of telephone calls from the inspector, who inspects the mine to determine if the withdrawal order should be terminated, to the Director and from the Director to the staff of the Board, and finally to the Board members themselves wherever they may be located. Upon review of this procedure with your staff, we believe that this procedure is more properly one that should be handled by the inspector, as in the case of the States where there is no approved plan.

S. 1300 and S. 355 continue the present provisions of the 1952 Act relative to the representation on the 5-member board by persons representing the viewpoint of the operators and the miners in underground mining operations, according to the size of the mining operation. Except for the chairman, they are not required to divest themselves of any interest—financial or otherwise—with the industry. The chairman cannot have any pecuniary interest, or be employed by the industry for one year prior to employment, but the 1952 Act and the two bills are silent on such interest and employment during his term. Decisions of the Board involving a particular category of mine can only be made when the mine operators' and workers' representatives for that category of mine participate in the decision-making process. The membership of the Board is appointed by the President and they are part-time employees.

To date the Board has done a creditable job. It is experienced in mining technology and knows the problems of the miners and the operators. But the Board has had few cases over the last 17 years. It is reasonable to expect that this workload will increase under this legislaiton, particularly when we consider that the Board will be reviewing civil penalties also. We now believe that a part-time Board would not be satisfactory. In addition, it has come to our attention that, since the bill also covers surface mines, the operators and workers of that part of the industry would have a legitimate claim of discrimination unless the operators and workers of that segment of the industry are represented on the Board.

Upon reflection of all of these factors, we believe that it would be better to abandon

the present type of a Board and establish a new review procedure.

One alternative would be to establish a hearing procedure within the Department of the Interior, placing the decision-making authority in the Secretary along the lines of the Administrative Procedures Act or establish a Board subordinate to the Secretary with final decision in the Secretary. This approach, however, raises the age-old criticism leveled against many agencies of fusion of the responsibilities in the Secretary of enforcement, prosecutor, judge, and jury.

The second alternative which we believe to be far superior, and which is followed in the enclosed amendments, would be to establish a 5-member full-time Board as an independent agency not subordinate to the Secretary. We note that the Department of Transportation Act (80 Stat. 931, 935), in establishing the National Transportation Safety Board, transferred many functions of the Secretary of Transportation to the Board and gave it final authority. The Board's membership would include 2 people having a background either by training, education, or experience in mining technology, one having a public health background, and the last 2 being drawn from the general public. Board members under this approach would not have any interest in—financial or otherwise—or hold any office in, the coal mine industry for at least one year prior to their appointment and during the entire term of their appointment. Like the present Board, membership would be for a term of 5 years. The President would designate one of the members as chairman. In order to avoid hiatus between the time of the passage of the bill and the appointment of Board members, the present Board would continue in office in accordance with the conditions under which they were appointed until they are replaced or reappointed under the bill.

The remaining provisions of section 107 of S. 1300 are included in the enclosed amendments with few changes except those necessary to carry out the principal changes relative to the Board membership. With the establishment of this full-time Board, we see no further reason for the addition of part-time members solely for the purpose of reviewing proposed mandatory health and safety standards. This function can be carried out by this new Board. The amendments delete this provision in S. 1300.

We recommend the adoption of this approach.

AMENDMENT NO. 15

This amendment would revise the present provisions of section 108 of the bill relative to the functions of the Board. In most respects, the changes brought about by this amendment are clarifying in nature.

The amendment would provide for the appeal by the operator or the representative of the miners, if any, of any imminent danger order or other withdrawal order issued under section 105 of the bill directly to the Board. It would also provide for an appeal of decisions made by the Secretary pursuant to section 106 of the bill as amended by the enclosed amendments relating to the continuance or termination of a withdrawal order. Procedures for the filing and considering of such request for appeal are similar to those that are found in section 108 of the bill.

In addition, the amendment would provide for a hearing upon a petition filed by the Secretary pursuant to section 105(h) of the bill, as amended. That new section relates to the filing of a petition by the Secretary to close a mine that is operating under conditions which cannot be corrected because of a lack of available technology. The amendment also provides for a hearing by the Board on petitions filed by the Secretary under section 113 of the bill which relates to the establishment of civil penalties. In the case of either petition the findings of the Secretary as recited therein shall be prima facie evidence of the facts and the burden of rebutting them will be on the operator. Representatives of the miners may intervene in any such proceedings. The remaining provisions of the enclosed amendment are nearly identical to those of section 108, except for a provision that provides for consolidation of hearings in cases where such consolidation would be appropriate, such as in the consideration of an order and the issuance of a penalty involving the same violation.

We believe that these amendments are desirable and we recommend their adoption.

AMENDMENT NO. 17

This amendment would revise the provisions of sections 113(a) to 113(c) of the bill which relate to the establishment of civil penalties.

It would authorize the assessment of civil penalties, as in S. 1300, of not more than $10,000 for each occurrence of a violation of a mandatory health or safety standard in a coal mine or any provision of the Act. This latter change is important, because, on review, we find a number of provisions in title I of the bill requiring the operator to take certain actions, but there is no method of enforcement. It would also authorize the Secretary to compromise the penalty.

Under the amendment after the Secretary is notified by the inspector of a violation of any mandatory health or safety standard in a particular mine, the Secretary shall cause such further investigation as he deems appropriate, including an opportunity for the operator and the representative of the miners to present information relative to the penalty and the amount of the penalty. Upon conclusion of the investigation, the Secretary may make findings of fact. If he finds that a civil penalty should be assessed, he would issue an order assessing the penalty and incorporating his findings therein. If the operator fails to pay the penalty within the time prescribed in the order the Secretary then shall file a petition with the Board requesting that the Board order the payment of the penalty. At that time, as we indicated in the previous amendments, the Board would hold a hearing and make findings of fact regarding the penalty and issue its decision. The Board's decision, of course, would be subject to appeal in the Court of Appeals by the Secretary or by the operator. This appeal would be on the record before the Board.

The amendment also established criteria to be considered in determining the amount of the penalty by the Secretary and the Board as in S. 1300. If the Board grants the petition of the Secretary and the operator fails to comply with the Board's order to pay within a specified time, unless an appeal is taken, the United States may seek a judgment in the Federal district court requiring payment thereof. The decision of the Board in granting the petition and the order decision would not be subject to review by the Federal district court in connection with that action.

We believe that this clarifying amendment is desirable.

Amendments 8, 9, 16, 18, and 19 are technical and do not make any substantive changes in the bill. We have no objection to them.

There is also enclosed a number of amendments to title III of S. 1300, most of which are technical amendments. The additional provisions therein relating to roof supports are drawn largely from S. 1907. It was our original intention to include these as part of the roof control plan, but we now believe that specific provisions on roof bolts and roof materials are desirable. All of these changes will strengthen or clarify existing standard provisions in the bill.

Lastly, your staff asked if we had any changes to make in title II of the bill relating to the health standard. We have not. We continue to view the 4.5 standard established in S. 1300 to be effective 6 months after enactment as being the proper first step in reducing the dust problem in the mines. It is attainable now, given the present state of technology. Based on present technology, the 3.0 standard is not now generally attainable. We do not, however, consider the 4.5 standard as a floor. Our objective is to move to a lower standard of 3.0 or less as soon as possible. We believe that technology will be available to permit the industry to reach the 3.0 standard within 3 years after the 4.5 standard is effective and would not object to including such a schedule in the bill so long as the flexibility is retained in the Secretary to lower the standard later below 3.0.

We strongly urge that your Committee report out S. 1300 with the enclosed amendments as quickly as possible. Every week that passes raises the possibility of more serious accidents that might be prevented if this bill is enacted.

We will continue to work closely with your Committee to develop and enact an effective bill.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

WALTER J. HICKEL,
Secretary of the Interior.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES DURING ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the adjournment of the Senate, until noon on Monday next, the Secretary of the Senate be authorized to receive messages from the President of the United States and from the House of Representatives.

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

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS DURING ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, during the adjournment of the Senate, all committees be authorized to file reports, including minority, individual, and supplemental views.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, what will be the unfinished business before the Senate when it again convenes?

The PRESIDING OFFICER. The supplemental appropriation bill, H.R. 11400.

Mr. BYRD of West Virginia. I thank the Chair.

ADJOURNMENT TO MONDAY, JUNE 16, 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 4

o'clock and 36 minutes p.m.) the Senate took an adjournment until Monday, June 16, 1969, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate, June 11, 1969, under authority of the order of the Senate of June 9, 1969:

ASSISTANT SECRETARY OF THE TREASURY

John R. Petty, of New York, to be an Assistant Secretary of the Treasury.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Spurgeon M. Keeny, Jr., of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

U.S. ATTORNEY

William H. Stafford, Jr., of Florida, to be U.S. attorney for the northern district of Florida for the term of 4 years, vice Clinton N. Ashmore.

James H. Walsh, of Florida, to be U.S. attorney for the middle district of Florida for the term of 4 years, vice Edward F. Boardman, resigned.

Robert W. Rust, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years, vice William A. Meadows, Jr.

U.S. MARSHAL

George E. Tobin, of California, to be U.S. marshal for the northern district of California for the term of 4 years, vice Louis H. Martin.

Doyle W. James, of Colorado, to be U.S. marshal for the district of Colorado for the term of 4 years, vice William H. Terrill.

IN THE NAVY

The following-named graduates from Navy enlisted education program to be permanent ensigns in the line of the Navy, subject to the qualifications therefor as provided by law:

James A. Allphin
Jerry W. Ford

The following-named enlisted personnel to be ensigns in the Medical Service Corps of the Navy, for temporary service, subject to the qualifications therefor as provided by law:

Wendell M. Oals	William R. Strand
Paul L. Knight	William E. Weeks, Jr.
George R. Laverick	Lee D. Nelson
Gary R. Harrington	Jerry W. English
John F. Renish	Marshall W. Wayland, Jr.
Dominic E. Sciarrini	Thomas J. Janoski
John H. Storment	James T. Smith
James M. Powers	Ronald R. Yates
Eugene A. Peterman	John W. Vrabel
John L. Johnson	George W. Jay
Norman E. Carroll	Robert S. Kayler
James M. Cooper	David J. Lauver
Peter T. Cox	Douglas Suttle
Richard T. Figura	William L. White
Lanny A. Rinard	Michael C. Wiggins
Wayne P. Glover	David W. Fowler
John N. Auld	Wesley J. Johnson
Edmund H. Stanford	

The following-named enlisted personnel selected as alternates to be ensigns in the Medical Service Corps of the Navy for temporary service subject to the qualifications therefor as provided by law:

Anthony R. Arnold	Charles D. Hora
Roy L. Berkley	Walter K. Marolf
Charles D. Crouch	Charles A. Enright
Floyd J. Dunaway	George A. Swales
Edwin A. Donohue	William M. Mumford
Lynn M. Terry	Ralph T. Williams
James E. Hanrahan	Frederick C. Hardy
Michael L. Mitchell	Colonel O. Surratt
Joseph J. Criscitiello	Robert Ferda
John E. Kraft	Gary W. Dumais

Lt. (j.g.) Robert S. Logan, USN, to be a permanent ensign in the Medical Service Corps of the Navy, subject to the qualifications therefor as provided by law.

HN Joseph W. Petroski, USN, to be a permanent ensign in the Medical Service Corps of the Navy, subject to the qualifications therefor as provided by law.

HN Milo J. Prodanovich, USN, to be a permanent ensign in the Medical Service Corps of the Navy, subject to the qualifications therefor as provided by law.

Cecil B. Greene, U.S. Navy retired officer to be a lieutenant in the Navy, limited duty only (deck) for temporary service, subject to the qualifications therefor as provided by law.

Dennis F. Hoeffler (civilian college graduate) to be a permanent lieutenant commander and temporary commander in the Medical Corps of the Navy subject to the qualifications therefor as provided by law.

The following-named (Naval Reserve officers) to be permanent lieutenants and temporary lieutenant commanders in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

Jon H. Dodson	Cornelius C. Scott III
Claude A. Harvey	Kenneth A. Scheidt
Guyton G. Howell, Jr.	
Joel B. Lench	

The following-named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

Lawrence H. Luppi	Robert L. Schweitzer
John O. Mullen	Samuel M. Steele, Jr.
Robert H. Radnich	Tommy Turner
William J. Reed	Robert C. Vanderberry, Jr.
Frederic G. Sanford	Willie G. Wyatt
Frank A. Schuler III	

The following-named Naval Reserve officers to be permanent lieutenant (junior grade) and temporary lieutenants in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

Michael A. Crucitt	Garry L. Jones
John L. Gustavus	David L. Lockhart

The following-named chief warrant officers to be ensigns in the Navy, limited duty only, for temporary service in the classifications indicated, and as permanent warrants and/or permanent and temporary warrants subject to the qualifications therefor as provided by law:

SUPPLY

Charles R. Bishop	Don Lord
Franklin D. Elkins	Donald R. Mitchell
Ernesto F. Frial	Larry D. Platt
Norman E. Kuzel	Morris L. Sutton
Harold H. Kyser	Alan R. Verbic
Donald L. Lockey	

CIVIL ENGINEER

Joseph A. Blake, Jr.
William L. Davis
Carl E. Ferguson

DECK

James H. Garner	Harlin C. May
Martin W. Huszar	Anker M. Rasmussen
Carl H. Kloke	Vincent A. Romito
Jack L. Londot	

OPERATIONS

Daniel J. Goodrum	Dale M. Matthews
Richard I. Haver	Edgar J. Millsprice, Jr.
David R. Hawtin	Joseph Turk
James M. Jeffcoat	Vincent M. Yavorosky
Gerald G. Losli	

ORDNANCE

Roy E. Ator	Kenneth E. Reuter
Joe E. Aycock	George W. Russell, Jr.
Robert F. Brasil	Perry B. Russell
Leonard M. Campbell	Larry R. Skaw
John G. Carter	David W. Smith
Gary L. Daughton	Brian D. Turley
August A. Feuerbacher	Bennett C. Twombly
James A. Frantz	Leroy T. Vandyne
Patrick O'Connor	Robert Werling

EXPLOSIVE ORDNANCE DISPOSAL

Riley G. Hammond	Thomas P. Toomey

ADMINISTRATION

Jack W. Berry	Raymond E. Kay
Leo J. Boor	Raymond H. Larsen
Armand J. Desantis	Richard S. Miller
Arnold L. Duke	Julius G. Shreve
Dale C. Folkers	Jack E. Turner
William D. Hulsey, Jr.	

DATA PROCESSING

Dale C. Deffenbaugh

BANDMASTER

Allen E. Beck

ENGINEERING

Charles E. Anderson	Daniel J. McGrath
Charles B. Beagle	Eddie B. Merriweather
Duane W. Bunch	Jerry E. Myrick
Melvin L. Dresbach	Edward R. Propst
Richard Garrahan	David Renwick
John M. Hand	Macy J. Southerland
Larry L. Harter	Herbert Spence, Jr.
David L. Hartman	Cleveland H. Sturgill
J. D. Holder	James S. Sullivan
James Hughes	Douglas K. Taylor
Thomas P. Lardner	James E. Thompson
Harvey T. McCullough, Jr.	Norbert L. Toon

HULL

David A. Brown	James A. Gregory
Cecil D. Creel	Richard L. Russell
Henry T. Currie	Walter A. Schmid

ELECTRICIAN

Bard S. Coons	Thomas O. Kearns
Patrick Finfrock	Richard D. Lane
Bobby L. Harris	David P. Pirozzoli
John D. Howard	

ELECTRONICS

Robert L. Banister	Lester R. Hillman
John H. Carroll	John A. Mansfield
Samuel G. Curry II	Thomas E. McGee
Roger A. Dallman, Sr.	Angus L. McLean, Jr.
Mylnor A. Dill	William G. Melton
James L. Dunning	Richard H. Oliver
Ira J. Espy	Richard A. Quinn
John S. Fisher	James A. Renshaw
Robert M. Forrest	Donald A. Rigg
Charles L. Foster	William H. Rumer
James Giles	Theodore C. Schelin
Charles A. Hale	Robert M. Schier
Harold D. Harris	Lynn D. Shelton
Thomas A. Hedgecoth	Bruce L. Thomson
Dennis S. Hennegan	Sidney W. Wheeler
Harvey B. Hight	

CRYPTOLOGY

Robert M. Cameron	Laurice W. Mercer
Leonard M. Chisholm	Vincente Morales
Donald V. Detwiler	Harley D. Tessier
Robert D. Howell	

COMMUNICATIONS

William L. Green, Jr.
Frank L. Harrington
Raffaele Marino

AVIATION OPERATIONS

Henry A. Fischer
Clyde J. Nowling

AVIATION CONTROL

Weldon Y. Holiway

PHOTOGRAPHY

Eugene B. Cantrall
Rodney C. Moen

METEOROLOGY

James P. Bennett
William E. Bowers

AVIATION ORDNANCE

Edward L. Ashlock	Gordon J. Thomas
John W. Brackett	George J. Yott
Charles O. Rice	

AVIONICS

Joe L. Blackmon	Alvin L. Halliday
Arthur E. Critser	Thomas J. Krygier
Neil C. Davis	David F. Martin
Dennis L. Graham	Russell L. McKay

Robert A. Mueller
James D. Sherrill
Jerrold B. Wilson

AVIATION MAINTENANCE

Cliffton H. Acre
Merlin F. Anderson
Cager W. Campbell
Thomas A. Comeau
Arlyn R. Daering
Michael L. Doeter
Edward B. Dorsey
Thomas J. Glover
Jerry F. Hendricks
James E. Hudson
Charles E. Hughes
Thomas L. Lappin
George A. Mullen
Linville L. Ridener
Donald J. Rockwood, Jr.
Myles E. Walsh
Alton L. Williams
Philip B. Wilson

Lt. John B. Ferruggiaro, U.S. Navy, for temporary promotion to the grade of lieutenant commander in the line, subject to qualification therefor as provided by law.

Ensign Philip A. Peterson, U.S. Navy, for transfer to and appointment in the Supply Corps of the Navy in the permanent grade of ensign.

The following-named officers of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the staff corps, as indicated, subject to qualification therefor as provided by law:

MEDICAL CORPS

Edwards, John W.

JUDGE ADVOCATE GENERAL'S CORPS

DeBobes, Richard D.
Johnson, James I.

NURSE CORPS

Vought, Dorothy M.

The following-named officers of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

LINE

Adam, Ernest W.
Beam, David M.
Blakely, Frederick M., Jr.
Buckner, Joel K.
Conklin, Robert C.
Cupper, Terrance A.
Dolgow, Barry L.
Ede, Terrence F.
Hatfield, Stephen H.
Johnson, Richard L., Jr.
Jones, Philip W.
Kalin, David M.
Kelly, Robert T.
McCann, Richard G.
Mitchell, Thomas A.
Moffett, Gordon N.
Neumann, Dennis E.
O'Brien, Peter A.
Powell, Orrin B., III
Reilly, Michael J.
Richards, Harry J.
Sarver, James D.
Scaefer, Frederick J. A.
Schneible, Daniel C.
Segraves, Joel R.
Simpson, John D., Jr.
Trotter, Herbert M.
Vermilyea, David W.
Wilkins, Hubert C.
Wilson, Robert C.

SUPPLY CORPS

Fronczkowski, Ralph E.
Mayes, Robert D.
Miller, Barry J.
Ruppmann, Heinz O.
Sweazey, George E., Jr.

CIVIL ENGINEER CORPS

Madden, Peter P.
Palanuk, Lawrence E.

The following-named officers of the U.S. Navy for permanent promotion to the grade of lieutenant (junior grade), line and staff corps, as indicated, subject to qualification thereof as provided by law:

LINE

Kummer, Sandra I.
Prose, Dorothy A.
Reid, Heather M.
Richardson, Robert L.
Warner, Carl D.

SUPPLY CORPS

Moore, Beryl R.
Scarola, Joseph R.

CIVIL ENGINEER CORPS

Bruce, Charles J.
Dean, Hilbert D.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 12, 1969:

AMBASSADORS

Robert H. McBride, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

Richard Funkhouser, of New Jersey, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabon Republic.

G. McMurtrie Godley, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Laos.

J. William Middendorf II, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Lane Dwinell, of New Hampshire, to be an Assistant Administrator of the Agency for International Development.

PEACE CORPS

Thomas J. Houser, of Illinois, to be Deputy Director of the Peace Corps.

HOUSE OF REPRESENTATIVES—*Thursday, June 12, 1969*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Thou hast given a banner to them that fear Thee, that it may be displayed because of the truth.—Psalms 60: 4.

Almighty God, we thank Thee for our beloved Republic, for the heritage which is ours, for the traditions and the institutions of a free people which have come down to us through the sacrifices of our fathers, and for which we now must live and labor to keep alive in our day.

Our hearts are thrilled as we look upon the starry banner, the flag of our United States of America. It speaks of freedom and democracy. It stands for law and order, justice and liberty, for peace and good will to all. It serves to proclaim the good news of a government of the people, by the people, and for the people. May this flag continue to be the symbol of hope to the oppressed, the rainbow of promise to the downtrodden, and the banner of freedom to all men.

May we celebrate its birth not only with our lips but with the lives devoted to Thee and dedicated to our country. Amen and amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

The SPEAKER. Pursuant to the order of the House of May 28, 1969, the Chair declares the House in recess for the purpose of observing and commemorating Flag Day.

RECESS

Accordingly (at 12 o'clock and 3 minutes p.m.) the House stood in recess subject to call of the Chair.

FLAG DAY

During the recess the following proceedings took place in honor of the United States Flag, the Speaker of the House of Representatives presiding:

FLAG DAY PROGRAM, U.S. HOUSE OF REPRESENTATIVES, JUNE 12, 1969

The United States Marine Band, directed by First Lieutenant Jack T. Kline, and the United States Air Force "Singing Sergeants" entered the door to the left of the Speaker and took the positions assigned to them.

The honored guests, officers and men of the First Cavalry Division (Airmobile), entered the door to the right of the Speaker and took the positions assigned to them.

The Air Force "Singing Sergeants," directed by Capt. Robert B. Kuzminski, presented *Prayer for our Country.*

The Doorkeeper (Honorable William M. Miller) announced *The Flag of the United States.*

[Applause, the Members rising.]

The Marine Band played *The Stars and Stripes Forever.*

The Flag was carried into the Chamber by Colorbearer and a guard from each of the branches of the Armed Forces: Staff Sergeant Walter E. Dunkel, Jr., Honor Guard, 3d Infantry, Fort Myer, Va., Army; Corporal Antonio R. Aleman, Guard Co., Marine Barracks, Washington, D.C., Marine; Seaman Michael K. Kuzma, Ceremonial Guard, Navy Station, Washington, D.C., Navy; Staff Sergeant William R. Williams, Honor Guard, 1100 Security Police Squadron, Bolling Air Force Base, Washington, D.C., Air Force; Seaman John K. Helms, Honor Guard, Washington Radio Station, Alexandria, Va., Coast Guard.

The Color Guard saluted the Speaker, faced about, and saluted the House.

The Flag was posted and the Members were seated.

Mr. BROOKS of Texas, accompanied by the Honorable W. Pat Jennings, Clerk of the House of Representatives, took his place at the Speaker's rostrum.

The SPEAKER. The Chair recognizes the distinguished gentleman from Texas, Mr. BROOKS.

Mr. BROOKS. Mr. Speaker, the distinguished gentleman from Missouri, Mr. HALL, will now lead the Members and our guests in the *Pledge of Allegiance to the Flag.*

The Honorable DURWARD HALL led the Members and guests in the *Pledge of Allegiance to the Flag.*

Mr. BROOKS. Mr. Speaker, at this time I would like to express my appreciation to the other members of your Flag